

SUPPORTING STATEMENT**A. Justification****Background**

1. In 2009, the Federal Communications Commission (“Commission”) released a Notice of Proposed Rulemaking (“NPRM”) to determine whether and what actions might be necessary to preserve the characteristics that have allowed the Internet to grow into an indispensable platform supporting our nation’s economy and civic life, and to foster continued investment in the physical networks that enable the Internet. The NPRM specifically noted the proposed information collections and sought public comment thereon.¹ The comments filed in response to the NPRM included input from more than 100,000 individuals and organizations and several public workshops. On December 21, 2010, the Commission adopted the *Preserving the Open Internet and Broadband Industry Practices Report and Order* (“*Open Internet Order*”).² The Order will help ensure continued Internet openness and provide greater certainty to consumers, innovators, investors, and broadband providers, including the flexibility providers need to manage their networks effectively. The *Open Internet Order* builds on the Internet Policy Statement the Commission adopted in 2005. It concludes that high-level protections to ensure the continued vitality of the Internet are needed in light of instances of broadband providers interfering with the Internet’s openness, and the incentives providers may face to exert gatekeeper control over Internet content, applications, and services.

The statutory authority for the information collection requirements is contained in 47 U.S.C. 151, 152, 153, 154, 201, 218, 230, 251, 254, 256, 257, 301, 303, 304, 307, 309, 316, 332, 403, 503, 522, 536, 548, and 1302.

This information collection may affect individuals or households, and thus, there may be impacts under the Privacy Act. The Privacy Act requires federal agencies to take special measures to protect personal information about individuals when the agencies collect, maintain, and use such personal information. Federal agencies are required to make the public aware of what “systems of records” they maintain. The Privacy Act defines a system of records as a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The Commission has a system of records, FCC/EB-5, “Enforcement Bureau Activity Tracking System (EBATS),” that will cover the personally identifiable information (PII) that may be submitted to the Commission in open Internet formal complaint proceedings. FCC/EB-5 became effective on January 24, 2011. See 75 FR 77872 (Dec. 14, 2010). The Commission is also preparing a Privacy Threshold Analysis (PTA) for the information systems, including the information system that will track open Internet formal complaints, which are covered by EBATS.

New Information Collection Requirements:

¹ 74 Fed. Reg. 62638 (Nov. 30, 2009).

² *Preserving the Open Internet, Broadband Industry Practices, Report and Order*, 25 FCC Rcd 17905 (Dec. 21, 2010) (“*Open Internet Order*”).

Title: Formal Complaint Procedures, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09–191 and WC Docket No. 07–52

47 C.F.R. Section 8.12 permits any person to file a formal complaint alleging a violation of the rules adopted in the *Open Internet Order*.

47 C.F.R. Section 8.13 establishes requirements for all pleadings filed in formal complaint proceedings, including that pleadings must be clear, concise, and explicit; that all matters concerning a claim, defense, or requested remedy should be pleaded fully and with specificity; that pleadings must contain facts that, if true, are sufficient to warrant a grant of the relief requested; and that facts must be supported by relevant documentation or affidavit.³ Complainants must file an original copy of the complaint, accompanied by the correct fee, in accordance with part 1, subpart G (*see* 47 C.F.R. Section 1.1106) and, on the same day: (1) file three copies of the complaint with the Office of the Commission Secretary; (2) serve two copies on the Market Disputes Resolution Division, Enforcement Bureau; and (3) serve the complaint by hand delivery on either the named defendant or one of the named defendant's registered agents for service of process, if available, on the same date that the complaint is filed with the Commission.

Any person intending to file a complaint must first notify the potential defendant in writing that it intends to file a complaint with the Commission based on actions alleged to violate one or more of the provisions contained in part 8 of the Commission's rules. The notice must be sufficiently detailed so that its recipient(s) can determine the specific nature of the potential complaint. The potential complainant must allow a minimum of ten (10) days for the potential defendant(s) to respond before filing a complaint with the Commission.

47 C.F.R. Section 8.14 establishes requirements for the filing of formal complaints, answers to formal complaints, replies, and additional procedures and filings.⁴

Complaints. Complaints shall be accompanied by a certificate of service on any defendant. The complaint shall state the relief requested. It shall state fully and precisely all pertinent facts and considerations relied on to demonstrate the need for the relief requested and to support a determination that a grant of such relief would serve the public interest. The complaint shall set forth all steps taken by the parties to resolve the problem.

