

SUPPORTING STATEMENT

A. *Justification*

1. Section 713 of the Communications Act of 1934, as amended (the Act), which was added pursuant to section 305 of the Telecommunications Act of 1996, required the Commission to prescribe rules and implementation schedules for closed captioning of video programming. In enacting section 713, Congress generally required that video programming be closed captioned, regardless of distribution technology, to ensure access to persons with hearing disabilities.

As indicated in more detail below, the Commission initiated a rulemaking in July 2005 to review the current status of the closed captioning rules that were adopted in 1997. On November 7, 2008, the Commission released an Order adopting some changes to the rules, as proposed in the 2005 Notice of Proposed Rulemaking. The purpose of this submission is to extend the collection for the closed captioning rules (found in 47 C.F.R. § 79.1), bring current the estimates of proposed burdens that were included in the September 2005 PRA submission to OMB, and make final the modified collections that were adopted by the Commission in November 2008. To the extent, however, that the Commission has not addressed all of the issues raised in the 2005 Notice of Proposed Rulemaking, this collection continues to refer to “Proposed Information Collection Requirements.”

History:

On August 22, 1997, the Commission issued a Report and Order for closed captioning of video programming, adopting rules and implementation schedules for the closed captioning of video programming. *Closed Captioning and Video Description of Video Programming; Implementation of Section 305 of the Telecommunications Act of 1996; Video Programming Accessibility*, MM Docket No. 95-176, FCC 97-279, Report and Order, 13 FCC Rcd 3272 (August 22, 1997), published at 62 FR 48487 (September 16, 1997) (*Closed Captioning Report and Order*). In the *Closed Captioning Report and Order*, the Commission took the following actions, among others:

- (a) Placed responsibility for compliance with the closed captioning rules on video programming distributors, defined as all entities that provide video programming directly to customers’ homes, regardless of distribution technology used [*i.e.*, broadcasters and multichannel video programming distributors (“MVPDs”)];
- (b) Generally required that 95% of new English language programming be closed captioned as of January 1, 2006, subject to certain exceptions. New programming is defined as programs first published or exhibited on or after January 1, 1998;
- (c) Established a 10-year transition period for captioning of “pre-rule” programming, and required that 75% of all pre-rule nonexempt English language programming delivered to consumers during the first quarter of 2008 and thereafter must be captioned. Pre-rule analog programming is defined as analog programming first published or exhibited before January 1, 1998;

- (d) Established exemptions from the closed captioning rules for several classes of programs or services for which the Commission determined a requirement to provide closed captioning would be economically burdensome;
- (e) Established procedures for seeking exemptions from the closed captioning rules if the requirements would impose an undue burden;
- (f) Required that video programming providers deliver intact the closed captioning they receive as part of the programming they distribute to viewers where the captions do not need to be reformatted;
- (g) Required that video programming providers maintain and monitor their equipment to ensure the technical quality of the closed captioning they transmit;
- (h) Permitted the use of electronic newsroom technique to create closed captions;
- (i) Established a complaint procedure, found in 47 C.F.R. § 79.1(g), requiring that:
 - (1) Complaints alleging violation of the closed captioning rules are first directed in writing to the video programming provider responsible for distribution of the programming;
 - (2) Video programming distributors (VPDs) respond to such complaints within a set time period;
 - (3) Complaints be directed to the Commission if the complainant remains dissatisfied after the VPD is afforded an opportunity to resolve the complaint; and
 - (4) VPDs are provided an opportunity to respond to the complaint after it is filed with the Commission.

In an Order on reconsideration, see *Closed Captioning and Video Description of Video Programming; Implementation of Section 305 of the Telecommunications Act of 1996; Video Programming Accessibility*, MM Docket No. 95-176, FCC 98-236, Order on Reconsideration, 13 FCC Rcd 19973 (October 2, 1998), published at 63 FR 55959 (October 20, 1998) (*Reconsideration Order*), among other things, the Commission:

- (a) Granted petitions for reconsideration of the *Closed Captioning Report and Order's* definition of full accessibility as the captioning of 95% of new nonexempt programming, instead concluding that as of January 1, 2006, 100% of new English language programming must be captioned, with some exceptions, in order for the rules to be consistent with the statutory mandate in section 713;
- (b) Granted petitions for reconsideration seeking to impose a closed captioning requirement on Spanish language programming, and established a 12-year transition period for new Spanish language programming to be 100% captioned as of January 1, 2010, with three benchmarks; and a 14-year transition period for pre-rule Spanish programming to be 75% captioned as of January 1, 2012, with one benchmark; and

- (c) Granted, in part, petitions for reconsideration regarding the use of electronic newsroom technique, and limited the circumstances in which this method of captioning may be permitted to count toward the captioning requirement.

On July 31, 2000, the Commission amended the closed captioning rules to require an increasing amount of digital programming to be captioned in a format that can be recovered and displayed by decoders meeting the EIA-708 standard.¹ *Closed Captioning Requirements for Digital Television Receivers; Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Video Programming Accessibility*, ET Docket No. 99-254, MM Docket No. 95-176, FCC 00-259, Report and Order, 15 FCC Rcd 16788 (July 31, 2000), published at 65 FR 58467 (September 29, 2000) (*DTV Closed Captioning Order*). The *DTV Closed Captioning Order*:

- (a) Adopted the same benchmark transition period for new and pre-rule digital programming as exists for analog programming;
- (b) Established July 1, 2002, as the date for determining whether digital programming is new programming or pre-rule programming, and as the effective date requiring digital TVs have digital closed captioning decoders.

I. EXISTING INFORMATION COLLECTION REQUIREMENTS

Final Information Collection Requirements:

- (a) Petitions for exemption based on “undue burden.”
 - (1) Pursuant to 47 C.F.R. § 79.1(f), a video programming provider, video programming producer, or video programming owner may petition the Commission for a full or partial exemption from the closed captioning requirements based upon a showing that the closed captioning requirements will result in an undue burden.
 - (2) Petitions for exemption must be filed with the Commission, placed on Public Notice, and be subject to comment from the public.
- (b) Complaints alleging violations of the closed captioning rules.
 - (1) In response to a complaint, a VPD is obligated to provide the Commission with sufficient records and documentation to demonstrate that it is in compliance with the Commission’s rules.
 - (2) The Commission will review the complaint, including all supporting evidence, and determine whether a violation has occurred, and the Commission shall, as needed, request additional information from the video programming provider.

Proposed Information Collection Requirements

¹ EIA-708-B is the standard adopted by the Electronics Industries Alliance for digital closed captioning.

