

**Before The  
Office of Management and Budget  
Washington, D.C.**

**In The Matter Of Information** )  
**Collection Submitted for Review And Approval** ) OMB Control No. 3060-1186  
**To The Office Of Management And Budget** )  
 ) FCC Docket No. 13-39

**COMPTTEL’S PAPERWORK REDUCTION ACT  
COMMENTS REGARDING RURAL CALL COMPLETION DATA COLLECTION**

COMPTTEL, through undersigned counsel and on behalf of its members, hereby submits these comments regarding the Federal Communications Commission’s (“FCC”) compliance with the Paperwork Reduction Act (“PRA”), 44 U.S.C. §§3501 *et seq.*, in its proposal to collect massive amounts of data pursuant to the rules adopted in its Rural Call Completion docket.<sup>1</sup>

**INTRODUCTION**

The FCC issued the Orders in the Rural Call Completion Docket to address concerns regarding poor completion rates for long distance calls to rural areas.<sup>2</sup> The FCC seeks permission from OMB to collect a vast amount of data from telecommunications service providers (“covered providers”) on a quarterly basis for the purpose of “improving the FCC’s ability to monitor the delivery of long-distance calls to rural areas [and] aiding enforcement

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<sup>1</sup> *In the Matter of Rural Call Completion*, WC Docket No. 13-39, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-15 (rel. Nov. 8, 2013) (“Rural Call Completion Report and Order”); *In the Matter of Rural Call Completion*, WC Docket No. 13-39, Order on Reconsideration, FCC 14-175 (rel. Nov. 13, 2014) (“Order on Reconsideration”). See 79 Fed.Reg. 68242 (Nov. 14, 2014).

<sup>2</sup> Report and Order at ¶¶1, 3.

action in connection with providers' call completion practices as necessary. . . ."<sup>3</sup> While the call completion information the FCC has directed covered providers to collect, retain and report may confirm the existence of a rural call completion problem, it will not resolve or eliminate the problem.<sup>4</sup> In determining whether the FCC's new rules comply with the PRA, OMB must weigh the questionable effectiveness of the rules in eliminating the rural call completion problem<sup>5</sup> against the enormous costs covered providers will incur to comply with the rules.

One of the purposes of the PRA is to "minimize the paperwork burden for . . . small businesses . . . and other persons resulting from the collection of information by or for the Federal Government." 44 U.S.C. §3501(1). Another is to "ensure the greatest possible public benefit from and maximize the utility of" information collected. 44 U.S.C. §3501(2). Section 3502(2) of the PRA defines "burden" as "time, effort or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency. . . ." 44 U.S.C. §3502(2). Section 3506(c)(A)(iv) requires the FCC to provide "a specific, objectively supported

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<sup>3</sup> *Id.* at ¶ 2; Order on Reconsideration at ¶ 1 (The Report and Order "created a framework to improve the ability to monitor call problems and take appropriate enforcement action.")

<sup>4</sup> *See* Comments of COMPTTEL filed with the FCC in WC Docket No. 13-39 on May 13, 2013 and Reply Comments filed on June 10, 2013; *see also*, Comments of Comcast Corporation filed with the FCC in WC Docket No. 13-39 on May 13, 2013 at 13.

<sup>5</sup> A number of providers proposed less burdensome alternatives to the data collection, retention and reporting requirements designed to identify call failures in real time and allow providers to contemporaneously investigate the cause of the failure and implement a solution. *See e.g.*, Comments of Verizon and Verizon Wireless filed with the FCC in WC Docket No. 13-39 on May 13, 2013 at 6-8; Reply Comments of Verizon and Verizon Wireless filed with the FCC in WC Docket No. 13-39 on June 10, 2013 at 3-5; Comments of Comcast Corporation filed with the FCC in WC Docket No. 13-39 on May 13, 2013 at 13-14; Comments of Hypercube Telecom LLC filed with the FCC in WC Docket No. 13-39 on January 16, 2014 at 20-24; February 14, 2014 Letter from Helen Disenhaus, counsel to Hypercube, to Marlene Dortch, filed with the FCC in WC Docket No. 13-39; Comments of CenturyLink filed with the FCC in WC Docket No. 13-39 on May 13, 2013 at 7-8; Comments of Time Warner Cable Inc. filed in WC Docket No. 13-39 on May 13, 2013 at 8-9. The FCC rejected all of these proposals.