Answers. This rule requires that unless otherwise directed by the Commission, any party who is served with a complaint shall file an answer within 20 days of service of the complaint. The answer shall advise the parties and the Commission fully and completely of the nature of any and all defenses, and shall respond specifically to all material allegations of the complaint. Collateral or immaterial issues shall be avoided in answers and every effort should be made to narrow the issues. Any party against whom a complaint is filed failing to file and serve an answer within the time and in the manner prescribed by these rules may be deemed in default and an order may be entered against defendant in accordance with the allegations contained in the complaint. Facts must be supported by relevant documentation or affidavit. The answer shall admit or deny the averments on which the adverse party relies. If the defendant is without knowledge or information sufficient to form a belief as to the truth of an averment, the defendant

³ *See* 47 C.F.R. Section 8.13 for specific requirements pertaining to pleadings filed in a formal complaint proceeding.

⁴ *See* 47 C.F.R. Section 8.14 for specific requirements pertaining to the filing of formal complaints, answers, and replies.

Title: Formal Complaint Procedures, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09–191 and WC Docket No. 07–52

shall so state and this has the effect of a denial. When a defendant intends in good faith to deny only part of an averment, the answer shall specify so much of it as is true and shall deny only the remainder, and state in detail the basis of that denial. Averments in a complaint are deemed to be admitted when not denied in the answer.

Replies. This rule permits a complainant to file a reply to a responsive pleading that shall be served on the defendant and shall also contain a detailed full showing, supported by affidavit, of any additional facts or considerations relied on. Unless expressly permitted by the Commission, replies shall not contain new matters. Failure to reply will not be deemed an admission of any allegations contained in the responsive pleading, except with respect to any affirmative defense set forth therein. Unless otherwise directed by the Commission, replies must be filed within ten (10) days after submission of the responsive pleading.

Additional procedures and written submissions. The Commission may specify other procedures, such as oral argument or evidentiary hearing directed to particular aspects, as it deems appropriate. The Commission may require the parties to submit any additional information it deems appropriate for a full, fair, and expeditious resolution of the proceeding, including copies of all contracts and documents reflecting arrangements and understandings alleged to violate the requirements set forth in the Communications Act and in this part, as well as affidavits and exhibits. The Commission may, in its discretion, require the parties to file briefs summarizing the facts and issues presented in the pleadings and other record evidence. Reply briefs may be submitted at the discretion of the Commission. The Commission may, in its discretion, order discovery limited to the issues specified by the Commission. Such discovery may include answers to written interrogatories, depositions, document production, or requests for admissions. The Commission may, in its discretion, direct the parties to submit discovery proposals, together with a memorandum in support of the discovery requested.

47 C.F.R. Section 8.15 provides that, in any proceeding subject to the part 8 rules, the Commission may, in its discretion, direct the attorneys and/or the parties to appear for a status conference.

47 C.F.R. Section 8.16 provides that any materials filed in the course of a proceeding under this part may be designated as proprietary by that party if the party believes in good faith that the materials fall within an exemption to disclosure contained in the Freedom of Information Act (FOIA), 5 U.S.C. 552(b).

47 C.F.R. Section 8.17 describes the circumstances under which parties to a part 8 proceeding may seek review of rulings.

2. Information filed is used to make determinations on complaints filed with the Commission.
3. This collection of information does not involve the use of forms or surveys that can be completed electronically. The collection of information comprises various pleadings that may be filed before the Commission. Due to the unique nature of these pleadings, it is not feasible to file them in standardized electronic form format. Parties may, however, voluntarily submit electronic copies of their pleadings to staff via e-mail in order to expedite review.

Title: Formal Complaint Procedures, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09–191 and WC Docket No. 07–52

4. None of the information collected as a result of the *Open Internet Order* is unnecessarily duplicative of other information. The formal complaint procedural rules that are the subject of this supporting statement are based on the cable access rules in Part 76 of the Commission's rules.⁵

5. This information collection makes possible a formal complaint process to address open Internet disputes that cannot be resolved through other means, including the Commission's informal complaint system. This process will permit anyone—including individual end users and edge providers—to file a claim alleging that another party has violated a rule, and asking the Commission to rule on the dispute. The formal complaint rules will facilitate prompt and effective enforcement of the rules adopted in the *Open Internet Order*, which is crucial to preserving an open Internet and providing clear guidance to stakeholders. The Commission's open Internet rules give broadband Internet access service providers substantial flexibility in determining the most cost-effective methods of compliance. By adopting flexible rules, combined with the formal complaint process that is the subject of this information collection, the Commission has balanced the economic interests of small businesses with the public's interest in a free and open Internet.

