

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

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

**A. JUSTIFICATION**

**(1) Necessity for Collecting the Information**

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

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

The FTC Act also authorizes the procedures set out in Rule 4.11(e), 16 C.F.R. 4.11(e), for review of outside requests for Commission employee testimony, through compulsory process or otherwise, and requests for material pursuant to compulsory process in cases or matters to which the agency is not a party in cases or matters to which the FTC is not a party. Rule 4.11(e) requires that a person who seeks such testimony or material submit a statement in support of the request. The submitted information assists staff with determining how to best utilize FTC resources (e.g., (e.g., staff may deny a request for testimony from an FTC employee where it appears that such testimony would not be in the public’s interest).

**(b) Complaint Systems:**

The FTC’s Bureau of Consumer Protection (“BCP”) uses various telephone complaint hotlines and, alternatively, three different online consumer complaint forms to handle consumer grievances: (1) the general on-line complaint form; (2) the “Do Not Call On-Line Complaint Form”; and (3) the “Identity Theft On-Line Complaint Form”.<sup>1</sup> The provision of this

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<sup>1</sup> These online forms also include related variations that constitute the same basic “collection of information”: (1) Spanish language versions also available at [www.ftc.gov](http://www.ftc.gov) and (2) the [www.econsumer.gov](http://www.econsumer.gov) complaint form, but only with regard to cross-border complaints.

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

**(c) Program Evaluations:**

***Advocacy Program***--The FTC's advocacy program draws on the Commission's expertise in competition and consumer protection matters to encourage federal and state legislators, courts, and other state and federal agencies to consider the effects of their proposed actions on consumers and competition. Each year, the FTC sends approximately 20 letters or written comments to different state and federal government officials to provide guidance on the likely competitive effects of various laws or regulations. Occasionally, letters are sent to certain private organizations, such as a trade or professional association, whose policymaking activities may affect consumers or competition.

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

Statutory authority for the advocacy program is found in sections 6(a) and (f) of the FTC Act, which authorize the FTC "to gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any person, partnership, or corporation engaged in or whose business affects commerce," and "to make public from time to time such portions of the information obtained by it hereunder as are in the public interest."<sup>2</sup> The courts have interpreted these provisions to allow the FTC to participate in proceedings conducted by other agencies, and to petition other agencies to implement rulemakings.<sup>3</sup>

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<sup>2</sup>15 U.S.C. §§ 46(a), (f).

<sup>3</sup>*A & B Freight Lines v. FTC*, 1980-1 Trade Cas. (CCH) & 63,127 (D.D.C. 1980), *aff'd. per curiam*, No. 80-1264 (D.C. Cir. Jan 26, 1981), *cert. denied*, 452 U.S. 962 (1981) (rejecting

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

(2) **Use of the Information**

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

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

**(b) Complaint Systems:**

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

**(c) Program Evaluations:**

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objections to the FTC's participating as a party in ICC proceedings involving common carriers and the FTC's petitioning the ICC to institute a rulemaking proceeding). *See also National Petroleum Refiners Ass'n. v. FTC*, 482 F.2d. 672, 686, 691 (D.C. Cir. 1973) (despite the absence of explicit Congressional authorization, upholding the FTC's power under Section 6(g) to promulgate trade regulation rules because such action was "consistent with the framers' broad purposes' in creating the FTC and "linked to the goals . . . that loomed in the background of the 1914 passage of the Federal Trade Commission Act").

**Advocacy Program**--The information is used internally to assess the effectiveness of the FTC's advocacy program as a whole and to understand the various factors that influence the efficacy of advocacy efforts. This information can be used to target limited advocacy resources most effectively and efficiently. Data from past surveys have been tabulated for internal memoranda, and published in an Organisation for Economic Co-operation and Development presentation<sup>4</sup> and a law review article.<sup>5</sup>

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

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

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

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

#### **(b) Complaint Systems:**

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

#### **(c) Program Evaluations:**

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

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

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<sup>4</sup>See *United States Note for OECD Roundtable on Evaluation of the Actions and Resources of Competition Authorities* (May 25, 2007), available at <http://www.ftc.gov/sites/default/files/attachments/us-submissions-oecd-and-other-international-competition-fora/evalauth.pdf>.

