

SUPPORTING STATEMENT

A. Justification

1. Pursuant to 47 U.S.C. 208 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996, and 47 CFR §§ 1.711 and 1.716, consumers may file complaints against common carriers with the Commission.

(a) Section 208(a) authorizes complaints by any person “complaining of anything done or omitted to be done by any common carrier”¹ subject to the provisions of the Act. Section 208(a) specifically states that “it shall be the duty of the Commission to investigate the matters complained of in such a manner and by such means as it shall deem proper.”²

Pursuant to Section 208(a) and the Commission’s rules, informal complaints against common carriers filed by consumers with the Commission are forwarded to the carrier(s) involved, which must satisfy or answer the complaints within the time and in the manner prescribed by the Commission.

Although the Act does not discuss how the Commission should treat complaints against non-common carriers for violations of the Act or the Commission’s rules, the Commission investigates such complaints in a manner similar to how it treats those against common carriers.

(b) The information provided by consumers in their complaints not only assists carriers in resolving or responding to the issues raised by consumers, it also provides the Commission with baseline data that may be used to monitor common carrier marketplace practices and support appropriate enforcement activities. Complaint information also helps inform Commission decision makers about whether new or modified rules are needed to protect the interests of consumers.

(c) Currently, this information collection consists of two FCC Forms:

Form 475 General Communications Related Issues complaint form

<http://svartifoss2.fcc.gov/cib/fcc475.cfm> (*on-line*)

<http://www.fcc.gov/cgb/consumerfacts/FORM475.PDF> (*mail out version*)

Form 475B Obscene, Profane, and/or Indecent Material complaint form

<http://svartifoss2.fcc.gov/cib/fcc475B.cfm> (*on-line version*)

<http://www.fcc.gov/cgb/consumerfacts/FORM475.PDF> (*mail out version*)

¹ 47 U.S.C. § 208(a).

² 47 U.S.C. § 208(a).

Currently Approved Information Collection Requirements:

FCC Form 475 provides consumers a concise structured mechanism to communicate critical information in their complaints, thereby facilitating prompt, decisive action by the common carrier(s) involved and Commission staff. This form is used for all telephone-related complaints, except slamming complaints for which FCC Form 501, Slamming Complaints Form,³ must be used.

FCC Form 475B is used by consumers to lay out precisely their complaint(s) and issue(s) concerning the practices of the communications entities, which consumers believe may have aired obscene, profane, and/or indecent programming.

Revised Information Collection Requirements:

The Commission has proposed FCC Form 2000 to replace the current FCC Form 475, which will provide greater clarity and ease of use by separating the various complaint subject areas into separate subparts tailored to each subject.

The primary proposal for FCC Form 2000 is that instead of having a single, one-size fits all form to cover various types of complaints which are predominately oriented towards common carrier complaints, 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 Selection Page are:

- 2000A – Deceptive or Unlawful Advertising or Marketing Complaint
- 2000B – Billing, Privacy, or Service Quality Complaint
- 2000C – Disability Access Complaint
- 2000D – Emergency or Public Safety Complaint
- 2000E – Media (General) Complaint
- 2000F – Other Communications Complaint Not Covered by Form 2000A through FCC Form 2000E

This branching strategy will assist both on-line users of FCC Form 2000 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.

The Internet-based version of FCC Form 2000 first asks for the complainant's contact information, including name, address; then presents a "gateway" question to determine the general topic of the complaint: (1) deceptive or unlawful advertising or marketing; (2) billing

³ Because slamming complaints are covered under separate FCC regulations and different information is required to be submitted by consumers in order to process a complaint, it is necessary at this time to utilize a separate form, FCC Form 501.

privacy, or service quality; (3) disability access; (4) emergency or public safety; (5) general media issues; or (6) other communications complaints.

In printed format, proposed FCC Form 2000 will have six subparts, one for each area describe above. Each subpart of the printable version of FCC Form 2000 consolidates the complainant's personal information with detailed questions about the specific violations alleged by the complainant.

The proposed FCC Form 2000 clearly states that "slamming" complaints **may not be filed** using the form. Consumers who want to file slamming complaints are directed to Form 501, Slamming Complaint Form, which can be accessed via web links, indicated on the first page of this document. A clear definition of "slamming" is provided to lessen any possible consumer confusion about which form to use when filing a specific complaint.

