

Supporting Statement for FTC Administrative Activities
OMB Control No. 3084-0047

The Federal Trade Commission (“FTC” or “Commission”) is seeking renewal of its existing Administrative Activities clearance. This clearance consists of the burden attributable to (a) applications to the Commission, including applications and notices contained in the Commission's Rules of Practice (primarily Parts I, II, and IV); (b) the FTC’s consumer complaint systems; (c) the FTC’s program evaluation activities and; (d) the FTC’s Applicant Background Form. Each answer below is broken into subsections relating separately or collectively to (a)-(d) as noted and as necessary. The vast proportion of the Paperwork Reduction Act (“PRA”), 44 U.S.C. 3501-3520, burden for the existing clearance is attributable to the FTC’s consumer complaint systems.

A. JUSTIFICATION

(1) Necessity for Collecting the Information

(a) Applications to the Commission:

The Federal Trade Commission Act (“FTC Act”), Title 15 U.S.C. 41 *et seq.*, authorizes the collection of information via various applications and notices to the Commission (the procedures for such applications and notices are generally found in Parts I, II, and IV of the Commission's Rule of Practice). For example, the Commission requires former FTC employees to seek clearance to participate in certain matters and also requires certain persons who have business dealings with former FTC employees to submit screening affidavits in order to participate in FTC matters. See Commission Rule 4.1, 16 C.F.R. 4.1. These regulatory requirements prevent the improper use of confidential nonpublic information acquired while working at the FTC.

The FTC Act also authorizes the procedures set out in Rule 4.11(e), 16 C.F.R. 4.11(e), for review of outside requests for Commission employee testimony, through compulsory process or otherwise, in cases or matters to which the FTC is not a party. Rule 4.11(e) requires that a person who seeks such testimony submit a statement in support of the request. The submitted information assists staff with determining how to best utilize FTC resources (e.g., the submitted information enables staff to assess whether the public interest is at stake).

(b) Complaint Systems:

The FTC’s Bureau of Consumer Protection (“BCP”) uses various telephone complaint hotlines and, alternatively, three different online consumer complaint forms to handle consumer grievances: (1) the general on-line complaint form; (2) the “Do Not Call On-Line Complaint

Dated: October 2008

Form;” and (3) the “Identity Theft On-Line Complaint Form.”¹ The provision of this information is voluntary. Without the collection of this information, however, BCP staff would be hampered in their ability to receive and respond to consumer grievances. Moreover, the FTC’s Identity Theft Clearinghouse program was created to fulfill the FTC’s statutory obligations under the Identity Theft and Assumption Deterrence Act of 1998, 18 U.S.C. 1028 note (Centralized Complaint and Consumer Education Service for Victims of Identity Theft).

(c) Program Evaluations:

Competition Advocacy--The FTC’s competition advocacy program draws on the Commission’s expertise in competition and consumer protection matters to encourage federal and state legislators, courts and other state and federal agencies to consider the competitive effects of their proposed actions. The FTC’s Office of Policy Planning (“OPP”) sends approximately 20 letters or written comments to different state and federal government officials annually, which provide guidance on the likely competitive effects of various laws or regulations.

In the past, OPP has evaluated the effectiveness of these advocacy comments by surveying comment recipients and other relevant decision makers. OPP intends to continue this evaluation by sending a written questionnaire to relevant parties between six and nine months after an advocacy comment is sent. Most of the questions ask the respondent to agree or disagree with a statement concerning the advocacy comment that they received. Specifically, these questions inquire as to the applicability, value, persuasive influence, public effect, and informative value of the FTC’s comments. The questionnaire also provides respondents with an opportunity to provide additional remarks related either to the written comments received or the FTC’s advocacy program in general. Participation is voluntary. By allowing the FTC to gauge the efficacy of its advocacy efforts, the survey provides vital information for taking steps to enhance the effectiveness of the competition advocacy program. Absent the survey, there would be little feedback with which to assess the advocacy program.

Statutory authority for the competition advocacy program is found in sections 6(a) and (f) of the FTC Act, under which Congress authorized the FTC “to gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any person, partnership, or corporation engaged in or whose business affects commerce,” and “to make public from time to time such portions of the information obtained by

¹ These online forms also include related variations that constitute the same basic “collection of information”: (1) Spanish language versions also available at www.ftc.gov, (2) the www.econsumer.gov complaint form, but only with regard to complaints from U.S. or foreign consumers regarding U.S. companies, and (3) the FTC’s consumer.gov/military link for consumer complaints from U.S. military personnel as part of Military Sentinel, a joint initiative with the Department of Defense.

it hereunder as are in the public interest.”² The courts have interpreted these provisions to allow the FTC to participate in proceedings conducted by other agencies, and to petition other agencies to implement rulemakings.³

Divestiture Review--To resolve competitive concerns in what the Commission determines may be unlawful mergers and acquisitions, the Commission may order divestiture of assets to an acquirer approved by the Commission. In order to assess the effectiveness of the divestiture, the FTC’s Bureau of Competition’s Compliance Division is conducting relatively brief follow-up calls with these acquirers as part of its on-going enforcement efforts.

