

Federal Trade Commission
Supporting Statement for FTC Administrative Activities
OMB Control No. 3084-XXXX¹

The Federal Trade Commission (“FTC” or “Commission”) is seeking renewal of its existing Administrative Activities clearance. This clearance request addresses: (a) requests to the Commission under Parts I and IV of the Commission’s Rules of Practice; (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. 3501-3521, burden for the existing clearance is attributable to the FTC’s consumer complaint systems.

A. JUSTIFICATION

(1) Necessity for Collecting the Information

(a) Requests to the Commission

To help facilitate its role and obligations under the Federal Trade Commission Act (“FTC Act”), Title 15 U.S.C. 41 *et seq.*, the Commission gathers information to respond to outside requests for assorted FTC services or actions.² Such information gathering is addressed by some of the provisions within Parts I - IV of the FTC’s Rules of Practice. Those provisions arguably constituting a PRA “collection of information,” however, are few. They appear within Parts I and IV of the Rules.

For example, pursuant to FTC Rules 1.1 – 1.3, any person, partnership, or corporation may request advice from the Commission or FTC staff regarding a course of action the requester contemplates. Under Rule 1.2, the request should state the question(s) that the requester wants resolved, cite the provision of law under which the question arises, and state all facts the

¹ Assuming the FTC receives clearance for this request, the OMB control number assigned will replace prior OMB Control Number 3084-0047, which, historically, had covered this cumulative collection of information. When last seeking clearance under Control Number 3084-0047, the FTC inadvertently classified the request (ICR Ref. No. 201502-3084-002) as one for generic clearance. This not only mischaracterized the nature of clearance handling sought, but also had the unintended consequence of altering going forward the way in which clearance requests for “FTC Administrative Activities” can be entered and would be processed. To rectify this, OMB advised the FTC to seek a new control number for “FTC Administrative Activities” and, assuming OMB approves this clearance request, to request discontinuation of OMB Control Number 3084-0047.

² Most of the information the FTC collects in response to outside requests generally falls within the “law enforcement” exemption to the PRA, appearing under Parts II and III of the Commission’s Rules of Practice. *See* 16 C.F.R. 2.1 - 3.83. Among other things, this exemption covers information collected by compulsory process pursuant to the Antitrust Civil Process Act or Section 13 of the Federal Trade Commission Improvements Act of 1980 and information collected during the conducting of a Federal investigation, civil action, administrative action, or audit directed against a specific party.

requester believes to be material. Additionally, Rule 1.2 states that the request should disclose the identity of the companies and other persons involved. Such information is necessary to the Commission or FTC staff rendering responsive advice.

The Commission requires former FTC employees to seek clearance to participate in certain matters and 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.

Under certain conditions specified in paragraph (b)(2) of Rule 4.1, a request to participate shall include, among other things, a description of the contemplated participation; the name of the Commission office(s) or division(s) in which the former employee was employed and the position(s) the employee occupied; and a statement whether, while employed by the Commission, the former employee participated in any proceeding or investigation concerning the same company, individual, or industry currently involved in the matter in question.

Under paragraph (b)(8) of Rule 4.1, a screening affidavit shall state: “(A) The former employee will not participate in the proceeding or investigation in any way, directly or indirectly (and describing how the former employee will be screened from participating); (B) The former employee will not share in any fees resulting from the participation; (C) Everyone who intends to participate is aware of the requirement that the former employee be screened; (D) The client(s) have been informed; and (E) The matter was not brought to the participant(s) through the active solicitation of the former employee.”

These regulatory requirements under Rule 4.1 prevent the improper use of confidential nonpublic information acquired while working at the FTC.

FTC Rule 4.11(e), 16 C.F.R. 4.11(e), addresses 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)(2) requires that a person who seeks such testimony or material submit a statement in support of the request. The statement shall set forth the party’s interest in the case or matter, the relevance of the desired testimony or material, and a discussion of whether it is reasonably available from other sources. If testimony is sought, the statement shall also contain a general summary of the testimony and a discussion of whether Commission records could be produced and used in its place. The required information assists staff with determining how to best utilize FTC resources.