On July 21, 2005, the Commission issued a Notice of Proposed Rulemaking seeking comment on several aspects of the closed captioning rules, and seeking comment on whether certain measures, including information collections, should be adopted to monitor compliance with these rules. *Closed Captioning of Video Programming; Telecommunications for the Deaf, Inc., Petition for Rulemaking*, CG Docket No. 05-231, FCC 05-142, Notice of Proposed Rulemaking, 20 FCC Rcd 13211 (July 21, 2005) (*2005 Closed Captioning NPRM*). On November 7, 2008, the Commission released an order addressing issues raised in the *2005 Closed Captioning NPRM* regarding closed captioning complaints and the making available of VPDs' contact information to viewers. *Closed Captioning of Video Programming; Closed Captioning Requirements for Digital Television Receivers*, CG Docket No. 05-231 and ET Docket No. 99-254, Declaratory Ruling, Order, and Notice of Proposed Rulemaking, FCC 08-255 (Nov. 7, 2008) (*2008 Closed Captioning Declaratory Ruling and Order*). The other issues raised in the *2005 Closed Captioning NPRM*, however, remain pending, and they include the following proposed information collection requirements; the Commission would like to retain the burden in OMB's inventory with anticipation that the final rules will be adopted for the requirements in the future:

(a) Compliance reports:

- (1) The *2005 Closed Captioning NPRM* sought comment on whether VPDs should be required to submit routine reports to the Commission certifying to compliance with the closed captioning rules.
- (2) The *2005 Closed Captioning NPRM* sought comment on the frequency of such a reporting requirement, were it to be adopted.

(b) Petitions for exemption based on undue burden:

- (1) The *2005 Closed Captioning NPRM* sought comment on whether electronic filing of exemption requests filed pursuant to 47 C.F.R. § 79.1(f) should be allowed or even mandated.
- (2) Presently, electronic filing of exemption requests is not available.

II. MODIFIED INFORMATION COLLECTION REQUIREMENTS:²

On November 7, 2008, the Commission released the *2008 Closed Captioning Declaratory Ruling and Order*.³ In the *Order*, the Commission amends its rules to provide for more efficient complaint processes and methods for consumers to contact VPDs with concerns about closed captioning.

(a) Responding to consumer complaints:

² These requirements were adopted in the *2005 Closed Captioning NPRM* and approved by OMB. The *2008 Closed Captioning Declaratory Ruling and Order* did not add any additional requirements that were not adopted in the *2005 NPRM* and approved by OMB. It expanded on the requirements to merely make them more specific.

³ See *Closed Captioning of Video Programming; Closed Captioning Requirements for Digital Television Receivers*, CG Docket No. 05-231 and ET Docket No. 99-254, Declaratory Ruling, Order, and Notice of Proposed Rulemaking, FCC 08-255 (Nov. 7, 2008) (*2008 Closed Captioning Declaratory Ruling and Order*).

- (1) Pursuant to 47 C.F.R. § 79.1(g), complaints concerning an alleged violation of the closed captioning requirements may be filed with the Commission or with the VPD responsible for delivery and exhibition of the video programming within sixty (60) days of the problem with captioning.
 - (2) Complaints filed first with the Commission will be forwarded to the appropriate VPD. The VPD must respond in writing to the Commission and the complainant within 30 days of the receipt of the complaint from the Commission.
 - (3) If the complaint is filed first with the VPD, the VPD must respond in writing to the complainant within 30 days after receipt of the complaint. If the VPD fails to respond to it within 30 days or a dispute remains following the initial complaint resolution procedures, a complaint may be filed with the Commission within 30 days after the time allotted for the VPD to respond has ended. The VPD shall respond to the Commission and the complainant within 30 days of receipt of the complaint from the Commission.
- (b) Provide contact information to viewers and subscribers and place this information in directories:
- (1) Requires VPDs to make available contact information for the receipt and handling of immediate closed captioning concerns raised by consumers while they are watching a program.
 - (i) Requires VPDs to designate a telephone number, fax number, and e-mail address for purposes of receiving and responding immediately to any closed captioning concerns, and to ensure that any staff reachable through this contact information has the capability to immediately respond to and address consumers' concerns.
 - (ii) Requires that, to the extent that a VPD has personnel available, either on site or remotely, to address any technical problems that may arise, consumers using this dedicated contact information must be able to reach someone, either directly or indirectly, who can address the consumers' captioning concerns. This provision does not require that VPDs alter their hours of operation or the hours during which they have staffing available; at the same time, however, where staff is available to address technical issues that may arise during the course of transmitting programming, they also must be knowledgeable about and be able to address closed captioning concerns. In situations where a VPD is not immediately available, any calls or inquiries received, using this dedicated contact information, should be returned or otherwise addressed within 24 hours. In those situations where the captioning problem does not reside with the VPD, the staff person receiving the inquiry should refer the matter appropriately for resolution.
 - (2) Requires VPDs to make contact information available for the receipt and handling of written closed captioning complaints that do not raise the type of immediate issues that are addressed above. The contact information required for written complaints shall include the name of a person with primary responsibility for captioning issues and who can ensure compliance with the rules. It also must include the person's title or office, telephone number, fax number, postal mailing address, and e-mail address.

- (3) Requires VPDs to include the above information on their Web sites (if they have a Web site), in telephone directories, and in billing statements (to the extent the VPD issues billing statements). They also must keep this information current, and update it within 10 business days for Web sites, by the next billing cycle for billing statements, and by the next publication of directories.
- (4) Requires VPDs to file the contact information described in both (b)(1) and (b)(2) with the Chief of the Disability Rights Office, Consumer and Governmental Affairs Bureau, or by sending the information to CLOSEDCAPTIONING_POC@fcc.gov.
 - (i) Requires Commission staff to post the list of contact information on the FCC's Web site and then prepare a Public Notice advising consumers and other interested parties how to obtain access to the contact information. Requires that this contact information also be available by telephone inquiry to the Commission's Consumer Center.
 - (ii) Requires VPDs to notify the Commission, within 10 business days, each time there is a change in any of the required contact information.

The statutory authority for this information collection is section 713 of the Act, 47 U.S.C. § 613, and implemented at 47 C.F.R. § 79.1

2. The parties who are involved in these information collections, why they are involved, and how the information that they provide is to be collected and used, is as follows:
 - (a) The requirements set forth in section 713 of the Act and 47 C.F.R. § 79.1, those proposed in the *2005 Closed Captioning NPRM*, and those adopted in the *2008 Closed Captioning Declaratory Ruling and Order*, are to ensure that all television broadcasters and MVPDs deliver video programming to the public in a fashion that is accessible to individuals with hearing disabilities through closed captioning.
 - (b) As part of the existing, proposed and modified requirements, consumers, many of whom are individuals, have the right to complain about what they perceive as deficiencies in how broadcasters and MVPDs comply with the closed captioning requirements.
 - (c) The broadcasters and MVPDs have the right to respond to these complaints.
 - (d) Under section 713, the Commission has in place a complaint and response mechanism to address these complaints. This mechanism was revised in the *2008 Closed Captioning Declaratory Ruling and Order*.
 - (e) The FCC uses the consumer complaints and responses to consumer complaints, filed by broadcasters and MVPDs, to inform its judgment about how the rules are working and whether consumers and VPDs understand their respective obligations under the rules; these complaints and responses also are used for enforcement purposes.
 - (f) The information contained in the compliance reports would be used to inform the public as to the amount of closed captioning provided by a specific VPD; this information also could be used for enforcement purposes.