estimate of burden” for any proposed data collection. 44 USC §3506(c)(A)(iv). The FCC has failed to provide any, much less specific and objective, support for its estimate of the burden of complying with the new data collection, retention and reporting obligations. COMPTTEL submits that the FCC has significantly underestimated the burden the new requirements will impose on covered providers.

### **The FCC Has Underestimated the Cost of Compliance**

During the course of the Rural Call Completion rulemaking proceeding, numerous commenting parties representing all segments of the industry informed the FCC that they do not routinely collect and retain all of the information that is the subject of the FCC’s data collection, retention and reporting requirements and that it would be burdensome and expensive to do so.<sup>6</sup>

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<sup>6</sup> See e.g., Reply Comments of Comcast Corporation filed in WC Docket No. 13-39 on June 11, 2013 at 1 (“[t]he record developed in response to the *Notice* demonstrates that many affected service providers currently cannot comply with the proposed rural call completion reporting requirements and that upgrading their systems would be a costly undertaking.”); *Id.* at 4 (it would be onerous for providers to track, record and report the reason for each call completion failure and virtually impossible for originating providers to provide information regarding all intermediate providers in a call path); Comments of CTIA—The Wireless Association filed in WC Docket No. 13-39 on May 13, 2013 at 4-6 (wireless carriers currently do not track much of the information that the FCC proposes to collect and would face a significant implementation burden in addition to the data collection, reporting and retention burdens); Comments of Sprint Nextel Corporation filed in WC Docket No. 13-39 on May 13, 2013 at 16 (“many (perhaps all) carriers currently do not collect all of the data” required by the proposed rules); Reply Comments of Verizon and Verizon Wireless filed in WC Docket No. 13-39 on June 11, 2013 at 4-6; Comments of CenturyLink filed in WC Docket No. 13-39 on May 13, 2013 at 12 (“Systems development work would be necessary in order for CenturyLink to be able to capture the information proposed by the FCC for its legacy CenturyLink long-distance network. Even where that information is available today, it is not routinely retained beyond 30 days in some of the systems in which the target data is held.”); Comments of Frontier Communications Corporation filed in WC Docket No. 13-39 on May 13, 2013 at 8 (Frontier currently retains 6 of the 8 data points the rules require carriers to collect, retain and report but the 2 that are not industry standard would be difficult to implement); *Id.* at 7 (the “new long distance call data retention [requirements] would require significant industry changes and investments from current data retention”); Reply Comments of TelePacific Communications filed in WC Docket No. 13-39 on March 11, 2014 at 3 (TelePacific cannot use its existing call records to report all of the requested data) and PRA Comments of TelePacific Corp. at 4-7 and Declaration of Nancy Lubamersky in

Rather than rely on the data that was developed on the record, the FCC based its calculation of the total capital and start-up costs for the new information collection on the totally unsupported assumption that “[a]s a customary business practice, most long-distance service providers collect call data records with the specified information in a central repository to support business and network operations system” and that the information is archived in a “readily retrievable electronic form.”<sup>7</sup> This assumption cannot be reconciled with the material filed by affected providers in the Rural Call Completion proceeding before the FCC. Compounding this error, the FCC estimated that only “one quarter of covered providers” will need to add information to their existing call data record format and that those providers will incur a one-time software development cost of \$200,000.<sup>8</sup>

The FCC estimated that the total start-up cost to the industry for the information collection will be \$6,350,000<sup>9</sup> and annualized that total over eight years for a cost of \$793,750 per year.<sup>10</sup> During the course of the rulemaking proceeding, covered providers estimated that