(b) Complaint Systems

The FTC’s Bureau of Consumer Protection (“BCP”) uses telephone complaint hotlines and three online consumer complaint forms to handle voluntary consumer grievances for fraud,

identity theft, and National Do Not Call Registry violations.³ Consumers may call a hotline phone number or log on to the FTC’s website to register complaints using the applicable complaint form. This information is crucial for BCP staff to carry out the agency’s consumer protection mission. The FTC is also mandated by Congress under the Identity Theft and Assumption Deterrence Act of 1998, 18 U.S.C. § 1001 et seq., to be the central clearinghouse for identity theft complaints. The FTC’s efforts in this regard serve to fulfill its statutory obligation.

To ensure a quality complaint filing experience, the FTC surveys both online and phone complainants to request feedback on aspects such as precision, duration, and usability of the collection process. Such feedback is highly valuable in ensuring quality complaint collection. Without collecting consumer complaint and customer satisfaction information, the FTC would 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.

(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, the FTC sends letters 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 process. Respondents’ 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.

³ 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 and (2) the www.econsumer.gov complaint form utilized for cross-border complaints.

Statutory authority for the advocacy program is found in part 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.”⁴ 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.⁵

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 proposes to conduct relatively brief follow-up calls with these acquirers.

(2) Use of the Information

(a) Requests to the Commission

Information that the Commission seeks from requesters facilitates an appropriate response to their requests. For example, information submitted to the Commission pursuant to FTC Rule 4.1 enables the Commission to determine whether it should permit a person or entity to participate in an FTC matter. The information sought sheds light on whether the requested participation is likely to give rise to the improper disclosure of nonpublic information (e.g., the Commission will 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). Information submitted pursuant to Rule 4.11(e) requests enables FTC staff to determine how to best allocate agency 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 interest).

(b) Complaint Systems

The FTC’s Consumer Response Center (CRC) processes complaints received by telephone and submitted online and stores them in the Consumer Sentinel Network (Sentinel), a secure online database available only to law enforcement. Sentinel users can use information in

⁴ 15 U.S.C. §§ 46(a), (f).

⁵ *A & B Freight Lines v. FTC*, 1980-1 Trade Cas. (CCH) & 63,127 (D.D.C. 1980), *aff’d*, per curiam, No. 80-1264 (D.C. Cir. Jan 26, 1981), cert. denied, 452 U.S. 962 (1981) (rejecting objections to the FTC’s participating as a party in ICC proceedings involving common carriers and the FTC’s petitioning the ICC to institute a rulemaking proceeding).

the database to spot trends, identify questionable business practices and targets, and enforce the law. Sentinel allows federal, state, local, and international law enforcement organizations common access to a secure database containing over 15 million fraud and identity theft complaints. To date, it has over 2,300 current individual users. The continuous collection of consumer complaint data is critical to Sentinel's sustained success.

(c) Program Evaluations

Advocacy Program—The information gathered through surveying recipients of advocacy comments 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 is also 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 presentation⁶ and a law review article.⁷ The ability to learn from survey results has furthered the success of the FTC's advocacy program, as demonstrated by a 2016 award by the International Competition Network to the FTC for its advocacy work involving disruptive technologies and the sharing economy.⁸

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) Requests to the Commission

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

(b) Complaint Systems

⁶ 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>.

⁷ Arnold C. Celnicker, *The Federal Trade Commission's Competition and Consumer Advocacy Program*, 33 ST. LOUIS UNIVERSITY LAW JOURNAL 379 (1989).

⁸ THE WORLD BANK, *The 2015-2016 Competition Advocacy Contest, How to Build a Culture of Competition for Private Sector Development and Economic Growth* (2016).

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. In recent years, consumers have been more likely to file complaints online. In 2017, consumers filed 705,537 fraud and identity theft complaints online with the FTC. By contrast, consumers filed 404,296 fraud and identity theft complaints via phone, defined as a hotline call as opposed to using the online mobile app.

(c) Program Evaluations

Advocacy Program—Staff typically sends the survey forms out by an online form. 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.

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.

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

(a) Requests 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 requests 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—A purpose of the divestiture review program is to evaluate the effectiveness of the remedies unique to the FTC. While some private entities or members of academia might occasionally focus on an isolated FTC Order’s effectiveness using public data (if available), there are no third parties seeking to gather the type and scale of information that FTC staff seeks for program evaluation purposes.