- (g) The contact information that VPDs provide to consumers through bills and in published directories, as well as the information on the VPDs' Web sites and information sent to the FCC for placement on its Web site, will be used by consumers to contact the VPDs with captioning-related questions, concerns or complaints.
- (h) The information submitted as part of, or in response to, a petition for exemption pursuant to 47 C.F.R. § 79.1(f) is used by the FCC to determine whether an undue burden exemption is warranted.

The collection of information may contain personally identifiable information on individuals (PII).

- (a) As required by OMB Memorandum M-03-22 (September 26, 2003), the FCC completed a Privacy Impact Assessment (PIA) on June 28, 2007, that gives a full and complete explanation of how the FCC collects, stores, maintains, safeguards, and destroys the PII covered by these information collection requirements. The PIA may be viewed at: http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.
 - (b) Furthermore, as required by the Privacy Act, 5 U.S.C. § 552a, the FCC also published a system of records notice (SORN), FCC/CGB-1, "Informal Complaints and Inquiries," in the *Federal Register* on October 11, 2001 (66 FR 51955). (Please note that at the time of publication, the SORN was titled FCC/CIB-1, "Informal Complaints and Inquiries").
3. The 2005 *Closed Captioning NPRM* sought comment on various measures that may involve automated or electronic collection techniques, such as:
- (a) Whether VPDs should be required to submit routine reports to the Commission certifying to compliance with the closed captioning rules, and if so, how. If a compliance reporting requirement is adopted, the Commission could require that these compliance reports be filed electronically;
 - (b) Whether electronic filing should be permitted and/or mandated for petitions for exemption from the closed captioning rules that are filed pursuant to 47 C.F.R. § 79.1(f).

In the 2008 *Closed Captioning Declaratory Ruling and Order*, the Commission required VPDs to post on their Web sites contact information for the receipt and handling of closed captioning complaints, as well as contact information for the receipt and handling of immediate closed captioning concerns. VPDs also must provide this information to the Commission for posting on the Commission's Web site.

- 4. There are no comparable information collection requirements regarding compliance with the closed captioning rules.
- 5. The Commission's closed captioning requirements are assumed to have a significant impact on small entities; however, the specific information collection requirements associated with closed captioning provisions will not.
- 6. If the Commission did not sponsor these information collections, the Commission would not be in compliance with section 713 of the Act, and would be presented with significantly greater difficulty in any enforcement efforts under section 713.

7. Under 47 C.F.R. § 79.1(g)(5), a respondent is obligated to provide the Commission with sufficient records and documentation to demonstrate that it is in compliance with the Commission's rules. This may require VPDs to report information to the FCC more often than quarterly, depending on how often VPDs must respond to closed captioning complaints. Otherwise, the collection is not conducted in any manner that is inconsistent with the guidelines in 5 C.F.R. § 1320.6.
8. Pursuant to 5 C.F.R. § 1320.8(d), the Commission published a notice in the *Federal Register* on July 31, 2008 (73 FR 44744), seeking comment on extension of the previous information collection requirements. Due to the release of the *2008 Closed Captioning Declaratory Ruling and Order*, the Commission published other notices in the *Federal Register* on January 13, 2009 (74 FR 1685) and March 24, 2009 (74 FR 12360) seeking comment on revision of the previous information collection requirements, as well as on the modified information collection requirements. The Commission and OMB received one comment following publication of these notices, filed by DISH Network L.L.C. ("DISH Network") on April 23, 2009.⁴
9. There are no payments or gifts to respondents.
10. Assurances of confidentiality are being provided to the respondents.

To the extent that petitioners (*i.e.*, program owners, providers or VPDs) seeking exemption from the closed captioning rules desire to withhold from public review the financial information that serves as the basis of their exemption petitions, such requests should be made in writing to the Commission, pursuant to the Commission's existing rules for requesting confidential treatment, 47 C.F.R. § 0.459.

With respect to the complaint procedures in the closed captioning rules, the Commission is not requesting that respondents submit confidential information, *e.g.*, credit card numbers, social security numbers, and personal financial data, to the Commission.

- (a) A privacy statement is included on all FCC forms accessed through the Commission's 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. PII is contained in the Commission's operations support for complaint analysis and resolution (OSCAR), consumer information management system (CIMS), and consumer case management system (CCMS) databases, which are covered under the Commission's SORN, FCC/CGB-1, "Informal Complaints and Inquiries." The PII covered by this SORN 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 contained in Memorandum M-03-22 (September 22, 2003) and the Privacy Act, 5

⁴ In response to the DISH Network comments, the Commission amends its burden estimates to now recognize reasonable limitations on the number of telephone directories national or regional VPDs are required to place contact information in. See *infra* p. 17.

U.S.C. § 552a. The PIA may be viewed at: http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.

11. The Commission believes that this information collection will not raise any questions or issues of a sensitive nature for respondents. Additionally, consumers are cautioned not to provide on complaints personal information such as social security numbers, credit card numbers, *etc.*
12. Estimates of the burden hours for the collection of information are as follows:

Video Programming Providers (VPPs)	Number of Providers per Technology
Cable Television Systems ⁵	7,208
Commercial and Non-commercial Television Stations ⁶	4,610
Open Video Systems (OVS) operators ⁷	100
Direct Broadcast Satellite (DBS) operators ⁸	3
Satellite Master Antenna Television (SMATV) systems ⁹	150
Wireless Cable Systems ¹⁰	5
Local exchange carriers ¹¹	5
Public Power Entities ¹²	102
Miscellaneous – video programming producers or owners	1,000
Total VPPs¹³	13,183

The Commission also notes that there are approximately 28 million Americans who are deaf or hard of hearing and who rely on closed captioning to access television programming. However, only a fraction of these people file complaints regarding closed captioning. The Commission anticipates

⁵ See *2008 Closed Captioning Declaratory Ruling and Order* App. C, Final Regulatory Flexibility Analysis (*2008 Closed Captioning FRFA*) at para. 13.

⁶ See *FCC News Release*, “Broadcast Station Totals as of December 31, 2007,” dated March 18, 2008; http://www.fcc.gov/Daily_Releases/Daily_Business/2008/db0318/DOC-280836A1.pdf.

⁷ See *2008 Closed Captioning FRFA* at para. 24.

⁸ *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Twelfth Annual Report, 21 FCC Rcd 2503, 2538-39, para. 70 (Mar. 3, 2006).

⁹ *Id.* at 2564-65, para. 130.

¹⁰ *Id.* at 2565, paras. 131-32 (mentioning five systems operated by two different providers; in addition, industry-wide, estimated number of subscribers as of March 2005 was 100,000, down from 200,000 subscribers in 2004).

¹¹ *Id.* at 2561-63, paras. 121-25 (the past few years have seen the larger LECs continue to accelerate rolling out video services).

