

Consumer Complaint Portal: General Complaints, Obscenity or Indecency Complaints, Complaints under the Telephone Consumer Protection Act, Slamming Complaints, Requests for Dispute Assistance and Communications Accessibility Complaints

SUPPORTING STATEMENT

1. The Commission is submitting this non-substantive change request to the Office of Management and Budget (OMB) for approval of a Consumer Complaint Portal to be used for the electronic filing of informal complaints alleging violations of the Communications Act of 1934 (Act), as amended, and the Commission's rules. All information collection burdens associated with submission of a complaint using the online Consumer Complaint Portal are the same as the burdens associated with the previous submission of the FCC Complaint Forms.

Pursuant to 47 U.S.C. 208 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996, and 47 CFR §§ 1.711 and 1.716, consumers may file complaints against common carriers with the Commission. Section 208(a) authorizes complaints by any person "complaining of anything done or omitted to be done by any common carrier"¹ subject to the provisions of the Act. Section 208(a) specifically states that "it shall be the duty of the Commission to investigate the matters complained of in such a manner and by such means as it shall deem proper."²

Pursuant to Section 208(a) and the Commission's rules, informal complaints against common carriers filed by consumers with the Commission are forwarded to the carrier(s) involved, which must satisfy or answer the complaints within the time and in the manner prescribed by the Commission.

Although the Act does not discuss how the Commission should treat complaints against non-common carriers for violations of the Act or the Commission's rules, the Commission investigates such complaints in a manner similar to the way in which it treats those against common carriers.

The information provided by consumers in their complaints not only assists carriers in resolving or responding to the issues raised by consumers, it also provides the Commission with baseline data that may be used to monitor common carrier marketplace practices and support appropriate enforcement activities where systemic problems with carriers are identified. Complaint information also helps inform Commission decision makers about whether new or modified rules are needed to protect the interests of consumers.

The Commission previously consolidated all of the FCC Complaint Forms into a single collection, which allowed the Commission to better manage all forms used to collect informal consumer complaints. Thus, as previously approved by OMB, FCC Form 501, Slamming Complaints, and FCC Form 1088, Complaints under the Telephone Consumer Protection Act, were added to this collection, discontinued in OMB Control Number 3060-0968, and deleted from OMB Control Number 3060-1088, respectively. FCC Form 501 asks consumers and businesses to describe their complaints and issues regarding alleged slamming violations. FCC Form 1088 asks consumers to describe their complaints and issues regarding the "Do-Not-Call" and "Junk Fax Protection" acts, and other related consumer protection issues such as prerecorded messages, automatic telephone dialing systems, and unsolicited commercial email messages to wireless telecommunications devices (cell phones, pagers). Collectively, all of these protections fall under the broad umbrella of the Telephone Consumer

¹ 47 U.S.C. § 208(a).

² 47 U.S.C. § 208(a).

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Protection Act of 1991 (TCPA). FCC Form 475B, FCC Form 2000A through G, FCC Form 501, and FCC Form 1088A through H are being consolidated into the Consumer complaint Portal. The Consumer Complaint Portal will replace the filing of FCC complaint forms and combines all informal consumer complaint categories into one single collection via an online intake portal.

The Consumer Complaint Portal will collect the same information as the former FCC Complaint Forms that were previously included in this collection and consist of the following subject matter areas:

- Deceptive or Unlawful Advertising or Marketing
- Billing, Privacy, or Service Quality
- Disability Access
- Emergency or Public Safety
- Media (General)
- Other Communications
- Loud Commercial
- Communications Accessibility
- Slamming
- Junk Fax
- Live Call Received at a Residential Telephone Line
- Prerecorded Message Received at a Residential Telephone Line
- “Abandoned” Calls and “War Dialing” Received at a Business or Residential Telephone Line
- Business Telephone
- Emergency Telephone; Patient Telephone in Hospital, Nursing Home, or Elderly Care Facility
- Call or Message to Wireless Device (Cell Phone or Pager)
- Call or Message to Toll-Free Number (800, 888, Etc.) or Any Other Service (Except Wireless) for Which the Called Party is Charged
- Obscene, Profane, and/or Indecent Material

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The Consumer Complaint Portal will be used by consumers to file detailed complaint information with the Commission. The issues previously covered by the FCC Forms 475B, 2000A-H, Request for Dispute Assistance (RDA), 501, 1088A-H will be covered by the Consumer Complaint Portal. The portal will provide a tree branch format that will allow consumers to choose the product or service they are inquiring/complaining about, the method by which the product/service is provided and the specific issue that they wish to discuss. Consumers will also be allowed, and in some instances required, to upload attachments with their submission. The Consumer Complaint Portal will allow consumers to track the status of their complaints and to amend their complaint as necessary.

