

FCC Form 2000 A through F, FCC Form 475-B, FCC Form 1088 A through H, and FCC Form 501 – Consumer Complaint Forms: General Complaints, Obscenity or Indecency Complaints, Complaints under the Telephone Consumer Protection Act, and Slamming Complaints**SUPPORTING STATEMENT****1 Justification.****PROPOSED MODIFICATION TO THIS EXISTING INFORMATION COLLECTION:**

On May 27, 2011, the FCC released a Notice of Proposed Rulemaking (“NPRM”), FCC 11-84,¹ proposing rules to implement the Commercial Advertisement Loudness Mitigation (“CALM”) Act.² Among other things, the CALM Act directs the Commission to incorporate into its rules by reference and make mandatory a technical standard developed by an industry standard-setting body that is designed to prevent television commercial advertisements from being transmitted at louder volumes than the program material they accompany. Specifically, the CALM Act requires the Commission to incorporate by reference the Advanced Television Systems Committee (“ATSC”)³ A/85 Recommended Practice (“ATSC A/85 RP”)⁴ and make it mandatory “insofar as such recommended practice concerns the transmission of commercial advertisements by a television broadcast station, cable operator, or other multichannel video programming distributor.” As mandated by the statute, the proposed rules will apply to TV broadcasters, cable operators and other multichannel video programming distributors (“MVPDs”).⁵

The NPRM proposes a consumer complaint-driven process to evaluate and ensure compliance with our rules. Consumers may file complaints about loud commercials electronically using the Commission’s online complaint form (the Form 2000 series) found at <http://esupport.fcc.gov/complaints.htm>. We propose to modify the online complaint form to specifically accommodate complaints about loud commercials. We intend to add “loud commercials” as a complaint category under the complaint type menu for “Broadcast (TV and Radio), Cable, and Satellite Issues.” We will also add specific questions which relate to the filing of a loud commercial complaint. (See Appendix to this submission describing the Form 2000E Data Elements For Loud Commercial Complaints.) Consumers may also file their complaint by fax to 1-866-418-0232 or by letter mailed to Federal Communications Commission, Consumer & Governmental Affairs Bureau, Consumer Inquiries & Complaints Division, 445 12th Street, SW, Washington, DC 20554. Consumers that want assistance filing their complaint may contact the

¹ See *Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act*; MB Docket No. 11-xx; Notice of Proposed Rulemaking, FCC 11-84 (rel. May 27, 2011).

² The Commercial Advertisement Loudness Mitigation (“CALM”) Act, Pub. L. No. 111-311, 124 Stat. 3294 (2010) (codified at 47 U.S.C. § 621). The CALM Act was enacted on December 15, 2010 (S. 2847, 111th Cong.).

³ ATSC is an international, non-profit organization developing voluntary standards for digital television. The ATSC member organizations represent the broadcast, broadcast equipment, motion picture, consumer electronics, computer, cable, satellite, and semiconductor industries. ATSC creates and fosters implementation of voluntary Standards and Recommended Practices to advance digital television broadcasting and to facilitate interoperability with other media. See <http://www.atsc.org/aboutatsc.html>.

⁴ See ATSC A/85: “ATSC Recommended Practice: Techniques for Establishing and Maintaining Audio Loudness for Digital Television,” (Nov. 4, 2009) (“ATSC A/85 RP”). To obtain a copy of the ATSC A/85 RP, visit the ATSC website: http://www.atsc.org/cms/standards/a_85-2009.pdf.

⁵ We refer herein to covered entities collectively as “stations/MVPDs” or “regulated entities.” A multichannel video program distributor is an entity such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, a television receive-only satellite program distributor, a satellite master antenna television system operator, that make available for purchase, by subscribers or customers, multiple channels of video programming.

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Commission’s Consumer Call Center by calling 1-888-CALL-FCC (1-888-225-5322) (voice) or 1-888-TELL-FCC (1-888-835-5322) (tty).⁶ There is no fee for filing a consumer complaint.

EXISTING INFORMATION COLLECTION NOT AFFECTED BY PROPOSED MODIFICATION:

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.

Section 208(a) authorizes complaints by any person “complaining of anything done or omitted to be done by any common carrier”⁷ 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.”⁸

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.