6. If this information were not to be collected, the Commission would lack a key method of monitoring compliance with its open Internet rules. The absence of this information collection would also eliminate an important means by which consumers and others may seek the Commission's help with alleged violations of the open Internet rules.

7. No other special circumstances apply to these information collection requirements.

8. The Commission published a notice in the *Federal Register* as required by 5 CFR Section 1320.8(d) seeking comments from the public on the information collection requirements contained in this supporting statement.⁶ To date, the Commission has received three comments in response to the notice, from the American Cable Association (ACA), the Independent Telephone and Telecommunications Alliance (ITTA), and the National Cable & Telecommunications Association (NCTA).

The Estimated Burden Is Accurate.

- ACA (at 5) argues that the burden hour and cost estimates in the Notice fails to distinguish between responses prepared by in-house counsel and those prepared with the assistance of outside counsel. But as demonstrated in answer 12, below, the estimated burden reflects that some responses will be prepared by in-house counsel and some by outside counsel. Answer 12 explains in detail the anticipated differences in time and cost between in-house and outside counsel. The estimated time per response in the Notice reflected this distinction as well, ranging from two hours—the amount of time estimated for outside counsel to prepare a pre-complaint notice—to 40 hours—the amount of time estimated for in-house counsel to prepare a complaint.
- ACA also argues (at 5-6) that the burden hour estimates are too low in comparison to the Commission's May 2010 burden estimates for the cable access complaint procedures in Part 76 of the Commission's rules. This difference reflects that while the *procedures* in this information collection

⁵ *Open Internet Order*, 25 FCC Rcd at 17987, para. 155.

⁶ See 76 Fed. Reg. 7206 (Feb. 9, 2011).

Title: Formal Complaint Procedures, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09–191 and WC Docket No. 07–52

are similar to those in Part 76, the *subject matter* is not the same. The burden estimates for this collection reflect the particular requirements of the *Open Internet Order*. Those requirements may give rise to complaints that are procedurally analogous to cable access complaints, but the substance of the complaints is different. Furthermore, the Commission has provided guidance for compliance with the open Internet rules, and will continue to do so. On June 30, 2011, the Commission’s Enforcement Bureau and General Counsel released advisory guidance regarding compliance with the *Open Internet Order*’s transparency rule (“*Advisory Guidance*”).⁷ The *Advisory Guidance* offers initial guidance intended to help those broadband providers that may be seeking additional clarification regarding specific disclosure practices that will likely satisfy the rule. The guidance includes examples of approaches to disclosure that would satisfy the transparency rule at this time, including guidance with respect to point-of-sale disclosures; performance characteristics; the extent of required disclosures; disclosure to content, applications, service, and device providers; and disclosure of security measures. This type of guidance should make certain categories of formal complaints less likely to be brought, and if brought, more straightforward and easily settled.

- ITTA argues (at 8-9) that the Part 76 cable access complaint rules are an inappropriate “model” for this information collection, and that the Commission could have adopted less burdensome formal complaint procedures. The Commission, however, chose the cable access complaint procedures as a model largely because it determined that they are “more streamlined” than the Commission’s rules governing formal complaints filed pursuant to section 208 of the Communications Act of 1934, as amended, 47 U.S.C. § 208, which some commenters had advocated as the best model.⁸
- ITTA suggests (at 1-3) that the Commission failed to demonstrate the benefits of the proposed information collection consistent with Executive Order 13563, concerning regulation and regulatory review.⁹ Although that Executive Order does not apply to the Commission as an independent agency, FCC Chairman Genachowski has stated that he expects the Commission “to perform its responsibilities consistent with its principles,”¹⁰ and the Commission is satisfied that it has met the obligation to carefully consider regulatory burdens here. The *Open Internet Order* resulted from an extensive proceeding with hundreds of hours of *ex parte* meetings between stakeholders and Commission staff and review of a record of filings made by thousands of parties that examined the cost and benefits of the proposed rules. The Commission has adopted rules that allow flexibility in compliance. Taking into account the flexibility built into the regulations and the broad public input that allowed detailed consideration of the costs and benefits of these rules, the Commission determined that the consumer benefits of having a streamlined formal complaint process outweigh the burden of requiring providers to respond to formal complaints.¹¹

⁷ *FCC Enforcement Bureau and Office of General Counsel Issue Advisory Guidance for Compliance With Open Internet Transparency Rule*, GN Docket No. 09-191, WC Docket No. 07-52, Public Notice, DA 11-1148 (rel. June 30, 2011) (“*Advisory Guidance*”).

