

**Closed Captioning of Video Programming Delivered Using Internet Protocol, and
Apparatus Closed Caption Requirements****SUPPORTING STATEMENT****A. Justification:**

1. The Commission is submitting this non-substantial change request submission to the Office of Management and Budget (OMB) to simply remove a portion of the burden hours and costs that were approved under OMB collection number 3060-1162 and place them into collection 3060-0874. This modification is due to the filing of complaints alleging violations of the rules for closed captioning of video programming delivered using Internet protocol (IP) and for apparatus closed caption requirements (collectively IP CC) now being able to be filed via FCC Form 2000C, as required by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA).¹ Therefore, pursuant to the IP CC rules that will go into effect on September 30, 2012, a portion of these complaints will be filed on FCC Form 2000C, which is currently housed under OMB collection 3060-0874. The Commission received OMB approval for the filing requirements on July 24, 2012.

The CVAA directs the Commission to revise its regulations to mandate closed captioning on IP-delivered video programming that was published or exhibited on television with captions after the effective date of the regulations.² Accordingly, the Commission will require video programming owners (VPOs) to send program files to video programming distributors and providers (hereinafter VPDs) with required captions, and it will require VPDs to enable the rendering or pass through of all required captions to the end user. The CVAA also directs the Commission to revise its regulations to mandate that all apparatus designed to receive, play back, or record video programming be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captioned video programming, except that apparatus that use a picture screen that is 13 inches or smaller and recording devices must comply only if doing so is achievable.³ These rules are codified at 47 C.F.R. §§ 79.4 and 79.100 – 79.104.

The information collection requirements consist of:

- (a) Mechanism for information about video programming subject to the IP closed captioning requirements.

Pursuant to 47 C.F.R. §§ 79.4(c)(1)(ii) and (c)(2)(ii) of the Commission's rules, VPOs and VPDs must agree upon a mechanism to make information available to VPDs about video programming that becomes subject to the requirements of 47 C.F.R. § 79.4 on an ongoing basis. VPDs must make a good faith effort to identify video programming that must be captioned when delivered using IP using the agreed upon mechanism.

¹ Pub. L. No. 111-260, 124 Stat. 2751 (2010). *See also Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-154, FCC 12-9, 27 FCC Rcd 787 (rel. Jan. 13, 2012) (*Report and Order*). Closed captioning is the visual display of the audio portion of video programming that provides access to individuals who are deaf or hard of hearing.

² *See* CVAA at Title II, § 202(b). Existing regulations require the provision of closed captioning on video programming that is published or exhibited on television. *See* 47 C.F.R. § 79.1.

³ *See* CVAA at Title II, § 203. Existing regulations require closed caption decoder capability on certain apparatus. *See* 47 C.F.R. §§ 15.119 and 15.122, redesignated and amended by this *Report and Order* as 47 C.F.R. §§ 79.101 and 79.102. *See also* 47 C.F.R. §§ 79.100, 79.103, and 79.104 adopted by this *Report and Order*.

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For example, VPOs and VPDs may agree on a mechanism whereby the VPOs provide captions or certifications that captions are not required, and update those certifications and provide captions when captions later become required. A VPD may rely in good faith on a certification by a VPO that the programming need not be captioned: (1) if the certification includes a clear and concise explanation of why captions are not required; and (2) if the VPD is able to produce the certification to the Commission in the event of a complaint. VPOs may provide certifications for specific programming or a more general certification, for example, for all programming covered by a particular contract.

VPDs may seek Commission determinations that other proposed mechanisms provide adequate information for them to rely on in good faith by filing an informal request and providing sufficient information for the Commission to make such determinations.

(b) Contact information for the receipt and handling of written closed captioning complaints.

Pursuant to 47 C.F.R. § 79.4(c)(2)(iii), VPDs must make their contact information available to end users for the receipt and handling of written IP closed captioning complaints. The required contact information includes the name of a person with primary responsibility for IP captioning issues and who can ensure compliance with these rules, as well as the person's title or office, telephone number, fax number, postal mailing address, and e-mail address. VPDs must keep this information current and update it within 10 business days of any change. The Commission expects that such contact information will be prominently displayed in a way that it is accessible to all end users. A general notice on the VPD's website with such contact information, if provided, must be provided in a location that is conspicuous to viewers.

(c) Petitions for exemption based on "economic burden."

Pursuant to 47 C.F.R. § 79.4(d), a VPO or VPD may petition the Commission for a full or partial exemption from the closed captioning requirements for IP-delivered video programming based upon a showing that they would be economically burdensome. Petitions for exemption must be supported with sufficient evidence to demonstrate economic burden (significant difficulty or expense). The Commission will consider four specific factors when determining economic burden and any other factors the petitioner deems relevant, along with any available alternatives that might constitute a reasonable substitute for the closed captioning requirements. Petitions and subsequent pleadings must be filed electronically.

The Commission will place such petitions on public notice. Comments or oppositions to the petition may be filed electronically within 30 days after release of the public notice of the petition, and must include a certification that the petitioner was served with a copy. The petitioner may reply to any comments or oppositions filed within 20 days after the close of the period for filing comments or oppositions, and replies must include a certification that the commenting or opposing party was served with a copy. Upon a finding of good cause, the Commission may lengthen or shorten any comment period and waive or establish other procedural requirements. Petitions and responsive pleadings must include a detailed, full showing, supported by affidavit, of any facts or considerations relied on.

(d) Complaints alleging violations of the closed captioning rules for IP-delivered video

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programming.

Pursuant to 47 C.F.R. § 79.4(e), a written complaint alleging a violation of the closed captioning rules for IP-delivered video programming may be filed with the Commission or with the VPD responsible for enabling the rendering or pass through of the closed captions for the video programming. Complaints must be filed within 60 days after the date the complainant experienced a problem with captioning. Such complaints should (but are not required to) include certain information.

If a complaint is filed first with the VPD, the VPD must respond in writing to the complainant within 30 days after receipt of a closed captioning compliant. If a VPD fails to respond timely, or the response does not satisfy the consumer, the complainant may re-file the complaint with the Commission within 30 days after the time allotted for the VPD to respond. If a consumer re-files the complaint with the Commission (after filing with the VPD) and the complaint satisfies the requirements, the Commission will forward the complaint to the named VPD, and to any other VPD and/or VPO that Commission staff determines may be involved, who then must respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission.

If a complaint is filed first with the Commission and the complaint satisfies the requirements, the Commission will forward the complaint to the named VPD and/or VPO, and to any other VPD and/or VPO that Commission staff determine may be involved, who must respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission. In response to a complaint, a VPD and/or VPO must provide the Commission with sufficient records and documentation. The Commission will review all relevant information provided by the complainant and the subject VPDs and/or VPOs, as well as any additional information the Commission deems relevant from its files or public sources. The Commission may request additional information from any relevant entities when, in the estimation of Commission staff, such information is needed to investigate the complaint or adjudicate potential violation(s) of Commission rules. When the Commission requests additional information, parties to which such requests are addressed must provide the requested information in the manner and within the time period the Commission specifies.

- (e) Requests for Commission determination of technical feasibility of apparatus closed caption requirements.

Pursuant to 47 C.F.R. § 79.103(a), as of January 1, 2014, all digital apparatus designed to receive or play back video programming that uses a picture screen of any size must be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captioned video programming, if *technically feasible*. If new apparatus or classes of apparatus for viewing video programming emerge on which it would not be technically feasible to include closed captioning, parties may raise that argument as a defense to a complaint or, alternatively, file a request under 47 C.F.R. § 1.41 for a Commission determination of technical feasibility before manufacturing or importing the product.⁴

⁴ See 47 C.F.R. § 1.41 (permitting parties to file informal requests for Commission action, based on a clear and concise showing of the facts relied on, relief sought, among other requirements).