Information collected by proposed FCC Form 2000 may ultimately become the foundation for enforcement actions and/or rulemaking proceedings, as appropriate.

FCC Form 475-B remains unchanged.⁴

(d) This information collection includes personally identifiable information (PII).

(1) The Commission maintains a system of records notice (SORN), FCC/CGB-1, "Informal Complaints and Inquiries,"⁵ to cover the PII including both paper files and electronic data, which the information system collects, stores, safeguards and destroys, as required.

(2) The Commission completed a Privacy Impact Assessment (PIA) on June 28, 2007 for the information system cover by this SORN. The PIA may be reviewed at: http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.

2. The information received in both the proposed Form 2000 and Form 475B will be used by Commission staff to assist in the resolution of complaints and as a part of investigative work performed by federal and state law enforcement agencies to monitor industry practices and to promote compliance with federal and state requirements.

(a) The proposed FCC Form 2000 is important to the Commission because it will significantly improve the complaint process for consumers, common carriers, and Commission staff.

(i) Information collected from FCC Form 475-B will allow the Commission to create and enforce rules and policies that will protect the public from obscene, profane, and/or indecent programming. Individuals who file proposed Form 2000 and Form 475-B complaints do so voluntarily – there is no requirement to file the complaints.

⁴ The Commission made a minor editorial change to FCC Form 475-B which did not change the information being collected. The privacy statement was added to the form concerning the Commission's system of records for informal complaints. The actual information collections remain unchanged.

⁵ 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, *e.g.*, from Consumer Information Bureau to Consumer and Governmental Affairs Bureau.

- (b) The information from proposed FCC Form 2000 and Form 475-B will strengthen the effectiveness of the Commission's rules in deterring cramming,⁶ obscene, profane, and indecent content programming⁷, and other informal complaint associated with communications marketplace.
- (c) The information gleaned from the proposed FCC Form 2000 Consumer Complaint Form will also help consumers protect themselves from unscrupulous common carrier entities that may seek to take advantage of consumer confusion about the many different types of telecommunications service offerings.

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."⁸ 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 the data that they include on FCC Form 475-B "Obscene, Profane, and/or Indecent Material" and FCC Form 2000 "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," later this year 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. The Commission expects that most complainants will access and submit the form electronically. The approved FCC Forms 475-B and 2000 will be accessible from the Commission's website and through the agency's consumer offices. The Commission also makes FCC Form 475-B and FCC Form 2000 available in "paper format", which respondents may obtain by calling the FCC at: 1-CALL-FCC (1-888-225-5322), TTY: 1-888-TELL-FCC (1-888-835-5322), or by writing to:

Federal Communications Commission or FCC

⁶ Cramming is the practice of causing unauthorized, misleading, or deceptive charges to be placed on consumers' telephone bills.

⁷ It is a violation of federal law to broadcast obscene programming at any time, and also a violation of federal law to broadcast indecent or profane programming during certain hours. To qualify as "obscene", the material must meet a three-prong test, (1) an average person, applying contemporary community standards, must find that the material, as a whole, appeals to the prurient interest; (2) the material must depict or describe, in a patently offensive way, sexual conduct specifically defined by applicable law; and (3) the material, taken as a whole, must lack serious literary, artistic, political, or scientific value. "Indecent material" is defined as language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for that medium, sexual or excretory organs or activities. "Profane" broadcasts are those that include language that denotes certain of those personally reviling epithets naturally tending to provoke violent resentment or denoting language so grossly offensive to members of the public who actually hear it as to amount to a nuisance. Both indecent and profane speech is prohibited from being aired between the hours of 6 a.m. and 10 p.m.

⁸ This SORN was formerly titled FCC/CIB-1, "Informal Complaints and Inquiries," SORN. Please refer to footnote 4 above for an explanation.