(d) Applicant Tracking Form:

The FTC’s Human Resources Management Office surveys job applicants on their ethnicity, race, and disability status in order to determine if recruitment is effectively reaching all aspects of the relevant labor pool, in compliance with management directives from the Equal Employment Opportunity Commission.⁴ Response by applicants is optional. The information obtained is used for evaluating recruitment only and plays no part in the selection of who is hired. The information is not provided to selecting officials. Instead, the information is used in summary form to determine trends over many selections within a given occupational or organizational area.

(2) Use of the Information

(a) Applications to the Commission:

² 15 U.S.C. § § 46(a), (f).

³ *A & B Freight Lines v. FTC*, 1980-1 Trade Cas. (CCH) ¶ 63,127 (D.D.C. 1980), *aff’d per curiam*, No. 80-1264 (D.C. Cir. Jan 26, 1981), *cert. denied*, 452 U.S. 962 (1981) (rejecting objections to the FTC’s participating as a party in ICC proceedings involving common carriers and the FTC’s petitioning the ICC to institute a rulemaking proceeding). *See also National Petroleum Refiners Ass’n v. FTC*, 482 F.2d. 672, 686, 691 (D.C. Cir. 1973) (despite the absence of explicit Congressional authorization, upholding the FTC’s power under § 6(g) to promulgate trade regulation rules because such action was “consistent with the framers’ broad purposes” in creating the FTC and “linked to the goals . . . that loomed in the background of the 1914 passage of the Federal Trade Commission Act”).

⁴ Equal Employment Opportunity Commission Management Directive 715 (MD 715) requires agencies to maintain a system that: collects and maintains accurate information on the race, national origin, gender and disability of agency employees in accordance with 29 C.F.R. Part 1614.601; tracks applicant flow data, which identifies applicants by race, national origin, gender, and disability status and disposition of all applications; and tracks recruitment activities to permit analyses of these efforts in any examination of potential barriers to equality of opportunity.

The information submitted to the FTC pursuant to Rule 4.1 is used to determine whether a person or entity should be permitted to participate in an FTC matter. The submitted information sheds light on whether such requested participation is likely to give rise to the improper disclosure of nonpublic information (e.g., staff may not grant clearance to participate where it is likely that the former employee accessed nonpublic information that would convey a present advantage to their current employer). Staff uses the information submitted in Rule 4.11(e) requests to determine how to best allocate Commission resources (e.g., staff may deny a request for testimony from an FTC employee where it appears that such testimony would not be in the public's interest).

(b) Complaint Systems:

The forms and survey are used to improve public access to BCP's Consumer Response Center ("CRC"). Consumers may call a hotline phone number or may log on to the FTC's web site to register a complaint using the applicable complaint form.

(c) Program Evaluations:

Competition Advocacy--The information is used internally to assess the effectiveness of the FTC's advocacy program as a whole and to determine various conditions that influence the efficacy of advocacy efforts. Given resource constraints, this information can be used to target advocacy efforts to projects that are likely to be the most effective in achieving the desired outcome. Data from past surveys have been tabulated for internal memoranda, and published in an Organisation For Economic Co-operation and Development presentation⁵ and a law review article.⁶

Divestiture Review--The information obtained by the FTC's Bureau of Competition as a result of its follow-up conversations with acquirers of divested assets under Commission merger orders will be used to assess the effectiveness of the orders and refine future remedies, where necessary and appropriate. Information obtained as a result of these follow-up conversations will be accorded the protections available under the FTC Act.

(d) Applicant Tracking Form:

As stated above, the information collected is used to evaluate the FTC's recruitment efforts and plays no part in the selection process. The information is aggregated in order to determine trends over many selections within a given occupational or organizational area.

(3) Consideration of the Use of Information Technology to Reduce Burden

⁵ See *United States Note for OECD Roundtable on Evaluation of the Actions and Resources of Competition Authorities* (May 25, 2007), available at <http://www.ftc.gov/bc/international/docs/evalauth.pdf>.

⁶ Arnold C. Cellicker, *The Federal Trade Commission's Competition and Consumer Advocacy Program*, 33 ST. LOUIS UNIVERSITY LAW JOURNAL 379 (1989).

(a) Applications to the Commission:

Applications are generally in paper format, although electronic forms are also considered on a case-by-case basis if authenticated.