<sup>5</sup>Arnold C. Celnicker, *The Federal Trade Commission's Competition and Consumer Advocacy Program*, 33 ST. LOUIS UNIVERSITY LAW JOURNAL 379 (1989).

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

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

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

**(b) Complaint Systems:**

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

**(c) Program Evaluations:**

*Advocacy Program*--The types of information captured in the survey cannot be consistently collected by other means. In some instances, the recipient of an advocacy comment may contact staff to provide certain information relating to the outcome of the matter on which staff commented. In some instances, staff may become aware that a recipient has referenced an advocacy comment publicly, e.g., during deliberations on the matter, in agency rulemaking materials, or in other public documents. In most cases, however, there is no means to predictably access policy makers' views on the efficacy of FTC advocacy efforts, other than a survey.

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

(5) **Efforts to Minimize Burden on Small Businesses**

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

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

**(b) Complaint Systems:**

The consumer complaint forms were designed to impose the minimum possible burden on persons who complete them. Contacting the CRC with a complaint is entirely voluntary, and

the online forms enable complainants to provide the pertinent information at their leisure. In addition, the CRC has expanded the hours of operation for its hotline to better serve consumers and small businesses on the West Coast.

**(c) Program Evaluations:**

*Advocacy Program*--The survey is targeted to state, federal, and local policymakers (e.g., state legislators and federal regulators). Occasionally, the survey may be sent to private entities whose policymaking activities may affect consumers or competition.

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

**(6) Consequences of Conducting Collection Less Frequently**

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

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

**(b) Complaint Systems:**

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

The consumer complaint data collected through the complaint forms is also the foundation of the FTC's highly successful Consumer Sentinel Network. The Consumer Sentinel Network allows federal, state and local law enforcement organizations common access to a secure database containing over 13 million complaints, including victims of consumer fraud and identity theft. To date, Consumer Sentinel has over 2,100 members, including international law enforcement agencies. The continuous collection of consumer complaint data is critical to the Consumer Sentinel Network's sustained success.

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

**(c) Program Evaluations:**

*Advocacy Program*--Survey responses are more accurate and useful when surveys are completed soon after an advocacy letter is sent to a recipient. If the FTC were to collect this information less frequently, staff likely would receive fewer responses and the information received would be less reliable.

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

(7) **Circumstances Requiring Collection Inconsistent With Guidelines**

(a)-(c):

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

(8) **Consultation Outside the Agency**

(b) **Complaint Systems:**

BCP staff has met periodically with the National Association of Attorneys General, the United States Postal Inspection Service, the Canadian Anti-Fraud Centre,<sup>6</sup> the Social Security Administration and other federal, state, and local law enforcement entities to determine what information is needed to open and successfully prosecute a civil or criminal consumer fraud case. Information that could be collected through subsequent interviews has been omitted from the complaint forms to lessen consumer burden and to streamline staff's processing of consumer complaints.

(a)-(c):

In addition, the FTC sought public comment in connection with its instant PRA clearance request. See 79 Fed. Reg. 68,245 (November 14, 2014). No comments were received. The FTC is also seeking public comment contemporaneously with this submission.

(9) **Payments or Gifts to Respondents**

(a)-(c):

Not applicable.

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

(a)-(c):

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<sup>6</sup> The Canadian Anti-fraud Centre is Canada's national anti-fraud call centre and central fraud data repository. It collects North American telemarketing complaints against Canadian deceptive telemarketers and disseminates this information to the appropriate enforcement agencies.

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

Additionally, the FTC may share certain consumer complaints with the company that is the subject of the complaint, if the FTC determines that the sharing of the complaint with the company would help resolve the consumer's problem. For instance, the FTC may share certain consumer complaints about identity theft or the accuracy of a consumer's credit report with credit bureaus to help address the consumer's complaint or identity theft-related concern. Identity theft information also may be disclosed to financial institutions, including credit reporting agencies that have signed a confidentiality agreement with the FTC. The FTC shares this information to fulfill its statutory obligation under the Identity Theft and Assumption Deterrence Act of 1998, 18 U.S.C. § 1028 note.<sup>7</sup> Finally, the Commission may post trend reports based on aggregate data from consumer fraud and identity theft complaints on the Consumer Sentinel public website, <http://www.ftc.gov/sentinel/> (*see* Section A.16 below). However, the Commission does not release personally identifying information in these reports.