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- (f) Requests for Commission determination of achievability of apparatus closed caption requirements.

Pursuant to 47 C.F.R. § 79.103(a), as of January 1, 2014, all digital apparatus designed to receive or play back video programming that use a picture screen less than 13 inches in size must be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captioned video programming, only if doing so is *achievable*. In addition, pursuant to 47 C.F.R. § 79.104(a), as of January 1, 2014, all apparatus designed to record video programming must enable the rendering or the pass through of closed captions such that viewers are able to activate and de-activate the closed captions as the video programming is played back, only if doing so is *achievable*.

Manufacturers of such apparatus may petition the Commission, pursuant to 47 C.F.R. § 1.41, for a full or partial exemption from the closed captioning requirements before manufacturing or importing the apparatus or may assert as a response to a complaint that these requirements, in full or in part, are not achievable. Pursuant to 47 C.F.R. § 79.103(b)(3), such a petition or response must be supported with sufficient evidence to demonstrate that compliance is not achievable (meaning with reasonable effort or expense) and the Commission will consider four specific factors when making such determinations. In evaluating evidence offered to prove that compliance was not achievable, the Commission will be informed by the analysis in the *ACS Order*.⁵

- (g) Petitions for purpose-based waivers of apparatus closed caption requirements.

Manufacturers seeking certainty prior to the sale of a device may petition the Commission, pursuant to 47 C.F.R. § 79.104(b)(4), for a full or partial waiver of the closed captioning requirements based on one of the following provisions:

- (i) The apparatus is primarily designed for activities other than receiving or playing back video programming transmitted simultaneously with sound; or
- (ii) The apparatus is designed for multiple purposes, capable of receiving or playing back video programming transmitted simultaneously with sound but whose essential utility is derived from other purposes.

- (h) Complaints alleging violations of the apparatus closed caption requirements.

Consumers may file written complaints alleging violations of the Commission's rules, 47 C.F.R. §§ 79.101 – 79.104, requiring apparatus designed to receive, play back, or record video programming to be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captions. A written complaint filed with the Commission must be transmitted to the Consumer and Governmental Affairs Bureau through the Commission's online informal complaint filing system, U.S. Mail, overnight delivery, or facsimile. Such complaints should include certain information about the complainant and the alleged violation.⁶ The Commission may forward such complaints to the named manufacturer or provider, as well as to any other entity that Commission staff determines may be involved, and may request additional

⁵ See *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*, 26 FCC Rcd 14557, 14607-14619, ¶¶ 119-148 (2011) ("ACS Order").

⁶ Report and Order, 27 FCC Rcd at 859-60, para. 123.

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information from any relevant parties when, in the estimation of Commission staff, such information is needed to investigate the complaint or adjudicate potential violations of Commission rules.

The statutory authority for this collection of information is contained in the Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751, and Sections 4(i), 4(j), 303, 330(b), 713, and 716 of the Communications Act of 1934, as amended (the Act), 47 U.S.C. §§ 154(i), 154(j), 303, 330(b), 613, and 617.

2. VPDs will use the information provided by VPOs on an ongoing basis through certifications or other mechanisms to determine whether captions are required for the video programming they deliver using IP. The Commission will use the information submitted by a VPD to determine whether a proposed mechanism provides adequate information about whether captions are required for the VPD to rely on in good faith. Consumers will use the contact information of and provided by VPDs to file written IP closed captioning complaints. The information submitted as part of, or in response to, a petition for exemption pursuant to 47 C.F.R. § 79.4(d) will be used by the Commission to determine whether an “economically burdensome” exemption is warranted. VPDs will use the information provided by consumers in IP closed captioning complaints to investigate and resolve such complaints. The Commission will use the information provided by consumers in IP closed captioning complaints filed under 47 C.F.R. § 79.4(e) and responses provided by VPOs and VPDs to enforce 47 C.F.R. § 79.4. The Commission will use the information submitted by a party to determine whether it is technically feasible for new apparatus or classes of apparatus for viewing video programming to comply with the closed caption requirements. The Commission will use the information submitted by a manufacturer to determine whether it is achievable for apparatus designed to receive or play back video programming and that use a picture screen that is 13 inches or smaller, or designed to record video programming to comply with the apparatus closed caption requirements. The Commission will use the information submitted by manufacturers or others to determine whether to grant a full or partial purpose-based waiver of the closed caption requirements for certain apparatus. Finally, the Commission will use the information provided by consumer complaints and responses provided by manufacturers to enforce the Commission’s apparatus closed caption requirements.

This information collection includes personally identifiable information (PII) with respect to complainants.

- (a) As required by OMB Memorandum M-03-22 (September 26, 2003), the FCC completed a Privacy Impact Assessment (PIA) on June 28, 2007, that gives a full and complete explanation of how the FCC collects, stores, maintains, safeguards, and destroys the PII covered by these information collection requirements. The PIA may be reviewed at: http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.
- (b) Furthermore, as required by the Privacy Act, 5 U.S.C. § 552a, the FCC also published a system of records notice (SORN), FCC/CGB-1, “Informal Complaints and Inquiries,” in the *Federal Register* on December 15, 2009 (74 FR 66356), which became effective on January 25, 2010.⁷

NOTE: The Commission will prepare a revision to the SORN and PIA to cover the PII collected

⁷ The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

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related to this information collection, as required by OMB's Memorandum M-03-22 (September 26, 2003) and by the Privacy Act, 5 U.S.C. § 552a.

3. VPOs and VPDs may agree on any method for transmitting information or certifications about program caption requirements on an ongoing basis, including automated or electronic transmissions. The contact information for VPDs may be provided by any method, including through a general notice on the VPD's website. Petitions requesting an exemption based on the economically burdensome standard and subsequent pleadings must be filed electronically with the Commission. Once placed on public notice, comments, oppositions, or replies relating to petitions for exemption may be transmitted electronically to the Commission. Written complaints about IP closed captioning may be submitted through the Commission's online informal complaint filing system, U.S. Mail, overnight delivery, or facsimile. Complainants may indicate the preferred format or method of response to the complaint, such as letter, facsimile transmission, telephone (voice/TRS/TTY), e-mail, or some other method that would best accommodate the complainant. Requests for Commission determination of technical feasibility or achievability of apparatus closed caption requirements may be filed pursuant to 47 C.F.R. § 1.41. Petitions for purpose-based waivers of the apparatus closed caption requirements are expected to be transmitted by U.S. Mail or overnight delivery. Finally, written complaints alleging violations of the apparatus closed caption requirements may be submitted through the Commission's online informal complaint filing system, U.S. Mail, overnight delivery, or facsimile. Commission staff may assist consumers with disabilities with the filing of written complaints. The Commission's overall purpose is to make the filing of such complaints as easy as possible for consumers.
4. No other agency imposes similar information collections on the respondents. There is no similar data available.
5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the information collection burden for small business concerns, including those with fewer than 25 employees.

