

## Section 64.703 (b) and (c), Consumer Information – Posting by Aggregators

## Supporting Statement

## A. Justification

1. The Telephone Operator Consumer Services Improvement Act (TOCSIA or Section 226(c)(1)(A) of the Communications Act) and 47 CFR §64.703(b) of the Commission’s rules require that each aggregator<sup>1</sup> post on or near the telephone instrument in plain view of consumers:

- (1) the name, address, and toll-free telephone number of the provider of operator services;
- (2) except for commercial mobile radio service (CMRS) aggregators,<sup>2</sup> written disclosure that the rates for all operator-assisted calls are available on request, and that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier’s service using the telephone;
- (3) in the case of a pay telephone, the local coin rate for the pay telephone location; and
- (4) the name and address of the Consumer and Governmental Affairs Bureau of the Commission, to which the consumer may direct complaints regarding operator services.

This requirement was in response to a widespread failure by aggregators to disclose information necessary for consumers to make informed choices in the marketplace. See 47 CFR § 64.703(b).

In the *Second Order on Reconsideration*<sup>3</sup> the Commission amended section 64.703(b)(4) to require that the Bureau’s current name (Consumer and Governmental Affairs Bureau), and address be posted on or near telephones in future postings. However, the Commission still receives complaints about operator service providers (OSPs)<sup>4</sup> at the address identified in the rules.

47 CFR §64.703(c) requires aggregators to update the posted information no later than 30 days following any change in information. An aggregator may meet the 30-day outer limit rule, where its maintenance technicians would not otherwise visit the particular payphone location within 30 days, by having its coin collection or other agent affix a temporary sticker to the payphone. Such temporary stickers must be replaced with permanent signage during the next regularly scheduled

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<sup>1</sup> An “aggregator” is any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services. See 47 C.F.R. § 64.708(b)

<sup>2</sup> CMRS aggregator means an aggregator that, in the ordinary course of its operations, make telephones available to the public or to transient users of its premises for interstate telephone calls using a provider of CMRS operator services.

<sup>3</sup> See *In the Matter of Billed Party Preference for InterLATA 0+ Calls, Second Order on Reconsideration*, CC Docket No. 92-77, 16 FCC Rcd 22314 (2001).

<sup>4</sup> Operator Services means any interstate telecommunications service initiated from an aggregator location that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than: (1) Automatic completion with billing to the telephone from which the call originated; or (2) Completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer. 47 C.F.R. § 64.708(i).

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maintenance visit. 47 CFR §64.703(c) is intended to provide updated OSP information to consumers and enable consumers to make informed choices when placing operator service calls.

The Commission is requesting OMB approval for a three year extension of this information collection.

This collection does not affect individuals or households; thus there are no impacts under the Privacy Act because it does not require the collection of personal information from individuals.

The statutory authority for this information collection is found at Section 226 [47 U.S.C. 226] Telephone Operator Services codified at 47 CFR section 64.703(b) Consumer Information.

2. Consumers will use the posted information to determine whether they wish to use the services of the identified OSP. Aggregators will disclose the required information to consumers via printed notice that is posted on or near each of the aggregator's telephones. As required by 47 CFR §64.703(c), this information must be updated within 30 days of any changes of OSPs.
3. The Telephone Operator Consumer Services Improvement Act (TOCSIA) does not allow for disclosure of this information in any manner other than through a posted printed notice. The rules do not specifically provide for technological collection techniques or other forms of electronic technology.
4. The information collection requirements are not duplicative of any currently existing federal regulatory obligations.
5. There will not be a significant impact on a substantial number of small businesses/entities by this information being collected.
6. Without these information collection requirements, consumers will be unable to make knowledgeable choices in the interstate operator service market. The absence of these required disclosures and timely updates does not allow consumers to make informed decisions, which reduces actual competition among telecommunications entities that seek to provide such services.
7. No special circumstances exist that would cause this collection to be conducted in any manner that is inconsistent with the guidelines in 5 CFR § 1320.6.
8. The Commission placed a notice in the *Federal Register* pursuant to 5 CFR § 1320.8. See 78 FR 66704, November 6, 2013, seeking comments from the public on the information collection requirements contained in this collection. No comments were received.
9. The Commission does not anticipate providing any payment or gift to respondents.
10. The Commission is not requesting that respondents submit confidential information to the Commission.
11. This information collection does not raise any questions or issues of a sensitive nature.