(5) Efforts to Minimize Burden on Small Businesses

(a) Requests 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 for and participating in the phone calls is limited.

(6) Consequences of Conducting Collection Less Frequently

(a) Requests to the Commission

Not applicable. Information sought from requesters is only as “frequent” as that occasioned by the number and/or frequency of the requests themselves.

(b) Complaint Systems

Not applicable. Information collected from complainants is only as frequent as that generated by incoming complaints.

(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

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

(8) Consultation Outside the Agency

The FTC sought public comment in connection with its instant PRA clearance request. See 83 Fed. Reg. 2988 (January 22, 2018) (“January 22, 2018 Notice”). The FTC also seeks public comment contemporaneously with this submission.

Most comments on the January 22, 2018 *Federal Register* Notice were non-germane, but five comments questioned the reliability of FTC randomly sampling consumer complainants for feedback regarding ftc.gov complaint sites.⁹ The public comments appear focused on the veracity and quality of the complaints and request that the FTC admit only complaints from consumers who are not “misguided” and who demonstrate “critical thinking skills.” The FTC

⁹ Comments of Samuel Meyer; Anthony Clavien; Corey Bates (CEO, Auto Connection); Gary Jodat of Jodat Law Group; Aaron Leidler of Keller Williams Realty (Brentwood, CA).

simply cannot verify the millions of complaints it receives and so it makes clear to law enforcement users of the system that the information is unverified. It is the role of the Sentinel user to judge the veracity of the complaints. For example, the FTC often seeks signed declarations to verify consumer experiences. Additionally, Bureau of Consumer Protection staff meets periodically with its law enforcement partners to help determine how Sentinel can provide the information needed to open and successfully prosecute civil or criminal consumer fraud cases.

The agency conducts surveys to determine consumer satisfaction with the complaint intake systems. The agency uses the American Consumer Satisfaction Index (ACSI) to conduct its survey of the Consumer Response Center. ACSI uses random samples of customer interviews as input to a multi-equation econometric model. Such sampling is a practical measure given the vast volume of consumer complaints entering Sentinel and the limited number of consumers who provide substantive feedback.

For the [ftc.gov](https://www.ftc.gov) complaint sites, the FTC uses a full-measure survey called ForeSee on the Complaint Assistant. When consumers complete the complaint form and hit “Submit,” they are given the invitation to take the survey. The consumer can choose to take the survey or not. The survey is not presented to anyone who does not complete and submit the complaint form. The survey’s key goal is to enable a smooth consumer complaint reporting experience that will result in a consumer complaint entering Sentinel.

(9) Payments or Gifts to Respondents

Not applicable.

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

Information collected by the FTC is maintained and safeguarded in accordance with the requirements of the Federal Information Security Modernization Act of 2014, 44 U.S.C. 3551 *et seq.*, and applicable OMB and NIST guidance. Notice to individuals about the FTC’s information collection authority, purpose, and routine uses of their information is provided under the Privacy Act of 1974, 5 U.S.C. 552a, as applicable, and in system of records notices published pursuant to the Act, including the safeguards that apply to such information. See <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems>.

The FTC may share certain consumer complaints with the company that is the subject of the complaint, if the FTC determines that such sharing 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.¹⁰ 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.

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 a 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).

(12) Burden Estimate

(a) - (c) Estimated annual hours burden: 1,167,181 hours (110 + 1,166,994 + 77)

(a) Requests to the Commission: 110 hours

Based on an averaging of results in recent years, staff estimates that the FTC receives annually approximately 30 requests for clearance submitted by former FTC employees 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 C.F.R. 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, in cases or matters to which the agency is not a party. Rule 4.11(e) requires that a person who seeks such testimony submit a statement in support of the request. That statement must include the party's interest in the given case or matter, the relevance of testimony or material sought, and a discussion whether it is reasonably available from other sources. Staff estimates that agency personnel receive approximately 15 requests per year.

Cumulatively, the above, along with various sundry additional requests of sporadic nature for which the Commission also specifies particular information required of the requester, amount to about 55 requests per year. Staff estimates each respondent will incur, on average, approximately 2 hours of burden to submit a request, resulting in a cumulative 110 burden hours per year (55 requests x 2 burden hours).