⁸ *See Open Internet Order*, 25 FCC Rcd at 17987, para. 155.

⁹ *Improving Regulation and Regulatory Review*, Executive Order 13563 (Jan. 18, 2011).

¹⁰ Prepared Remarks of Chairman Julius Genachowski, Federal Communications Commission, Broadband Acceleration Conference, Washington, D.C. (Feb. 9, 2011) at 4, available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-304571A1.pdf.

¹¹ *See Open Internet Order*, 25 FCC Rcd at 17987, para. 154.

Title: Formal Complaint Procedures, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09–191 and WC Docket No. 07–52

- ITTA also argues (at 9) that the estimated number of complaints filed annually is “dubious,” given that there are “millions of end users, edge provide[r]s and others that use broadband service in one way or another, and there are thousands of entities that provide that service.” ITTA is correct that the potential universe of complainants is large. However, filing a formal complaint under these rules is the last recourse for resolving open Internet disputes. The *Open Internet Order* encourages resolution of disputes between parties through industry fora or direct negotiation. It further notes that if parties do seek Commission involvement, they may submit informal complaints, which require no filing fee (unlike the formal complaints that this supporting statement addresses). The Commission already has PRA approval for informal complaints, but will file a nonsubstantive change modification noting that the number of potential filers of informal complaints is expected to go up.¹² The formal complaint option is not redundant of informal complaint procedures, as ITTA suggests (at 7-8), but is rather an option when an open Internet dispute cannot be resolved through other means. In any event, even if these rules were not added by the *Open Internet Order*, the Commission’s general formal complaint rules would be available. Commission staff reached its estimate of five complaints filed annually under these new rules by anticipating that the alternative dispute resolution mechanisms described in the *Open Internet Order* would address most disputes, resulting in few formal complaints.
- NCTA argues (at 10) that because the Commission adopted “high level” rules, the *Open Internet Order* “leaves many of the real-world implications of the rules for [Internet service providers] to be determined through . . . complaints,” and that the estimated annual number of formal complaints is therefore too low. But formal complaints are by no means the only avenue through which the “real-world implications” of these rules will be developed. As the Commission noted in the *Open Internet Order*, informal complaints, which are not governed by this collection, will help inform the Commission about trends and patterns in Open Internet compliance. In addition, the Commission has fulfilled its promise in the *Open Internet Order* to establish an Open Internet Advisory Committee, which is a working group that will include broadband Internet access service providers, consumer advocates, Internet engineers, and other stakeholders. This Committee will help the Commission track developments with respect to the freedom and openness of the Internet, which should help facilitate resolution of open Internet-related disputes. Furthermore, the Commission has the discretion to issue clarifications and guidance regarding compliance with the open Internet rules at any time. As noted above, the Commission’s Enforcement Bureau and General Counsel have already provided guidance regarding compliance with the *Open Internet Order*’s transparency rule.¹³ In short, NCTA places too much emphasis on the formal complaint process as a means of fleshing out the rules, and does not make a persuasive argument that the Commission staff’s original estimate should be adjusted.
- ITTA argues (at 8) that the burden of responding to formal complaints is a particular concern for small providers. The impact of this disclosure requirement on small businesses or other small entities is not expected to be significant. In the Final Regulatory Flexibility Analysis (“FRFA”) performed in connection with the *Open Internet Order*, the Commission determined that the burden of compliance by small businesses will be small.¹⁴ The FRFA also noted steps taken by the Commission to

¹² Informal complaints are an approved information collection in their own right under OMB Control No. 3060-0874.

¹³ See *supra* page 5; *Advisory Guidance* at 3-8.

¹⁴ *Open Internet Order*, Appendix D, Final Regulatory Flexibility Analysis, 25 FCC Rcd at 18020-21, 18036-37, paras. 13-14; 52.

Title: Formal Complaint Procedures, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09–191 and WC Docket No. 07–52

minimize the economic impact on small entities, and significant alternatives to the collection that were considered.¹⁵ Furthermore, the cost of responding to formal complaints would likely be lower for smaller providers, whose investigation and discovery costs would likely be lower than those of larger providers. In addition, section 8.14(f)(1) of the formal complaint rules provides that discovery is discretionary; the Commission may deny discovery where it is unnecessary or tailor discovery to the scope of the dispute and the size of the parties.