¹² *Id.* at 2507-08, para. 14.

¹³ For purposes of this supporting statement, VPPs include both VPDs and video programming producers or owners.

that only approximately 1,000 respondents may, in any given year, file closed captioning complaints, and not all of those will be filed with the Commission. They may, instead, be filed with the VPP.

(A) Final Information Collection Requirements¹⁴ – Petitions for exemption based on “undue burden.”¹⁵:

- (1) Of the estimated 13,183 VPPs affected by the closed captioning rules, the Commission estimates that, for present and future purposes, approximately 100 VPPs will file petitions requesting exemption from the closed captioning requirements annually.

$$100 \text{ VPPs} \times 1 \text{ petition/VPP} = 100 \text{ petitions annually}$$

The Commission estimates that the average burden to complete all aspects of each petition process, including filing any possible reply comments and associated certifications, may require 5 hours.

- (a) The Commission estimates that 90 percent of the petitions that VPPs file will be prepared “in house” using the VPP’s staff.¹⁶

$$100 \text{ VPPs} \times 90\% \text{ using “in-house” staff} = 90 \text{ VPPs}$$

$$90 \text{ VPPs} \times 5 \text{ hours/petition} = 450 \text{ hours}$$

The Commission estimates that the “in house” staff that VPPs use to prepare these petitions earns a salary equivalent to a GS-14/Step 5 level (\$55.78):

$$450 \text{ hours} \times \$55.78/\text{hour for “in house” staff} = \$25,101.00$$

- (b) The Commission also estimates 10 percent of the petitions that the VPPs file will be prepared using outside legal counsel, *e.g.*, attorneys in private law firms.

$$100 \text{ VPPs} \times 10\% \text{ using outside legal counsel} = 10 \text{ VPPs}$$

¹⁴ In the *2008 Closed Captioning Declaratory Ruling and Order*, the Commission adopted modified rules and procedures governing the filing of closed captioning complaints. In light of these modifications, all of the burdens associated with the closed captioning complaint process will be addressed, *infra*, in Sections 12(C), 13 (C)-(D), and 14(ii).

¹⁵ In its 2005 submission to OMB, the Commission revised its 2004 estimates of the number of petitions for exemption based on “undue burden” and the number of responses to such petitions based on the number of petitions and responses the Commission received since 2004, in anticipation of the January 1, 2006, implementation date for 100% closed captioning. See 2005 OMB submission at note 15. Although the January 1, 2006 implementation date for 100% closed captioning has passed, petitions for exemption based on the undue burden standard in Section 79.1(f) of the Commission’s rules continue to be filed. The number of such petitions in 2006 and 2007 was greater than anticipated but that number has since leveled off. As such, the Commission believes that an estimate of 100 such petitions being filed annually is still valid.

¹⁶ In its 2005 submission, the Commission changed the estimates of the percentage of “in house” versus “outside” legal and administrative staff who will work on the petitions. This change was based on empirical evidence since the prior submission. For purposes of this submission, no changes have been made to the information submitted in 2005 for this section of the collection.

VPPs that use outside legal counsel are likely to spend an average of 2 hours per petition to coordinate with their outside legal counsel to prepare and submit the petitions, including any possible reply comments and associated certifications.

10 VPPs x 2 hours/petition per outside legal counsel = 20 hours

The Commission estimates that the “in house” staff VPPs use to prepare these petitions earn a salary equivalent to a GS-14/Step 5 level (\$55.78):

20 hours x \$55.78/hour for “in house” staff = \$1,115.60

Annual Hourly Burden to Prepare Petitions:

450 hours + 20 hours = **470 hours**

Annual “In House” Costs:

\$25,101.00 + \$1,115.60 = **\$26,216.60**

- (2) The Commission estimates that there is an average of one commenter filing a response or opposition to every petition. The Commission estimates that the average burden to complete all aspects of the response process, including the certification, is five (5) hours.

100 VPPs filing petitions x 1 response/petition = 100 commenters filing responses

The Commission estimates that 10 percent of commenters filing responses prepare the responses themselves. The remaining 90 percent of commenters hire outside legal counsel to prepare and file the response:

- (a) 100 commenters x 10%/preparing their responses = 10 commenters

10 commenters x 5 hours/response preparation = 50 hours

The Commission estimates that the commenters use “in house” staff earning the equivalent of a GS-14/Step 5 level (\$55.78) to prepare the responses:

50 hours x \$55.78/hour “in house” staff = \$2,789

- (b) 100 commenters x 90 percent using outside legal counsel to prepare responses = 90 commenters.

- (i) Of those 90 commenters, it is the Commission’s observation that 90% of the responses prepared by outside legal counsel will be done at a pro-bono rate, and without any significant consultation between the commenter and the outside legal counsel.

90 commenters x 90% = 81 commenters

- (ii) The remaining 10 percent (9) commenters using outside legal counsel are likely to take 2 hours to coordinate the preparation of their response with the outside legal counsel:

9 comments x 2 hours to coordinate with outside legal counsel = 18 hours

The Commission estimates that the commenters use “in house” legal and/or administrative staff earning the equivalent of a GS-14/Step 5 level (\$55.78) to coordinate their responses with the outside legal counsel:

18 hours x \$55.78/hour for legal/administrative staff = \$1,004.04

- (c) The Commission estimates that 25 percent of petitioners will file replies to oppositions by commenters. The hourly burdens for such replies are already encompassed in 12(A) (1). However, this will generate an additional 25 responses annually.

Annual Hourly Burden to Prepare and File Responses to Petitions:

50 hrs + 18 hrs = **68 hours**

Annual “In House” Costs:

\$2,789 + \$1,004.04 = **\$3,793.04**

FINAL INFORMATION COLLECTION REQUIREMENTS (undue burden exemption petitions):

Total Number of Respondents: 100 VPPs + 100 commenters = **200 respondents**

Total Annual Number of Responses: 225

Total Annual Hourly Burden: 470 + 68 = **538 hours**

Total Annual “In House” Costs:

\$26,216.60 + 3,793.04 = **\$30,009.64**

(B) Proposed Information Collection Requirements in the 2005 Closed Captioning NPRM:

- (1) Petitions for exemption based on “undue burden.”

In the 2005 *Closed Captioning NPRM*, the Commission sought comment on whether the petitions should be filed electronically.

The Commission does not anticipate that electronic filing would alter materially the burdens associated with filing petitions or the response times already suggested for these petitions. Thus, there is no additional burden associated with this proposal as compared to the existing final burdens for filing undue burden exemption petitions. The Commission corrects its

previous estimate that this proposed collection entails 100 responses. These responses already are encompassed within the existing burdens.

(2) Filing compliance reports:

In the 2005 *Closed Captioning NPRM*, the Commission sought comment on:

- (a) Whether VPDs should be required to submit reports to the Commission certifying to compliance with the closed captioning rules; and
- (b) If so, what the frequency of such a reporting requirement should be.

