

Disclosure Requirements for Information Services Provided under a Presubscription or Comparable Arrangement

SUPPORTING STATEMENT

A. Justification

1. Section 228 of the Communications Act of 1934, as amended, establishes federal requirements governing common carriers' transmission of and billing and collection for interstate pay-per-call and other information services. These statutory requirements are codified - often virtually verbatim - in Part 64 of the Commission's Rules.

47 CFR Section 64.1501(b) defines the term "presubscription or comparable arrangement." The meaning of this term is crucial to the application of the Commission's pay-per-call regulations because services provided pursuant to a presubscription or comparable arrangement are exempt from the statutory definition of pay-per-call services contained in Section 228(i).

Section 64.1501(b) defines a presubscription or comparable arrangement as a contractual agreement in which an information service provider makes specified disclosures to consumers when offering "presubscribed" information services. To establish a valid presubscription arrangement, an information service provider must disclose the following information to a consumer: "all material terms and conditions associated with the use of the service, including the service provider's name and address, a business telephone number which the consumer may use to obtain additional information or to register a complaint, and the rates for the service,...any future rate changes,...[and] an identification number or other means to prevent unauthorized access to the service by nonsubscribers...." 47 CFR § 64.1501(b).

The Commission's pay-per-call rules require that all presubscription arrangements must be executed either in writing (including through transmission by an electronic medium) or, alternatively, through payment by direct remittance, prepaid account, debit, credit, charge, or calling card number, along with authorization to bill that number.

The Commission is requesting OMB approval for a three year extension of this collection of information.

This collection does not affect individuals or households; thus there are no impacts under the Privacy Act because it does not require the collection of personal information from individuals.

The statutory authority for this information collection is contained in 47 U.S.C. 228.

2. The disclosures required for presubscription arrangements are intended to ensure that consumers are fully informed about information services before entering into an agreement to purchase the services on a subscription basis.
3. Information service providers are free to explore use of information technology to meet disclosure obligations under section 228(c) of the Communications Act and the Commission's pay-per-call rules. Section 64.1501(b) of the Commission's rules specifically permits agreements transmitted through electronic medium.

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4. The Federal Trade Commission also includes disclosure requirements in its definition of presubscription arrangement. See 16 CFR § 308.2(e). These dual federal requirements do not increase the burden on respondent information service providers. The rules simply require that an information service provider that seeks to execute a contract for subscription to an information service must disclose to the consumer all material terms and conditions associated with the relevant information service. Other disclosures or alternative sources of the information would not ensure that consumers receive information about information services before they enter into a contract to subscribe to them.
5. The disclosures contained in section 64.1501(b) should not have a significant impact on a substantial number of small businesses or other small entities because virtually all presubscribed information services are provided through toll-free telephone numbers. Statutory provisions separately require similar disclosures for such toll-free information. Thus, section 64.1501(b) is unlikely, by itself, to have a significant effect on small information providers.
6. Without the disclosures contained in section 64.1501(b), consumers might not be adequately informed about the cost and other terms and conditions associated with presubscribed information services. The Commission believes that given the past history of widespread deception and fraud involved with the provision of information services, requiring a presubscription arrangement to be executed in writing is necessary to guard against attempts to evade federal pay-per-call regulations. The disclosures required of any presubscription arrangement ensure that consumers are informed, at a minimum, about the terms and conditions associated with interstate information services before subscribing to such services.
7. There are no special circumstances that make these information collection requirements incompatible or inconsistent with 5 CFR § 1320.5, "General Requirements."
8. The Commission published a notice in the *Federal Register* as required by 5 CFR § 1320.8(d). See 74 FR 2586 on January 15, 2009. No comments were received.
9. The Commission does not anticipate providing any payment or gift to respondents.
10. The nature of the information to be collected under the rules is neither proprietary nor confidential. No assurances have been given to respondents to treat the information in a proprietary or confidential manner. The information to be collected is required public information, needed for public safety and the consumer's product/service awareness.
11. There are no questions of a sensitive nature with respect to the information collected.
12. Estimates of the hour burden for the collection of information under **Section 64.1501(b)** are as follows:

The Commission estimates a total of roughly 3,750 information service providers will provide information services through a presubscription or comparable arrangement.

The Commission estimates that of the 3,750 information service providers that utilize presubscription arrangements, approximately 2,750 of them will execute these presubscriptions through credit, prepaid account, debit, charge or calling card number

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transactions. In these situations, providers are not subject to the disclosure requirements contained in section 64.1501(b), but must make certain separate disclosures as part of an introductory message during the transaction. These disclosures are contained in a separate rule provision and are identified in a separate information collection (3060-0748).

Therefore, it is estimated that the remaining 1,000 information service providers will offer written presubscription arrangement (disclosures) for information services, which will be standard subscription contracts.

This process will be done “on occasion,” and it will require approximately 4.5 hours to complete this process.

Number of Respondents: 1,000 information service providers

The Commission estimates that each of these 1,000 information service providers (respondents) has one response annually.

Total Number of Responses Annually:

1,000 respondents x 1 response/yr = **1,000 responses/yr**

Total Annual Burden Hours:

1,000 responses x 4.5 hours/presubscription contract = **4,500 burden hours**

Total “In-House” Cost to Respondents:

The Commission believes that the 1,000 respondents who use “in-house” personnel to draft standard universal presubscription contracts will employ a staff employee, whose salary is comparable to a middle-to-high level federal employee (GS-13/5, plus 30% overhead). The Commission estimates a respondent’s “in-house” costs to be about \$58.56 per hour to comply with the requirement:

1,000 responses x 4.5 hours/presubscription contract x \$58.56 per hour = **\$263,520**

13. There are no recurring costs; new costs will be incurred only when information service providers add new programs or change the terms and conditions of existing ones. Therefore:
 - (a) Total annualized capital/start-up costs: **None**
 - (b) Total annual costs (O&M): **None**
 - (c) Total annualized costs requested: **None**
14. These disclosure requirements do not impose any costs on the federal government.

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15. There are no program changes to this information collection. However, there is an adjustment of -500 burden hours due to Commission re-evaluating the total annual burden hours. With this submission, the Commission more accurately estimated the burden hours.
16. The Commission does not anticipate publishing any results of the information collection.
17. The Commission does not intend to seek approval not to display the expiration date for OMB approval of the information collected.
18. There are no other exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods.

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