The branching strategies are designed to assist the on-line users in providing the relevant information and facilitate the submission of the necessary data to the Commission to allow for resolution of the complaint, referral of the complaint or some other solution.

2. The information received via the Consumer Complaint Portal is used by Commission staff to: (a) assist in the resolution of complaints as a part of investigative work performed by federal and state law enforcement agencies to monitor industry practices and to promote compliance with federal and state requirements; (b) provide redress to consumers; (c) act against companies engaged in illegal practices as soon as possible; (d) determine advertisers' compliance with the TCPA and Junk Fax Prevention Act; and (e) to process and respond to complaints against advertisers. Such information is also used by advertisers to comply with the rules (when they must remove certain consumer-associated numbers from their databases).

This information collection includes personally identifiable information (PII).

(1) As required by OMB Memorandum M-03-22 (September 26, 2003), the FCC completed a Privacy Impact Assessment (PIA)³ 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.

(2) 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.

3. The Commission expects that most complainants will access and submit their complaint information electronically. The Consumer Complaint Portal will be accessible from the Commission's website. The Commission will also make paper copies of the Consumer Complaint Portal question tree available by calling the FCC at: 1-CALL-FCC (1-888-225-5322), TTY: 1-888-TELL-FCC (1-888-835-5322), or by writing to:

Federal Communications Commission or FCC

³ 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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445 12th Street, SW
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4. Since the data collection is specific to the consumer filing the information, there is limited duplication.
 - (i) Duplication may exist where a consumer files a complaint directly with the Commission and then files the same complaint with a Congressional office, which subsequently forwards it to the Commission.
 - (ii) The Consumer Inquiries and Complaints Division shares responsibility with the Commission's Enforcement Bureau on processing programming complaints and will work closely with the Enforcement Bureau in order to identify duplicate complaint submissions.
5. The Commission is committed to reducing the regulatory burdens on small businesses whenever possible, consistent with the Commission's other public interest responsibilities. The Commission believes that few, if any small businesses and other small entities will be impacted by this collection. If some small entities are impacted, the Commission believes that by having access to the Internet, filing a complaint becomes less costly and time consuming.
6. The Consumer Complaint Portal information collection will provide consumers with a more efficient method of filing and tracking consumer complaints and afford the Commission an opportunity to expedite the processing of consumer complaints by minimizing the potential of the Commission being inundated with consumer complaints requiring manual processing of information received in a non-electronic environment.
7. There are no special circumstances that would cause this collection of information to be collected in a manner that is inconsistent with the guidelines in 5 CFR 1320.
8. Pursuant to 5 CFR § 1320.8(d), the Commission placed a notice soliciting public comment on the information collection requirements contained in this supporting statement in the *Federal Register*. See 78 FR 29369, May 20, 2013. No comments from the public were received.
9. The Commission does not anticipate providing any payment or gift to any respondents.
10. Assurances of confidentiality are being provided to the respondents.
 - (a) The Commission is requesting that individuals (consumers/respondents) submit their names, addresses, telephone numbers, and email addresses, which the Commission's staff needs to process the complaints. A privacy statement will be included on the Consumer Complaint Portal
 - (b) In addition, respondents are made aware of the fact that their complaint information may be released to law enforcement officials and other parties as mandated by law (*i.e.* court-ordered subpoenas). Such information is contained in Commission databases, which are covered under the Commission's system of records notice (SORN), FCC/CGB-1, "Consumer Inquiries and Complaints Division." The PII covered by this system of records notice is used by Commission personnel to handle and to process informal complaints from individuals and groups. The

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Commission will not share this information with other federal agencies except under the routine uses listed in the SORN.

The PIA⁴ that the FCC completed on June 28, 2007 gives a full and complete explanation of how the FCC collects, stores, maintains, safeguards, and destroys the 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.

11. This information collection does not raise any questions or issues of a sensitive nature.

- (a) Additionally, consumers are cautioned not to provide personal information such as social security number, credit card numbers, *etc.*
- (b) As noted earlier, the Commission does require consumers (respondents) to provide their names, addresses, telephone numbers and email addresses so that Commission staff may process these complaints more expeditiously and if the Commission needs to contact the complainant for any additional information to resolve the complaint.
- (c) In instances where consumers provide PII, the FCC has a SORN, FCC/CGB-1, "Informal Complaints and Inquiries," to cover the collection, use, storage, and destruction of the PII. A full explanation of the privacy safeguards may be found in the Privacy Impact Assessment that the FCC completed on June 28, 2007 and that may be viewed at: http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.

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

Burden for Obscene, Profane, and/or Indecent Material Complaint

Total Number of Annual Respondents: 26,427 consumers

Of the 26,427 complaints, the Commission estimated that 18% will be submitted electronically through its website; .03% will be submitted via calls to the toll-free number; 80% will be sent by e-mail; and 1.4% will be sent via facsimile.⁵ This estimate is based on the total current volume of complaints received by the Commission.