Based on an annual reporting requirement, the Commission estimates that VPDs will spend approximately 2 to 10 hours, or an average of 6 hours, to prepare the annual compliance reports, using their “in house” staff.

The Commission also estimates that most of these reports will be submitted directly to the Commission by the VPDs electronically.

12,183 VPDs x 1 annual compliance report/VPD = 12,183 compliance reports (responses)

12,183 VPDs x 1 annual compliance report/VPD x 6 hours/report = 73,098 hours

The Commission estimates that VPPs will use legal and/or administrative staff earning the equivalent salary of a GS-14/Step 5 level (\$55.78) to prepare these documents:

73,098 hours x \$55.78/hour “in house” staff = \$4,077,406.40

Annual Hourly Burden for VPPs Filing Compliance Reports with FCC:

73,098 hrs

Annual Number of Responses: 12,183 compliance reports (responses)

Annual “In House” Costs: \$4,077,406.40

PROPOSED INFORMATION COLLECTION REQUIREMENTS:

Total Annual Number of Respondents: 12,183 VPDs

Total Annual Number of Responses: 12,183

Total Annual Hourly Burden: 73,098 hours

Total Annual “In House” Costs: \$4,077,406.40

(C) Modified Information Collection Requirements, per 2008 *Closed Captioning Declaratory Ruling and Order*

(1) Complaints alleging violations of the Closed Captioning Rules

The rule changes adopted by the Commission in the *2008 Closed Captioning Declaratory Ruling and Order* allow viewers to file complaints with the VPP (e.g., local television station, local cable franchise) or the Commission directly.

- (a) Filing of Complaints: The Commission assumes that, going forward, many consumers will take advantage of their new ability to file complaints directly with the Commission. As such, the Commission expects that, of an estimated total 1,000 annual complaints, 500 will be filed with the VPPs and 500 with the Commission. Of the 500 filed with the VPPs, the Commission anticipates that approximately 20 percent will remain unresolved, and the complainants will then re-file their complaints with the Commission:

1,000 annual complaints (responses)
500 complaints to VPPs/year x 20% refiled with Commission = 100 refiled
complaints/year (responses)

Annual Number of Responses: 1,100 responses

The Commission estimates that the average burden for each consumer to prepare and submit the complaint to the VPP or directly to the FCC would be 1 hour, except for complaints being re-filed with the Commission, which the Commission estimates will require approximately 2 hours per complaint.

1,000 annual complaints x 1 hr/complaint = 1,000 hours
100 complaints re-filed with Commission annually x 2 hrs/complaint = 200 hours

Annual Hourly Burdens: 1,200 hours

Annual “In House” Costs: None

- (b) Responses to Complaints: The Commission assumes that VPPs will file a response to each complaint. The Commission expects that with 50 percent of the 1,000 annual complaints, received by VPPs either directly from the complainants or via forwarding by the Commission or a VPD, VPPs will use “in-house” staff to respond to these complaints, and that with the other 50 percent VPPs will use outside legal counsel to prepare the responses. The Commission estimates that the average burden for VPPs to prepare and submit an “in-house” response to each consumer complaint is 3 hours. The Commission further estimates that with the 50 percent where VPPs will use outside legal counsel to prepare the responses, VPPs will spend an hour to coordinate each response with outside legal counsel. Likewise, the Commission estimates that, for the estimated 100 complaints per year that will be re-filed with the Commission, VPPs will use outside legal counsel to prepare responses to these re-filed complaints, and will spend 1 hour to coordinate each response with outside legal counsel.

1,000 complaints x 50% complaint responses using “in-house” staff = 500 complaint responses using “in-house” staff
1,000 complaints x 50% complaint responses using outside legal counsel = 500 complaint responses using outside legal counsel
100 responses to complaints re-filed with the Commission

Annual Number of Responses: 1,100 responses

500 “in-house” responses x 3 hrs/response = 1,500 hours
500 outside legal counsel responses x 1 hr/response conferring with outside legal counsel on responses = 500 hours
100 responses to re-filed complaints x 1 hr/response conferring with outside legal counsel = 100 hours

Annual Hourly Burdens: 2,100 hours

The Commission estimates that VPPs will use “in-house” legal and/or administrative staff earning the equivalent salary of a GS-14/step 5 level (\$55.78) to prepare responses to consumer complaints, and to confer with outside legal counsel on the responses that it will prepare to consumer complaints and complaints re-filed with the Commission:

500 responses using “in-house” staff x 3 hrs/response x \$55.78/hr = \$83,670
500 outside legal counsel responses to original complaints x 1 hr/response conferring with outside legal counsel x \$55.78/hr = \$27,890
100 outside legal counsel responses to original complaints x 1 hr/response conferring with outside legal counsel x \$55.78/hr = \$5,578

Annual “In-House” Costs: \$83,670 + \$27,890 + \$5,578 = \$ 117,138

- (c) Re-filing of Misdirected Complaints: The Commission assumes that 10 percent of the estimated 1,000 annual complaints will have to be re-filed by consumers because they were misdirected when first filed. The Commission estimates that the average burden for consumers to re-file such misdirected complaints will be approximately 15 minutes (0.25 hours) per complaint re-filed.¹⁷

1,000 complaints x 10% re-filed = 100 re-filed complaints (responses)

¹⁷ Section (C)(1)(c) of this supporting statement has been revised. Previously, this subsection referred to the forwarding of complaints by VPDs to third parties. That provision, which had very minimal burdens associated with it, was removed due to concerns regarding the legality of VPDs forwarding complaints containing personally identifiable information to third parties. In its place, the Commission estimates the burdens associated with consumers re-filing their complaints with the appropriate entities.

The number of respondents is already encompassed in the number of respondents noted in (a). This is a layout of the hourly burden it would require for consumers to re-file complaints that were originally misdirected.

100 responses x 0.25 hrs/response = 25 hours

Annual Hourly Burdens: 25 hours

Annual “In-House” Costs: None

- (d) Recordkeeping in Support of Complaint Responses: The Commission estimates that the average annual burden for VPDs to perform recordkeeping and to make information available upon request to the Commission will be 10 hours for each VPD.¹⁸ The Commission believes that the VPDs can perform these activities “in house.”

Annual Number of Responses: 12,183 sets of records kept (responses)

12,183 VPDs x 10 hrs/VPD = 121,830 hours

Annual Hourly Burden for VPDs to perform recordkeeping and to make closed captioning information available to viewers: 121,830 hours

The Commission estimates that VPDs will use clerical/administrative staff earning a salary equivalent to a GS-5/Step 5 level (\$18.07) to perform recordkeeping and to make closed captioning information available to the Commission:

121,830 hours x \$18.07/hr = \$2,201,468.10

Annual “In House” Costs: \$2,201,468.10

(2) Provision of contact information to viewers, subscribers, and FCC

As described above,¹⁹ the 2008 Closed Captioning Declaratory Ruling and Order requires that VPDs make two kinds of contact information available to consumers: (1) contact information of the receipt and handling of immediate closed captioning concerns raised by consumers (*e.g.*, the captions suddenly disappear or become garbled); and (2) contact information for the receipt and handling of written closed captioning complaints. All VPDs must place this information in telephone directories, in billing statements (to the extent they issue billing statements), and on their Web sites, if they have a Web site, and must provide their contact information to the FCC for posting on the FCC’s Web site. In addition, VPDs are required to keep this information current, and update it within 10 business days for Web

¹⁸ The Commission considers all of these recordkeeping and information provision requirements to constitute one response per VPD or one set of records kept per VPD, with the 10 hours per response encompassing the burdens associated with fulfilling these requirements.