For example, the Commission requires VPOs and VPDs to agree upon a mechanism to inform such VPDs on an ongoing basis whether video programming is subject to the IP closed captioning requirements. The Commission considered and rejected adopting a single specific mechanism that could impose greater information collection burdens on small businesses. The Commission also permits VPOs and VPDs to request a full or partial exemption from our IP closed captioning requirements when those requirements are economically burdensome. While there is some burden associated with requesting an exemption, when granted, an exemption will relieve the entity from complying with the IP closed captioning requirements. In addition, the Commission permits consumers to file written complaints alleging a violation of the IP closed captioning rules with the Commission or with VPDs and requires VPDs to publish their contact information for this purpose. When a complaint is filed with a VPD, the VPD must reply within 30 days. While this complaint procedure imposes an information collection burden, the requirement to publish contact information and respond to consumer complaints provides an opportunity to resolve complaints without Commission involvement, thereby minimizing the information collection burdens on small business concerns, including businesses with fewer than 25 employees.

The Commission also requires all digital apparatus designed to receive or play back video programming that uses a picture screen of any size to be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captioned video programming, if

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technically feasible. Apparatus that uses a picture screen less than 13 inches in size and apparatus designed to record video programming must comply, if doing so is achievable. Manufacturers may file an informal request with the Commission seeking a determination as to whether compliance with these rules is technically feasible or achievable for certain apparatus. Further regulatory relief is provided through the adoption of rules permitting manufacturers to petition the Commission for waivers for apparatus whose essential utility is derived from purposes other than receiving or playing back video programming, or apparatus primarily designed for other activities. The Commission did not adopt specific procedural requirements for such determination or waiver requests, and expects that this flexibility will minimize the information collection burden on small business concerns. Finally, the Commission provides procedural guidance for consumers to file written complaints with the Commission alleging violations of the closed caption decoder and display capability requirements. These complaint procedures provide the Commission with flexibility to request additional information from any relevant party when such information is needed, thereby minimizing the information collection burden on small business concerns, including businesses with fewer than 25 employees.

6. These information collections are necessary for the Commission to carry out the purposes of and to comply with the CVAA. Completion of these information collections will afford the Commission an opportunity to ensure that the closed captioning mandated by Congress under sections 303(u), 303(z), 330(b), and 713 of the Communications Act of 1934, as amended by the CVAA, will provide individuals with disabilities with better access to video programming.

For example, if these information collections are not completed, VPDs will not be informed about video programming that must be captioned when delivered using IP. Further, individuals with disabilities may be unable to contact VPDs to report and resolve IP closed captioning problems, resulting in greater numbers of complaints being directed to the Commission. These information collections are also necessary to enable the Commission to investigate complaints alleging violations of and to enforce the Commission's IP closed captioning rules.

Without these information collections, the Commission would not be able to exercise its authority to exempt entities from IP closed captioning obligations that are economically burdensome. These information collections are also needed to enable the Commission to provide greater certainty to apparatus manufacturers about what closed captioning capabilities are technically feasible or achievable. If these information collections are not completed, the Commission will be unable to exercise its authority to waive the closed captioning requirements for certain apparatus whose essential utility is derived from purposes other than receiving or playing back video programming, or apparatus primarily designed for other activities. Finally, these information collections provide individuals with disabilities a mechanism to file informal apparatus closed captioning complaints with the Commission, which will assist the Commission in the enforcement of its rules.

7. The collections are not being conducted in any manner inconsistent with 5 C.F.R. Part 1320.
8. The Commission published a notice in the *Federal Register* as required by 5 C.F.R. § 1320.8(d) seeking comments from the public on the modified information collection requirements contained in this supporting statement. *See* 77 FR 19284 (March 30, 2012).

On May 29, 2012, the Commission received a comment from Blake E. Reid, an attorney at the Institute for Public Representation Georgetown Law. Mr. Reid is representing the Deaf and Hard of

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Hearing, Inc. (TDI). The comment states that TDI is satisfied and supports the revised information collection requirements that were adopted in FCC 12-9. TDI encourages the Commission to ensure that its complaint processes do not overly burden consumers and to acknowledge technical infeasibility and grant exemptions and waivers only under the most extreme circumstances. The Commission has taken all of the necessary steps to ensure that its complaint process continues not to be overly burdensome on consumers by considering the role of consumers in crafting the process for complaints alleging a violation of the IP closed captioning rules, and it adopted a flexible complaint process that would benefit consumers by enabling them to file their complaints with the Commission naming either the video programming distributor or the video programming owner. In terms of the how the Commission applies the waiver and exemption process, that process does not address the information collection requirements themselves but rather a process that is outside of the Paperwork Reduction Act (PRA).

9. No payment or gift will be provided to respondents.
10. Some assurances of confidentiality are being provided to the respondents.

Parties filing petitions for exemption based on economic burden, requests for Commission determinations of technical feasibility and achievability, requests for purpose-based waivers, or responses to complaints alleging violations of the Commission's rules may seek confidential treatment of information they provide pursuant to the Commission's existing confidentiality rules.⁸

The Commission is not requesting that individuals who file complaints alleging violations of the Commission's rules (complainants) submit confidential information (e.g., credit card numbers, social security numbers, or personal financial information) to the Commission. The Commission requests that complainants submit their names, addresses, and other contact information, which Commission staff needs to process complaints. Any use of this information is covered under the routine uses listed in the Commission's SORN, FCC/CGB-1, "Informal Complaints and Inquiries."

The PIA that the FCC completed on June 28, 2007 gives a full and complete explanation of how the FCC collects, stores, maintains, safeguards, and destroys PII, as required by OMB regulations and the Privacy Act, 5 U.S.C. § 552a. The PIA may be viewed at:

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

Also, as stated in #2, above, the Commission will prepare a revision to the SORN and PIA to cover the PII collected related to this information collection, as required by OMB's Memorandum M-03-22 (September 26, 2003) and by the Privacy Act, 5 U.S.C. § 552a.

11. There are no questions of a sensitive nature with respect to the information collected.
12. Estimates of hour burdens for the collection of information are as follows:

For purposes of estimating the hour burdens for the collection of information, the following estimates will be used:

⁸ See 47 C.F.R. § 0.459.

Closed Captioning of Video Programming Delivered Using Internet Protocol, and Apparatus Closed Caption Requirements**50video programming owners (VPOs)⁹****545video programming distributors and providers (VPDs)¹⁰****65manufacturers** of apparatus that receive, play back, or record video programming¹¹

- (a) Mechanism for information about video programming subject to the IP closed captioning requirements.

VPOs and VPDs must agree upon a mechanism to make information available to the VPDs about video programming that becomes subject to the IP closed captioning requirements on an ongoing basis. For example, VPOs and VPDs may agree on a mechanism whereby the VPOs provide the captions or certifications that captions are not required, and update those certifications and provide captions when captions later become required. VPDs may seek Commission determinations that other proposed mechanisms provide adequate information for them to rely on in good faith by filing an informal request and providing sufficient information for the Commission to make such determinations.

- (1) The Commission estimates that **50 VPOs** will send an average of 20 certifications each to VPDs per year.

$$50 \text{ VPOs} \times 20 \text{ certifications/VPO} = \mathbf{1,000 \text{ certifications sent annually}}$$

The Commission estimates that the average burden on a VPO to prepare and send each certification may require approximately .25 hours (15 minutes). The Commission estimates that 100 percent of the certifications that VPOs prepare and send will be prepared “in house” using the VPO’s staff.

$$1,000 \text{ certifications} \times .25 \text{ hours/certification} = \mathbf{250 \text{ hours}}$$

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-level federal employees (GS-13/5, plus 30% overhead); therefore, the

⁹ We believe this is a reasonable estimate of the total number of people or entities that either: (i) license the video programming to a video programming distributor or provider that makes the video programming available directly to the end user through a distribution method that uses IP; or (ii) act as the video programming distributor or provider, and also possess the right to license the video programming to a video programming distributor or provider that makes the video programming available directly to the end user through a distribution method that uses IP. *See Report and Order*, 27 FCC Rcd at 868 (Appendix B, § 79.4(a)(4)). In making this estimate, we have taken into account our knowledge of the total number of studios and smaller content owners.