Total Number of Annual Responses:

26,427 consumers x 1 obscenity or indecency complaint/yr = **26,427 responses**

Total Annual Number of Burden Hours:

26,427 consumers x 1 obscenity or indecency complaint /yr x .25 hours/response = **6,607 hours**

⁴ As stated in fn.3, the Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

⁵ Based on recent trends, a statistically insignificant number of complaints regarding obscene, profane, and/or indecent material will be submitted in writing (by form or letter).

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Total Annual “In-House” Cost: \$0

Because this complaint is used solely by consumers (respondent), there will be no “in-house” personnel to comply with the requirement nor cost to respondents since all information is available based on personal experiences.

Burden for Slamming Complaint

Total Annual Number of Respondents:

627 consumers + 85 businesses = **712 respondents⁶**

Total Annual Number of Responses:

627 consumers + 85 business slamming complaints = **712 responses**

Total Annual Number of Burden Hours:

627 consumer + 85 business slamming complaints x .25 hours (15 minutes per response) = **178 hours**

Total Annual In-House Cost:

The Commission believes that businesses would use “in-house” personnel to complete this process whose pay is comparable to mid-level federal employee (GS-9/5 (\$28.32/hour), to comply with the requirement. The consumers do not have in-house costs.

85 businesses x .25/hr. x \$28.32 = **\$601.80**

Burden for Complaints under the Telephone Consumer Protection Act

Total Annual Number of Respondents: 198,560 respondents⁷

Total Annual Number of Responses: 198,560 responses

Total Annual Number of Burden Hours:

The Commission estimates that 198,560 consumers will file a complaint annually with the FCC to address his/her complaint on various TCPA issues, which may require approximately 30 minutes (.50 hours) to resolve:

198,560 consumers x .50 hours/complaint = **99,280 hours**

Total Annual “In-House” Cost: \$0

⁶ This estimate is based on the total current volume of complaints received by the Commission.

⁷ This estimate is based on the total current volume of complaints received by the Commission.

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The Commission estimates that there are no specific “in house” or other annual costs for those who file these complaints with the facsimile sender.

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Burden for General Complaints

The Commission estimated that there will be approximately 88,964 consumers who will file general complaints annually utilizing the combined methods available (*i.e.*, fax, email, telephone, website, writing). The process of filing this complaint will be done “on-occasion” when the consumer has a complaint concerning a common carrier entity. It will require approximately 30 minutes to complete this process.

Total Annual Number of Respondents: 88,964 consumers

Total Annual Number of Responses:

88,964 consumers x 1 general complaint/year = **88,964 responses**

Annual Number of Burden Hours:

88,964 consumer x 1 general complaint/year x .50 hrs/response = **44,482 hours**

Total Annual “In-House” Cost: \$0

Because this complaint is filed solely by consumers (respondent), there will be no “in-house” personnel to comply with the requirement nor cost to respondents since all information is available based on personal experiences.

Burden for Request for Dispute Assistance

The Commission estimates that approximately 750 consumers (individuals with disabilities or their representatives) will file RDAs annually alleging a lack of accessibility of telecommunications services or equipment, advanced communications services or equipment, or Internet browsers on mobile phones. The Commission estimates that the consumer will complete the RDA questions in approximately 30 minutes.⁸ This estimate is based on Commission staff’s knowledge and familiarity with the availability of the data required. The contact information, description of the accessibility problem, and related information provided will be transferred from the RDA automatically into the relevant Consumer Complaint Portal question tree (discussed below) when the consumer files a general complaint electronically.

⁸ In the collection found in OMB Control No. 3060-1167, the Commission estimated 1 hour for consumers to file a request for dispute assistance. This estimate has been reduced to 30 minutes because the RDA has been developed and is being made available electronically.

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Total Annual Number of Respondents: 750 consumers⁹

Total Annual Number of Responses:

750 consumers x 1 RDA/year = **750 responses**

Annual Number of Burden Hours:

750 consumers x 1 RDA/year x .50 hrs/response = **375 hours**

Total Annual “In-House” Cost: \$0

Because the RDA is used by consumers (respondents), there will be no “in-house” personnel to comply with the requirement nor cost to respondents since all information is available based on personal experiences.¹⁰

Burden for Communications Accessibility Informal Complaints

The Commission estimates that approximately 500 consumers (individuals with disabilities or their representatives) will file complaints annually alleging a violation of Section 255 (telecommunications services and equipment), Section 716 (advanced communications services or equipment), or Section 718 (Internet browsers on mobile phones) of the Communications Act.