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4. Since the data collection is specific to the consumer filing the information, there is limited duplication.
 - (i) Duplication may exist where a consumer files a complaint directly with the Commission and then files the same complaint with a Congressional office, which subsequently forwards it to the Commission.
 - (ii) The Consumer Inquiries and Complaints Division shares responsibility with the Commission's Enforcement Bureau on processing programming complaints and will work closely with the Enforcement Bureau in order to identify duplicate Form 475-B complaints and Form 2000.
5. The Commission is committed to reducing the regulatory burdens on small businesses whenever possible, consistent with the Commission's other public interest responsibilities.
 - (a) The branching strategy for proposed FCC Form 2000 and the existing Form 475-B will further reduce the administrative burdens (costs and time) on companies, including those smaller companies.
 - (b) The Commission believes, therefore, that few, if any small businesses and other small entities will be impacted by this collection.
 - (c) If some small entities are impacted, the Commission believes that by having access to the Internet, filing a complaint becomes less costly and time consuming.

In conformance with the Paperwork Reduction Act, the Commission is making an effort to minimize the burden on all respondents. In itself, this information collection reflects that effort, as it will reduce the number of instances in which the Commission will have to return incomplete complaints to consumers, as well as the need for consumers to redo their complaints.

6. The information collection comprising proposed FCC Form 2000 and Form 475-B will afford the Commission an opportunity to expedite processing of consumer complaints by minimizing the potential of the Commission being inundated with consumer complaints requiring manual processing of information received in a non-electronic environment.
7. No special circumstances exist that would cause this collection to be conducted outside the scope of the factors listed in the OMB 83i instructions.
8. Pursuant to 5 CFR § 1320.8, the Commission placed a notice soliciting public comment on the proposed FCC Form 2000 in the *Federal Register*. See 72 FR 30593, published June 1, 2007. No comments from the public were received.
9. The Commission does not anticipate providing any payment or gift to any 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. A privacy statement is included on all FCC forms accessed through our Internet web site.
- (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 (*i.e.* court-ordered subpoenas). Such information is contained in the operations support for complaint analysis and 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." 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 if the Commission needs to 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. Estimates of the hour burden for the collection of information are as follows:

Currently approved burdens for FCC Form 475 and FCC Form 475-B:

Respondents: 1,354,619 (FCC Form 475 - 83,287; FCC Form 475-B - 1,271,332)

Reponses: 1,354,619 (FCC Form 475 - 83,287; FCC Form 475-B - 1,271,332)

Time Burden (Hours): 359,477 (FCC Form 475 - 41,644 hours; FCC Form 475-B - 317,833 hours)

Total "In-House" Cost (Dollars): \$0

Revised Information Collection Requirements:

Burden for Proposed FCC Form 2000 -- Consumer Complaint Form

Due to the creation of the Junk Fax/ Telemarketing Form, FCC Form 1088, which is used to collect data previously filed on the FCC Form 475, the number of respondents, responses and total annual burdens associated with FCC Form 475 has been reduced. As mentioned previously, the Commission proposed FCC Form 2000 to replace FCC Form 475. Therefore, the reduction for respondents, responses and total annual costs will now reflect the proposed FCC Form 2000 accordingly.

The Commission now estimates that there will be approximately 58,776 consumers who will file the proposed FCC 2000 complaint form annually utilizing the combined methods available (i.e., fax, email, telephone, website, writing). This estimate is based on the total current volume of complaints received by the Commission.

This process will be done “on-occasion” when the consumer has a complaint concerning a common carrier entity and will require approximately 30 minutes to complete this process.

Of the 58,776 complaints, the Commission estimates that 45% will be submitted electronically through its website; 4% will be submitted via calls to the toll-free number; and 42% will be submitted in writing (by form or letter), 8% will be sent by e-mail, and 1% will be sent via facsimile.

Total Number of Annual Respondents: 58,776 consumers

Total Number of Annual Responses:

58,776 consumers x 1 FCC Form 2000 (proposed)/year = 58,776 responses

Total Number of Annual Burden Hours:

58,776 consumer x 1 FCC Form 2000 (proposed) each/year x 0.50 hrs/response = **29,388 hours**

Because this form is used solely by consumers (respondent), there will be no “in-house” personnel to comply with the requirement nor cost to respondents since all information is available based on personal experiences.