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12. Estimates of the hour burden for collection of information are as follows:

**Number of Respondents: 56,075**

**47 CFR 64.703(b)**

The Commission estimates that there will be approximately 56,075 aggregators (respondents) (which include payphone owners, hotels and motels, hospitals, universities and colleges) that will post information on or near approximately 5.311 million aggregator telephones.

This process will be done “on occasion,” and it will require respondents approximately 1 minute to complete this process per telephone.

**Annual Responses:**

5,311,000 aggregator phones x 1 posting/phone = **5,311,000 postings (responses)**

**Annual Burden Hours:**

5,311,000 aggregator telephones x .017 hours (1 minute)/posting information = **90,287 hours**

**Annual “In-House” Cost to Respondents:**

The Commission believes that the respondents will use “in-house” personnel whose salary is comparable to a middle level federal employee (GS-5/5, plus 30% overhead), to post information on or near telephones. Therefore, the Commission estimates respondents’ “in-house” cost to be about \$24.05 per hour to comply with the requirement of 47 CFR 64 703(b):

90,287 hours x \$24.05/hour = **\$2,171,402.35**

**47 CFR 64.703 (c)**

The Commission estimates that approximately 50% of the 56,075 aggregators (28,038 respondents) will design and update their own postings, requiring 3 hours per prototype; another 25% of respondents will contract out for this prototype posting, which can be found in question number 13 of this supporting statement. The posted information must be updated within 30 days of a presubscribed inter-exchange carrier (PIC) change. The remaining 25% of the respondents will receive this posted information from third parties, such as operator service providers, free of charge as part of their business service package.

**Number of Annual Responses:**

28,038 respondents x 1/design & update posting = **28,038 responses**

**Annual Burden Hours:**

28,038 responses x 3 hours/design and print postings = **84,114 hours**

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**Annual “In-House” Cost to Respondents:**

The Commission believes that 28,038 respondents will use “in-house” personnel whose salary is comparable to a middle level federal employee (GS-10/5, plus 30% overhead), to design, print and post the prototype notice. Therefore, the Commission estimates respondents’ “in-house” cost to be about \$40.14 per hour to comply with the requirement of 47 CFR 64.703(c):

$$84,114 \text{ hours} \times \$40.14/\text{hour} = \mathbf{\$3,376,335.96}$$

**Total Number of Respondents: 56,075**

**Total Annual Number of Responses: 5,311,000 + 28,038 = 5,339,038 responses**

**Total Annual Burden Hours: 90,287 hours + 84,114 hours = 174,401 hours**

**Total Annual “In-House” Costs: \$2,171,402.35 + \$3,376,335.96 = \$5,547,738.31**

13. The following represents the Commission’s estimate of the annual cost burden to respondents resulting from the collections of information: The Commission believes that approximately 25% of the aggregators will contact a firm to design and print these notices for the aggregator’s telephone(s). Thus:
- (a) The Commission estimates that the firm(s) with which the 25% of the 56,075 (14,019 respondents) aggregators who contract out the cost for these posted notices are already in business and do not have to expend funds for “capital/start-up costs.”
- Total annualized capital/startup costs: None**
- (b) The Commission estimates that the cost and time to design and print the notices for the contracting firm is 3 hours per notice:
- $$14,019 \text{ notices} \times 3 \text{ hours/notice} \times \$40.14/\text{hour} = \$1,688,167.98$$
- Total annual cost (O&M): \$1,688,167.98**
- (c) **Total annualized cost requested: \$1,688,168**
14. The Commission has determined there are no costs to the federal government for reviewing these information collection requirements. Rather, the Commission has determined that any cost to comply with these information collection requirements will be borne by the third party disclosure.
15. There are no program changes or adjustments to this information collection.
16. The Commission does not intend to publish the results of this collection of information.
17. The Commission does not intend to seek approval not to display the expiration date for OMB approval of this information collection.

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18. There are no exceptions to the certification statement.

**B. Collection of Information Employing Statistical Methods**

This information collection does not employ any statistical methods.