## **(12) Burden Estimate**

**(a) -(c) Estimated annual hours burden:** 222,851 hours (150 + 222,622 + 64 + 15).

**(a) Applications to the Commission, including applications and notices supported pursuant to the Commission's Rules of Practice:** 150 hours

Most applications to the Commission generally fall within the "law enforcement" exception to the PRA and are mostly found in Part III (Rules of Practice for Adjudicative Proceedings) of the Commission's Rules of Practice. *See* 16 CFR 3.1-3.83. Nonetheless, there are various applications and notices to the Commission contained in other rules (generally in Parts I, II, and IV of the Commission's Rule of Practice). For example, staff estimates that the FTC annually receives approximately 15 requests for clearance submitted by former FTC employees in order to participate in certain matters and screening affidavits submitted by partners or legal or business associates of former employees pursuant to Rule 4.1, 16 CFR 4.1. There are also procedures set out in Rule 4.11(e) for agency review of outside requests for Commission employee testimony, through compulsory process or otherwise, and requests for material pursuant to compulsory process in cases or matters to which the agency is not a party.

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<sup>7</sup> In part, the Act requires that the FTC establish procedures to refer complaints to appropriate entities, which may include "(A) the three major national consumer reporting agencies; and (B) appropriate law enforcement agencies for potential law enforcement action."



Rule 4.11(e) requires that a person who seeks such testimony or material submit a statement in support of the request. Staff estimates that agency personnel receive approximately 10 requests per year. Other types of applications and notices are either infrequent or difficult to quantify. Nonetheless, in order to cover any potential “collection of information” for which separate clearance has not been sought, staff conservatively projects the FTC will receive 75 applications or notices per year. Staff estimates each respondent will incur, on average, approximately 2 hours of burden to submit an application or notice, resulting in a cumulative annual total of 150 burden hours (75 applications or notices x 2 burden hours).

**Annual cost burden:**

Using the burden hours estimated above, staff estimates that the total annual labor cost, based on an estimated average of \$115/hour for executives’ and attorneys’ wages, would be approximately \$17,250 (150 hours x \$115).<sup>8</sup> There are no capital, start-up, operation, maintenance, or other similar costs to respondents.

(b) **Complaint Systems:** 222,622 annual hours.

Consumer Response Center (CRC)

Consumers can submit complaints about fraud and other practices to the FTC’s Consumer Response Center by telephone or through an online complaint form at the FTC’s website. Telephone complaints and inquiries to the FTC are answered both by FTC staff and contractors. These telephone counselors ask for the same information that consumers would enter on the applicable forms available on the FTC’s website. The FTC also hosts a second online complaint form called [econsumer.gov](http://econsumer.gov). This form accepts cross-border complaints from consumers through the [econsumer.gov](http://econsumer.gov) website and transmits them into the Consumer Sentinel Network. For telephone inquiries and complaints, the FTC staff estimates that it takes 5.9 minutes per call to gather information, and an estimated 5.3 minutes for consumers to enter a complaint online. The burden estimate conservatively assumes that the entire phone call is devoted to collecting information from consumers, although frequently telephone counselors devote a portion of the call to providing requested information to consumers.

As of 2014, the FTC now supports web chat for its online complaint process. Web chat allows consumers to communicate in real time using an easily accessible web interface to obtain technical support for the online complaint process. This feature will enable the FTC to retain consumer complaints from consumers who might otherwise abandon the process. Staff estimates that it will take an average of 5 minutes per chat session to obtain the necessary technical support.

