

FEDERAL TRADE COMMISSION**Agency Information Collection Activities; Submission for OMB Review; Comment Request**

AGENCY: Federal Trade Commission (“FTC” or “Commission”).

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (“OMB”) for review, as required by the Paperwork Reduction Act. The FTC is seeking public comments on its proposal to extend through October 31, 2011, the current OMB clearance for the information collection requirements pertaining to the Commission’s administrative activities. That clearance expires on October 31, 2008, and 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; (c) the FTC’s program evaluation activities and; (d) the FTC’s Applicant Background Form.

DATES: Comments must be filed by November 13, 2008.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to “Administrative Activities: FTC File No. P911409” to facilitate the organization of comments. Please note that comments will be placed on the public record of this proceeding—including on the publicly accessible FTC website, at (<http://www.ftc.gov/os/publiccomments.shtml>) — and therefore should not include any sensitive or confidential information. In particular, comments should not include any sensitive personal information, such as an individual’s Social Security Number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any “[t]rade secrets and commercial or financial information obtained from a person and privileged or confidential. . . .” as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in

paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c).¹

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (<https://secure.commentworks.com/ftc-adminactivitiespra2>) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink: (<https://secure.commentworks.com/ftc-adminactivitiespra2>). If this Notice appears at (<http://www.regulations.gov/search/index.jsp>), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at <http://www.ftc.gov> to read the Notice and the news release describing it.

A comment filed in paper form should include the (<https://secure.commentworks.com/ftc-adminactivitiespra2>) reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

All comments should additionally be submitted to: Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission. Comments should be submitted via facsimile to (202) 395-6974 because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic

form. Comments received will be available to the public on the FTC website, to the extent practicable, at (<http://www.ftc.gov/os/publiccomments.shtml>). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC’s privacy policy, at (<http://www.ftc.gov/ftc/privacy.shtml>).

FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be addressed to Nick Mastrocinque, Attorney; Edwin Acajabon, Program Manager, Division of Planning and Information, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave., N.W., H-228, Washington, D.C. 20580, (202) 326-3188; (202) 326-3684.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act (“PRA”), 44 U.S.C. 3501-3520, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. On July 21, 2008, the FTC sought comment on the information collection requirements pertaining to the Commission’s administrative activities (OMB Control Number 3084-0047).² No comments were received. Pursuant to the OMB regulations that implement the PRA (5 CFR Part 1320), the FTC is providing this second opportunity for public comment while seeking OMB approval to extend the existing paperwork clearance for the Commission’s administrative activities. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before November 13, 2008.

The Commission’s Administrative Activities 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; (c) FTC program evaluation activities; and (d) the FTC’s Applicant Background Form.

Estimated annual hours burden: 380,295 hours.

(a) Applications to the Commission, including applications and notices contained in the Commission’s Rules of Practice: 100 hours

Most applications to the Commission generally fall within the “law

¹ FTC Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. See FTC Rule 4.9(c), 16 CFR 4.9(c).

² 73 FR 42346.

enforcement” exception to the PRA³ 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 5 screening affidavits submitted by partners or legal or business associates of former employees pursuant to Rule 4.1, 16 CFR 4.1.⁴ 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. Staff estimates that agency personnel receive approximately 1 request per month or 12 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 50 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 100 burden hours (50 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 a conservative estimated average of \$425/hour for executives’ and attorneys’ wages, would be approximately \$42,500 (100 hours x \$425). There are no capital, start-up, operation, maintenance, or other similar costs to respondents.

(b) Complaint Systems: 379,728 hours

³ The “law enforcement” exception to the PRA excludes most items in this subcategory because they involve collecting information during the conduct of a Federal investigation, civil action, administrative action, investigation, or audit with respect to a specific party, or subsequent adjudicative or judicial proceedings designed to determine fines or other penalties. See 44 U.S.C. 3518(c)(1); 5 CFR 1320.4(a)(1)-(3).

⁴ Staff’s estimates do not include Rule 4.1 submissions that pertain to ongoing law enforcement matters. See *supra* note 3.

