

SUPPORTING STATEMENT

A. Justification:

History:

1. This submission concerns the Commission's emergency information rules codified at 47 CFR § 79.2. These rules are designed to ensure that persons with hearing and visual disabilities have access to the critical details of emergency information. The Commission adopted the rules to assist persons with hearing disabilities on April 14, 2000, in the *Second Report and Order* in MM Docket No. 95-176. The Commission modified the rules to assist persons with visual disabilities on July 21, 2000, in the *Report and Order* in MM Docket No. 99-339.

The information collection requirements consist of:

Section 79.2(b)(1)(i) requires video programming distributors, such as broadcast television stations and cable television systems, to make the critical details of emergency information provided in the audio portion of programming accessible to persons with hearing disabilities by using a method of closed captioning, or another method described in Section 79.1 of the rules.

Section 79.2(b)(1)(ii) requires that video programming distributors make the critical details of emergency information provided in a newscast, or newscast that interrupts regular programming, accessible to persons with visual disabilities.

Section 79.2(b)(1)(iii) further requires that video programming distributors accompany the critical details of emergency information provided in another matter with an aural tone.

As indicated, the information collection requirements pursuant to the rules are designed to assist persons with hearing and visual disabilities to make use of the same complaint procedure. 47 CFR § 79.2(c) requires that complaints be transmitted to the Commission, and that each complaint include the following:

- (a) the name of the video programming distributor at issue,
- (b) the date and time of the omission of the emergency information, and
- (c) the type of emergency.

After the Commission receives the complaint for the complainant, the Commission then notifies the video programming distributor, and the video programming distributor must reply to the complaint within 30 days.

The Commission is requesting an extension of this information collection to receive the full OMB full three year approval/clearance.

The statutory authority for this collection of information is contained in Sections 151, 152(a), 154(i), 154(j), 303, 307, 309, 310 and 613 of the Communications Act of 1934, as amended.

2. The FCC staff will use the data to enforce 47 CFR § 79.2. Viewers may file complaints alleging violation of this rule with the Commission. The Commission will notify video programming distributors of the complaint and the distributor will provide the Commission with a response to the complaint.

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

(a) The FCC maintains an information system, including both paper files and electronic data, which is covered by a system of records notice (SORN), FCC/CGB-1, "Informal Complaints and Inquiries."¹ The SORN covers the collection, purposes(s), storage, safeguards, and disposal of the PII that individuals (respondents) may submit to the Commission as part of complaints filed pursuant to Section 79.2 "Section 79.2 Consumer Complaint".

(b) The FCC has completed a Privacy Impact Assessment covering the information system covered by this SORN, which may be reviewed at:

http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.

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

(d) The FCC intends to update its inventory of SORNs, including FCC/CGB-1, "Informal Complaints and Inquiries," and to publish a Notice in the *Federal Register* as required by OMB regulations and the Privacy Act, 5 U.S.C. 552a(e).

3. Viewer complaints can be sent to the Commission by any method of transmission, including letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, audio-cassette recording, and Braille.

4. No other agency imposes a similar information collection on the respondents. There is no similar data available.

5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents. This collection will not impose a significant burden on small businesses or other small entities.

6. The frequency for this collection of information is determined by respondents, as necessary.

7. This collection of information is consistent with the guidelines in 5 CFR § 1320.5(d)(2).

8. The Commission published a notice in the *Federal Register* on July 5, 2007 (72 FR 36705). The Commission received no comments following publication of this notice.

9. No payment or gift was provided to respondents.

10. No assurances of confidentiality are being provided to the respondents.

(a) The Commission is requesting that individuals (consumers/respondents) submit their names, addresses, and telephone numbers, which the Commission's staff need to process the complaints.

(b) In addition, respondents are made aware of the fact that their complaint information may be released to law enforcement officials and other parties as mandated by law (*e.g.*, court-ordered subpoenas). Such information is contained in the operations support for complaint analysis and

¹ FCC/CGB-1, "Informal Complaints and Inquiries," SORN was formerly titled FCC/CIB-1, "Informal Complaints and Inquiries," SORN. The Commission changed the title of this SORN to reflect the change in the name of the bureau that maintains this SORN, *i.e.* from Consumer Information Bureau to Consumer and Governmental Affairs Bureau.