¹⁰ We believe this is a reasonable estimate of the total number of people or entities that make available directly to the end user video programming through a distribution method that uses IP. *See Report and Order*, 27 FCC Rcd at 868 (Appendix B, § 79.4(a)(3)). In making this estimate, we have taken into account our knowledge of the total number of television stations, cable operators, direct broadcast satellite service providers, and others who make IP-delivered video programming that has been published or exhibited on television available directly to end users.

¹¹ We believe this is a reasonable estimate of the total number of manufacturers of apparatus that receive, play back, or record video programming. This is based in part on a study of manufacturers exhibiting at the industry’s largest trade show and other information in the record identifying entities that would be subject to these rules.

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Commission estimates respondents' costs to be about \$62.86 per hour.

250 hours x \$62.86/hour for "in house" staff = **\$15,715**

- (2) The Commission estimates that the 1,000 annual certifications will be sent to approximately **245 of the 545 VPDs.**¹²

The Commission estimates that the average burden to file and retain certifications received from VPOs is minimal, and will take approximately .084 hours (five minutes) per certification. The Commission estimates that 100 percent of the certifications that VPDs receive will be filed and retained "in house" using the VPD's staff.

1,000 certifications received annually¹³

1,000 certifications x .084 hours/certification = **84 hours**

The Commission assumes that respondents use "in-house" personnel whose pay is comparable to clerical/administrative federal employees (GS-5/5, plus 30% overhead); therefore, the Commission estimates respondents' costs to be about \$24.05 per hour.

84 hours x \$24.05/hour for "in house" staff = **\$2,020.20 (rounded to \$2,020)**

- (3) The Commission estimates that annually, an average of **10 of the estimated 545 VPDs** will file informal requests seeking Commission determinations that other proposed mechanisms provide adequate information for them to rely on in good faith.

- (i) The Commission also estimates 50% of the requests that the VPDs file will be prepared using "in house" personnel.

10 requests filed by VPDs x 50% = **5 requests filed by VPDs using "in-house" staff**

VPDs that use "in house" personnel are likely to spend an average of 5 hours per request to prepare and submit the request.

5 requests filed by VPDs x 5 hours/request = 25 hours to prepare and submit the requests

The Commission assumes that respondents use "in-house" personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents' costs to be about \$87.37 per hour.

25 hours x \$87.37/hour for "in house" staff = **\$2,184.25 (rounded to \$2,184)**

¹² The Commission assumes that many VPDs will not receive certifications, but will be informed about video programming that is subject to 47 C.F.R. § 79.4 through other mechanisms. Of the estimated 545 VPDs, the Commission estimates that about 245 VPDs will receive certifications.

¹³ The number of responses assessed for this requirement is already accounted for in the number of certifications sent annually.

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- (ii) The Commission also estimates 50% of the requests that the VPDs file will be prepared using outside legal counsel, *e.g.*, attorneys in private law firms.

10 requests filed by VPDs x 50% = 5 requests filed by VPDs using outside legal counsel

VPDs that use outside legal counsel are likely to spend an average of 2 hours per request to coordinate with their outside legal counsel to prepare and submit the request.

5 requests filed by VPDs x 2 hours/request = 10 hours to consult with outside legal counsel

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour.

10 hours x \$87.37/hour for “in house” staff = \$873.70 (rounded to \$874)

Total Number of Respondents: 50 VPOs + 245 VPDs + 10 VPDs = **305 respondents**

Total Annual Number of Responses: 1,000 certifications sent and received + 10 requests filed = **1,010 responses**

Total Annual Hourly Burden: 250 + 84 + 25 + 10 = **369 hours**

Total Annual “In House” Costs: \$15,715 + \$2,020 + \$2,184 + \$874 = **\$20,793**

- (b) Contact information for the receipt and handling of written closed captioning complaints.

VPDs must make their contact information available to end users for the receipt and handling of written IP closed captioning complaints. A general notice on the VPD’s website with such contact information, if provided, must be provided in a location that is conspicuous to viewers. VPDs must keep this information current and update it within 10 business days of any change.

The Commission estimates that **545 VPDs** will provide and maintain their contact information as required.¹⁴

545 VPDs x 1 listing/VPD = 545 responses

The Commission estimates that each VPD will spend approximately .50 hours (30 minutes) per year to provide their contact information as required and to update that information as needed.

545 VPDs x .50 hours/VPD = 272.50 hours (rounded to 273)

¹⁴ The estimate of 545 VPDs is intended to include all potential VPDs, and thus this estimate is over inclusive.

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The Commission assumes that respondents use “in-house” personnel whose pay is comparable to clerical/administrative federal employees (GS-5/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$24.05 per hour.

273 hours x \$24.05/hour for “in house” staff = **\$6,565.65 (rounded to \$6,566)**

Total Number of Respondents: 545 respondents

Total Annual Number of Responses: 545 responses

Total Annual Hourly Burden: 273 hours

Total Annual “In House” Costs: \$6,566

(c) Petitions for exemption based on “economic burden.”

The Commission estimates that **30 VPDs or VPOs** will file a total of 30 petitions annually requesting exemption from the IP closed captioning requirements.

The Commission estimates that an average of 5 hours will be needed to complete all aspects of each petition process, including filing any possible reply comments.

(1) The Commission estimates that 90% of the petitions that VPDs or VPOs file will be prepared “in house” using the VPD or VPO’s staff.

30 petitions filed by VPDs or VPOs x 90% = **27 petitions filed using “in-house” staff**

27 petitions filed by VPDs or VPOs x 5 hours/petition = **135 hours**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour.

135 hours x \$87.37/hour for “in house” staff = **\$11,794.95 (rounded to \$11,795)**

(2) The Commission also estimates 10% of the petitions that the VPDs or VPOs file will be prepared using outside legal counsel, *e.g.*, attorneys in private law firms.

30 petitions filed by VPDs or VPOs x 10% = **3 petitions filed using outside legal counsel**

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

3 petitions filed by VPDs or VPOs x 2 hours/petition = **6 hours to consult with outside legal counsel**

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The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour.

6 hours x \$87.37/hour for “in house” staff = **\$524.22 (rounded to \$524)**

- (3) The Commission estimates that, on average, **2 commenters** will file 2 comments or oppositions for each petition.

30 petitions filed by VPDs or VPOs x 2 comments/petition = **60 comments**

The Commission estimates that 50% of the comments will be prepared “in house” using the commenter’s staff and that 50% will be prepared using pro bono outside legal counsel, *e.g.*, attorneys in private law firms.

- (i) The Commission estimates that an average of 5 hours will be needed to complete all aspects of the comment process for 50% of the comments filed.

60 comments x 50% = 30 comments x 5 hours = **150 hours to prepare comments “in house”**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-level federal employees (GS-13/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$62.86 per hour.

150 hours x \$62.86/hour for “in house” staff = **\$9,429**

- (ii) The Commission estimates that an average of 2 hours will be needed to consult with pro bono outside legal counsel to complete all aspects of the comment process for 50% of the comments filed.

60 comments x 50% = 30 comments x 2 hours/comment = **60 hours to consult with pro bono outside counsel**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-level federal employees (GS-13/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$62.86 per hour.