Consumer Response Center

Consumers can submit complaints about fraud and other practices to the FTC’s Consumer Response Center by telephone or through 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. For telephone inquiries and complaints, the FTC staff retains its previous estimates that it takes 4.5 minutes per call to gather information, somewhat less time than the 5 minutes estimated 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 CFR 310.4(b), the FTC maintains both an online form and a toll free hotline with automated voice response system. Consumer complainants must provide either the name or telephone number of the company about which they are complaining, the phone number that was called, and the date of the call. They may also provide their name and address so they can be contacted for additional information, as well as for a brief comment regarding their complaint. In addition, online complainants have the option of answering three yes-or-no questions to help law enforcement investigating complaints; this option will also soon be made available to phone complainants. The FTC staff estimates that the time required of consumer complainants is 3.5 minutes for phone complaints and 2.5 minutes for online complaints.⁵

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

⁵ This is a slight increase from staff’s 2005 estimates because of additional information collected, such as comments and three optional yes-or-no questions.

multiple suspects) than general consumer complaints and fraud complaints. In addition, the FTC has expanded the information required on its online complaint form (such as collecting additional information about the fraudulent activity at affected companies and creating an attachment summarizing all of the fraudulent account activity as well as all fraudulent information on the consumer’s credit report). Consumers can print out a copy of the revised form and use it to assist them in completing a police report, if appropriate, and, as also may be necessary, an identity theft report. See 16 CFR 603.3 (defining the term “identity theft report”). FTC staff continues to estimate that the revised online form takes consumers up to 13 minutes to complete.

The FTC also made some revisions in the information it collects from consumers who call the Consumer Response Center (“CRC”) with identity theft complaints. Moreover, in order to better serve consumers who are unable to file complaints online, staff will send those who call the CRC with identify theft complaints a blank complaint form (identical to the online printed form) to assist them with completing a police or identity theft report as appropriate. Staff estimates that it will take 14 minutes per call to obtain identity theft-related information.⁶ 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.

Surveys

Consumer customer satisfaction surveys give the agency information about the overall effectiveness and timeliness of the CRC. The CRC surveys roughly 1 percent of complainants who file identity theft or general consumer complaints. 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. 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 survey asks more

⁶ This is a 5 minute increase from staff’s 2005 estimate in order to account for the time it will take consumers to fill out the blank complaint form.

open-ended questions seeking a short written or verbal answer. In addition, the CRC may survey a sample of consumers immediately after they file their complaints regarding the services they received. Staff retains its previous estimate that each respondent will require 4 minutes to answer the questions (approximately 20-30 seconds per question).

Finally, Consumer Sentinel user surveys give the agency information about the overall effectiveness of its Consumer Sentinel Network. Consumer Sentinel allows federal, state and local

law enforcement organizations common access to a secure database containing over six million complaints from victims of consumer fraud and identity theft, as well as other complaints the FTC collects. To date, Consumer Sentinel has over 1,700 members, including law enforcement agencies from Canada and Australia. FTC staff plan to survey a sizeable number of Consumer Sentinel users each year about such things as overall satisfaction, performance, and possible improvements. Staff retains its previous

estimate that the surveys should generally take approximately 10 minutes per respondent.

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

Activity	# respondents	# minutes/activity	Total Hours
Misc. and fraud-related consumer complaints (phone)*	396,000	4.5	29,700
Misc. and fraud-related consumer complaints (online)**	520,000	5	43,333
Identity theft complaints (phone)*	385,700	14	89,997
Identity theft complaints (online)**	170,000	13	36,833
Do-Not-Call related consumer complaints (phone)	531,000	3.5	30,975
Do-Not-Call related consumer complaints (online)	3,548,000	2.5	147,833
Customer Satisfaction Questionnaire	9,600	4	640
Consumer Sentinel User Surveys	2,500	10	417
Totals	5,562,800		379,728

* Number of consumer calls calculated by projecting over the 3-year clearance period sought 5% annual growth and a telephone contractor response rate of 95% (contracted level of service) with regard to consumers who call the toll free lines and opt to talk to a counselor.

** Number of online collections projected from number of consumers who use the FTC's online complaint forms noted in the text above. These figures also assume 5% annual growth for miscellaneous and fraud-related complaints, and 8% annual growth for identity theft online complaints, over the 3-year clearance period requested.