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.

The FCC Complaint Forms in this collection consists of the following:

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

⁶ We also encourage consumers to visit the Consumer & Governmental Affairs Bureau website at <http://www.fcc.gov/cgb/> or to visit our online Consumer Help Center at <http://reboot.fcc.gov/consumers/>.

⁷ 47 U.S.C. § 208(a).

⁸ 47 U.S.C. § 208(a).

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

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

Form 2000 General Complaints

https://esupport.fcc.gov/sform2000/formA!input.action?form_page=2000A (on-line version)

<http://www.fcc.gov/cgb/consumerfacts/Form2000A.pdf> (mail out version)

Form 501 Slamming Complaint

<http://fjallfoss.fcc.gov/cgb/Form501/fcc501.cfm> (on-line version)

<http://www.fcc.gov/cgb/consumerfacts/form501.pdf> (mail out version)

Form 1088 Complaints under the Telephone Consumer Protection Act

https://esupport.fcc.gov/form1088/consumer.do?form_page=1088A (on-line version)

<http://www.fcc.gov/cgb/consumerfacts/1088A-R.pdf> (mail out version)

Synopsis of Forms:

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

FCC Form 2000 is used by consumers to briefly describe the nature of their complaint(s) and issue(s) concerning practices of communications entities and the type of resolution the consumer is seeking. The form is used for all telephone-related complaints, except slamming complaints for which FCC Form 501, Slamming Complaints Form, must be used.⁹

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

⁹ 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 remains necessary to utilize a separate form, FCC Form 501.

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- 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

FCC Form 501, Slamming Complaints, asks consumers and businesses to describe their complaints and issues regarding alleged slamming violations.

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

The potential branches that a consumer could follow from the main Selection Page are:

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

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

This information collection does impact individuals under the Privacy Act.

The statutory authority for this information collection is contained in 47 U.S.C. 151, 152, 154(i) and (j), 208, 303(r) and 621.

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2. The information received in FCC Form 475B, FCC Form 2000 A through F, FCC Form 501, and FCC Form 1088 A through H is used by Commission staff to: (a) assist in the resolution of complaints 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; (b) provide redress to consumers; (c) act against companies engaged in illegal practices as soon as possible; (d) determine advertisers' compliance with the TCPA and Junk Fax Prevention Act; and to process and respond to complaints against advertisers. Such information is also used by advertisers to comply with the rules (when they must remove certain numbers from their databases).

This information collection includes personally identifiable information (PII).

(1) As required by OMB Memorandum M-03-22 (September 26, 2003), the FCC completed a Privacy Impact Assessment (PIA)¹⁰ 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 reviewed at:

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

(2) 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 December 15, 2009 (74 FR 66356), which became effective on January 25, 2010.

3. The Commission expects that most complainants will access and submit the forms electronically. The approved FCC Forms 475-B, 2000, 501, and 1088 are accessible from the Commission's website and through the agency's consumer offices. The Commission also makes FCC Form 475-B, FCC Form 2000, FCC Form 501 and FCC Form 1088 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
445 12th Street, NW
Washington, DC 20554*

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, Form 2000, Form 501 and Form 1088 complaints.

¹⁰ The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

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5. The Commission is committed to reducing the regulatory burdens on small businesses whenever possible, consistent with the Commission's other public interest responsibilities. The Commission believes that few, if any small businesses and other small entities will be impacted by this collection. 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.
6. The information collection comprising FCC Form 475-B, FCC Form 2000, FCC Form 501 and FCC Form 1088 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. There are no special circumstances that would cause this collection of information to be collected in a manner that is inconsistent with the guidelines in 5 CFR 1320. (
8. The Commission published a Federal Register Notice (76 FR 32116) on June 3, 2011 seeking comments on the information collection requirements contained in this supporting statement. To date, no comments have been received from the public.
9. The Commission does not anticipate providing any payment or gift to any respondents.
10. 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), consumer information management system (CIMS), consumer case management system (CCMS) 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 PIA¹¹ 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.