- NCTA expresses concern (at 10-11) that the discovery procedures in the formal complaint rules will allow parties to obtain information that a provider would otherwise be under no obligation to disclose, and recommends that the Commission “clarify” the discovery procedures to ensure, among other things, that parties cannot exploit the formal complaint process to circumvent exceptions to the Commission’s disclosure rules. NCTA also asks the Commission (at 11-12) to make clear that certain specific issues, such as “Internet peering arrangements” and “challenges to ISPs’ retail pricing plans,” are not covered by the open Internet rules. Because Commission staff considered all types of formal complaints when it devised its burden estimates, we are not convinced that any of NCTA’s proposed clarifications are necessary. As for NCTA’s concern about the disclosure of information during the discovery process, section 8.16 of the formal complaint rules permits respondents to request confidential treatment of information submitted in the course of a formal complaint proceeding.

9. The Commission does not anticipate providing any payment or gift to respondents.

10. Any information submitted by parties as part of their petition, complaint, answer, or reply may be submitted pursuant to a request for confidentiality under section 0.459 of the Commission’s rules. See 47 C.F.R. § 0.459.

As noted in Question 1 above, this information collection may affect individuals or households, and thus there may be impacts under the Privacy Act. The PII that individuals and others may include in their open Internet formal complaint submissions is covered by a system of records, FCC/EB-5, “Enforcement Bureau Activity Tracking System (EBATS),” which became effective on January 24, 2011. See 75 FR 77872 (Dec. 14, 2010). The Commission is also preparing a Privacy Threshold Analysis (PTA) for the information systems, including the information system that will track open Internet formal complaints, which are covered by the EBATS system of records notice (SORN).

11. As noted in Questions 1 and 10 above, a system of records, FCC/EB-5, “EBATS,” covers all PII that may be submitted in a formal complaint, and the Commission is preparing a PTA for the information systems covered by the EBATS SORN.

12. This collection accounts for formal complaints filed pursuant to Sections 8.12 *et seq.* We anticipate that two filing parties will generally be involved (the complainant and the defendant/responding party).

We estimate that parties initiating their own formal filings will have an average burden of 40 hours and parties using outside counsel will have an average burden of 4.5 hours to assist their counsel, with some filings requiring considerably less time, and some requiring more time. We estimate that approximately 15 filings will be made annually in accordance with procedures in Sections 8.12 *et seq.*

¹⁵ *Id.* at 18037, paras. 53-54.

Title: Formal Complaint Procedures, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09–191 and WC Docket No. 07–52

Total Number of Annual Respondents: 10

Total Number of Annual Responses =	5 filings x 2 parties/filing =	10 responses/filings
	5 pre-complaint notices =	<u>5 notices</u>
		15 responses

ANNUAL BURDEN HOURS

Parties Initiating Their Own Filings: We estimate that 50% of parties initiating or responding to formal filings will do so on their own at an average of 40 hours per complaint filing. We assume that all parties that prepare their own complaints will also prepare their own pre-complaint notices, and will expend 4 hours per pre-complaint notice filing.

$$(3 \text{ complaints} + 2 \text{ responses}) \times 40 \text{ hours/filing} = 200 \text{ hours}$$

$$3 \text{ pre-complaint notices}^{16} \times 4 \text{ hours/filings} = 12 \text{ hours}$$

Parties Using Outside Counsel: We estimate that 50% of parties initiating or responding to formal filings will use outside legal counsel. These parties will commit an average of 4.5 hours per complaint/response filing. We assume that parties that use outside counsel to prepare complaints will also use outside counsel to prepare pre-complaint notices, and will expend 2 hours per pre-complaint notice filing to coordinate with outside legal counsel.

$$(2 \text{ complaints} + 3 \text{ responses}) \times 4.5 \text{ hours/filing} = 22.5 \text{ hours}$$

$$2 \text{ pre-complaint notices}^{17} \times 2 \text{ hours/filing} = 4 \text{ hours}$$

Total Annual Burden Hours = 200 hours + 12 hours + 22.5 hours + 4 hours = 238.5 hours (239 hours rounded)

ANNUAL “IN-HOUSE” COST

We estimate that an in-house attorney and paralegal will initiate 50% of the formal filings without outside assistance and the remaining filings will be coordinated with outside legal counsel.