(b) Complaint Systems:

Although consumers may submit complaints or requests by mail, the CRC largely receives information from consumers via the Internet or the telephone. In this way, the FTC is effectively employing available information technology to provide electronic options for consumers and lessen the burden on them to the maximum extent practicable, consistent with the aims of the Government Paperwork Elimination Act, 44 U.S.C. § 3504 note (“GPEA”).

(c) Program Evaluations:

Competition Advocacy-- Staff sends the survey forms out by U.S. mail and includes a self-addressed stamped envelope for respondents to return their completed surveys. We considered the use of an online form in the past, but it was deemed impracticable due to privacy concerns.

Divestiture Review-- Direct telephone conversations with the acquirers of divested assets is the most effective way for staff to obtain information. Engaging in such real time discussion enables both staff and acquirers to easily ask follow-up questions and/or seek additional clarification as appropriate.

(d) Applicant Tracking Form:

Although job applicants may submit paper applications for some positions, over 90% of the FTC's job vacancy announcements require applicants to submit applications through an electronic method. In this way, consistent with GPEA, the Commission is effectively employing available information technology to provide electronic options and lessen the burden on applicants to the maximum extent practicable.

(4) Efforts to Identify Duplication/Availability of Similar Information

(a) Applications to the Commission:

Not applicable. Although staff could collect some of the submitted information elsewhere and may engage in cross-checking in order to verify that the submitted information is accurate and complete (e.g., with respect to Rule 4.1 requests, staff may consult with persons working on a matter to determine the extent of a former employee's involvement in the matter), it is important that requesters certify that they are making a full disclosure of the relevant information in order for staff to make informed determinations. Moreover, those who submit applications are often the best source of the information contained therein and looking for it elsewhere at the outset would be an inefficient use of FTC resources.

(b) Complaint Systems:

Not applicable. Although other government and private organizations systematically collect consumer complaint data, other sources cannot provide the information FTC staff and contract personnel need to specifically address consumer concerns arising under the various consumer protection laws and regulations that the FTC enforces.

(c) Program Evaluations:

Competition Advocacy--Not applicable. Other than this direct survey, there would be no means for accessing policy-makers' views on the efficacy of FTC advocacy efforts.

Divestiture Review--Not applicable. Although other government and private organizations systematically collect this type of data, other sources cannot provide the information FTC staff and contract personnel need to specifically address competition concerns arising under the various competition laws and regulations that the FTC enforces.

(d) Applicant Tracking Form:

The information as it pertains to FTC job applicants is not available elsewhere.

(5) Efforts to Minimize Burden on Small Businesses

(a) Applications to the Commission:

The regulatory requirements are designed to impose the minimum possible burden on the persons who complete them. The FTC only seeks the information required to make an informed response.

(b) Complaint Systems:

The consumer complaint forms were designed to impose the minimum possible burden on persons who complete them. Contacting the CRC with a complaint is entirely voluntary, and the online forms enable complainants to provide the pertinent information at their leisure. Consumers are also able to print the forms and mail them to the FTC. In addition, the CRC has expanded the hours of operation for its hotline to better serve consumers and small businesses on the West Coast.

(c) Program Evaluations:

Competition Advocacy--Not applicable. The survey is targeted to state, federal, and local policy makers (e.g., state legislators and federal regulators).

Divestiture Review--It is unlikely that any of the acquirers of divested assets are small businesses; to the extent that small businesses are involved, participation is voluntary, and the time involved in preparing and participating in the phone calls is limited.

(d) Applicant Tracking Form:

Not applicable. The form collects information from individuals.

(6) Consequences of Conducting Collection Less Frequently

(a) Applications to the Commission:

If the information required was collected less frequently, the FTC would be hampered in its efforts to prevent the misuse of nonpublic information and the inefficient use of agency resources.

(b) Complaint Systems:

If the FTC is not able to collect consumer complaint and customer satisfaction information, the agency will lack critical input to effectively: (1) address consumer education needs nationwide; (2) target companies and individuals actively defrauding the public; and (3) review industry compliance with the numerous statutes and regulations enforced by the FTC.

The consumer complaint data collected through the complaint forms is also the foundation of the FTC's highly successful Consumer Sentinel Network. The Consumer Sentinel Network allows federal, state and local law enforcement organizations common access to a secure database containing over 11 million complaints, including victims of consumer fraud and identity theft. To date, Consumer Sentinel has over 1,700 members, including law enforcement agencies from Canada and Australia. The continuous collection of consumer complaint data is critical to the Consumer Sentinel Network's sustained success.

The FTC is also mandated by Congress under the Identity Theft and Assumption Deterrence Act of 1998, 18 U.S.C. §1028 note, to be the central clearinghouse for identity theft complaints. The FTC's efforts in this regard serve to fulfill its statutory obligation.

(c) Program Evaluations:

Competition Advocacy--It becomes increasingly difficult to collect accurate information on the effectiveness of an advocacy effort as time between receiving the survey and the relevant legislative or regulatory proceeding increases. If the FTC were to collect this information less frequently, staff would receive far fewer responses and the information received would be less reliable.

