

Providers

OMB Control No. 3060-0106
Part 43 Reporting Requirements for U.S.
of International Telecommunications Services and
Affiliates; [47 CFR 43.61](#)

September 2011

REVISED SUPPORTING STATEMENT.

Part A. Justification:

1. On May 12, 2011, the Federal Communications Commission adopted a First Report and Order and Further Notice of Proposed Rulemaking (FCC 11-76) in *Reporting Requirements for U.S. Providers of International Telecommunications Services, Amendment of Part 43 of the Commission's Rules*, IB Docket No. 04-112 (rel. May 13, 2011). In the First Report and Order portion of that document (First Report and Order), the Commission amended the international reporting requirements in Section 43.61 of the Commission's rules. The Commission retained the annual traffic and revenue report contained in Section 43.61(a) but eliminated the quarterly large carrier report in Section 43.61(b) and the quarterly report of switched resellers affiliated with foreign telecommunications entities in Section 43.61(c). The Commission also retained the requirement from the current Section 43.61(a) traffic and revenue report that filing entities report their international message telephone service (IMTS) and international private line services on a for each overseas route they serve. The Commission also retained the current requirement in Section 43.61(a) that filing entities report their IMTS resale (i.e., where an entity purchases IMTS calls from another provider and resells them to its customers) on a world-total basis.

The First Report and Order simplified the annual Section 43.61(a) report by amending subpart (a) of the rule to eliminate the current requirement that filing entities separately report IMTS and private line traffic between the conterminous 48 states and offshore U.S. points such as Guam and the U.S. Virgin Islands and traffic between such offshore U.S. points and foreign points. The Commission did not amend subparts (1), (2), or (3) of Section 43.61(a).

The reporting requirements, as amended by the Commission on May 12, 2011, are contained in 47 CFR 43.61, which reads as follows and require OMB review and approval:

47 CFR 43.61: Reports of international telecommunications traffic

(a) Each common carrier engaged in providing international telecommunications service between the United States (as defined in the Communications Act, as amended, 47 U.S.C. § 153) and any country or point outside that area shall file a report with the Commission not later than July 31 of each year for service actually provided in the preceding calendar year

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- (1)** The information contained in the reports shall include actual traffic and revenue data for each and every service provided by a common carrier, divided among service billed in the United States, service billed outside the United States, and service transiting the United States.
- (2)** Each common carrier shall submit a revised report by October 31 identifying any inaccuracies included in the annual report exceeding five percent of the reported figure.
- (3)** The information required under this section shall be furnished in conformance with the instructions and reporting requirements prepared under the direction of the Chief, Wireline Competition Bureau, prepared and published as a manual, in consultation and coordination with the Chief, International Bureau.

The Commission has authority for this information collection pursuant Sections 1, 4(i), 4(j) 11, 201-205, 211, 214, 219, 220, 303(r), 309, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 161, 201-205, 211, 214, 219, 220, 303(r), 309 and 403.

This information collection does not affect individuals or household; thus, there are no impacts under the Privacy Act.

2. The Commission has a responsibility under the Communications Act to make available world-wide communications with adequate facilities at reasonable charges. The Commission's primary goal underlying the reporting requirements for international carriers has been and continues to be the protection of U.S. consumers and carriers from potential harm caused by instances of insufficient competition caused by the exercise of market power by foreign incumbent carriers. The Commission's goals in regulating the U.S.-international marketplace have been (1) to promote effective competition in the global market for communications services; (2) to prevent anticompetitive conduct in the provision of international services or facilities; and, (3) to encourage foreign governments to open their communications markets. The Commission's ability to respond to failures in the U.S.-international market depends upon having adequate information about the market.

The Commission uses information from the Section 43.61(a) traffic and revenue report to analyze the U.S. international telecommunications market, track market developments, and to determine the competitiveness of each service and geographical market. Furthermore, the Commission uses the report to formulate rules and policies consistent with the public interest, to monitor compliance with those rules and policies, and to gauge the competitive effect of

Commission decisions on the international market. Moreover, the reports provide a means by which to determine whether a U.S. carrier's foreign-carrier correspondents are engaging in anti-competitive conduct.

In the First Report and Order, the Commission found that it still needs the information provided by the traffic and revenue report and that there is no other source for that information. The Commission further retained the requirement in the traffic and revenue report that filing entities report international message telephone service (IMTS) and international private line service for each route they serve. The Commission, however, amended section 43.61(a) to eliminate the requirement that filing entities report separately traffic between the conterminous 48 states and offshore U.S. points such as Guam and the Virgin Islands or between such offshore U.S. points and foreign points. .