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Support of Paperwork Reduction Act Comments filed February 28, 2014; Comments of Level 3 on the *Rural Call Completion Notice of Proposed Rulemaking* filed in WC Docket No. 13-39 on May 13, 2013 at 7 (“It is simply not going to be possible to determine and track jurisdiction on a call by call basis.”); MidContinent Communications Request For Waiver filed in WC Docket No. 13-39 on January 23, 2014 at 5-6 (MidContinent cannot currently compile or retain the call data records contemplated by the new rules. MidContinent estimates that obtaining and installing the necessary equipment and software to capture the call signaling information required to compile the data would cost \$150,000, plus an additional undetermined cost for at least one terabyte of new data storage capacity, plus the cost of a new full-time employee to handle the data collection, retention and reporting.)

<sup>7</sup> FCC Supporting Statement (November 2014) at page 9.

<sup>8</sup> *Id.*

<sup>9</sup> Supporting Statement at pages 9-10.

<sup>10</sup> Supporting Statement at page 9.

their own costs of complying with the data collection, retention and reporting requirements would be considerably higher than the FCC's estimate. AT&T, for example, estimated its compliance costs at \$3 to \$5 million.<sup>11</sup> The FCC seemed to discount the significance of AT&T's estimate on the grounds that AT&T has "filed a petition for waiver indicating that it now plans to avail itself of the RCC safe harbor with its reduced retention and reporting requirements."<sup>12</sup> When the FCC adopted the waiver procedures, it made clear that covered providers were free to file requests for waiver before the FCC had received OMB approval for the data retention and reporting requirements.<sup>13</sup> AT&T accepted the FCC's invitation and filed its petition for waiver on April 15, 2014. AT&T estimated that *even if the waiver were granted*, however, its costs of compliance would be \$1 million.<sup>14</sup> Although the FCC encouraged its Wireline Competition Bureau "to act on such requests on an expedited basis,"<sup>15</sup> eight months have passed with no action by Wireline Competition Bureau on AT&T's waiver request. The existence of an ungranted petition for waiver of the recordkeeping and reporting rules should not be factored into the calculation of the costs of compliance with the new information collection requirements.

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<sup>11</sup> See October 23, 2013 letter of Brian J. Benison, AT&T to Marlene H. Dortch filed in WC Docket No. 13-39.

<sup>12</sup> Supporting Statement at page 5.

<sup>13</sup> Rural Call Completion Order at ¶97.

<sup>14</sup> Petition for Limited Waiver of AT&T Services Inc. filed in WC Docket No. 13-39 on April 15, 2014 at 15. See also, Rural Call Completion Report and Order at ¶ 96 ("The Bureau shall require, as a condition of a waiver, that a provider report information about rural call completion for a one-year period, and such a report may be based on a statistically valid sample of calls.")

<sup>15</sup> Rural Call Completion Report and Order at ¶ 97.

CenturyLink estimated that it would spend \$7.5 to \$10.5 million in non-recurring costs for the new information collection requirements and another \$2.8 to \$4.3 million in annual data storage costs.<sup>16</sup> Sprint estimated that it would spend \$6.8 million per year to comply with the new information collection requirements.<sup>17</sup>

In contrast to the estimates submitted by covered providers, the FCC calculated the industry wide total compliance cost of \$6,350,000 based on the following assumptions:

1. It assumed that 25 percent of the 90 covered providers would incur a one-time software cost of \$200,000, for a total of \$4,500,000.<sup>18</sup>
2. It assumed that each covered provider would incur a one-time report generation software application development cost of \$15,000 for a total of \$1,350,000.<sup>19</sup>
3. It assumed that 10 covered providers would elect to segregate and report autodialer traffic separately and that each provider would incur a \$50,000 start-up cost to do so for a total of \$500,000.<sup>20</sup>

The FCC provided no detail for the basis of its assumptions that (1) only 25 percent of covered providers would have to add additional detail to their call detail records to collect and report the data required by the new rules, an assumption not supported by the record in the rulemaking proceeding; (2) that the software fix to add the additional information to the call detail records

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<sup>16</sup> See October 23, 2013 letter of John E. Benedict, CenturyLink, to Marlene H. Dortch filed in WC Docket No. 13-39.