¹⁰ 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."

Annual cost burden:

Using the burden hours estimated above, staff estimates that the total annual labor cost, based on an estimated average of \$130/hour for executives' and attorneys' wages, would be approximately \$14,300 (110 hours x \$130).¹¹ There are no capital, start-up, operation, maintenance, or other similar costs to respondents.

(b) **Complaint Systems:** 1,166,994 annual hours

Consumer Response Center (CRC)

Consumers can submit complaints about fraud and other practices to the FTC's CRC by telephone or through the FTC's website. The telephone counselors ask for the same information that consumers would enter on the applicable forms available on the FTC's website. For telephone inquiries and complaints, the FTC staff estimates that it takes 6.1 minutes per call to gather information, and an estimated 4.8 minutes for consumers to enter a complaint online. The burden estimate conservatively assumes that all of the phone call is devoted to collecting information from consumers, although frequently telephone counselors devote a small portion of the call to providing requested information to consumers.

Complaints Concerning the National Do Not Call Registry

To receive complaints from consumers of possible violations of the rules governing the National Do Not Call Registry, 16 C.F.R. 310.4(b), the FTC maintains both an online form and a 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 is 3.0 minutes for phone complaints and 2.5 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

¹¹ 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 (\$145," "Attorney II," "Attorney III," "Attorney IV," and Attorney V" at www.salary.com.

consumer complaints and fraud complaints.¹² Moreover, since January 2016, with the rollout of enhanced features within the FTC’s IdentityTheft.gov website, consumers can create a personal recovery plan and review various steps to implement it. For those that do, FTC staff estimates, based on contractor-provided information, that consumers will need 15 minutes, on average, to complete the complaint form, create an IdentityTheft.gov account, and to review their personalized recovery plan. For those that do not, and based on contractor-provided information, FTC staff estimates that consumers will need 8.5 minutes, on average, to complete the online complaint form.¹³

For consumers who call the CRC with an identity theft complaint, staff estimates that it will take 6 minutes per call to obtain identity theft-related information. A substantial portion of identity theft-related calls typically consists of counseling consumers on other steps they should consider taking to obtain relief (which may include directing consumers to a revised online complaint form). The time needed for counseling is excluded from the estimate.

CRC Surveys

Consumer customer satisfaction surveys give the agency information about the overall effectiveness and timeliness of the CRC. Subsets of consumers contacted throughout the year are questioned about specific aspects of CRC customer service. Each consumer surveyed is asked several questions chosen from a list prepared by staff. The questions are designed to elicit information from consumers about the overall effectiveness of the call center and online complaint intake. For the online survey, half of the questions ask consumers to rate CRC performance on a scale or require a yes-or-no response. The second half of the online survey asks more open-ended questions seeking a short answer. In addition, the CRC may survey a sample of consumers immediately after they file their complaints regarding the services they received. Staff estimates that each respondent will require 4.3 minutes to answer the questions during the phone survey and about 3.1 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. It randomly selects consumers to take part in a brief survey to provide feedback about the Web site. Staff estimates the brief survey will require 6.5 minutes per respondent. This estimate and others relating to ForeSee surveys are included under “Misc. and fraud-related consumer complaints (Web chat)” in the table below.

¹² The FTC received a mandate from a presidential executive order entitled “Improving the security of Consumer Financial Transactions” on October 17, 2014 to create a complete service and complaint form for Identity Theft victims.

¹³ According to system-generated results, 84% of complainants using IdentityTheft.gov opt to create a personalized recovery plan. By extension, 16% do not. These apportionments inform the associated population figures that appear in the table below regarding identity theft complaints online.

Consumer Sentinel Network Survey

The FTC might conduct a brief survey of Consumer Sentinel Network satisfaction within the next three years. It will likely be an online survey with 10-minute duration. If so, estimated maximum burden would be 417 hours if every member completed it, given that the maximum possible Sentinel user base is 2,500 users.