60 hours x \$62.86/hour for “in house” staff = **\$3,771.60 (rounded to \$3,772)**

- (4) The Commission estimates that petitioners will file replies to 25% of the comments and oppositions filed by commenters. The hourly burdens for such replies are already included in 12(c)(1) and (2).

60 comments x 25% = **15 replies filed by VPDs or VPOs**

Total Number of Respondents: 30 VPDs or VPOs + 2 commenters = **32 respondents**

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Total Annual Number of Responses: 27 petitions + 3 petitions + 60 comments + 15 replies = **105 responses**

Total Annual Hourly Burden: 135 + 6 + 150 + 60 = **351 hours**

Total Annual “In House” Costs: \$11,795 + \$524 + \$9,429 + \$3,772 = **\$25,520**

- (d) Complaints alleging violations of the closed captioning rules for IP-delivered video programming.

A written complaint alleging a violation of the closed captioning rules for IP-delivered video programming may be filed with the Commission or with the VPD responsible for enabling the rendering or pass through of the closed captions for the video programming. If a complaint is filed first with the VPD, and the VPD fails to respond timely, or the response does not satisfy the consumer, the complainant may re-file the complaint with the Commission. If the complaint satisfies the requirements, the Commission will forward the re-filed complaint to the named VPD, and to any other VPD and/or VPO that Commission staff determines may be involved, who then must respond in writing to the Commission and the complainant. If a complaint is filed first with the Commission and the complaint satisfies the requirements, the Commission will forward the complaint to the named VPD and/or VPO, and to any other VPD and/or VPO that Commission staff determines may be involved, who must respond to the Commission and the complainant. In response to a complaint, a VPD and/or VPO must provide the Commission with sufficient records and documentation.

- (1) Complaint respondents. The Commission estimates that 500 complaints will be filed first with VPDs and that 400 complaints will be resolved to the satisfaction of the complainants and 100 complaints (20%) will be re-filed with the Commission. The Commission further estimates that an additional 500 complaints will be filed directly with the Commission.¹⁵ To be most inclusive in its estimates, the Commission assumes that each complaint will be filed by a unique consumer, and that these complaints will be filed against 20% of the total universe of VPOs and VPDs.

400 complaints filed with and resolved by VPDs

25 complaints filed with VPDs and re-filed with the Commission (75 filed using Form 2000C)¹⁶

125 complaints filed directly with the Commission against VPDs or VPOs

550 unique consumers

50 VPOs + 545 VPDs = 595 VPOs and VPDs total

20% of 595 = 119 unique VPDs and VPOs against whom complaints are filed

550 unique consumers + 119 unique VPDs and VPOs = **669 respondents**

¹⁵ These estimates are based on Commission receipt of approximately 600 closed captioning complaints filed in 2010 and in 2011 alleging violations of 47 C.F.R. § 79.1, which has similar complaint procedures.

¹⁶ See OMB control number 3060-0874 for the complaint burden that is attached to FCC Form 2000C.

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- (2) **Complaints.** Previously, the Commission estimated that it will receive 1,100 complaints per year alleging a violation of the closed captioning rules for IP-delivered video programming. Because the IP CC rules will go into effect on September 30, 2012, which will allow consumers to file a complaint alleging violation of the IP CC rules on FCC Form 2000C, which is currently under OMB collection 3060-0874, the Commission now estimates that the number of complaints will reduce from 1,100 to 650 complaints per year. The Commission estimates that of the complaints filed with the Commission, 75% will be filed using Form 2000C and the remainder will be filed by other means in narrative form. As such, each consumer using Form 2000C will need 30 minutes to file on-line or 1 hour to prepare and submit a complaint to a VPD or to the Commission, including responding to any Commission request for additional information. The Commission assumes that consumers themselves will prepare their complaints. The burdens associated with Form 2000C are assessed in the Supporting Statement of OMB Control No. 3060-0874.

500 complaints filed with VPDs
25 complaints re-filed with the Commission
125 complaints filed directly with the Commission
650 complaints = **650 responses**

650 responses x 1 hour/complaint = **650 hours**

Annual “In House” Costs: **\$0**

- (3) **Responses to complaints.** The Commission assumes that VPDs and VPOs will respond to each complaint.

- (i) The Commission expects that VPDs will use “in house” personnel to respond to the 500 complaints received directly from consumers.

The Commission expects that VPDs and VPOs will use “in house” personnel to respond to 50% of the 600 complaints forwarded by the Commission.

500 + (150 x 50% = 75) = 575 responses to complaints prepared by “in house” personnel

The Commission estimates that an average of 3 hours will be needed for “in house” personnel to respond to a complaint, including responding to any Commission request for additional information.

575 responses to complaints x 3 hours/response = **1,725 hours**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour.

1,725 hours x \$87.37/hour for “in house” staff = **\$150,713.25 (rounded to \$150,713)**

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- (ii) The Commission expects that VPDs and VPOs will use outside legal counsel to respond to 50% of the 600 complaints forwarded by the Commission.

150 x 50% = 75 responses to complaints prepared by outside legal counsel

VPDs and VPOs are likely to spend an average of 1 hour per complaint to coordinate with their outside legal counsel to prepare and submit the response.

75 responses to complaints x 1 hour/response = 75 hours to consult with outside legal counsel

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour.

75 hours x \$87.37/hour for “in house” staff = \$6,552.75 (rounded to 6,553)

- (4) **Recordkeeping in support of complaint responses.** The Commission estimates that the average annual burden for VPDs and VPOs to perform recordkeeping to enable making information available upon request to the Commission will be 10 hours for each VPD or VPO.¹⁷ The Commission believes that VPDs and VPOs will perform these activities “in house.”

50 VPOs + 545 VPDs = 595 respondents¹⁸ and 595 responses (sets of records)

595 responses x 10 hours/recordkeeping = 5,950 hours

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to clerical/administrative federal employees (GS-5/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$24.05 per hour.

5,950 hours x \$24.05/hour for “in house” staff = \$143,097.50 (rounded to \$143,098)

Total Number of Respondents: 550 unique consumers + 119 unique VPDs and VPOs = **669 respondents (complaints and responses)** and **595 respondents (recordkeeping)**

Total Annual Number of Responses: 650 complaints + 575 responses + 75 responses + 595 sets of records = **1,895 responses**

Total Annual Hourly Burden: 650 + 1,725 + 75 + 5,950 = **8,400 hours**

¹⁷ The Commission considers all of these recordkeeping and information provision requirements to constitute one response per VPD or VPO, or one set of records kept per VPD or VPO, with the 10 hours per response encompassing the burdens associated with fulfilling these requirements.

¹⁸ The estimate of 595 (50 VPOs and 545 VPDs) is intended to include all potential VPOs and VPDs, and thus this estimate is over inclusive.

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Total Annual “In House” Costs: $\$0 + \$150,713 + \$6,553 + \$143,098 = \$ 300,364$

- (e) Requests for Commission determination of technical feasibility of apparatus closed caption requirements.

As of January 1, 2014, all digital apparatus designed to receive or play back video programming that uses a picture screen of any size must be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captioned video programming, if *technically feasible*. Manufacturers may file a request under 47 C.F.R. § 1.41 for a Commission determination of technical feasibility before manufacturing or importing the product.

The Commission estimates that **10 of the estimated 65 manufacturers** will file a total of 10 requests annually requesting a determination that the closed caption requirements are not technically feasible.¹⁹

- (1) The Commission estimates that 90% of the requests that manufacturers file will be prepared “in house” using the manufacturer’s staff.

10 requests filed by manufacturers x 90% = **9 requests filed using “in-house” staff**

The Commission estimates that an average of 5 hours will be needed to complete all aspects of each request.