Total Annual “In-House” Cost: \$0

Burden for FCC Form 475-B -- Obscene, Profane, and Indecent Complaint Form

The FCC Form 475-B, Obscene, Profane, and Indecent Complaint Form is used by consumer to lay out precisely their complaint(s) and issues concerning the practices of communications entities, which consumers believe may have aired obscene, profane, and/or indecent programming. This Form remains unchanged. Therefore, the number of respondents, responses, total annual hourly burden and in-house cost remains the same as previously approved by OMB.

Total Number of Annual Respondents: 1,271,332 consumers

Of the 1,271,332 complaints, the Commission estimated that 75% will be submitted electronically through its website; 5% will be submitted via calls to the toll-free number; and 4% will be submitted in writing (by form or letter), 15% will be sent by e-mail, and 1% will be sent via facsimile.

Total Number of Annual Responses:

1,271,332 consumers x 1FCC Form 475-B each/yr = 1,271,332 responses

Total Annual Burden Hours:

1,271,332 consumers x 1FCC Form 475-B each/year x 0.25 hours/response = 317,833 hours

Total Annual “In-House” Cost: \$0

Cumulative Totals for FCC Form 2000 (proposed) and FCC Form 475-B:

Total Number of Annual Respondents: 58,776 + 1,271,332 = **1,330,108 respondents**

Total Number of Annual Responses: 58,776 + 1,271,332 = **1,330,108 responses**

Total Annual Burden Hours: 29,388 + 317,833 = **347,221 hours**

Total Annual “In-House” Cost: \$0

13. There are no annual costs to respondents.

All complaints submitted by respondents for both Form 2000 (proposed) and Form 475-B are voluntary. The information required to complete the form is available based on respondents’ memory, notes, telephone bills or other documents. The consumer already has access to the Internet, and no additional costs are incurred to submit the complaint.

(a) Total annualized capital/startup costs: **None**

(b) Total annual cost (O&M): **None**

(c) Total annualized cost requested: **None**

14. The FCC will administer the FCC proposed Form 2000 and Form 475-B using Commission staff.

The Commission will use paraprofessional staff at the GS-12/5 (\$36.26/hour) level to process the data sent to the Commission. The Commission makes the following estimates:

Time to process each proposed Form 2000 complaint to be approximately 30 minutes (0.50 hours); and time to process each Form 475-B complaint to be approximately 15 minutes (0.25 hours).

The processing of both the consumer complaints and programming complaints are already part of the Commission’s duty; therefore, administration of the complaint processes in both assumes no additional activity from Commission staff.

On average, the Commission estimates that it will receive approximately 1,330,108 complaints annually, thus:

58,776 proposed Form 2000 complaints x .50 hours processing at \$36.26 hourly = \$1,065,608.80
1,271,332 Form 475B complaints x .25 hours processing at \$36.26 hourly = \$11,524,624.00
+ 30% Overhead = \$3,777,069.84
Total Cost to Federal Government = \$16,367,302.64

15. The Commission is submitting this collection as a revision—the Commission has proposed FCC Form 2000 to replace FCC Form 475 to make it more user friendly for consumers, which will help to improve the efficiency and effectiveness of the Commission’s informal complaint process. Also, the proposed form will allow the Commission to collect detailed information from complainants concerning possible violations of the Act and the Commission’s rules. The Commission proposed to replace FCC Form 475 with FCC Form 2000

Due to the creation of the Junk Fax/Telemarketing complaint form, FCC Form 1088, which is used to collect data previously filed on the FCC Form 475, the total number of respondents decreased to 1,330,108; total annual responses decreased to 1,330,108; and the total annual hour burden decreased to 347,221 hours.

16. There are no plans to publish the result of the collection of information. The Commission will, however, post this information on its webpage and will comply with all valid FOIA requests in regard to information sought on either proposed FCC Form 2000 or Form 475-B.
17. The Commission does not intend to seek approval not to display the expiration date for OMB approval of this information.
18. On the 60 day FRN published June 1, 2007 (72 FR 30591), the Commission inadvertently included Federal Government and state, local or tribal government as respondents. Therefore, the Commission corrects this error to reflect the affected parties to be individuals or household, business or other for-profit entities and not-for profit institutions. There are no other exceptions to the Certification Statement in Item 19 of OMB Form 83-I, “Certification for Paperwork Reduction Act Submissions.”

B. Collections of Information Employing Statistical Methods

The Commission does not anticipate that the collection of information will employ statistical methods.