What follows is a tabular presentation of staff's estimates of burden for these various collections of information, including the surveys. The figures for the online forms and consumer hotlines are an average of annualized volume for the respective programs, including both current and projected volumes over the 3-year clearance period sought. The number of respondents for each activity has been rounded to the nearest thousand. The vast increase from the last estimate, 186,884 hours, to the current estimate, 1,166,994 hours, reflects strong consumer participation in the agency's complaint collection process.¹⁴

Activity	#Respondents	#Minutes/Activity	Total Hours
Misc. and fraud-related consumer complaints (phone)	973,690	6.1	98,992
Misc. and fraud-related consumer complaints (online)	1,228,635	4.8	98,291
Misc. and fraud-related consumer complaints (Web chat)	175,926	6.5	19,058
Do-Not-Call related consumer complaints (phone)	1,795,155	3.0	89,758
Do-Not-Call related consumer complaints (online)	13,800,657	2.5	575,027
Identity theft complaints (phone)	1,183,533	6.0	118,353
Identity theft complaints	589,209	15.0	147,302

¹⁴ The population estimates generally present marked increases from prior submissions for OMB clearance regarding information collected through these activities. While the FTC cannot definitively explain such pronounced increase in consumer visits to the FTC complaint site, the following are several possible factors: (1) a sharp rise in Do-Not-Call violations (by extension, an associated increase in consumer complaints); (2) increased media coverage regarding the Do-Not-Call and identity theft portals; and (3) expanded FTC outreach regarding its ftccomplaintassistant.gov website.

(online) (those who create a personal recovery plan)			
Identity theft complaints (online) (those who complete online form but do not create a personal recovery plan)	112,230	8.5	15,899
CRC Customer Satisfaction Questionnaire (phone)	20,084	4.3	1,439
CRC Customer Satisfaction Questionnaire (online)	47,572	3.1	2,458
Consumer Sentinel Network Survey	2,500	10	417
Totals	19,929,191		1,166,994

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: 77 hours

Advocacy Program – 5 hours

As noted in Section A.1 above, FTC staff intends to continue its yearly practice of surveying advocacy comment recipients and other relevant decision makers to help it evaluate the effectiveness of the comments themselves. 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 competition advocacy opportunities.

FTC staff estimates that, on average, respondents will each require 15 minutes or less to complete the questionnaire. Thus, staff estimates a cumulative 5 burden hours per year (15 minutes of burden per respondent x 20 respondents per year). 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). Thus, staff estimates a total labor cost of \$25 for each response (15 minutes of burden at \$100 per hour). Assuming 20 respondents will complete the questionnaire on an annual basis, staff estimates cumulative yearly labor costs will approximate \$500. There are no capital, start-up, operation, maintenance, or other similar costs to respondents.

Divestiture Review

The Commission issues, on average, approximately 15 - 17 orders in merger cases per year that require divestitures or other remedies. Bureau of Competition (BC) staff monitors and evaluates these required remedies by interviewing representatives of the Commission-approved buyers of the divested assets¹⁵ 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 monitors, 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, and participation is voluntary.

Regarding buyer interviews, 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 monitors typically involve only the monitor and take approximately one hour to complete with no more than one hour to prepare for the interview. Assuming that staff evaluates approximately 17 divestitures per year during the three-year clearance period, the total hours burden for the responding companies will be approximately 68 hours per year (17 divestiture reviews x 4 hours

¹⁵ In rare instances when staff has difficulty reaching the buyer (e.g., the initial buyer has either sold the divested assets or has dissolved in bankruptcy), staff will attempt to contact the then current owners of the assets if one exists. Even so, the information gathered during the interviews with successor owners will be very similar to what staff would seek from the initial buyer.

for preparing and participating). Staff may include approximately 2 monitor 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 \$145/hour for executives' and attorneys' wages, would be approximately \$10,440 (72 hours x \$145).¹⁶ There are no capital, start-up, operation, maintenance, or other similar costs to respondents.

(13) Estimated Capital and other Non-Labor Costs

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

(14) Estimated Cost to Federal Government

Internal costing is based on the following assumed hourly wages for FTC staff, inclusive of benefits: attorneys (\$94/hour); paralegals (\$63/hour); secretarial (\$41/hour).

(a) Requests to the Commission: \$16,500

Based on an averaging of results over several years, the FTC annually receives approximately 22 requests for clearance submitted by former FTC employees in order to participate in certain matters and 7 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, in addition to 15 minutes of paralegal or secretarial support for each request, resulting in an annual cost of approximately \$6,000.

