

Revision to FCC Form 1088 – Complaints under the Telephone Consumer Protection Act**SUPPORTING STATEMENT A**

1. This revised information collection requests OMB approval of a significantly improved Form 1088. This form, first approved in March 2007, is used to collect complaint information in regard to the “Do-Not-Call” and “Junk Fax Protection” acts, and other related consumer protection issues such as prerecorded messages, automatic telephone dialing systems, and unsolicited commercial email messages to wireless telecommunications devices (cell phones, pagers). Collectively, all of these protections fall under the broad umbrella of the Telephone Consumer Protection Act of 1991 (TCPA) and information from this collection is used to process and respond to complaints, and comments. The proposed revision to Form 1088 represents a significant improvement in ease-of use (by forms redesign) and reduction in burden (by paring back the number of questions asked) for all consumers using the form to register complaints with the Commission.

Currently Approved Information Collection Requirements for Final Rules

On March 5, 2007, OMB approved an information collection, without any terms of clearance, that had a version of Form 1088 attached that was significantly longer than the one now proposed. Subsequently, the Commission has identified several ways to improve Form 1088 – both via improved forms design and reducing the number of questions.

With the exception of the changes identified immediately below for Form 1088 this information collection is identical to the one approved by OMB on March 5, 2007.

Revised Form 1088 Information Collection Requirements

The primary proposed change to Form 1088 is that instead of having a single, one-size-fits all form to cover Do-Not-Call” and “Junk Fax Protection” complaint calls as well as other related consumer protection issues such as prerecorded messages, automatic telephone dialing systems, and unsolicited commercial email messages to wireless telecommunications devices (cell phones, pagers), the Commission is now proposing a branching type form in which all consumers start from a central point (Selection Page) but then branch only to the portions of the form that deal directly with their area of concern. The potential branches that a consumer could follow from the main Selection Page are:

- 1088A - Junk Fax Complaint
- 1088B - Live Call Received at a Residential Telephone Line Complaint
- 1088C - Prerecorded Message Received at a Residential Telephone Line Complaint
- 1088D – “Abandoned” Calls and “War Dialing” Received at a Business or Residential Telephone Line Complaint
- 1088E – Business Telephone Complaint
- 1088F – Emergency Telephone; Patient Telephone in Hospital, Nursing Home, or Elderly Care Facility Complaint
- 1088G – Call or Message to Wireless Device (Cell Phone or Pager) Complaint
- 1088H – Call or Message to Toll-Free Number (800, 888, Etc.) or Any Other Service (Except Wireless) for Which the Called Party is Charged Complaint

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This branching strategy will assist both on-line users of Form 1088 and paper-based users of the form who will need to download or have mailed only the sections of the form related to their specific complaint.

Thus, instead of a complainant having to look through 37 pages of a form - by designing-in the branching strategy, that complainant would at most be confronted with 7 pages if they had a complaint only in one area (2 Selection Pages and 3-5 pages in any specific complaint branch). Put quantitatively - this would be equivalent to greater than an 80% improvement in ease-of-use for the complainant.

In addition to these significant ease-of-use improvements, the Commission has also introduced some burden reductions by deleting, combining, or revising questions as indicated in the table below.

Portion of Old Form Changed	Deleted Old Form Question #	Combined Old Form Questions #	Revised Old Form Question #
Junk Fax	11		4, 5, and 7
Live Call	15	2 and 3 (new #3); 6 and 11 (new #6)	5, 9, and 14
Prerecorded Call	2 and 18	4 and 5 (new #3); 8 and 11 (new #6)	9 and 16
Abandoned Call	3 and 6		4
Business Call	5 and 7		Unnumbered 1, 3, and 6
Emergency Call	11		4 and 9
Wireless Call	18	5 and 16 (new #5)	6, 14, and 17
Toll Free Call	10	4 and 8 (new #4)	3

This is a total of 11 questions deleted, 12 questions combined into 6 (thus a reduction of 6 questions) and a revision of 18 questions. This equates to a 16% reduction in the overall number of questions once the complainant leaves the central Selection Page. Reductions in the number of questions for each section of questions ranged from a low of 8% (Emergency Call) to a high of 29% (Abandoned Call section).

Adopting a conservative stance, the burden for this revised collection will be reduced by 8% in accordance with the 8% reduction in the number of questions for the Emergency Call section.. No impact on burden was seen in the revised questions since they were largely just a simpler-language version of the same question that existed on the previous form.

The Commission also reiterates the statement from the approved 3060-1088 collection that FCC Form 1088 may ultimately become the foundation for enforcement actions and/or rulemaking proceedings, as appropriate.

2. The proposed information will be used:

- (a) by advertisers to comply with the rules (when they must remove such numbers from their databases); and
- (b) by the Commission to determine advertisers' compliance with the TCPA and Junk Fax Prevention Act.

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(c) by the Commission to process and respond to complaints against advertisers.

This information collection does contain personally identifiable information on individuals (PII).

(a) The FCC maintains a system of records notice (SORN), FCC/CGB-1, “Informal Complaints and Inquiries,” (formerly FCC/CIB-1) to cover the collection, purposes(s), storage, safeguards, and disposal of the PII that individuals (respondents) may submit to the Commission as part of the data that they include on this new form, FCC Form 1088, “Junk Faxes and Telemarketing.”

(b) The FCC published this SORN last on October 11, 2001 (66 FR 51955).