Complaints Concerning the National Do Not Call Registry

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

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<sup>8</sup> Figures based on national median salaries, including bonuses and benefits, divided by a 2,080 hour work year (52 weeks x 40 hours/week), for a “Managing Attorney,” “Attorney II,” “Attorney III,” “Attorney IV,” and “Attorney V” at [www.salary.com](http://www.salary.com).

toll free hotline with automated voice response system. Consumer complainants must provide the phone number that was called, whether the call was prerecorded, and the date and time of the call. They may also provide either the name or telephone number of the company about which they are complaining, their name and address so they can be contacted for additional information, as well as for a brief comment regarding their complaint. In addition, complainants have the option of answering three yes-or-no questions to help law enforcement investigating complaints. The FTC staff estimates that the time required of consumer complainants to the National Do Not Call Registry is 3 minutes for phone complaints and 2 minutes for online complaints.

### Identity Theft

To handle complaints about identity theft, the FTC must obtain more detailed information than is required of other complainants. Identity theft complaints generally require more information (such as a description of actions complainants have taken with credit bureaus, companies, and law enforcement, and the identification of multiple suspects) than general consumer complaints and fraud complaints. FTC staff estimates that the online identity theft complaint form takes consumers up to 8.5 minutes to complete.

For consumers who call the CRC with an identity theft complaint, staff estimates that it will take 6.4 minutes per call to obtain complaint information. A substantial portion of identity theft-related calls typically consists of counseling consumers on other steps they should consider taking to obtain relief. The time needed for counseling is excluded from the estimate.

### Surveys

Consumer customer satisfaction surveys give the agency information about the overall effectiveness and timeliness of the FTC call center and online complaint process. An entity called Customer Feedback Insights contacts subsets of consumers throughout the year with several preapproved questions to elicit information from consumers about the overall effectiveness of the phone complaint process. Current estimates are that each respondent will require 4.4 minutes to answer the questions during the phone survey and about 2.7 minutes for the online survey (approximately 20-30 seconds per question).

In addition, the FTC currently uses ForeSee, Inc. for online customer satisfaction surveys on [www.ftccomplaintassistant.gov](http://www.ftccomplaintassistant.gov). It randomly selects consumers to take part in a brief survey to provide feedback about the website. Estimates relating to ForeSee surveys are included under “Misc. and fraud-related consumer complaints (Web chat)” in the table below.

The FTC also plans to send an electronic survey to all United States-located Consumer Sentinel Network users to identify areas where the system is satisfactory and where it can improve. Staff estimates the survey to not take more than 5 minutes to complete.

What follows are staff’s estimates of burden for these various collections of information, including the surveys. The figures for the online forms and consumer hotlines are an average of annualized volume for the respective programs including both current and projected volumes

over the three-year clearance period sought and the number of respondents for each activity has been rounded to the nearest thousand.

<b>Activity</b>	<b>#Respondents</b>	<b>#Minutes/Activity</b>	<b>Total Hours</b>
Misc. and fraud-related consumer complaints (phone)	367,000	5.9	36,088
Misc. and fraud-related consumer complaints (online)	221,000	5.3	19,522
Misc. and fraud-related consumer complaints (Web chat) <sup>9</sup>	31,200	5.0	2,600
Do-Not-Call related consumer complaints (phone)	627,000	3.0	31,350
Do-Not-Call related consumer complaints (online)	2,860,000	2.0	95,333
Identity theft complaints (phone)	224,000	6.4	23,893
Identity theft complaints (online)	88,000	8.5	12,467
Customer Satisfaction Questionnaire (phone)	8,000	4.4	587
Customer Satisfaction Questionnaire (online)	17,000	2.7	765
Consumer Sentinel Network Survey	200	5.0	17
<b>Totals</b>	<b>4,443,400</b>		<b>222,622</b>

**Annual cost burden:**

The cost per respondent should be negligible. Participation is voluntary and will not require any labor expenditures by respondents. There are no capital, start-up, operation, maintenance, or other similar costs to the respondents.

(c) **Program Evaluations:** 79 hours.

Review of Divestiture Orders – 64 hours

The Commission issues, on average, approximately 10-15 orders in merger cases per year that require divestitures. As a result of a 1999 study authorized by the Office of Management and Budget (OMB) and conducted by the staffs of the Bureau of Competition (BC) and the Bureau of Economics, as well as more recent experience, BC monitors these required

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<sup>9</sup> This category includes online customer satisfaction surveys by ForeSee, Inc., for [www.ftccomplaintassistant.gov](http://www.ftccomplaintassistant.gov).

divestitures by interviewing representatives of the Commission-approved buyers of the divested assets within the first year after the divestiture is completed.