¹⁹ See *supra* Section 1(II)(b).

sites (including the Commission's Web site), by the next billing cycle for billing statements, and by the next publication of directories.

- (a) The Commission estimates that 12,170 VPDs will place one contact information listing in four telephone directories annually. The Commission further estimates that 13 VPDs are national or regional providers serving multiple markets, and that they will only place contact information listings in directories in markets where they directly do business. While the actual number of directories per provider will depend on the provider's geographic reach, the Commission estimates that, on average, each of these 13 VPDs will place one contact information listing in 100 telephone directories annually.²⁰

Annual Responses: 12,170 VPDs x 4 listings/VPD/year = 48,680
13 VPDs x 100 listings/VPD/year = 1,300
49,980 listings (responses)

The Commission estimates that 12,183 VPDs will spend approximately 1 hour each conferring with outside printing firms on how to compose the contact information to be placed in telephone directories. The Commission further estimates that the aforementioned 13 VPDs will spend approximately 10 hours each conferring with outside printing firms on how to compose the contact information to be placed in telephone directories.

Annual Hourly Burden: 12,170 VPDs x 1 hr/VPD = 12,170
13 VPDs x 10 hrs/VPD = 130
12, 300 hours

The Commission estimates that VPDs will use "in-house" legal and/or administrative staff earning the equivalent salary of a GS-13/step 5 level (\$47.21) to confer with outside printing firms.

Annual "In-House" Costs: 12,170 VPDs x 1 hr/VPD x \$47.21/hr = \$574,545.70
13 VPDs x 10 hrs/VPD x \$47.21/hr = \$ 6,137.30
\$580,683.00

- (b) The Commission estimates that 7,573 subscription service providers will place contact information in billing statements, and that they will spend approximately 30 minutes (0.5 hours) doing so.²¹

²⁰ In this regard, in response to the DISH Network comments, the Commission amends its burden estimates to now recognize reasonable limitations on the number of directories national or regional VPDs are required to place contact information in. At the same time, the Commission acknowledges that its previous estimates may not have sufficiently accounted for the burdens on such VPDs. Therefore, while the Commission recognizes these limitations, at the same time its burden estimate is actually increasing to reflect the realities for such VPDs.

²¹ Though billing statements typically are issued once per month, the Commission considers this a one-time burden because, once contact information is placed in billing statements, it need only be replicated as is in subsequent billing statements.

Number of Responses: 7,573 responses

7,573 subscription service providers x 1 contact information placement/provider x 0.5 hrs/contact information placement = **3,786.5 hours**

Annual Hourly Burdens = 3,786.5 hours

The Commission estimates that 7,573 subscription service providers will use “in-house” clerical/administrative staff earning equivalent to a GS-5/step 5 salary (\$18.07) to place contact information in billing statements:

7,573 subscription service providers x 0.5 hrs/subscription service provider x \$18.07/hr = **\$68,422.06**

Total “In-House” Costs: \$68,422.06

- (c) The Commission estimates that 12,183 VPDs will place contact information on their Web sites.

Annual Responses: 12,183 VPDs x 1 listing/VPD = 12,183 listings (responses)

The Commission estimates that 12,183 VPDs will spend approximately 30 minutes (0.5 hours) each providing contact information on their Web sites:

Annual Hourly Burden: 12,183 VPDs x 0.5 hrs/VPD = 6,091.50 hours

The Commission estimates that 12,183 VPDs will use “in-house” clerical/administrative staff earning equivalent to a GS-5/step 5 salary (\$18.07) to provide contact information:

Annual “In-House” Costs: 12,183 VPDs x 0.5 hours/VPD x \$18.07/hr = \$110,073.40

- (d) The Commission estimates that 12,183 VPDs will provide contact information to the FCC.

Annual Responses: 12,183 VPDs x 1 filing/VPD = 12,183 filings (responses)

The Commission estimates that 12,183 VPDs will spend approximately 15 minutes (0.25 hours) each providing contact information to the FCC:

Annual Hourly Burden: 12,183 VPDs x 1 filing/VPD x 0.25 hrs/filing = 3,045.75 hours

The Commission estimates that 12,183 VPDs will use “in-house” clerical/administrative staff earning equivalent to a GS-5/step 5 salary (\$18.07) to provide contact information:

Annual “In-House” Costs: 12,183 VPDs x 1 filing/VPD x 0.25 hours/filing x \$18.07/hr
= **\$55,036.70**

- (e) The Commission estimates that 20% of 12,183 VPDs will update their contact information annually.

Number of Respondents: 2,437

2,437 respondents x 1 contact information update/respondent = 2,437 contact information updates (responses)

Annual Number of Responses: 2,437 responses

The Commission estimates that 2,437 VPDs will spend approximately 1 hour annually updating telephone directory, billing statement, and Web site contact information listings, as well as emailing the updated contact information to the FCC:

2,437 VPDs x 1 hr/VPD = 2,437 hours

Annual Hourly Burdens: 2,437 Hours

The Commission estimates that 2,437 VPDs will use “in-house” clerical/administrative staff earning equivalent to a GS-5/step 5 salary (\$18.07) to update their contact information listings and email updated contact information to the FCC:

2,437 responses x 1 hr/response x \$18.07/hr = \$44,036.59

Annual “In-House” Costs: \$44,036.59

MODIFIED INFORMATION COLLECTION REQUIREMENTS :

Total Number of Respondents: 14,183

Total Annual Number of Responses: 98,839

Total Annual Hourly Burdens: 152,816 (rounded)

Total Annual “In-House” Costs: \$3,176,857.70

FINAL INFORMATION COLLECTION REQUIREMENTS

Existing (Final) Information Collection Requirements: Petitions for exemption based on "undue burden"	Number of Respondents	Number of Responses	Estimated Hourly Burden	Annual Hourly Burden	Annual "In House" Costs
(1)(a) VPP petitions using "in house" staff	90	90	5	450 hours	\$25,101.00
(1)(b) VPP petitions using outside legal counsel	10	10	2	20 hours	\$1,115.60
(2)(a) Commenter responses to petitions using "in house" staff	10	10	5	50 hours	\$2,789.00
(2)(b)(i) Commenter responses to petitions using pro-bono outside legal counsel	81	81	0	0 hours	n/a
(2)(b)(ii) Commenter responses to petitions using paid outside legal counsel	9	9	2	18 hours	\$1,004.04
(2)(c) Petitioners filing replies to oppositions by commenters	Already inc. under (1)(a)	25	0 (burdens already included under estimates for (1))	0 hours (burdens already included under estimates for (1))	0 (burdens already included under estimates for (1))
TOTAL EXISTING (FINAL) REQUIREMENTS	200	225		538 hours	\$30,009.64