¹⁶ The Commission estimates that 3 parties will prepare and issue their complaints and pre-complaint notices to potential defendants without outside assistance.

¹⁷ The Commission estimates that 2 parties will rely on outside counsel to prepare and issue complaints and pre-complaint notices.

Title: Formal Complaint Procedures, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09–191 and WC Docket No. 07–52

Filings Done In-House

For formal filings done without outside assistance, we estimate that parties will use paralegal staff whose pay is comparable to mid- to senior-level federal employees (GS 12/5, plus 30% overhead), about \$52.86 per hour. We estimate that parties will use an average of 5 hours of in-house paralegal time per complaint filing or response and 1 hour per pre-complaint notice filing. We estimate that parties will use legal staff whose pay is comparable to senior level federal employees (GS 15/5, plus 30% overhead), about \$87.37 per hour. We estimate that respondents will use an average of 35 hours of in house legal staff time per complaint or response filing and 3 hours per pre-complaint notice filing.

Paralegal: 5 hours x (3 complaints + 2 responses) x \$52.86/hour = \$ 1,321.50
 Attorney: 35 hours x (3 complaints + 2 responses) x \$87.37/hour = \$15,289.75
 Total Annual “In-House” Cost for in-house complaint filings: \$16,611.25

Paralegal: 1 hour x 3 pre-complaint filings x \$52.86/hour = \$158.58
 Attorney: 3 hours x 3 pre-complaint filings x \$87.37/hour = \$786.33
 Total Annual “In-House” Cost for in-house pre-complaint filings: \$944.91

Filings Done by Outside Counsel (But Requiring In-House Staff To Spend Time Coordinating Information with Outside Counsel)

For the half of filings done by outside counsel, we estimate that parties will use 4.5 hours of in-house lawyer time for complaints and responses and 2 hours per pre-complaint notice filing to coordinate information with outside legal counsel.

Attorney: 4.5 hours x 2 complaints and 3 responses x \$87.37/hour = \$1965.83
 Attorney: 2 hours x 2 pre-complaint filings x \$87.37/hour = \$ 349.48
 \$2,315.31

Total In-House Cost for all Filings: \$16,611.25 + \$944.91 + \$2,315.31 = **\$19,871.47**

These estimates are based on Commission’s staff knowledge and familiarity with the availability of the data required.

13. Annual Cost Burden:

a. Total capital and start-up costs: \$0

b. Half of the respondents are expected to receive assistance from consulting attorneys at costs of \$300/hour when initiating their filings (50% of 10 filings = 5 filings), and outside paralegals at the cost of \$52.86 per hour. We estimate that, on average, outside attorneys will spend 25 hours per complaint, and outside paralegals will spend 5 hours per complaint. We estimate that 2 of the 5 respondents will require outside counsel to prepare the pre-complaint notices. We estimate that, on average, outside attorneys will spend 2 hours per pre-complaint notice, and outside paralegals will spend 1 hour per complaint.

Title: Formal Complaint Procedures, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09–191 and WC Docket No. 07–52

Therefore, the total operation and maintenance costs are

$$(2 \text{ complaints} + 3 \text{ responses}) \times 25 \text{ hours} \times \$300/\text{hr} + (2 \text{ complaints} + 3 \text{ responses}) \times 5 \text{ hours} \times \$52.86/\text{hour} = 37,500 + 1321.50 = \$38,821.50$$

$$2 \text{ pre-complaint filings} \times 2 \text{ hours} \times \$300 + 2 \text{ pre-complaint filings} \times 1 \text{ hour} \times \$52.86/\text{hour} = 1,200 + 105.72 = \$1,305.72$$

c. Total Annualized Cost: **\$40,127.22 (\$40,127 rounded)**

14. **Cost to the Government:** The Commission staff performing work that reviews these filings consists of attorneys at the GS-15, step 5 level (\$67.21/hour), paralegals at the GS-12, step 5 level (\$40.66/hour) and administrative personnel at the GS-5, step 5 level (\$18.50/hour).

Legal review: 10 filings x 11.3 hours/filing x \$67.21/hour	=	\$7,594.73
Paralegal review: 10 filings x 3.4 hours/filing x \$40.66/hour	=	\$1,382.44
Admin. review: 10 filings x 2 hours/filing x \$18.50/hour	=	<u>\$ 370.00</u>
Total Cost to the Federal Government:		\$9,347.17

15. This is a new collection.

16. The data will not be published for statistical use.

17. The Commission does not seek approval to not display the expiration date for this collection of information.

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.