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

Participation by the buyers is voluntary. Each responding company designates the company representative most likely to have the necessary information; typically, a company executive and an attorney represent the company. Each interview takes less than one hour to complete. BC staff further estimates that it takes each participant no more than one hour to prepare for the interview. Staff conservatively estimates that, for each interview of the responding company, two individuals (a company executive and an attorney) will devote two hours (one hour preparing and one hour participating) each to responding to questions for a total of four hours. Interviews of monitor trustees typically involve only the monitor trustee and take approximately one hour to complete with no more than one hour to prepare for the interview. Assuming that staff evaluates approximately 15 divestitures per year during the three-year clearance period, the total hours burden for the responding companies will be approximately 60 hours per year (15 divestiture reviews x 4 hours for preparing and participating). Staff may include approximately 2 monitor trustee interviews a year, which would add at most 4 hours (2 interviews x 2 hours for preparing and participating.).

**Annual cost burden:**

Using the burden hours estimated above, staff estimates that the total annual labor cost, based on a conservative estimated average of \$135/hour for executives' and attorneys' wages, would be approximately \$8,640 (64 hours x \$135).<sup>10</sup> There are no capital, start-up, operation, maintenance, or other similar costs to respondents.

Review of Advocacy Program – 15 hours

The FTC's advocacy program draws on the Commission's expertise in competition and consumer protection matters to encourage state and federal legislators, agencies and regulatory officials, courts and private entities to consider the effects of their decisions on competition and consumer welfare. The Commission and staff send approximately 20 letters to such decision makers annually regarding the likely effects of various bills, regulations, and other policies.

In the past, the Office of Policy Planning ("OPP") has evaluated the effectiveness of these advocacy comments by surveying comment recipients and other relevant decision makers.

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<sup>10</sup> See supra note 1 (attorney salary source data for "Managing Attorney").

OPP intends to continue this evaluation by sending an electronic, or where necessary, a paper questionnaire to relevant parties within a year after sending an advocacy.

Most survey questions ask the respondent to agree or disagree with a statement concerning the advocacy comment that they received. Specifically, these questions ask about the consideration, content, influence, and public effect of our comments. The questionnaire also provides respondents with an opportunity to provide additional remarks regarding the comments they received, advocacy comments in general, and the outcome of the matter. These survey results are also included in the FTC's internal performance management indicators, and are used to guide the FTC's selection and prioritization of future advocacy opportunities.

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

**Annual cost burden:**

OPP staff estimates a conservative hourly labor cost of \$100 for the time of the survey participants (primarily state representatives and senators) and an hourly labor cost of \$20 for administrative support time. Thus, staff estimates a total labor cost of \$55 for each response (30 minutes of burden at \$100 per hour plus 15 minutes of burden at \$20 per hour). Assuming 20 respondents will complete the questionnaire on an annual basis, staff estimates the total annual labor costs will be approximately \$1,100 (\$55 per response x 20 respondents). There are no capital, start-up, operation, maintenance, or other similar costs to respondents.

**(13) Estimated Capitol and other Non-Labor Costs**

**(a)-(c):**

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

**(14) Estimated Cost to Federal Government**

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

The FTC annually receives approximately 10 requests for clearance submitted by former FTC employees in order to participate in certain matters and 5 screening affidavits submitted by partners or legal or business associates of former employees pursuant to Rule 4.1. Staff spends roughly 2 hours of attorney time (\$84/hour), in addition to 15 minutes of paralegal (\$54/hour) or secretarial (\$34/hour) support for each application, resulting in an annual cost of approximately \$2700.

There are also procedures set out in Rule 4.11(e) for agency review of outside requests for Commission employee testimony, through compulsory process or otherwise, and requests for material pursuant to compulsory process in cases or matters to which the agency is not a party. Rule 4.11(e) requires that a person who seeks such testimony or material submit a statement in support of the request. Staff estimates that agency personnel receive approximately 10 requests per year split between responding to requests for employee testimony and materials. Responding to requests for employee testimony, an attorney spends roughly two hours, in addition to 15 minutes of paralegal or secretarial support on each request, resulting in an annual cost of approximately \$1,000 for five such requests. Responding to requests for materials can cost substantially more since they generally require several hours perhaps even days of paralegal and staff attorney time to search for and properly categorize documents.