9 requests filed by manufacturers x 5 hours/request = **45 hours**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour.

45 hours x \$87.37/hour for “in house” staff = **\$3,931.65 (rounded to \$3,932)**

- (2) The Commission also estimates 10% of the requests that manufacturers file will be prepared using outside legal counsel, *e.g.*, attorneys in private law firms.

10 requests filed by manufacturers x 10% = **1 request filed using outside legal counsel**

Manufacturers that use outside legal counsel are likely to spend an average of 2 hours per request to coordinate with their outside legal counsel to prepare and submit the request.

1 request filed by a manufacturer x 2 hours/request = **2 hours to consult with outside legal counsel**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour.

¹⁹ Requests for such determinations may be filed well before the compliance date of January 1, 2014.

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2 hours x \$87.37/hour for “in house” staff = **\$174.74 (rounded to \$175)**

Total Number of Respondents: 10 manufacturers

Total Annual Number of Responses: 9 + 1 = 10 responses

Total Annual Hourly Burden: 45 + 2 = 47 hours

Total Annual “In House” Costs: \$3,932 + \$175 = \$4,107

- (f) Requests for Commission determination of achievability of apparatus closed caption requirements.

As of January 1, 2014, all digital apparatus designed to receive or play back video programming that uses a picture screen of less than 13 inches size must be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captioned video programming, and all apparatus designed to record video programming must enable the rendering or the pass through of closed captions, if doing so is *achievable*. Manufacturers of such apparatus may petition the Commission, pursuant to 47 C.F.R. §1.41, for a full or partial exemption from the closed captioning requirements. Such a petition must be supported with sufficient evidence to demonstrate that compliance is not achievable (meaning with reasonable effort or expense) and the Commission will consider four specific factors when making such determinations.

The Commission estimates that **10 of the estimated 65 manufacturers** will file a total of 10 requests annually requesting a determination that the closed caption requirements are not achievable.²⁰

- (1) The Commission estimates that 90% of the requests that manufacturers file will be prepared “in house” using the manufacturer’s staff.

10 requests filed by manufacturers x 90% = **9 requests filed using “in-house” staff**

The Commission estimates that an average of 5 hours will be needed to complete all aspects of each request.

9 requests filed by manufacturers x 5 hours/request = **45 hours**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour.

45 hours x \$87.37/hour for “in house” staff = **\$3,931.65 (rounded to \$3,932)**

- (2) The Commission also estimates 10% of the requests that manufacturers file will be prepared using outside legal counsel, *e.g.*, attorneys in private law firms.

10 requests filed by manufacturers x 10% = **1 request filed using outside legal counsel**

²⁰ Requests for such determinations may be filed well before the compliance date of January 1, 2014.

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Manufacturers that use outside legal counsel are likely to spend an average of 2 hours per request to coordinate with their outside legal counsel to prepare and submit the request.

1 request filed by a manufacturer x 2 hours/request = **2 hours to consult with outside legal counsel**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour.

2 hours x \$87.37/hour for “in house” staff = **\$174.74 (rounded to \$175)**

Total Number of Respondents: 10 manufacturers

Total Annual Number of Responses: 9 + 1 = 10 responses

Total Annual Hourly Burden: 45 + 2 = 47 hours

Total Annual “In House” Costs: \$3,932 + \$175 = \$4,107

(g) Petitions for purpose-based waivers of apparatus closed caption requirements.

Manufacturers of apparatus may petition the Commission for a full or partial waiver of the closed captioning requirements based on one of the following provisions:

- (i) The apparatus is primarily designed for activities other than receiving or playing back video programming transmitted simultaneously with sound; or
- (ii) The apparatus is designed for multiple purposes, capable of receiving or playing back video programming transmitted simultaneously with sound but whose essential utility is derived from other purposes.

The Commission estimates that **10 of the estimated 65 manufacturers** will file a total of 10 petitions for purpose-based waivers.

(1) The Commission estimates that 50% of the purpose-based waiver petitions that manufacturers file will be prepared “in house” using the manufacturer’s staff.

10 petitions filed by manufacturers x 50% = **5 petitions filed using “in-house” staff**

The Commission estimates that an average of 5 hours will be needed to complete all aspects of each petition.

5 petitions filed by manufacturers x 5 hours/petition = 25 hours

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour.

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25 hours x \$87.37/hour for “in house” staff = **\$2,184.25 (rounded to \$2,184)**

- (2) The Commission also estimates 50% of the purpose-based waiver requests that manufacturers file will be prepared using outside legal counsel, *e.g.*, attorneys in private law firms.

10 petitions filed by manufacturers x 50% = **5 request filed using outside legal counsel**

Manufacturers that use outside legal counsel are likely to spend an average of 1 hour per request to coordinate with their outside legal counsel to prepare and submit the petition.

5 petitions filed by a manufacturer x 1 hour/request = **5 hours to consult with outside legal counsel**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour.

5 hours x \$87.37/hour for “in house” staff = **\$436.85 (rounded to \$437)**

Total Number of Respondents: 10 manufacturers

Total Annual Number of Responses: 5 + 5 = 10 responses

Total Annual Hourly Burden: 25 + 5 = 30 hours

Total Annual “In House” Costs: \$2,184 + \$437 = \$2,621

- (h) Complaints alleging violations of the apparatus closed caption requirements.

Consumers may file written complaints alleging violations of the Commission’s closed captioning rules for apparatus designed to receive, play back, or record video programming. The Commission may forward such complaints to the named manufacturer or provider, or to any other entity that Commission staff determines may be involved. The Commission may request additional information from any relevant parties when such information is needed to investigate the complaint or adjudicate potential violations of Commission rules.

- (1) Complaint respondents. The Commission estimates that 100 complaints will be filed with the Commission. To be most inclusive in its estimates, the Commission assumes that each complaint will be filed by a unique consumer. The Commission also estimates that these complaints will be filed against 20% of the total universe of manufacturers.

20% of 65 manufacturers = 13 unique manufacturers

25 unique consumers + 13 unique manufacturers = **38 respondents (75 using Form 2000C)**²¹

²¹ See OMB control number 3060-0874 for the complaint burden that is attached to FCC Form 2000C.

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- (2) **Complaints.** Previously, the Commission estimated that it will receive 100 complaints per year alleging a violation of the closed captioning rules for IP-delivered video programming. Because the IP CC rules will go into effect on September 30, 2012, which will allow consumers to file a complaint alleging violation of the IP CC rules on FCC Form 2000C, which is currently under OMB collection 3060-0874, the Commission now estimates that of the complaints filed with the Commission, 75 will be filed using Form 2000C and the remainder (25 complaints) will be filed by other means in narrative form. As such, each consumer using Form 2000C will need 30 minutes to file on-line or 1 hour to prepare and submit a complaint to the Commission, including responding to any Commission request for additional information. The burdens for the 75 complaints associated with Form 2000C are assessed in the Supporting Statement of OMB Control No. 3060-0874.

25 complaints = 25 responses

25 responses x 1 hour/complaint = **25 hours**

Annual "In House" Costs: **\$0**

- (3) **Responses to complaints.** The Commission assumes it will forward complaints to the manufacturer and assumes that the manufacturer will respond to each forwarded complaint. Because apparatus must comply with the closed captioning requirements beginning January 1, 2014, the Commission does not expect to forward such complaints to manufacturers prior to that date. As such, these calculations are annualized over a 3-year time period.

- (i) The Commission expects that manufacturers will use "in house" personnel to respond to 50% of the 100 complaints forwarded by the Commission.