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. Based on results from the 2017 calendar year, staff estimates that agency personnel receive approximately 15 requests per year, with about a dozen of those being for materials (and/or materials and testimony, combined) and the remainder solely for testimony. Staff estimates that requests solely for FTC employee testimony will require approximately two hours of staff attorney time plus 15 minutes of paralegal or secretarial support on each request.

¹⁶ See *supra* note 11 (attorney salary source data for "Managing Attorney").

Combined, that results in an approximate yearly cost between \$600 - \$700 for three such requests.

Other types of requests are either infrequent (e.g., request for an advisory opinion) or difficult to quantify in volume and/or time accorded them (e.g., Rule 4.11(e) requests for materials and attempting to average time accorded them¹⁷). Combined with the dozen or so Rule 4.11(e) requests per year, FTC staff projects these assorted requests will total roughly 25 in a given year and, for simplicity, assumes that each will require on average four hours of attorney time and 15 minutes of paralegal or secretarial support. Cumulatively, for the 25 such requests, this totals approximately \$9,700 - \$9,800 per year.

(b) Complaint Systems: \$12,300,000

The total annual contract cost to the agency for its consumer complaint intake system discussed above is approximately \$12,300,000.

(c) Program Evaluations: \$6,600

Advocacy Program—Assembling and sending out the aforementioned estimated 20 surveys will require approximately 3 attorney hours, at a cost of approximately \$94 per hour (3 x \$94 = \$282), and 7 paralegal hours, at a cost of approximately \$63 per hour (7 x \$63 = \$441). Most surveys will likely be sent through an online form (via Survey Monkey); 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 x \$0.84 = \$1.68), and 2 return mailings, at an estimated cost of \$0.44 each (2 x \$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 \$94 per hour (20 x \$94 = \$1,880). Thus, the total annual cost to the agency for the information collection is approximately \$2,600.

Divestiture Review—The total annual cost to the agency for the information collection is approximately \$4,000. Each of the 17 annual reviews require approximately 2.5 hours by a staff attorney (\$94/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

¹⁷ Responding to requests for materials can cost substantially more than responding to request simply for Commission employee testimony since they generally require several hours, perhaps even days, of paralegal and staff attorney time to search for and properly categorize documents.

This is a new collection under the control number to be assigned if approved by OMB. However, as compared to the prior clearance request pursued under OMB Control Number 3084-0047 (see *supra* note 1), the large increase in estimated annual hour burden (from 222,622 hours to 1,167,181 hours) is primarily due to dramatically increased consumer participation in the FTC's complaint collection process (see *supra* note 14).

(16) Plans for Tabulation and Publication

(a) Requests to the Commission

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

(b) Complaint Systems

The agency posts annual Data Books based on aggregate data from consumer fraud and identity theft complaints on the 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. There is also a counterpart annual analysis of National Do Not Call Registry complaints. Additionally and often at the request of Congress or agency staff, the agency may create ad hoc reports containing the same data covering specific industry and regional sectors.

(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 presentation¹⁸ and a law review article.¹⁹ We anticipate periodic tabulation of newly received survey responses to prepare internal memoranda. Although we have no specific plans for publication, external publication of the data in some format in the future is possible.

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

(17) Display of the Expiration Date for OMB Approval

¹⁸ 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>.

¹⁹ Arnold C. Celnicker, *The Federal Trade Commission's Competition and Consumer Advocacy Program*, 33 ST. LOUIS UNIVERSITY LAW JOURNAL 379 (1989).

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”

None.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

(1) Description of Sampling Methodology

Surveying of the complaint intake system involves convenience sampling. The online survey presents invitations to 80% of visitors who reach a certain point in the complaint process. It is presented randomly to visitors based on certain parameters. The phone survey involves a census of all callers to the FTC Call Center rather than a sample of callers. The surveyors do not contact any individual more than once every 90 days even if they have contacted the FTC call center repeatedly.

Surveying of the Consumer Sentinel Network involves convenience sampling. A survey would be distributed to all active users. Staff anticipates a fractional response based on past performance.