<sup>17</sup> Petition for Reconsideration of Sprint Corporation filed January 16, 2014 in WC Docket No. 13-39 at 7.

<sup>18</sup> Supporting Statement at 9.

<sup>19</sup> Supporting Statement at 10.

<sup>20</sup> Supporting Statement at 9, 13.

would cost \$200,000; (3) that the report generation software application development cost would be \$15,000; or (4) that the software cost to segregate and report autodialer traffic separately would be \$50,000. The FCC's failure to provide specific, objective support for each of the three elements of its \$6,350,000 estimated cost burden as required by the PRA makes it impossible to evaluate the accuracy of that estimate.

Moreover, the FCC's unsupported estimates include only start up costs.<sup>21</sup> They do not take into account the recurring costs that covered providers will incur for the additional data storage capacity necessary to accommodate not only six months worth of long distance call detail records but also data reflecting the reason for call failures. Nor do they take into account the recurring fees that covered providers will have to pay to third party vendors to the extent that the covered providers do not have the personnel and/or capacity necessary to process call records and generate the quarterly reports internally. Although these recurring costs can be substantial,<sup>22</sup> the FCC ignored them in calculating the estimated cost burden.

The FCC also significantly underestimated the annualized cost estimate of the information collection. The FCC "declined . . . to adopt a sunset date" for the data collection, retention and reporting requirements in the rulemaking proceeding.<sup>23</sup> Nonetheless, the FCC states in its Supporting Statement that it "proposed to sunset the reporting and retention rules at the end of transition for reforming intercarrier compensation, approximately eight years from

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<sup>21</sup> The FCC did provide an estimate for the annual costs of in-house personnel time (Support Statement at 9), but this number was not factored into the annual "total" capital and start-up cost figure.

<sup>22</sup> See e.g., CenturyLink's estimate that it will incur \$2.8 to \$4.3 million in annual data storage costs mentioned on page 6 *supra*.

<sup>23</sup> Rural Call Completion Report and Order at ¶ 104.

now.”<sup>24</sup> In reality, the transition for reforming intercarrier compensation actually ends on July 1, 2020, not eight years from now.<sup>25</sup> If, contrary to what it stated in the Report and Order, the FCC were to sunset the reporting and retention rules at the end of the intercarrier compensation transition period, the \$6,350,000 total cost should have been divided by 5.5, rather than 8, to arrive at the annualized cost. Dividing the total cost by the 5.5 years left in the transition period would bring the annualized cost to \$1,154,545 per year, up significantly from the FCC’s cost estimate of \$793,750. That being said, it would be more accurate to annualize the costs over a three year period. In the Report and Order, the FCC stated that it intends to “complete a proceeding in which we reevaluate whether to keep, eliminate or amend the data collection reporting rules *three years after they become effective.*”<sup>26</sup> Were the FCC to eliminate the data collection rules three years after the effective date, the annualized cost would increase to \$2,116,666 or more than two and a half times the FCC’s estimate. In either event, the FCC has seriously underestimated the annualized cost.

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<sup>24</sup> Supporting Statement at 10.

<sup>25</sup> The transition for reforming intercarrier compensation actually ends on July 1, 2020. *See In the Matter of Connect America Fund, et al.*, WC Docket Nos. 10-90, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) at 801 and Figure 9; see also Sections 51.907 and 51.909 of the FCC’s rules, 47 C.F.R. §§ 51.907, 51.909.

<sup>26</sup> Rural Call Completion Report and Order at ¶ 106 (emphasis added).

## **Conclusion**

For the foregoing reasons, COMPTEL respectfully requests that OMB, prior to approving the information collection, direct the FCC to supplement and correct its Supporting Statement to disclose the basis for its assumptions and to more accurately reflect the financial burden that compliance with the new information collection requirements will impose on covered providers.

December 12, 2014

Respectfully submitted,

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