Divestiture Review--The information is collected infrequently. Staff attempts to conduct the first phone call approximately a year after the divestiture is completed, and conducts follow-up phone calls thereafter only if required. If these calls were not made, staff would not necessarily become aware of issues that arise with a particular divestiture.

(d) Applicant Tracking Form:

The FTC attempts to collect this information from all job applicants (their responses are voluntary). If this information was collected less frequently, the FTC would be hampered in its ability to comply with management directives from the Equal Employment Opportunity Commission and it would be difficult to evaluate the success of the FTC's recruitment efforts.

(7) Circumstances Requiring Collection Inconsistent With Guidelines

(a)-(d):

The collections of information in the Rule are consistent with all applicable guidelines contained in 5 C.F.R. § 1320.5(d)(2).

(8) Consultation Outside the Agency

(b) Complaint Systems:

BCP staff has met periodically with the National Association of Attorneys General, the United States Postal Inspection Service, PhoneBusters⁷, the Social Security Administration and other federal, state, and local law enforcement entities to determine what information is needed to open and successfully prosecute a civil or criminal consumer fraud case. Information that could be collected through subsequent interviews has been omitted from the complaint forms to lessen consumer burden and to streamline staff's processing of consumer complaints.

(a)-(d):

In addition, the FTC sought public comment in connection with its instant PRA clearance request. See 73 Fed. Reg. 42346 (July 21, 2008). No comments were received. The FTC is also seeking public comment contemporaneously with this submission.

(9) Payments or Gifts to Respondents

(a)-(d):

Not applicable.

(10) & (11) Assurances of Confidentiality/Matters of a Sensitive Nature

(a)-(c):

To the extent that information collected by the FTC is for law enforcement purposes, it is subject to the confidentiality provisions of Sections 6(f) and 21 of the Federal Trade Commission Act, 15 U.S.C. §§ 46(f), 57b-2, as applicable. Moreover, it is the FTC's general policy not to publish or divulge the name of an applicant or complaining party except as required by law or by the FTC's rules. For example, the FTC may disclose the identity of a consumer complainant in the course of referring the complaint to other legal authorities. See FTC Rule of Practice 2.2(d), 16 C.F.R. § 2.2(d).

⁷ PhoneBusters is Canada's central agency that collects information on telemarketing complaints received from throughout Canada and the U.S. against Canadian deceptive telemarketers and disseminates this information to the appropriate enforcement agency.

Additionally, the FTC may share certain consumer complaints with the company that is the subject of the complaint, if the FTC determines that the sharing of the complaint with the company would help resolve the consumer's problem. For instance, the FTC may share certain consumer complaints about identity theft or the accuracy of a consumer's credit report with credit bureaus to help address the consumer's complaint or identity theft-related concern. Identity theft information also may be disclosed to financial institutions, including credit reporting agencies, that have signed a confidentiality agreement with the FTC. The FTC shares this information to fulfill its statutory obligation under the Identity Theft and Assumption Deterrence Act of 1998, 18 U.S.C. § 1028 note.⁸ Finally, the Commission may post trend reports based on aggregate data from consumer fraud and identity theft complaints on the Consumer Sentinel public website, www.consumer.gov/sentinel (see Section A.16 below). However, the Commission does not release personally identifying information in these reports.

(d) Applicant Tracking Form:

The information obtained is used for evaluating recruitment only and plays no part in the selection of who is hired. The information is not provided to selecting officials. Instead, the information is used in summary form to determine trends over many selections within a given occupational or organizational area. The information is treated in a confidential manner. No information from the form is entered into the official personnel file of the individual selected and all forms are destroyed after the conclusion of the selection process.

(12) Burden Estimate

(a)-(d) – Total estimated annual hours burden: 380,295 hours.

(a) Applications to the Commission, including applications and notices contained in the Commission's Rules of Practice: 100 hours

Most applications to the Commission generally fall within the “law enforcement” exception to the PRA⁹ and are mostly found in Part III (Rules of Practice for Adjudicative Proceedings) of the Commission's Rules of Practice. See 16 CFR 3.1-3.83. Nonetheless, there are various applications and notices to the Commission contained in other rules (generally in Parts I, II, and IV of the Commission's Rule of Practice). For example, staff estimates that the

⁸ In part, the Act requires that the FTC establish procedures to refer complaints to appropriate entities, which may include “(A) the three major national consumer reporting agencies; and (B) appropriate law enforcement agencies for potential law enforcement action.”

⁹ The “law enforcement” exception to the PRA excludes most items in this subcategory because they involve collecting information during the conduct of a Federal investigation, civil action, administrative action, investigation, or audit with respect to a specific party, or subsequent adjudicative or judicial proceedings designed to determine fines or other penalties. See 44 U.S.C. 3518(c)(1); 5 CFR 1320.4(a)(1)-(3).