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: 175 hours

Review of Divestiture Orders

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 OMB and conducted by the staffs of the Bureau of Competition ("BC") and the Bureau of Economics,⁷ BC monitors these required 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;⁸ 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 some cases, BC staff may also interview other participants, including customers or trustee monitors, as 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 a lawyer represents the

company. Each interview takes approximately one hour to complete. BC staff further estimates that it takes each participant no more than one hour to prepare for the interview. In some instances, staff may do additional interviews with customers of the responding company or the monitor. Staff conservatively estimates that for each interview, two individuals (a company executive and a lawyer) will devote two hours (one hour preparing and one hour participating) each to responding to questions for a total of four hours. In addition, for approximately half of the divestitures, staff will seek to question two additional respondents, adding four participants (a company executive and a lawyer for each of the two additional respondents) devoting two hours each, for a total of eight additional hours. Assuming that staff evaluates up to 20 divestitures per year during the three-year clearance period, the total hours burden for the responding companies will be approximately 160 hours per year ((20 divestiture reviews x 4 hours for preparing and participating) + (10

⁷ The Staff of the Bureau of Competition of the Federal Trade Commission compiled its findings from the study in its report: *A Study of the Commission's Divestiture Process*, 1999, available at <http://www.ftc.gov/os/1999/08/divestiture.pdf>.

⁸ To the extent that the staff interviews focus on a law enforcement activity (whether the party to the order complied with all its obligations), the interviews are not subject to the requirements of the PRA. See *supra* note 3.

divestiture reviews x 8 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 \$425/hour for executives' and attorneys' wages, would be approximately \$68,000 (160 hours x \$425). There are no capital, start-up, operation, maintenance, or other similar costs to respondents.

Review of Competition Advocacy Program

The FTC's competition 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 competitive effects of their proposed actions. The FTC Office of Policy Planning ("OPP") sends approximately 20 letters or written comments to different state and federal government officials annually, which provide guidance on the likely competitive effects of various laws or regulations.

In the past, 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 sent. 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. Participation is voluntary.

OPP staff estimates that on average, respondents will take 30 minutes or less to complete the questionnaire and 15 minutes of administrative time to prepare the response for mailing. 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 \$16 for administrative support time. Thus, staff estimates a total labor cost of \$54 for each response (30 minutes of burden at \$100 per hour plus 15 minutes of burden at \$16 per hour). Assuming 20 respondents will complete the questionnaire on an annual basis, staff estimates the total annual labor costs will be approximately \$1,080 (\$54 per response x 20 respondents). There are no capital, start-up, operation, maintenance, or other similar costs to respondents.

(d) Applicant Tracking Form: 292 hours

The FTC's Human Resources Management Office surveys job applicants on their ethnicity, race, and disability status in order to determine if recruitment is effectively reaching all aspects of the relevant labor pool, in compliance with management directives from the Equal Opportunity Employment Commission. Response by applicants is optional. The information obtained is used for evaluating recruitment only and plays no part in the selection of who is hired. The information is not provided to selecting officials. Instead, the information is used in summary form to determine trends over many selections within a given occupational or organizational area. The information is treated in a confidential manner. No information from the form is entered into the official personnel file of the individual selected and all forms are destroyed after the conclusion of the selection process. The format of the questions on ethnicity and race are compliant with OMB requirements and comparable to those used by other agencies.

Based upon past activity, the FTC staff estimates that up to 7,000 applicants will submit the form as part of the new online application process and that the form will require approximately 2.5 minutes to complete, for an annual burden total of approximately 292 hours (7000 applicants x 2.5 minutes to complete the form).

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.

William Blumenthal,
General Counsel.

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FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission ("Commission" or "FTC").

ACTION: Notice.

SUMMARY: The FTC plans to conduct a study to examine consumer perception of environmental marketing claims. This activity is part of the Commission's regulatory review of the Guides for the Use of Environmental Marketing Claims ("Green Guides" or "Guides"). Before gathering this information, the FTC is seeking public comments on the proposed study. Comments will be considered before the FTC submits a request for Office of Management and Budget ("OMB") review under the Paperwork Reduction Act ("PRA").

DATES: Comments must be received on or before December 15, 2008.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to "Green Marketing Consumer Perception Study, Project No. P954501" to facilitate the organization of comments. Please note that comments will be placed on the public record of this proceeding—including on the publicly accessible FTC website, at (<http://www.ftc.gov/os/publiccomments.shtml>)—and therefore should not include any sensitive or confidential information. In particular, comments should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any "[t]rade secrets and commercial or financial information obtained from a person and privileged or confidential . . .," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2) (2008). Comments containing