The Commission found that the two quarterly reports in Sections 43.61(b) and 43.61(c) are no longer needed. The provisions were adopted at a time when the Commission and carriers were concerned that the foreign telecommunications entities with which the carriers exchange international traffic might use the then newly introduced international simple resale to send return traffic to the United States, while requiring U.S. carriers to send traffic to under accounting rates (one-way resale). The reports were adopted to permit the carriers and the Commission to determine whether the foreign telecommunications entities were engaging in such one-way resale. Since then, the international telecommunications market has become more competitive and the accounting rates for virtually all routes have been substantially reduced. The Commission concluded that the incentive for one-way resale has been reduced and that it can use information from the annual traffic and revenue reports to detect any anti-competitive behavior by foreign telecommunications entities.

3. Carriers submit information on a commercially available spreadsheet program. Currently, facilities-based and facilities-resale carriers submit the Section 43.61 data on CDs that are fully IBM compatible. Pure switched resale carriers have the option of filing the required data on paper. Facilities-based and facilities-resale carriers are required to file hard copies of their submission with the agency. Due to the requirement that carriers must file hard copies of their reports with the Commission, it is estimated that 50 percent of information is collected electronically by the agency.

4. This information collection requirement is not duplicated elsewhere in the Commission's rules.

5. The First report and Order and Further Notice of Proposed Rulemaking (FCC 11-76) is part of the overall review of the Commission's international reporting requirements that the

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Commission initiated in 2004 with a Notice of Proposed Rulemaking (NPRM) (FCC 04-70). That proceeding is intended to modernize and, where possible, streamline the international reporting

requirements. The change to the annual traffic and revenue report adopted by the First Report and Order will simplify that report and, thus, make it easier for small entities to file a traffic and revenue report.

6. If the information collection were not conducted or were conducted less frequently, the Commission would not be able to ensure compliance with its international rules and policies. Furthermore, the Commission would not have sufficient information to take measures to prevent anticompetitive conduct in the provision of international communications services. The Commission would not have adequate information to respond to failures in the U.S.-international market. The Commission would not be able to promote effective competition in the global market for communications services. The lack of effective competition would adversely affect the U.S. revenues in the telecommunications industry. The agency would not be able to comply with the international regulations stated in the World Trade Organization (WTO) Basic Telecom Agreement. Carriers and other entities outside the Commission, such as other government agencies, international organizations, and academia, use the information to analyze industry trends. Other government agencies use the information in merger analyses and negotiations with foreign countries. If the information collection was not conducted, carriers, government agencies and other entities would not have accurate industry data available in order to conduct analyses.

7. Currently, facilities-based and facilities-resale carriers are required to file three paper copies and three CDs containing the required data. The paper copies must contain data that is identical to the data filed on the CDs. Two copies (one copy of the paper submission and one of the CD) are used by the Commission's copy contractor. Carriers that provide only pure switched resale services are not required to file data on CDs.

8. The Commission placed a 60 day notice in the *Federal Register* pursuant to 5 CFR § 1320.8(d). See 76 FR 44007, dated July 22, 2011, seeking comments from the public on the information collection requirements contained in this supporting statement. No comments were received following publication of this notice.

9. The Commission will not provide any payment or gift to respondents.

10. The Commission has generally treated the information submitted pursuant to

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Section 43.61 as non-confidential. However, under Section 0.459 of the Commission's rules, carriers may request proprietary treatment for specific pieces of information, such as information on transit traffic.

At present, the Commission allows carriers to report information regarding their country-direct, country-beyond and reoriginated IMTS traffic under a series of proprietary billing codes that are not routinely made available to the public. The Commission requires the carrier also to file a second version of their traffic and revenue report, which the Commission designates as a carrier's "public report," in which the carriers can combine the information they provided under the proprietary billing codes with their other traffic to a particular destination, thereby masking the sensitive information. The First report and Order does not affect this policy.

In the interest of public access to information, even where the Commission grants a request to keep a particular piece of information confidential, the agency proposed to include that information in the industry-wide totals it compiles in the annual International Telecommunications Data Reports.