FTC annually receives approximately 15 requests for clearance submitted by former FTC employees in order to participate in certain matters and 5 screening affidavits submitted by partners or legal or business associates of former employees pursuant to Rule 4.1, 16 CFR 4.1.¹⁰ There are also procedures set out in Rule 4.11(e) for agency review of outside requests for Commission employee testimony, through compulsory process or otherwise, in cases or matters to which the agency is not a party. Rule 4.11(e) requires that a person who seeks such testimony submit a statement in support of the request. Staff estimates that agency personnel receive approximately 1 request per month or 12 per year. Other types of applications and notices are either infrequent or difficult to quantify. Nonetheless, in order to cover any potential “collection of information” for which separate clearance has not been sought, staff conservatively projects the FTC will receive 50 applications or notices per year. Staff estimates each respondent will incur, on average, approximately 2 hours of burden to submit an application or notice, resulting in a cumulative annual total of 100 burden hours (50 applications or notices x 2 burden hours).

Annual cost burden:

Using the burden hours estimated above, staff estimates that the total annual labor cost, based on a conservative estimated average of \$425/hour for executives’ and attorneys’ wages, would be approximately \$42,500 (100 hours x \$425).

(b) Complaint Systems: 379,728 hours

Consumer Response Center

Consumers can submit complaints about fraud and other practices to the FTC’s Consumer Response Center by telephone or through the FTC’s website. Telephone complaints and inquiries to the FTC are answered both by FTC staff and contractors. These telephone counselors ask for the same information that consumers would enter on the applicable forms available on the FTC’s website. For telephone inquiries and complaints, the FTC staff retains its previous estimates that it takes 4.5 minutes per call to gather information, somewhat less time than the 5 minutes estimated for consumers to enter a complaint online. The burden estimate conservatively assumes that all of the phone call is devoted to collecting information from consumers, although frequently telephone counselors devote a small portion of the call to providing requested information to consumers.

Complaints Concerning the National Do Not Call Registry

To receive complaints from consumers of possible violations of the rules governing the National Do Not Call Registry, 16 CFR 310.4(b), the FTC maintains both an online form and a

¹⁰ Staff’s estimates do not include Rule 4.1 submissions that pertain to ongoing law enforcement matters. See supra note 9.

toll free hotline with automated voice response system. Consumer complainants must provide either the name or telephone number of the company about which they are complaining, the phone number that was called, and the date of the call. They may also provide their name and address so they can be contacted for additional information, as well as for a brief comment regarding their complaint. In addition, online complainants have the option of answering three yes-or-no questions to help law enforcement investigating complaints; this option will also soon be made available to phone complainants. The FTC staff estimates that the time required of consumer complainants is 3.5 minutes for phone complaints and 2.5 minutes for online complaints.¹¹

Identity Theft

To handle complaints about identity theft, the FTC must obtain more detailed information than is required of other complainants. Identity theft complaints generally require more information (such as a description of actions complainants have taken with credit bureaus, companies, and law enforcement, and the identification of multiple suspects) than general consumer complaints and fraud complaints. In addition, the FTC has expanded the information required on its online complaint form (such as collecting additional information about the fraudulent activity at affected companies and creating an attachment summarizing all of the fraudulent account activity as well as all fraudulent information on the consumer's credit report). Consumers can print out a copy of the revised form and use it to assist them in completing a police report, if appropriate, and, as also may be necessary, an identity theft report. See 16 CFR 603.3 (defining the term "identity theft report"). FTC staff continues to estimate that the revised online form takes consumers up to 13 minutes to complete.

The FTC also made some revisions in the information it collects from consumers who call the Consumer Response Center ("CRC") with identity theft complaints. Moreover, in order to better serve consumers who are unable to file complaints online, staff will send those who call the CRC with identify theft complaints a blank complaint form (identical to the online printed form) to assist them with completing a police or identify theft report as appropriate. Staff estimates that it will take 14 minutes per call to obtain identity theft-related information.¹² A substantial portion of identity theft-related calls typically consists of counseling consumers on other steps they should consider taking to obtain relief (which may include directing consumers to a revised online complaint form). The time needed for counseling is excluded from the estimate.

Surveys

¹¹ This is a slight increase from staff's 2005 estimates because of additional information collected, such as comments and three optional yes-or-no questions.

¹² This is a 5 minute increase from staff's 2005 estimate in order to account for the time it will take consumers to fill out the blank complaint form.