25 x 50% = 13 responses to complaints prepared by "in house" personnel (4 annualized)

The Commission estimates that an average of 3 hours will be needed for "in house" personnel to respond to a complaint, including responding to any Commission request for additional information.

4 annualized responses to complaints x 3 hours/response = 12 annualized hours

The Commission assumes that respondents use "in-house" personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents' costs to be about \$87.37 per hour.

12 annualized hours x \$87.37/hour for "in house" staff = \$1,048 annualized

- (ii) The Commission expects that manufacturers will use outside legal counsel to respond to 50% of the 100 complaints forwarded by the Commission.

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25 x 50% = 13 responses to complaints prepared by outside legal counsel (4 annualized)

Manufacturers are likely to spend an average of 1 hour per complaint to coordinate with their outside legal counsel to prepare and submit the response.

4 annualized responses to complaints x 1 hour/response = 4 annualized **hours to consult with outside legal counsel**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour.

4 annualized hours x \$87.37/hour for “in house” staff = **\$349annualized**

- (4) Recordkeeping in support of complaint responses. The Commission estimates that the average annual burden for manufacturers to perform recordkeeping to enable making information available upon request to the Commission will be 10 hours for each manufacturer.²² The Commission believes that manufacturers will perform these activities “in house.”

65 manufacturers = **65 respondents**²³ and **65 responses** (sets of records)

65 responses x 10 hours/recordkeeping = **650 hours**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to clerical/administrative federal employees (GS-5/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$24.05 per hour.

650 hours x \$24.05/hour for “in house” staff = **\$15,632.50 (rounded to \$15,633)**

Total Number of Respondents: 25 unique consumers + 13 unique manufacturers = **38 respondents (complaints and responses)** and **65 respondents (recordkeeping)**

Total Annual Number of Responses: 25 complaints + 4 annualized responses + 4 annualized responses + 65 sets of records = **98 responses**

Total Annual Hourly Burden: 25 + (12 annualized) + (4 annualized) + 650 = **691 hours**

Total Annual “In House” Costs: \$0 + (\$1,048 annualized) + (\$349 annualized) + \$15,633 = **\$17,030**

²² The Commission considers all of these recordkeeping and information provision requirements to constitute one response per manufacturer, or one set of records kept per manufacturer, with the 10 hours per response encompassing the burdens associated with fulfilling these requirements.

²³ The estimate of 65 is intended to include all potential manufacturers, and thus this estimate is over inclusive.

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TOTAL INFORMATION COLLECTION REQUIREMENTS:

Information Collection	Respondents ²⁴	Estimated Annual Number of Responses	Estimated Annual Burden Hours Per Response	Annual Burden Hours	Total Annual "In-House" Costs
(a) Mechanism for information	50 VPOs + 245 VPDs + 10 VPDs	1,010	0.084 (5 minutes – 5 hours)	369	\$20,793
(b) Contact information	545 VPDs	545	.50 hours	273	\$6,566
(c) Petitions for exemption	30 VPDs or VPOs + 2 commenters	105	2 – 5 hours	351	\$25,520
(d) Complaints (IP closed captioning)	550 consumers + 119 VPDs and VPOs + 595 VPDs and VPOs	1,895	1 – 10 hours	8,400	\$300,364
(e) Requests for technical feasibility determinations	10 manufacturers	10	2 – 5 hours	47	\$4,107
(f) Requests for achievability determinations	10 manufacturers	10	2 – 5 hours	47	\$4,107
(g) Petitions for purpose-based waivers	10 manufacturers	10	1 – 5 hours	30	\$2,621
(h) Complaints (apparatus closed caption requirements)	25 consumers + 13 manufacturers + 65 manufacturers	98	1 – 10 hours	691	\$17,030
Totals	2 commenters + 550 consumers + 595 VPDs and VPOs + 25 consumers + 65 manufacturers = 1,237	3,683	0.084 – 10 hours	10,208	\$381,108

²⁴ The total number of 1,237 respondents is calculated to include and report only unique individual respondents that are not otherwise accounted for in this information collection. In other words, the total number of unique individual respondents are 2 commenters filing responses to petitions for economic burden waivers; 550 consumers filing complaints with VPDs and/or with the Commission; estimated total of 545 VPDs and 50 VPOs (595 VPDs and VPOs); 25 consumers filing complaints against manufacturers; and the estimated total of 65 manufacturers.

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13. Estimate of the total annual cost burden to the respondents resulting from the collection of information (excluding the value of the burden hours in #12, above).

- (a) Mechanism for information about video programming subject to the IP closed captioning requirements.

In #12(a), above, the Commission estimates that 50% of the 10 informal requests that VPDs file seeking Commission determinations that proposed mechanisms provide adequate information for the VPDs to rely on in good faith will be prepared using outside legal counsel. The Commission estimates 5 hours will be needed to prepare these requests. The Commission estimates that outside counsel will charge approximately \$300 per hour.

$$50\% \text{ of } 10 \text{ requests} = 5 \text{ requests} \times 5 \text{ hours} = 25 \text{ hours} \times \$300 = \$7,500$$

- (b) Contact information for the receipt and handling of written closed captioning complaints.

There are no outside costs for this requirement.

- (c) Petitions for exemption based on “economic burden.”

In #12(c), above, the Commission estimates that 10% of the 30 petitions that VPDs or VPOs file requesting exemption from the IP closed captioning requirements will be prepared using outside legal counsel. The Commission estimates 5 hours will be needed to complete all aspects of each petition process, including filing any possible reply comments. The Commission estimates that outside counsel will charge approximately \$300 per hour.

$$10\% \text{ of } 30 \text{ requests} = 3 \text{ requests} \times 5 \text{ hours} = 15 \text{ hours} \times \$300 = \$4,500$$

- (d) Complaints alleging violations of the closed captioning rules for IP-delivered video programming.

In #12(d), above, the Commission estimates that 50% of 150 responses to complaints forwarded to VPDs and VPOs by the Commission will be prepared using outside legal counsel. The Commission estimates 3 hours will be needed to prepare and submit these responses, including responding to any Commission request for additional information. The Commission estimates that outside counsel will charge approximately \$300 per hour.

$$50\% \text{ of } 150 \text{ responses} = 75 \text{ responses} \times 3 \text{ hours} = 225 \text{ hours} \times \$300 = \$67,500$$

- (e) Requests for Commission determination of technical feasibility of apparatus closed caption requirements.

In #12(e), above, the Commission estimates that 10% of the 10 requests that manufacturers file seeking Commission determinations that it is technically feasible for certain apparatus to comply with the closed caption requirements will be prepared using outside legal counsel. The Commission estimates 5 hours will be needed to prepare these requests. The Commission estimates that outside counsel will charge approximately \$300 per hour.

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10% of 10 requests = 1 request x 5 hours = 5 hours x \$300 = \$1,500

- (f) Requests for Commission determination of achievability of apparatus closed caption requirements.

In #12(f), above, the Commission estimates that 10% of the 10 requests that manufacturers file seeking Commission determinations that it is not achievable for certain apparatus to comply with the closed caption requirements will be prepared using outside legal counsel. The Commission estimates 5 hours will be needed to prepare these requests. The Commission estimates that outside counsel will charge approximately \$300 per hour.

10% of 10 requests = 1 request x 5 hours = 5 hours x \$300 = \$1,500

- (g) Petitions for purpose-based waivers of apparatus closed caption requirements.

In #12(g), above, the Commission estimates that 50% of the 10 petitions for purpose-based waivers that manufacturers file will be prepared using outside legal counsel. The Commission estimates 5 hours will be needed to complete all aspects of each petition. The Commission estimates that outside counsel will charge approximately \$300 per hour.