No sampling is conducted for surveying regarding the advocacy program and interviews concerning effectiveness of divestiture orders. Input will be sought from the respective full populations at issue. Those qualitative feedback programs are tools program managers use to change or improve programs, products, or services. The accuracy, reliability, and applicability of the results of these feedback activities are adequate for their purpose.

(2) Description of the Information Collection Procedures

As discussed more fully in Part A above, FTC staff will survey stakeholders in several different ways. The CRC satisfaction questionnaire will be done online and by phone. A Consumer Sentinel Network survey, if done, likely would be presented online. Surveying of stakeholders regarding the FTC’s advocacy program will be done online, and staff will conduct phone interviews to gauge the effectiveness of and learn of issues with a sampling of approximately 15 – 17 Commission divestiture orders. Drawing reliable conclusions from the large volume of those such surveyed regarding the CRC (over 20,000 by phone and over 45,000 online) and the Consumer Sentinel Network (approximately 2,500) does not require one hundred percent participation of stakeholders. However, given the considerably more finite populations at issue in a given year regarding Commission advisory opinions and recipients of divestiture orders, the full universe for them, respectively, is solicited for qualitative feedback.

For the online CRC customer satisfaction survey, data is collected randomly from site visitors. The data is then loaded to the portal and suite overnight to apply the methodology weighting for impacts. For the phone customer satisfaction survey, responses are collected using outbound interactive voice response (IVR) technology. Following the file cleaning process, all telephone numbers are automatically dialed once by the outbound IVR system. Recipients of these outbound calls are invited to respond to a short survey regarding their recent experience contacting the FTC. Respondents are asked to use their telephone keypad to enter their responses.

For the Consumer Sentinel Network survey, active users would be directed to a short online survey where they would answer multiple-choice and freeform questions.

(3) Methods to Maximize Response Rates/Reliability of Sample Data

Information collected will not yield generalizable quantitative findings; it can provide useful customer input, but it does not yield data about customer opinions that can be generalized.

For the online CRC customer satisfaction survey, the methods include the following: (1) adjusting the sampling percentages (visitors who will receive the invite if the loyalty factor requirement is met); (2) adjusting the loyalty factor (minimum number of page visits in a session needed to qualify for survey invitation); (3) adjusting the persistent cookie (amount of time before visitor can be presented with another survey, typically between 30-90 days); (4) ensuring the code is properly set up on all site pages; and (5) adjusting the number of excludes URLs from invitation presentation. For the phone customer satisfaction survey, the surveyors do not contact any unique telephone number more than once within a 90-day period to maximize response and minimize consumer burden.

For the Consumer Sentinel Network survey, the format would emphasize clear multiple-choice questions, such as frequency of use and types of data accessed.

(4) Testing of Procedures or Methods Undertaken

No pretesting is undertaken regarding the activities within this clearance for which evaluative surveys or interviews are conducted. For surveying concerning the FTC complaint intake mechanism, surveyors test and evaluate the surveys for accuracy and usability. The ACSI methodology is a well-vetted approach for measuring and interpreting customer satisfaction data, having been widely used across the Federal government since 1999.

(5) Individuals Consulted on Statistical Aspect of the Surveys

As noted above, the FTC contracts with ACSI to conduct surveys regarding customer satisfaction concerning ftc.gov complaint sites. To reiterate, no limited sampling and statistical

approaches are employed in soliciting feedback from those who receive Commission advocacy comments or from buyers of divested assets in the first year after a divestiture's completion. For those programs, staff seeks input from the respective full affected universe.

For the online CRC customer satisfaction survey, the two individuals consulted were Jose Benki, Senior Research Scientist, and Jae Cha, Chief Research Scientist. They can be reached through ForeSee Corporate Headquarters, 2500 Green Road, Suite 400, Ann Arbor, MI 48105, phone number (800) 621-2850. For the phone customer satisfaction survey, the expertise to employ and interpret the ACSI methodology resides within CFI Group, the only organization licensed to provide the ACSI methodology to the Federal Government. CFI Group can be reached at 625 Avis Drive, Ann Arbor, MI 48108, phone number (734) 930-9090.

For the Consumer Sentinel Network survey, the individuals consulted would be the Sentinel Program Manager, contracting staff, and other applicable FTC staff that have an interest in the database.