Consumer customer satisfaction surveys give the agency information about the overall effectiveness and timeliness of the CRC. The CRC surveys roughly 1 percent of complainants who file identity theft or general consumer complaints. Subsets of consumers contacted throughout the year are questioned about specific aspects of CRC customer service. Each consumer surveyed is asked several questions chosen from a list prepared by staff. The questions are designed to elicit information from consumers about the overall effectiveness of the call center. Half of the questions ask consumers to rate CRC performance on a scale or require a yes-or-no response. The second half of the survey asks more open-ended questions seeking a short written or verbal answer. In addition, the CRC may survey a sample of consumers immediately after they file their complaints regarding the services they received. Staff retains its previous estimate that each respondent will require 4 minutes to answer the questions (approximately 20-30 seconds per question).

Finally, Consumer Sentinel user surveys give the agency information about the overall effectiveness of its Consumer Sentinel Network. The Consumer Sentinel Network allows federal, state and local law enforcement organizations common access to a secure database containing over six million complaints from victims of consumer fraud and identity theft, as well as other complaints the FTC collects. To date, Consumer Sentinel has over 1,700 members, including law enforcement agencies from Canada and Australia. FTC staff plan to survey a sizeable number of Consumer Sentinel users each year about such things as overall satisfaction, performance, and possible improvements. Staff retains its previous estimate that the surveys should generally take approximately 10 minutes per respondent.

What follows are staff's estimates of burden for these various collections of information, including the surveys. The figures for the online forms and consumer hotlines are an average of annualized volume for the respective programs including both current and projected volumes over the 3-year clearance period sought and the number of respondents for each activity has been rounded to the nearest thousand.

Activity	# respondents	# minutes/activity	Total Hours
Misc. and fraud-related consumer complaints (phone)*	396,000	4.5	29,700
Misc. and fraud-related consumer complaints (online)**	520,000	5	43,333
Identity theft complaints (phone)*	385,700	14	89,997
Identity theft complaints (online)**	170,000	13	36,833
Do-Not-Call related consumer complaints (phone)	531,000	3.5	30,975
Do-Not-Call related consumer complaints (online)	3,548,000	2.5	147,833
Customer Satisfaction Questionnaire	9,600	4	640
Consumer Sentinel User Surveys	2,500	10	417
Totals	5,562,800		379,728
<p>* Number of consumer calls calculated by projecting over the 3-year clearance period sought 5% annual growth and a telephone contractor response rate of 95% (contracted level of service) with regard to consumers who call the toll free lines and opt to talk to a counselor.</p> <p>** Number of online collections projected from number of consumers who use the FTC's online complaint forms noted in the text above. These figures also assume 5% annual growth for miscellaneous and fraud-related complaints, and 8% annual growth for identity theft online complaints, over the 3-year clearance period requested.</p>			

Annual cost burden:

The cost per respondent should be negligible. Participation is voluntary and will not require any labor expenditures by respondents.

(c) Program Evaluations: 175 hours

Review of Divestiture Orders

The Commission issues, on average, approximately 10-15 orders in merger cases per year that require divestitures. As a result of a 1999 study authorized by the OMB and conducted by

the staffs of the Bureau of Competition (“BC”) and the Bureau of Economics,¹³ BC monitors these required divestitures by interviewing representatives of the Commission-approved buyers of the divested assets within the first year after the divestiture is completed.

BC staff interviews representatives of the buyers to ask whether all assets required to be divested were, in fact, divested;¹⁴ whether the buyer has used the divested assets to enter the market of concern to the Commission and, if so, the extent to which the buyer is participating in the market; whether the divestiture met the buyer’s expectations; and whether the buyer believes the divestiture has been successful. In some cases, BC staff may also interview other participants, including customers or trustee monitors, as appropriate. In all of these interviews, staff seeks to learn about pricing and other basic facts regarding competition in the markets of concern to the FTC.

Participation by the buyers is voluntary. Each responding company designates the company representative most likely to have the necessary information; typically, a company executive and a lawyer represents the company. Each interview takes approximately one hour to complete. BC staff further estimates that it takes each participant no more than one hour to prepare for the interview. In some instances, staff may do additional interviews with customers of the responding company or the monitor. Staff conservatively estimates that for each interview, two individuals (a company executive and a lawyer) will devote two hours (one hour preparing and one hour participating) each to responding to questions for a total of four hours. In addition, for approximately half of the divestitures, staff will seek to question two additional respondents, adding four participants (a company executive and a lawyer for each of the two additional respondents) devoting two hours each, for a total of eight additional hours. Assuming that staff evaluates up to 20 divestitures per year during the three-year clearance period, the total hours burden for the responding companies will be approximately 160 hours per year ((20 divestiture reviews x 4 hours for preparing and participating) + (10 divestiture reviews x 8 hours for preparing and participating)).

Annual cost burden:

Using the burden hours estimated above, staff estimates that the total annual labor cost, based on a conservative estimated average of \$425/hour for executives’ and attorneys’ wages, would be approximately \$68,000 (160 hours x \$425).