PROPOSED INFORMATION COLLECTION REQUIREMENTS

Existing (Proposed) Information Collection Requirements	Number of Respondents	Number of Responses	Estimated Hourly Burden	Annual Hourly Burden	Annual "In House" Costs
(1) Petitions for exemption based on "undue burden" and responses filed electronically	No new burdens associated with this collection				
(2) Filing compliance reports:	12,183	12,183	6	73,098 hours	\$4,077,406.40
TOTAL EXISTING (PROPOSED) REQUIREMENTS	12,183	12,183		73,098 hours	\$4,077,406.40

MODIFIED INFORMATION COLLECTION REQUIREMENTS

Modified Information Collection Requirements	Number of Respondents	Number of Responses	Estimated Hourly Burden	Annual Hourly Burden	Annual "In House" Costs
(1) Complaints alleging violations of the Closed Captioning Rules:					
(a) Viewers filing complaints	1,000	1,100	1-2	1,200 hours	n/a
(b) VPP responses to complaints	1,000	1,100	1-3	2,100 hours	\$117,138.00
(c) Re-filing of misdirected complaints	Already inc. under (a)	100	0.25	25 hours	n/a
(d) Recordkeeping in support of complaint responses	12,183	12,183	10	121,830 hours	\$2,201,468.10
(2) Provision of contact information to viewers, subscribers, and FCC	12,183				
(a) VPDs provide contact information in telephone directories	Already inc. under (2)	49,980	1-10	12,300 hours	\$580,683
(b) VPDs provide contact information in billing statements	Already inc. under (2)	7,573	0.5	3,786.5 hours	\$68,422.06
(c) VPDs place contact information on their Web sites	Already inc. under (2)	12,183	0.5	6,091.5 hours	\$110,073.40
(d) VPDs provide contact information to FCC	Already inc. under (2)	12,183	0.25	3,045.75 hours	\$55,036.70
(e) VPDs update their contact information	Already incl. under (2)	2,437	1	2,437 hours	\$44,036.59
TOTAL MODIFIED REQUIREMENTS	14,183	98,839		152,816 hours	\$3,176,857.70

CUMMULATIVE TOTALS FOR REQUIREMENTS (FINAL + PROPOSED + MODIFIED)

	Number of Respondents	Number of Responses	Estimated Hourly Burden	Annual Hourly Burden	Annual "In House" Costs
	14,283 ²²	111,247	0.25 – 10 hours	226,452 hours	\$7,284,273.70

²² The reason that the cumulative number of respondents is 14,283 is as follows: -- The 12,183 respondents in the proposed collection are the same 12,183 respondents in (1)(d) and (2) of the modified collection; -- There is a total of 2,000 additional respondents in (1)(a) and (b) of the modified collection; -- The total 100 VPPs in (1) of the final collection *are also encompassed* by the 1,000 VPPs in (1)(b) of the modified collection (*i.e.*, of the 1,000 VPPs included in (1)(b) of the modified collection, it is estimated that 100 of them *also* will have filed undue

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13. The following represents the Commission's estimate of annual cost burdens to respondents resulting from respondents' consultation time with outside legal counsel:

(A) Filing of Undue Burden Exemption Petitions

In Section 12(A)(1)(b) above, the Commission estimates that 10% of 100 annual undue burden exemption petitions will be filed by outside legal counsel, who will prepare the petitions for exemption, reply comments and associated certifications. The Commission further estimates that these assignments may require 5 hours per petition, and that outside legal counsel will charge \$250.00 per hour for legal services:

10 petitions x 5 hours/petition = 50 hours

50 hours x \$250.00/hour legal services = \$12,500.00

Total Annual Cost: \$12,500.00

(B) Responses to Undue Burden Exemption Petitions

In Section 12(A)(2)(b) above, the Commission estimates that 90 percent of 100 annual oppositions to undue burden exemption petitions will be prepared using outside legal counsel. Of the resulting 90 oppositions to be prepared by outside legal counsel, the Commission estimates that 90 percent, or 81, will be prepared on a *pro bono* (without cost to the respondent) basis. For the remaining 10 percent of the 90, or 9, the Commission estimates that outside legal counsel preparing the responses, including the certification, will require 5 hours and will charge \$250.00 per hour.

9 responses x 5 hours/response = 45 hours

45 hours x \$250.00/hour "outside" legal fees = \$11,250.00

Total Annual Cost: \$11,250.00

(C) Responses to Consumer Complaints Alleging Violation of Closed Captioning Rules

In Section 12(C)(1)(b) above, the Commission estimates that with 50 percent of the estimated 1,000 annual complaints, VPPs will use outside legal counsel to prepare responses to the complaints. The Commission further estimates that outside legal counsel will spend 3 hours per response and charge \$250.00 per hour for legal services.

burden exemption petitions under (1) of the final collection). Therefore, the 100 VPPs from (1) of the final collection *are not added* to the cumulative total of respondents, because they are already counted among the modified total; and

-- The 100 commenters from (2)(b) of the final collection *are added* to the cumulative total of respondents, because they do not necessarily overlap with the estimated 1,000 viewers filing complaints under (1)(a) of the modified collection.

500 responses x 3 hrs/response = 1,500 hours

1,500 hours x \$250.00/hour outside legal services = \$375,000.00

Total Annual Cost: \$375,000.00

(D) Responses to Re-filed Complaints Submitted to the Commission

In Section 12(C)(1)(a) above, the Commission estimates that 20 percent of 500 complaints originally filed with VPPs will be re-filed with the Commission. In Section 12(C)(1)(b), the Commission assumes that of the resulting 100 complaints per year that will be re-filed with the Commission, VPPs will use outside legal counsel to prepare responses to all of these re-filed complaints. The Commission further estimates that outside legal counsel will require 4 hours to prepare, submit and serve responses to each complaint re-filed with the FCC, and will charge \$250.00 per hour for legal services.

100 responses x 4 hours/response = 400 hours

400 hours x \$250.00/hour "outside" legal fee = \$100,000.00

Total Annual Cost: \$100,000.00

(E) Placing Contact Information in Telephone Directories

In Section 12(C)(2)(a) above, the Commission estimates that each of 12,170 VPDs will hire an outside printing firm to place complaints-related contact information into 4 telephone directories annually, and each of 13 VPDs will hire an outside printing firm to place complaints-related contact information into 100 telephone directories annually. The Commission further estimates that each outside printing firm will charge a flat rate of \$756 per year, per listing, to place the required contact information in telephone directories.²³

12,170 VPDs x 4 annual listings/VPD x \$756/annual listing = \$36,802,080

13 VPDs x 100 annual listings/VPD x \$756/annual listing = \$982,800

\$37,784,880

Total Annual Cost: \$37,784,880

(a) Total capital and/or start-up costs: None

(b) Total operation and maintenance costs: **\$38,283,630**

(c) Total Annual Costs: **\$38,283,630**

²³ Because outside printing firms charge an annual flat rate, there is no hourly burden associated with this cost.