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resolution (OSCAR) and consumer information management system (CIMS) databases, which is covered under the Commission's system of records notice (SORN), FCC/CGB-1, "Consumer Inquiries and Complaints Division."² The PII covered by this system of records notice is used by Commission personnel to handle and to process informal complaints from individuals and groups. The Commission will not share this information with other federal agencies except under the routine uses listed in the SORN.

The PIA that the FCC completed on June 28, 2007 gives a full and complete explanation of how the FCC collects, stores, maintains, safeguards, and destroys the PII, as required by OMB regulations and the Privacy Act, 5 U.S.C. 552a. The PIA may be viewed at:

http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.

11. This information collection does not raise any questions or issues of a sensitive nature.

(a) Additionally, consumers are cautioned not to provide personal information such as social security number, 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 so that, if necessary, the Commission staff may contact the complainant for any additional information to resolve the complaint.

(c) In instances where consumers provide PII, the FCC has a SORN, FCC/CGB-1, "Informal Complaints and Inquiries," to cover the collection, use, storage, and destruction of the PII. A full explanation of the privacy safeguards may be found in the Privacy Impact Assessment that the FCC completed on June 28, 2007 and that may be viewed at:

http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.

12. The Commission estimates that it will receive 100 complaints per year concerning accessibility of emergency information, regarding 47 CFR § 79.2. The Commission believes that each complaint will, in turn, require a response from the responsible program provider. The Commission also estimates that each viewer will spend 1 hour preparing the complaint, and the program provider will spend 2 hours on each response. These estimates are based on the FCC staff's knowledge and familiarity with the availability of the data required.

The Commission assumes that the viewers themselves will prepare the complaint. The Commission also assumes that 90% of the company responses will be prepared by an attorney or in consultation with an attorney, an engineer, or similar media specialist. The Commission estimates that the respondent will spend 1 hour in consultation with this attorney.

The remaining 10% of company responses would be prepared by "in-house" staff of a broadcast station or

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MVPD whose pay is comparable to mid to senior level federal employee (GS-14/Step 5, plus 30% overhead):

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| 100 viewer complaints x 1 hour = | 100 hours |
| 100 complaints responses x 2 hours/in house staff preparation x 10% = | 20 hours |
| 100 complaints responses x 1 hour/staff consultation with "outside" attorney x 90% = | <u>90 hours</u> |
| Total Annual Hourly Burden: 210 hours | |

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|---|------------------------------------|
| 100 complaints x 2 hours/in house staff preparation x 10% x \$50.95/hour = | \$1,019.00 |
| 100 complaints x 1 hour/staff consultation with "outside" attorney x 90% x \$50.95/hour = | \$4,585.55 |
| | + 30% overhead = <u>\$1,681.35</u> |
| Total "In House" Annual Hourly Cost: \$7,285.90 | |

13. The Commission assumes that an attorney would prepare the response to 90% of the complaints-received. The Commission also estimates that the attorney will bill 1 hour for legal time. The attorney is estimated to have an average salary of \$250/hour.

Total Annual Costs: 100 complaint responses x 1 hour/legal time x 90% x \$250/hour = **\$22,500.00**

14. The Commission will use staff at the GS-14/Step 5 level (\$50.95/hour) to process these complaints. Processing of each complaint, including intake, complaint service, and administration is estimated at 3 hours per complaint.

Total Cost to Federal Government: 100 complaints x \$50.95/hour x 3 hours processing = \$15,285.00
+ 30% overhead= \$4,585.50
\$19,870.50

15. The Commission had an adjustment to the total annual cost burden. This adjustment was due to an increase in the attorney's hourly fee. There are no program changes to this information collection.

16. The Commission does not intend to publish this data.

17. OMB approval of the expiration of the information collection will be displayed at 47 CFR § 0.408.

18. There are no exceptions to the Certification Statement in Item 19.

B. Collections of Information Employing Statistical Methods:

This information collection does not employ any statistical methods.