Review of Competition Advocacy Program

¹³ The Staff of the Bureau of Competition of the Federal Trade Commission compiled its findings from the study in its report: *A Study of the Commission’s Divestiture Process, 1999*, available at <http://www.ftc.gov/os/1999/08/divestiture.pdf>.

¹⁴ To the extent that the staff interviews focus on a law enforcement activity (whether the party to the order complied with all its obligations), the interviews are not subject to the requirements of the PRA. See *supra* note 9.

The FTC's competition advocacy program draws on the Commission's expertise in competition and consumer protection matters to encourage federal and state legislators, courts and other state and federal agencies to consider the competitive effects of their proposed actions. The FTC Office of Policy Planning ("OPP") sends approximately 20 letters or written comments to different state and federal government officials annually, which provide guidance on the likely competitive effects of various laws or regulations.

In the past, OPP has evaluated the effectiveness of these advocacy comments by surveying comment recipients and other relevant decision makers. OPP intends to continue this evaluation by sending a written questionnaire to relevant parties between six and nine months after an advocacy comment is sent. Most of the questions ask the respondent to agree or disagree with a statement concerning the advocacy comment that they received. Specifically, these questions inquire as to the applicability, value, persuasive influence, public effect, and informative value of the FTC's comments. The questionnaire also provides respondents with an opportunity to provide additional remarks related either to the written comments received or the FTC's advocacy program in general. Participation is voluntary.

OPP staff estimates that on average, respondents will take 30 minutes or less to complete the questionnaire and 15 minutes of administrative time to prepare the response for mailing. Accordingly, staff estimates that each respondent will incur 45 minutes of burden resulting in a cumulative total of 15 burden hours per year (45 minutes of burden per respondent x 20 respondents per year). OPP staff does not intend to conduct any follow-up activities that would involve the respondents' participation.

Annual cost burden:

OPP staff estimates a conservative hourly labor cost of \$100 for the time of the survey participants (primarily state representatives and senators) and an hourly labor cost of \$16 for administrative support time. Thus, staff estimates a total labor cost of \$54 for each response (30 minutes of burden at \$100 per hour plus 15 minutes of burden at \$16 per hour). Assuming 20 respondents will complete the questionnaire on an annual basis, staff estimates the total annual labor costs will be approximately \$1,080 (\$54 per response x 20 respondents).

(d) Applicant Tracking Form: 292 hours

The FTC's Human Resources Management Office surveys job applicants on their ethnicity, race, and disability status in order to determine if recruitment is effectively reaching all aspects of the relevant labor pool, in compliance with management directives from the Equal Employment Opportunity Commission. Response by applicants is optional. The information obtained is used for evaluating recruitment only and plays no part in the selection of who is hired. The information is not provided to selecting officials. Instead, the information is used in summary form to determine trends over many selections within a given occupational or organizational area. The information is treated in a confidential manner. No information from the form is entered into the official personnel file of the individual selected and all forms are

destroyed after the conclusion of the selection process. The format of the questions on ethnicity and race are compliant with OMB requirements and comparable to those used by other agencies.

Based upon past activity, the FTC staff estimates that up to 7,000 applicants will submit the form as part of the new online application process and that the form will require approximately 2.5 minutes to complete, for an annual burden total of approximately 292 hours (7000 applicants x 2.5 minutes to complete the form).

Annual cost burden:

The cost per respondent should be negligible. Participation is voluntary and will not require any labor expenditures by respondents.

(13) Estimated Capital and other Non-Labor Costs

(a)-(d):

There are no capital, start-up, operation, maintenance, or other similar costs to the respondents.

(14) Estimated Cost to Federal Government

(a) Applications to the Commission:

The FTC annually receives approximately 15 requests for clearance submitted by former FTC employees in order to participate in certain matters and 5 screening affidavits submitted by partners or legal or business associates of former employees pursuant to Rule 4.1. Staff spends roughly 2 hours of attorney time (GS-14/15) and 15 minutes of paralegal or secretarial support for each application, resulting in an annual cost of approximately \$3300.

There are also procedures set out in Rule 4.11(e) for agency review of outside requests for Commission employee testimony, through compulsory process or otherwise, in cases or matters to which the agency is not a party. Rule 4.11(e) requires that a person who seeks such testimony submit a statement in support of the request. Staff estimates that agency personnel receive approximately 1 request per month or 12 per year. Staff at the GS-14/15 level spends roughly two hours and 15 minutes of paralegal or secretarial support on each request, resulting in an annual cost of approximately \$2000.