Other types of applications and notices are either infrequent or difficult to quantify. Nonetheless, in order to cover any potential “collection of information” for which separate clearance has not been sought, staff conservatively projects the FTC will receive roughly 50 other applications or notices per year. Staff estimates that an attorney (\$84/hour) spends roughly four hours and 15 minutes of paralegal (\$54/hour) or secretarial (\$34/hour) support on each such request, resulting in an approximate annual cost of \$17,500 per year for the additional 50 other applications or notices per year.

**(b) Complaint Systems:**

The total annual contract cost to the agency for its consumer complaint intake system as described in this notice comes to approximately \$7,800,000.

**(c) Program Evaluations:**

**Advocacy Program**--Assembling and sending out the estimated 20 surveys will require approximately 3 attorney hours, at a cost of approximately \$84 per hour ( $3 \times \$84 = \$252$ ), and 7 paralegal hours, at a cost of approximately \$54 per hour ( $7 \times \$54 = \$378$ ). Most surveys will likely be sent via email; but some will likely need to be sent out as hard copies via traditional mail. Postage associated with an estimated possible 2 hard copy mailings, at an estimated cost of \$0.84 each ( $2 \times \$0.84 = \$1.68$ ), and 2 return mailings, at an estimated cost of \$0.44 each ( $2 \times \$0.44 = \$0.88$ ), will total approximately \$2.56 per year ( $\$1.68 + \$0.88 = \$2.56$ ). Analysis of the survey data and incorporation into written work product (including the annual Performance Plan/Annual Performance Report, internal memoranda, and other documents) will require approximately 20 attorney hours at approximately \$84 per hour ( $20 \times \$84 = \$1,680$ ). Thus, the total annual cost to the agency for the information collection is approximately \$2300 ( $\$252 + \$378 + \$2.56 + \$1,680 = \$2312.56$ ).

**Divestiture Review**--The total annual cost to the agency for the information collection is approximately \$3200. Each of the 15 annual reviews require approximately 2.5 hours by a Competition Law Attorney (\$84/hour). This includes about an hour to prepare before the call, the time for the call, and maybe an hour to write up the results.

**(15) Changes in Burden**

The estimated annual hour burden is adjusted upward by approximately 36,000 hours, mostly because there are more estimated consumer complaints. See subsection (b) below for further details.

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

There is no change.

**(b) Complaint Systems:**

The estimated annual hour burden is adjusted upward [from 186,884 in 2011 to 222,622 in 2014-2015], mostly because there are now more estimated consumer complaints. Staff estimated 3,137,000 consumer respondents in 2011 and 4,443,400 consumer respondents in 2014-2015.

**(c) Program Evaluations:**

*Advocacy Program*—There is no change.

*Divestiture Review*—There is no change.

**(16) Plans for Tabulation and Publication**

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

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

**(b) Complaint Systems:**

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

**(c) Program Evaluations:**

*Advocacy Program*--Data from past surveys have been tabulated for internal memoranda, and published in an Organisation for Economic Co-operation and Development presentation<sup>11</sup> and a law review article.<sup>12</sup> We anticipate periodic tabulation of newly received

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<sup>11</sup> See *United States Note for OECD Roundtable on Evaluation of the Actions and Resources of Competition Authorities* (May 25, 2007), available at <http://www.ftc.gov/sites/default/files/attachments/us-submissions-oecd-and-other-international-competition-fora/evalauth.pdf>.

survey responses to prepare internal memoranda. Although we have no specific plans for publication, external publication of the data in some format in the future is possible.

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

**(17) Display of the Expiration Date for OMB Approval**

**(a)-(c):**

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

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

**(a)-(c):**

None.

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<sup>12</sup> Arnold C. Celnicker, *The Federal Trade Commission’s Competition and Consumer Advocacy Program*, 33 ST. LOUIS UNIVERSITY LAW JOURNAL 379 (1989).