50% of 10 petitions = 5 petitions x 5 hours = 25 hours x \$300 = \$7,500

- (h) Complaints alleging violations of the apparatus closed caption requirements.

In #12(h), above, the Commission estimates that 50% of 100 responses to complaints forwarded to manufacturers by the Commission will be prepared using outside legal counsel. The Commission estimates 3 hours will be needed to prepare and submit these responses, including responding to any Commission request for additional information. The Commission estimates that outside counsel will charge approximately \$300 per hour. Because apparatus must comply with the closed captioning requirements beginning January 1, 2014, the Commission does not expect to forward such complaints to manufacturers prior to that date. As such, these calculations are annualized over a 3-year time period.

50% of 25 responses = 13 responses which are annualized over 3 years for a total of **4 responses** per year x 3 hours = 12 hours x \$300 \$3,600 annualized

Total annualized capital/start-up costs: None

Total annual cost (operational and maintenance): \$93,600

Total annualized cost requested: \$93,600

14. Estimates of annualized costs to the Federal government:²⁵

²⁵ Generally, each request or petition and its associated records will be part of a single proceeding, and each

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- (a) Mechanism for information about video programming subject to the IP closed captioning requirements.

In #12(a), above, the Commission estimates that VPDs will file 10 informal requests seeking Commission determinations that proposed mechanisms provide adequate information for the VPDs to rely on in good faith.

The Commission will use GS 15/5 (\$67.21) staff attorneys to review these requests. The Commission estimates that this will require 5 hours for this review per request.

$$10 \text{ requests} \times 5 \text{ hours/request} \times \$67.21/\text{hour} = \$3,360.50 \text{ (rounded to } \$3,361)$$

- (b) Contact information for the receipt and handling of written closed captioning complaints.

The Commission estimates no annual costs to the Federal government.

- (c) Petitions for exemption based on “economic burden.”

In #12(c), above, the Commission estimates that VPDs and VPOs will file 30 petitions for exemption from the IP closed captioning requirements.

The Commission will use GS 15/5 (\$67.21) staff attorneys to review these petitions, comments and oppositions, and reply comments. The Commission estimates that this will require 5 hours for this review per petition.

$$30 \text{ petitions} \times 5 \text{ hours/petition} \times \$67.21/\text{hour} = \$10,081.50 \text{ (rounded to } \$10,082)$$

- (d) Complaints alleging violations of the closed captioning rules for IP-delivered video programming.

In #12(d), above, the Commission estimates that it will forward 150 complaints to VPDs and VPOs for a response.

The Commission will use GS 13/5 (\$48.35) staff analysts to review and forward these informal complaints to VPDs and VPOs. The Commission estimates that this will require 1 hour per complaint.

$$150 \text{ complaints} \times 1 \text{ hour/complaint} \times \$48.35/\text{hour} = \$7,252.50 \text{ (rounded to } \$7,253)$$

The Commission will use GS 15/5 (\$67.21) staff attorneys to review the responses and documents submitted by VPDs and VPOs. The Commission estimates that this will require 2 to 4 hours (average 3 hours) for this review per response.

$$150 \text{ responses} \times 3 \text{ hours/responses} \times \$67.21/\text{hour} = \$30,244.50 \text{ (rounded to } \$30,245)$$

complaint and its associated records will be part of a single proceeding. The burden estimates in this section consider the total time Commission staff would allocate to each such proceeding.

Closed Captioning of Video Programming Delivered Using Internet Protocol, and Apparatus Closed Caption Requirements

- (e) Requests for Commission determination of technical feasibility of apparatus closed caption requirements.

In #12(e), above, the Commission estimates that manufacturers will file 10 requests seeking Commission determinations that it is technically feasible for certain apparatus to comply with the closed caption requirements will be prepared using outside legal counsel.

The Commission will use GS 15/5 (\$67.21) staff attorneys to review these requests. The Commission estimates that this will require 5 hours for this review per request.

$$10 \text{ requests} \times 5 \text{ hours/request} \times \$67.21/\text{hour} = \$3,360.50 \text{ (rounded to } \$3,361)$$

- (f) Requests for Commission determination of achievability of apparatus closed caption requirements.

In #12(f), above, the Commission estimates that manufacturers will file 10 requests seeking Commission determinations that it is not achievable for certain apparatus to comply with the closed caption requirements.

The Commission will use GS 15/5 (\$67.21) staff attorneys to review these requests. The Commission estimates that this will require 5 hours for this review per request.

$$10 \text{ requests} \times 5 \text{ hours/request} \times \$67.21/\text{hour} = \$3,360.50 \text{ (rounded to } \$3,361)$$

- (g) Petitions for purpose-based waivers of apparatus closed caption requirements.

In #12(g), above, the Commission estimates that manufacturers will file 10 petitions for purpose-based waivers.

The Commission will use GS 15/5 (\$67.21) staff attorneys to review these requests. The Commission estimates that this will require 5 hours for this review per request.

$$10 \text{ requests} \times 5 \text{ hours/request} \times \$67.21/\text{hour} = \$3,360.50 \text{ (rounded to } \$3,361)$$

- (h) Complaints alleging violations of the apparatus closed caption requirements.

In #12(h), above, the Commission estimates that it will forward 25 complaints to manufacturers for a response. Because apparatus must comply with the closed captioning requirements beginning January 1, 2014, the Commission does not expect to forward such complaints to manufacturers prior to that date. As such, these calculations are annualized over a 3-year time period.

The Commission will use GS 13/5 (\$48.35) staff analysts to review and forward these informal complaints to VPDs and VPOs. The Commission estimates that this will require 1 hour per complaint.

$$25 \text{ complaints} \times 1 \text{ hour/complaint} \times \$48.35/\text{hour} = \$1,208.75 \text{ (rounded to } \$1,209) \text{ (\$402.92 annualized) (rounded to } \$403)$$

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The Commission will use GS 15/5 (\$67.21) staff attorneys to review the responses and documents submitted by manufacturers. The Commission estimates that this will require 2 to 4 hours (average 3 hours) for this review per response.

25 responses x 3 hours/responses x \$67.21/hour = \$5,040.75 (rounded to \$5,041) (\$1,680.25 annualized) (rounded to \$1,680)

Total Cost to Federal Government: \$63,107

15. Because of the IP CC rules that will go into effect on September 30, 2012, the Commission adjusts the burdens in this information collection for “complaints alleging violations of the IP CC rules” requirement since these forms can now be filed on FCC Form 2000C (collection 3060-0874). Therefore, the number of annual number of respondents decreased by -525, from 1,762 to 1,237 respondents; the number of annual responses decreased by -1,001, from 4,684 to 3,683 responses; the annual number of burden hours decreased by -1,477, from 11,685 to 10,208 hours; and the total annual cost decreased by -\$214,200, from \$307,800 to \$93,600 hours. There are no program changes.
16. The Commission does not intend to publish the results of these collections of information.
17. The Commission is not seeking approval not to display the expiration date for OMB approval of these collections of information.
18. Because the Commission has moved a portion of the burden associated with the filling of complaints alleging violation of the IP CC rules that can now be filed on FCC Form 2000C, which is currently under OMB collection 3060-0874, effective September 30, 2012, the Commission now reports the number of annual respondents to be 1,237; the annual of responses to 3,683; the annual number of burden hours to be 10,208; and the total annual cost to be \$93,600. There are no other exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

The Commission does not anticipate that the collection of information will employ any statistical methods.