¹¹ As stated in fn.4, the Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

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- (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 [insert date] 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:

PROPOSED MODIFICATION TO COLLECTION:

Proposed Added Burden for FCC Form 2000E – Loud Commercial Complaints

We estimate that approximately 5,000 consumers will file FCC 2000 E complaint form annually alleging a “loud commercial.” Consumers (TV viewers) will file complaints about loud commercials “on-occasion.” We estimate that it will take the consumer respondent approximately 30 minutes to complete the complaint form.

The estimate, above, is based on Commission staff’s knowledge and familiarity with the availability of the data required.

Total Annual Number of Proposed Respondents: 5,000 consumers

Total Annual Number of Proposed Responses: 5,000 consumer responses

(5,000 consumers x 1 FCC Form 2000E/year = 5,000 responses)

Annual Number of Proposed Burden Hours: 2,500 hours

(5,000 consumers x 1 FCC Form 2000E/year x .50 hrs/response = 2,500 hours)

Total Proposed Annual “In-House” Cost: \$0

Because the Form 2000E is used 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.

EXISTING COLLECTION:

FCC Form 2000 A through F, FCC Form 475-B, FCC Form 1088 A through H, and FCC Form 501 – Consumer Complaint Forms: General Complaints, Obscenity or Indecency Complaints, Complaints under the Telephone Consumer Protection Act, and Slamming Complaints

Burden for FCC Form 475-B – Obscene, Profane, and/or Indecent Material Complaint Form

Total Number of Annual Respondents: 250,597 consumers

Of the 250,597 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. This estimate is based on the total current volume of complaints received by the Commission.

Total Number of Annual Responses:

250,597 consumers x 1FCC Form 475-B/yr = **250,597 responses**

Total Annual Number of Burden Hours:

250,597 consumers x 1FCC Form 475-B/yr x .25 hours/response = **62,649 hours**

Total Annual “In-House” Cost: \$0

Burden for FCC Form 501 -- Slamming Complaint Form

Total Annual Number of Respondents:

1,489 consumers + 1,489 businesses = **2,978 respondents¹²**

Total Annual Number of Responses:

1,489 consumers + 1,489 business slamming complaints = **2,978 responses**

Total Annual Number of Burden Hours:

1,489 consumer + 1,489 business slamming complaint forms x .25 hours (15 minutes per response) = **745 hours**

Total Annual In-House Cost:

The Commission believes that businesses would use “in-house” personnel to complete this process whose pay is comparable to mid-level federal employee (GS-9/5 (\$28.04/hour), plus 30% overhead (\$8.41); therefore, the Commission estimates the businesses’ costs to be about \$36.45 per hour to comply with the requirement. The consumers do not have in-house costs.

1,489 businesses x .25/hr. x \$36.45 = **\$13,568.51**

¹² This estimate is based on the total current volume of complaints received by the Commission.

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Burden for FCC Form 1088 – Complaints under the Telephone Consumer Protection Act Form

Total Annual Number of Respondents: 162,323 respondents¹³

Total Annual Number of Responses: 162,323 responses

Total Annual Number of Burden Hours:

The Commission estimates that 162,323 consumers will file a complaint annually with the FCC to address his/her complaint on various TCPA issues, which may require approximately 30 minutes (.50 hours) to:

162,323 consumers x .50 hours/complaint = **81,162 hours**

Total Annual “In-House” Cost: \$0

The Commission estimates that there are specific no “in house” or other annual costs for those who file these complaints with the facsimile sender.

Burden for FCC Form 2000 – General Complaints

The Commission estimates that there will be approximately 102,295 consumers who will file 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 102,295 complaints, the Commission estimates that 45% will be submitted electronically through it 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 Annual Number of Respondents: 102,295 consumers

Total Annual Number of Responses:

102,295 consumers x 1 FCC Form 2000/year = **102,295 responses**

Annual Number of Burden Hours:

102,295 consumer x 1 FCC Form 2000/year x .50 hrs/response = **51,148 hours**

¹³ This estimate is based on the total current volume of complaints received by the Commission.

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Total Annual “In-House” Cost: \$0

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.