14. Estimates of annualized costs to the Federal government are as follows:

(i) Processing Undue Burden Exemption Petitions

VPPs submit approximately 100 petitions for exemption from the closed captioning rules on the basis of “undue burden” to the Commission annually, and the Commission estimates that a response will be filed for each. The Commission uses attorneys at the GS-14/Step 5 level (\$55.78) to review these petitions and the comments/responses. The Commission estimates that its attorneys spend 10 hours to review each of these petitions and their associated records (*i.e.*, including responses/opposition, replies, and any other filings associated with the petition):

$$100 \text{ petitions} \times 10 \text{ hours} \times \$55.78/\text{hour} = \$55,780.00$$

(ii) Compliance Reports

In the *2005 Closed Captioning NPRM*, the Commission sought comment on whether VPDs should be required to submit reports to the Commission certifying to compliance with the closed captioning rules, and if so, what the frequency of such a reporting requirement should be. The Commission expects that 12,183 VPDs will submit annual compliance reports to the Commission if such requirement is adopted.

The Commission estimates that it would use paraprofessional staff at the GS-11/5 level (\$33.12) to review and process each compliance report. The Commission estimates that this will require approximately 120 hours per year in the aggregate for staff to review and process all of these compliance reports:

$$120 \text{ hours} \times \$33.12/\text{hr} = \$3,974.40$$

(iii) Processing Complaints and re-filed VPP Complaints Submitted to the FCC

(a) The Commission expects that viewers will submit approximately 500 complaints annually directly to the Commission, and re-file with the Commission approximately 20 percent of the 500 complaints originally filed with VPPs.²⁴ The Commission expects to use clerical staff at the GS-8/5 level (\$24.78) to forward these estimated 600 complaints to VPPs. This will require approximately 15 minutes (.25 hours) per complaint to complete:

$$600 \text{ complaints} \times \$24.78/\text{hour} \times .25 \text{ hours/complaint} = \$3,717$$

(b) The Commission expects to use clerical staff at the GS-8/Step 5 level (\$24.78) to process and review each complaint, which the Commission estimates will require 5 hours per complaint:

$$600 \text{ complaints} \times \$24.78/\text{hour} \times 5 \text{ hours/complaint} = \$74,340$$

(iv) Posting and Updating Contact Information, and Public Notice Releases

²⁴ See *supra* Section 12(C)(1)(a).

The Commission will use paraprofessional staff at the GS-14/5 level (\$55.78) to post, and update as necessary, VPDs' contact information to the FCC Web site, and prepare a one time Public Notice informing consumers of how to access such information. The Commission estimates that it will take staff 600 hours to post the contact information initially, 120 hours per year to update the contact information,²⁵ and 2 hours to prepare the Public Notice. Therefore, the Commission estimates that these processes will require, in the aggregate over a three-year period, 962 hours to complete:²⁶

$$962 \text{ hrs}/3 \text{ yrs} = 320.67 \text{ hrs/yr}$$

$$320.67 \text{ hrs} \times \$55.78/\text{hr} = \$17,886.79$$

(v) Handling of Contact Information Inquiries in the Consumer Center

Because the Commission's Consumer Center already handles telephone inquiries as part of its day-to-day operations, and the Commission anticipates that the increase in daily telephone inquiry volume due to contact information inquiries made to the Commission will be marginal, if not negligible, the Commission concludes that the handling of contact information inquiries will not measurably add any burdens to Commission staff.

Total Cost to the Federal Government:

$$\begin{aligned} \$55,780 + 3,974.40 + \$3,717 + \$74,340 + \$17,886.79 &= \$155,698.19 \\ + 30\% \text{ overhead} &= \underline{\$ 46,709.46} \\ &= \underline{\$202,407.65} \end{aligned}$$

15. This supporting statement contains various adjustments from previous collections under OMB Control Number 3060-0761. First, in the *2008 Closed Captioning Declaratory Ruling and Order*, the Commission adopted modified rules²⁷ governing the filing of complaints and provision of complaints-related contact information. Therefore, the Commission has revised burden estimates for this information collection based on the burdens associated with the modified requirements. Second, the Commission generally reevaluated the assumptions underlying and calculation of its total annual burden estimates for the existing final and proposed information collections, which also contributed to adjustments to the estimated burdens associated with this information collection.

Accordingly, the Commission has re-evaluated the calculation of its total respondents, annual number of responses, annual burden hours, and annual costs for this information collection. These adjustments are reflected as follows:

²⁵ See *supra* Section 12(C)(2)(e), where the Commission estimates that 20 percent of VPDs will update their contact information annually.

²⁶ The initial posting of contact information and preparation of the Public Notice are one-time actions, while the updates are annual. In order to annualize these estimates, the Commission divides the total aggregate hours by 3 [years].

²⁷ Again, these requirements were adopted in the *2005 Closed Captioning NPRM* and approved by OMB. The *2008 Closed Captioning Declaratory Ruling and Order* did not add any additional requirements that were not adopted in the *2005 NPRM* and approved by OMB. It expanded on the requirements to merely make them more specific.

- (1) The estimate of the number of respondents has increased from 12,500 to 14,283.
- (2) The estimate for the annual number of responses has increased from 50,950 to 111,247.
- (3) The Commission's estimate for the total annual hourly burden has increased from 202,215 hours to 226,452.
- (4) The Commission's estimate for the total annual costs has increased from \$500,000 to \$38,283,630.

These adjustments resulted in increases of +24,237 to the total annual burden hours and + \$37,783,630 to the annual cost burden.

There are no program changes to this information collection.

16. The results of these information collections are not planned to be published.
17. The Commission intends to display the expiration date for OMB approval of the information collection.
18. In the 60 day *Federal Register* Notice published on July 31, 2008 at 73 FR 44744 were burdens based on extending the existing information collection approved by OMB in 2005. The Commission republished the 60 day *Federal Register* Notice on January 13, 2009 at 74 FR 1685, to account for the adoption of various modified information collection requirements in the 2008 *Closed Captioning Declaratory Ruling and Order*, and to revise some of the existing information collection burden estimates. In the January 13, 2009 60-day Notice, the Commission reported the total number of respondents as "14,383", total annual number of responses as "110,224", total annual burden hours as "226,374.75", and total annual cost as "37,340,142." The Commission now reports the following changes to these estimated burdens: total number of respondents as "14,283", total annual number of responses as "111,247", total annual burden hours as "226,452", and total annual cost as "\$38,283,630". 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.