Other types of applications and notices are either infrequent or difficult to quantify. Nonetheless, in order to cover any potential "collection of information" for which separate clearance has not been sought, staff conservatively projects the FTC will receive roughly 18-20 other applications or notices per year. Staff estimates that attorneys at the GS-14/15 level spend roughly four hours and 15 minutes of paralegal or secretarial support on each such request,

resulting in an approximate annual cost of \$6100 per year. Thus, the total annual cost is approximately \$11,400 (\$3300 + \$2000 + \$6100).

(b) Complaint Systems:

The total annual cost to the agency for the information collection will be approximately \$6,100,000. This includes a call center contractor, located in Indianapolis, to efficiently handle the ever-increasing volume of consumer complaints. The contractor collects, reviews, processes, and responds to the bulk of consumer complaints forwarded to the FTC either by phone, online complaint form or mail at an annual cost of \$5,400,000.

(c) Program Evaluations:

Competition Advocacy—The total annual cost to the agency for the information collection is approximately \$1,340. Postage associated with an estimated 20 mailings a year will be approximately \$20. The surveys will require approximately 3 administrative support hours at an annual cost of approximately \$120. Analysis of the survey data and incorporation into memoranda or other written work product will require approximately 20 attorney hours at an annual cost of approximately \$1,200.

Divestiture Review--Advocacy—The total annual cost to the agency for the information collection is approximately \$5000. Each of the twenty annual reviews require approximately 2.5 hours by a Competition Law Attorney (GS-15). This includes about an hour to prepare before the call, the time for the call, and maybe an hour to write up the results.

(d) Applicant Tracking Form:

The total annual cost to the agency for the information collection is approximately \$1800. A Human Resources Specialist (GS-13/14) spends approximately 32 hours per year on these forms.

(15) Changes in Burden

The FTC is requesting an overall increase of 241,295 in burden hours for the reasons discussed below.

(a) Applications to the Commission:

Staff is requesting an adjustment of 25 hours less based on the number of applications that are expected to come to the Commission.

(b) Complaint Systems:

Staff's 241,313 burden hours increase is partially an adjustment due to the increased number of persons who submit consumer complaints (approximately 82,255 hours). The remaining increase of approximately 159,058 hours results from a program change due to additional information being collected for Do-Not-Call-related consumer complaints and sending blank complaint forms to persons who call the CRC with identity theft complaints.

(c) Program Evaluations:

Competition Advocacy--Staff is requesting a decrease of 20 burden hours based on a program change (staff plans to send questionnaires to a reduced number of persons).

Divestiture Review--Staff is requesting a program change of 180 hours less due to a decreased number of anticipated divestiture reviews per year.

(d) Applicant Tracking Form:

Staff's estimate of a 108 burden hour decrease is an adjustment based on staff's reassessment of the length of time it takes each applicant to complete the form (the form's content was not changed).

(16) Plans for Tabulation and Publication

_____ **(a) Applications to the Commission:**

Staff has no plans to publish any tabulations of the submitted information.

_____ **(b) Complaint Systems:**

At least twice a year, the Commission may post trend reports based on aggregate data from consumer fraud and identity theft complaints on the Consumer Sentinel public website, www.consumer.gov/sentinel. The information in these reports include: the total numbers of complaints by the complainants' state, the amount of money spent/lost by complainants, and the top categories of transactions identified in the complaints. Additionally, ad hoc reports containing the same data may be created covering specific industry and regional sectors upon request of Congress or agency staff. None of these reports require the use of complex analytical techniques for tabulation of the quantitative information, e.g., there is no extrapolation or projection made over a larger population sample than the actual one(s) these reports bear on.

(c) Program Evaluations:

Competition Advocacy--Data from past surveys have been tabulated for internal memoranda, and published in an Organisation For Economic Co-operation and Development presentation¹⁵ and a law review article.¹⁶ We anticipate periodic tabulation of newly received survey responses to prepare internal memoranda. Although we have no specific plans for publication, external publication of the data in some format in the future is possible.

Divestiture Review--Staff does not currently anticipate tabulating results of the divestiture follow-ups for publication.

¹⁵ See *United States Note for OECD Roundtable on Evaluation of the Actions and Resources of Competition Authorities* (May 25, 2007), available at <http://www.ftc.gov/bc/international/docs/evalauth.pdf>.

¹⁶ Arnold C. Celnicker, *The Federal Trade Commission's Competition and Consumer Advocacy Program*, 33 ST. LOUIS UNIVERSITY LAW JOURNAL 379 (1989).

(d) Applicant Tracking Form:

At least once a year, the Commission will include information based on aggregate data from job applicants in our report to Equal Employment Opportunity Commission in response to Management Directive 715. The information in this report includes the summary data based on job applicants' ethnicity, race, and disability status.

(17) Display of the Expiration Date for OMB Approval

(a)-(d):

Not applicable. The expiration date will be appropriately displayed on the relevant survey and forms. _____

(18) Exceptions to the “Certification for Paperwork Reduction Act Submissions”

(a)-(d):

None.