The information identified by this proceeding as disaggregated information that is not routinely available to the public would be identified in a new rule Section 0.457(d)(1)(viii) that would provide confidential treatment for the information so identified. Beyond that, filing entities that seek to protect the confidentiality of particular data elements may request such treatment under section 0.459 of the Commission's rules. That rule requires such a carrier to justify fully its request for confidentiality by providing enough information for the Commission to determine the need for confidential treatment. The FNPRM directs the International Bureau to act upon such requests at the time they are filed.

The rule requires a carrier requesting confidentiality to submit an unredacted version of its data, as well as a redacted version to be made publicly available. Should the Commission decide to grant a request for confidential treatment of information that does not fall within a specific exemption pursuant to the Freedom of Information Act (FOIA), that Act requires the Commission to disclose publicly the information upon an appropriate request. The Commission may grant requests for confidential treatment either conditionally or unconditionally. As such, the Commission has the discretion to release on public interest grounds information that does fall within the scope of a FOIA exemption. The Commission is requesting public comment on the granting of confidential treatment for particular pieces of data in the annual traffic and revenue or circuit-status reports.

11. The information collection covered by this revised supporting statement does not contain

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any questions that seek sensitive personal information.

12. Estimate of Burden Hours for Respondents is as follows: Please see the charts below for the explanation of burden estimates, number of annual responses, frequency of response, time per response and annual burden hours for the **1,255 respondents** to this information collection.

Explanation of Burden Estimate	Number of Responses	Frequenc y of Response	Time Per Response	Annual Burden Hours
47 CFR 43.61(a)(1)				
Reports of International Telecommunications Traffic including actual traffic and revenue data for each and every services provided by a common carrier divided among service billed in the U.S., service billed outside of the U.S., and service transiting the U.S.	77 *	Annual	220 hours	16,940 hours
	1,175 **	Annual	2 hours	2,350 hours
47 CFR 43.61(a)(2)	3	Annual	80 hours	240 hours
Each common carrier shall submit a revised report by October 31 identifying and correcting any inaccuracies included in the annual report exceeding five percent				

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of the reported figure.

Totals:	1,255 Responses	19,530 Hours
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*** 77 is the number of facilities-based carriers that have to file country-by-country traffic and revenue information = 77 reports filed annually**

**** 1,175 is the number of resale carriers that file worldwide traffic and revenue information = 1,175 reports filed annually**

In-House Costs:

The hourly rate for in-house staff is estimated at \$57.13 per hour which is equivalent to the hourly rate for a GS-14/Step 5 Federal government employee. Therefore, the in-house costs are calculated as follows:

19,530 hours X \$57.13 hourly rate = **\$1,115,748.90**

13. The estimate of costs for the respondents is as follows:

- (a) Start-Up Costs: Zero
- (b) Operations and Maintenance Costs: **\$339,000**

Description	Annual Responses	Costs per Hour	Hourly Processing per Response	Total
Outside Legal Counsel ¹	1,130	\$300 per hour (Based on industry survey)	1 hour/response	\$339,000 (O&M)

Total Annual Costs: \$339,000

¹ It is estimated that respondents will need assistance from outside legal counsel with 90% of the filings (1,255 x 90% = 1,130 filings).

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

Government Staff	Annual Burden Hours	Costs
GS-15/Step 5 Hourly Rate: \$67.21	Review and Process 10% of the filings = 126 filings	\$8,468.46
GS-13/Step 5 Hourly Rate: \$48.35	Review and Process 90% of the filings = 1,129 filings	\$54,587.15
Total Cost to Federal Government:		\$63,055.61

15. There are program changes/decreases to the number of respondents of 7, to the annual number of responses of 7, to the annual burden hours of 4,424 and to the annual cost burden of 1,800 which are due to the elimination of Sections 43.61(b) and (c) and revisions to 43.61(a). These revisions were adopted in FCC 11-76 by the Commission. There are no adjustments to this information collection.

16. The collected information is reviewed, consolidated and released by the Federal Communications Commission to the public.

17. The Commission is requesting a waiver to not display the OMB control number and expiration date on the Section 43.61 manual used by carriers in submitting the information.

This will alleviate the Commission from having to update the OMB expiration date on the manual whenever it is resubmitted to OMB. The Commission will use an edition date in lieu of the OMB expiration date. Finally, all OMB-approved information collections (including this one) will be published in 47 CFR 0.408 that “displays” the title, OMB control number and OMB expiration date.

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18. There are no other exceptions to the Certification Statement.

Part B. Collections of Information Employing Statistical Methods:

This information collection does not employ statistical methods.