Cumulative Totals for the Proposed and Existing Information Collection Requirements for FCC Form 475-B, FCC Form 501, FCC Form 2000, and FCC Form 1088:

Total Cumulative Number of Annual Respondents: 5,000 + 250,597 + 2,978 + 162,323 + 102,295 = **523,193 respondents**

Total Cumulative Number of Annual Responses: 5,000 + 250,597 + 2,978 + 162,323 + 102,295 = **523,193 responses**

Total Cumulative Annual Burden Hours: 2,500 + 62,649 + 745 + 81,162 + 51,148 = **198,204 hours**

Total Cumulative Annual “In-House” Cost: \$13,568.51

13. There are no annual costs to respondents.

All complaints submitted by respondents for all of the FCC Complaint Forms 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 continue to administer the FCC Complaint Forms (FCC Forms 2000, 475-B, 501 and 1088) using Commission staff.

PROPOSED MODIFICATION TO COLLECTION:

Proposed Added Burden for FCC Form 2000E – Loud Commercial Complaints

For loud commercial complaints filed via FCC Form 2000E, the Commission will use paraprofessional staff at the GS-12/5 (\$40.66/hour) level to process the data sent to the Commission. The Commission makes the following estimate:

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5,000 **FCC Form 2000E** complaint forms x 30 minutes (0.50 hours) of staff processing time/form = 2,500 hours; 2,500 hours x \$40.66/hour = **\$101,650.00**

For loud commercial complaints filed via FCC Form 2000E, the Commission will also use professional staff at the GS-14/5 (\$57.13/hour) level to review the consumer complaints and conduct enforcement efforts. The Commission estimates the time associated investigating each loud commercial complaint to be about 3 hours. The Commission makes the following estimate:

5,000 **FCC Form 2000E** complaint forms x 3 hours of staff investigating time/form = 15,000 hours; 15,000 hours x 57.13/hour = **\$856,950.00**

Proposed Cost to the Federal Government: \$101,650.00 + \$856,950.00 = **\$958,600.00**

EXISTING COLLECTION:

For FCC Forms 475-B, 501, 2000 and 1088, the Commission will use paraprofessional staff at the GS-12/5 (\$40.66/hour) level to process the data sent to the Commission. The Commission makes the following estimates:

102,295 **FCC Form 2000** complaint forms x 30 minutes (0.50 hours) of staff processing time/form x \$40.66/hour = **\$2,079,657.35**

250,597 **FCC 475-B** complaint forms x 15 minutes (0.25 hours) of staff processing time/form x \$40.66/hour = **\$2,547,318.51**

2,978 **FCC Form 501** complaint forms x 30 minutes (0.50 hours) of staff processing time/form x \$40.66/hour = **\$60,542.74**

162,323 **FCC Form 1088** complaint forms x 30 minutes (0.50 hours) of staff processing time/form x 40.66 = **\$3,300,026.59**

The Commission will also use professional staff at the GS-14/5 (\$57.13/hour) level to conduct enforcement efforts for Form 1088. The Commission estimates the time associated investigating each Form 1088 complaint to be on average 3 hours.

162,323 **FCC Form 1088** complaint forms x 3 hours of staff investigating time/form x 57.13/hour = **\$27,820,538.97**

Total Cost to the Federal Government for the Proposed and Existing Requirements:

\$958,600.00 + \$2,079,657.35 + \$2,547,318.51 + \$60,542.74 + \$3,330,026.59 + \$27,820,538.97 = **\$36,796,684.16**

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15. The Commission will have program changes to this information collection of +5,000 to the number of respondents, +5,000 to the annual number of responses and +2,500 to the annual burden hours if the proposed requirements contained in FCC 11-xx are adopted in a final rulemaking by the Commission.
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 the FCC Forms 2000, 475-B, 501 and 1088.
17. The Commission does not intend to seek approval not to display the expiration date for OMB approval of this information.
18. There are no 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.

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APPENDIX: FORM 2000E – Data Elements For Loud Commercial Complaints

The following information will be requested by the revised Form 2000E:

1. the complainant's contact information, including name, mailing address, daytime phone number, and e-mail address if available;
2. the name and call sign of the broadcast station or the name and type of MVPD against whom the complaint is directed;
3. the date and time the loud commercial problem occurred;
4. the channel and/or network involved;
5. the name of the television program during which the commercial was viewed;
6. the name of the commercial's advertiser/sponsor or product involved; and
7. a description of the loud commercial problem.