3. Going forward, if the FCC makes substantive changes to the SORN, FCC/CGB-1 (formerly FCC/CIB-1), the Commission will conduct a full Privacy Impact Assessment of the SORN covered by FCC/CGB-1, update this SORN, publish a Notice in the *Federal Register*, and post these two documents on the FCC webpage, as required by OMB Memorandum, M-03-22 (September 22, 2003).

3. The Commission expects that most complainants will access and submit the form electronically.

The Commission also makes FCC Form 1088 available in a “paper format,” which respondents may obtain by calling the FCC at: 1 (800) 418-3676, or by writing to:

Federal Communications Commission or FCC
445 12th Street, SW
Washington, DC 20554

As described above, the Commission believes the branching strategy proposed for Form 1088 will significantly ease-the-burden on complainants who use the form.

4. This information collection does not duplicate any other government information collection

5. This information collection does have the potential to impact small businesses if they engage in any unsolicited advertisements. Small businesses may also be impacted since they may receive unsolicited advertisements and may choose to use Form 1088 to lodge complaints against advertisers. The ease-of-use improvements and reduced number of questions proposed in this collection will benefit small businesses as well as individual consumers.

6. If the revised Form 1088 is not approved, anyone filing a complaint about the receipt of unsolicited advertisements will face a longer set of questions presented in a less user-friendly manner. The Commission will still take complaints using the approved Form 1088 - but it will be more difficult for those complaining. The proposal the Commission is making in this request is specifically designed to further reduce burden.

7. The Collection does not demonstrate any special circumstances

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8. The Commission published a Notice in the *Federal Register* regarding the new complaint form, FCC Form 1088, pursuant to 5 C.F.R. §1320(d). See 71 FR 53686, September 12, 2006. No comments were received.
9. The Commission does not anticipate providing any payment or gift to any respondents.
10. Assurance of confidentiality is not offered to those subject to the rules.
 - (a) Fax numbers for individuals and entities that opt-out of future fax messages are maintained by the facsimile advertisers.
 - (b) However, consumers, *e.g.*, individuals and households, who want to provide sensitive information, *e.g.*, “personally identifiable information or PII, to the Commission are instructed to submit the complaint form via mail rather than electronically.
 - (c) Such PII is contained in the OSCAR database, which is covered under the Commission’s system of records, FCC/CGB-1 “Informal Complaints and Inquiries,” (formerly FCC/CIB-1)
 - (d) The PII in this system of records is used by the Commission personnel to handle and process informal complaints from individuals, groups, *etc.*

Should a consumer submit sensitive information such as fax numbers to the FCC in the course of filing a complaint, the information collected will be held in the OSCAR database which is covered by the FCC’s system of records FCC/CGB-1 “Informal Complaints and Inquiries” (formerly FCC/CIB-1).

- (a) This SORN has in place procedures and protections to cover the collection, purposes(s), storage, safeguards, and disposal of the PII that individuals (respondents) may submit to the Commission as part of the data that they include on this new form, FCC Form 1088, “Junk Faxes and Telemarketing.”
 - (b) The FCC published this SORN last on October 11, 2001 (66 FR 51955).
 - (c) Going forward, if the FCC makes substantive changes to the SORN, FCC/CGB-1 (formerly FCC/CIB-1), the Commission will conduct a full Privacy Impact Assessment of the SORN covered by FCC/CGB-1, update this SORN, publish a Notice in the *Federal Register*, and post these two documents on the FCC webpage, as required by OMB Memorandum, M-03-22 (September 22, 2003).
11. No questions of a sensitive nature are involved; however:
 - (a) Consumers who file complaints are cautioned not to provide personally identifiable information (PII) such as social security numbers, credit card numbers, *etc.*
 - (b) As noted earlier, the Commission does require consumers (respondents) to provide their names, addresses, and telephone numbers so that Commission staff may process these complaints more expeditiously and if the Commission needs to contact the complainant for any additional information to resolve the complaint.

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(c) Any PII is covered by a SORN, FCC/CGB-1, “Information Complaints and Inquiries,” (formerly FCC/CIB-1), with various procedures to cover the collection, purposes(s), storage, safeguards, and disposal of the PII that individuals (respondents) may submit to the Commission as part of the data that they include on this new form, FCC Form 1088, “Junk Faxes and Telemarketing.”

12, 13, and 14. Estimates of the hour burden for the collection of information are as follows:

Current approved burden:

Responses	5,160,001
Time Burden (Hours)	3,380,000
Cost Burden (Dollars)	8,000,002

Proposed reduced burden:

Responses	5,160,001	DIFFERENCE
Time Burden (Hours)	3,106,600	-275,400
Cost Burden (Dollars)	7,560,001	-640,001

While the number of expected respondents remains the same for the revised Form 1088, the overall reduction in the number of questions varied from a low of 8% to a high of 29%. Taking a conservative stance, the burden hours and burden dollars are reduced by 8% in accordance with the lowest percentage reduction in questions (due to deletion and combination in the number of questions). - See Question1 for a fuller explanation.

15. The Commission is revising the collection to reflect:

- (a) an improved FCC Form 1088.
- (b) the re-evaluation of the total annual hourly and cost burdens for the currently approved information collection.

16. There are no plans to publish the result of the collection of information.

17. The Commission does not seek approval not to display the expiration date for OMB approval of this information.

18. This information collection did not request any exemptions in Question 19 of OMB Form 83-I.

B. The Commission does not employ statistical methods in association with this collection.