The Commission estimates that the consumer will complete the complaint on this issue in approximately 15 minutes. This estimate is based on Commission staff’s knowledge and familiarity with the availability of the data required. The short amount of time reflects the fact that the contact information, description of the accessibility problem, and related information will be transferred automatically from the request for dispute assistance into the relevant branch of the question tree when the consumer files electronically.

Total Annual Number of Respondents: 500 consumers

Total Annual Number of Responses:

500 consumers x 1 Communications Accessibility Complaint/year = **500 responses**

Annual Number of Burden Hours:

500 consumers x 1 Communications Accessibility Complaint /year x .25 hrs/response = **125 hours**

Total Annual “In-House” Cost: \$0

⁹ The Commission estimates that 500 of the 750 respondents who file an RDA will later file a general complaint (see above). As a result, only 250 of the 750 respondents who file an RDA are included in the cumulative collection totals below.

¹⁰ The burdens associated with administering RDAs are maintained in this collection. See question 14, below. The burdens associated with processing RDAs remain with the collection found under OMB Control No. 3060-1167.

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Because this complaint is filed by consumers (respondents), there will be no “in-house” personnel to comply with the requirement nor cost to respondents since all information is available based on personal experiences.

Cumulative Totals for Obscenity and Indecency complaints, Slamming complaints, TCPA complaints, General complaints, Communications Accessibility complaints and RDA via the Online Consumer Complaint Portal:

Total Cumulative Number of Annual Respondents:

$26,427 + 712 + 198,560 + 88,964 + 250^{11} + 500 = 315,413$ respondents

Total Cumulative Number of Annual Responses:

$26,427 + 712 + 198,560 + 88,964 + 750 + 500 = 315,913$ responses

Total Cumulative Annual Burden Hours:

$6,607 + 178 + 99,280 + 44,482 + 125 + 375 = 151,047$ hours

Total Cumulative Annual “In-House” Cost: \$601.80

13. There are no annual costs to respondents.

All complaints submitted by respondents to the Commission are voluntary. The information required to complete the forms is available based on respondents’ memory, notes, telephone bills or other documents. The consumer already has access to the Internet, and no additional costs are incurred to submit the complaint.

(a) Total annualized capital/startup costs: **None**

(b) Total annual cost (O&M): **None**

(c) Total annualized cost requested: **None**

14. The FCC will continue to administer the complaint filings using Commission staff.

To address complaints, the Commission will use paraprofessional staff at the GS-12/5 (\$41.07/hour) level to process the data sent to the Commission. The Commission makes the following estimates:

$88,964$ General complaints x 30 minutes (.50 hours) of staff processing time/complaint x \$41.07/hour = **\$1,826,875.74**

750 RDAs x 60 minutes (1 hour) of staff processing time/complaint x \$41.07/hour = **\$30,802.50**

¹¹ The Commission estimates that 500 of the 750 respondents who file FCC Form RDA will later file a Communications Accessibility Complaint. (See above). As a result, only 250 of the 750 respondents who file Request for Dispute Assistance are included in the cumulative collection totals here.

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26,427 Obscenity and Indecency complaint x 15 minutes (.25 hours) of staff processing time/complaint x \$41.07/hour = **\$271,339.22**

712 slamming complaints x 30 minutes (.50 hours) of staff processing time/complaint x \$41.07/hour = **\$14,620.92**

198,560 TCPA complaints x 30 minutes (.50 hours) of staff processing time/complaint x 41.07 = **\$4,077,429.60**

The Commission will also use professional staff at the GS-14/5 (\$57.70/hour) level to conduct enforcement efforts for TCPA and Communications Accessibility complaints. The Commission estimates the time associated with investigating each complaint to be on average 3 hours.

198,560 TCPA complaints x 3 hours of staff investigating time/complaint x 57.70/hour = **\$34,370,736**

500 Communication Accessibility complaints x 3 hours of staff investigating time/complaint x \$57.70 = \$86,550

Total Cost to the Federal Government:

$\$1,826,875.74 + \$30,802.50 + \$271,339.22 + \$14,620.92 + \$4,077,429.60 + \$34,370,736 + \$86,550 = \mathbf{\$40,678,353.98}$

15. This is a revised collection of information. The increases added to OMB's inventory as a result of these revisions are as follows:

(a) The Commission's estimate for the number of respondents has increased by **+630**, from 314,783 respondents to 315,413 respondents;

(b) The Commission's estimate for number of responses has increased by **+1,130**, from 314,783 responses to 315,913 responses;

(c) The Commission's estimate for the total annual burden hours has increased by **+440**, from 150,607 hours to 151,047 hours.

There are no program changes.

16. There are no plans to publish the result of the collection of information. The Commission will, however, post this information on its webpage and will comply with all valid FOIA requests in regard to information sought pertaining to consumer complaints.

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

18. There are no exceptions to the Certification Statement.

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B. Collections of Information Employing Statistical Methods

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