

**Before the
OFFICE OF MANAGEMENT AND BUDGET
Washington, DC**

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Information Collection Being Submitted for)	OMB 3060-0715
Review and Approval to the)	
Office of Management and Budget)	
)	Federal Register Notice
)	82 FR 43364
)	
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**COMMENTS OF
THE UNITED STATES TELECOM ASSOCIATION AND
THE VOICE ON THE NET COALITION**

USTelecom¹ and VON² renew their objection under the Paperwork Reduction Act (PRA)³ to continuing this specific information collection⁴ because the unnecessary paperwork burden outweighs whatever benefit it provides, and eliminating the collection will not affect negatively consumers. Specifically, USTelecom and VON ask that the OMB disapprove the annual certification requirement which has no practical impact on customers and better reflects the PRA’s goals and requirements.

¹ USTelecom is the nation’s leading trade association representing service providers and suppliers for the broadband innovation industry. Its diverse member base ranges from large publicly traded communications corporations to small companies and cooperatives – all providing advanced communications and broadband services to hundreds of millions of customers around the world.

² The VON Coalition is the leading advocacy organization for the Internet communications industry, working with legislators, regulators, and other policymakers to develop policies that support the availability and adoption of Internet communications products and services. For more information see www.von.org.

³ Paperwork Reduction Act of 1995, Pub. L.104-13, 109 Stat. 163 (1995), *codified at* 44 U.S.C. 3501 *et seq.*

⁴ Notice and Request for Comments, *Information Collection Being Reviewed by the Federal Communications Commission*, 82 FR 43364 (Sep. 15, 2017) (*September 2017 PRA Notice*).

I. THE COMMISSION’S ANNUAL CERTIFICATION REQUIREMENT IS AN UNNECESSARY REGULATORY BURDEN

The record keeping and annual certification required by Section 64.2009(c) and (e) of the Commission’s rules are both unnecessary and burdensome. For this very reason, in October 2016, the Commission issued its *2016 Privacy Order*, which removed the requirement because, “[e]liminating these requirements reduced burdens for all carriers.”⁵ The Commission also determined that providers “are likely to keep records necessary to allow for any necessary enforcement without the need for specific requirements, and that notifications of data breaches to customers and to enforcement agencies (including the Commission under the new rules) will ensure compliance with the rules and a workable level of transparency for customers.”⁶ The *2016 Privacy Order* included rules that would have created an imbalance of regulation within the internet ecosystem so for that reason, President Trump signed into law a resolution of disapproval (S.J. Res. 34) under the Congressional Review Act (CRA) and the *2016 Privacy Order* was “treated as though such a rule had never taken effect.”⁷ The action by Congress and the President was taken for the parity issues that were separate and apart from the elimination of the certification and other administrative requirements. In June 2017, the Commission confirmed that the Commission’s rules implementing Section 222 of the Communications Act for telecommunications carriers that existed before the *2016 Privacy Order* were again in effect pursuant to the CRA resolution, “including the annual compliance certification requirements and

⁵ See *Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*, [Report and Order](#), WC Docket No. 16-106, 31 FCC Rcd 13911, 14005 ¶ 234 (Oct. 27, 2016) (“*2016 Privacy Order*”) (“We eliminate the specific compliance recordkeeping and annual certification requirements in Section 64.2009 for voice providers... We find that carriers are likely to keep records necessary to allow for any necessary enforcement without the need for specific requirements, and that notifications of data breaches to customers and to enforcement agencies (including the Commission) will ensure compliance with the rules and a workable level of transparency for customers.”)

⁷ 5 U.S.C. §801(f).

recordkeeping requirements set out in Section 64.2009(e) and (c).”⁸ In that Order, the Commission stated that “barring further action by the Commission, carriers subject to the annual compliance certification requirement must file such a certification no later than March 1, 2018.”⁹

The Commission acknowledges in its Supporting Statement to this collection that because of the timing of the CRA resolution and the various PRA notices, there has not been adequate time to fully consider all of the comments in the original PRA notice. Instead it proposes to renew the entire collection.¹⁰ USTelecom and VON submit that inadequate time for review is not a compelling reason to extend approval of a collection the Commission previously found unnecessary. In fact, because the March 1, 2017 due date for the annual certification fell between the dates of the issuance of the *2016 Privacy Order* and the signing of the CRA resolution, providers were not required to file the 2017 certification. Under these circumstances OMB should not extend approval of a collection the Commission previously found to be unnecessary.

The Supporting Statement goes into significant detail about the comments filed by USTelecom and VON, as well as those filed by CTIA including burden estimates. In response, the Commission acknowledges that it may have underestimated the burden associated with Section 64.2009 compliance and increases the hours included in the current PRA notification.¹¹ Carriers and interconnected VoIP providers are required to invest significant time, resources, and personnel to comply with this information collection. While USTelecom and VON appreciate the

⁸ *In the Matter of Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*, [Order](#), WC Docket No. 16-106, 32 FCC Rcd 5442 (Jun. 26, 2017) (“*2017 Privacy Order*”)

⁹ *Id.*

¹⁰ *September 2017 PRA Notice*, Supporting Statement at 9.

¹¹ *Id.* at 10.

Commission's position with respect to timing, the recordkeeping and annual certification requirements provide no meaningful benefit to protect consumers' private information. The safeguards established by Section 64.2009 are no longer necessary since the customer notice, consent and choice rules have been in effect for so long that compliance is already a well-established part of carriers' and VoIP providers' operating systems.¹²

Continuing to require the annual certification is particularly burdensome because it requires an officer certification. Requiring providers to have the certification made at the officer level¹³ increases the burden because it requires companies to move through many administrative layers. Requiring such a recertification *annually* creates unnecessary regulatory hurdles that clearly conflict with the PRA's primary purpose "to reduce, minimize and control burdens and maximize the practical utility and public benefit."¹⁴ Simply increasing the burden estimate does not solve the actual burden; disapproval of the collection does.

Removing these types of regulatory barriers is consistent with recent Commission action in other proceedings.¹⁵ Removal of the administrative burdens required by the CPNI rules falls squarely within these two core goals: it would reduce unnecessary red tape and allow completing carriers and interconnected VoIP providers to spend resources more efficiently.

¹² *Id.* at 8.

¹³ 47 C.F.R. §64.2009(e).

¹⁴ 5 C.F.R. § 1320.1.

¹⁵ See e.g., *In the Matter of the Amendment of Parts 2 and 25 of the Commission's Rules to Facilitate the Use of Earth Stations in Motion Communicating with Geostationary Orbit Space Stations in Frequency Bands Allocated to the Fixed Satellite Service*, IB Docket No. 17-95 (May 18, 2017).

II. CONCLUSION

For the reasons discussed herein, OMB should not approve this collection requirement, as is. Instead, the OMB should disapprove the collection so that the recordkeeping and annual certification requirements under 64.2009 (c) and (e) are not renewed, since neither have practical utility to the Commission or the public.

Respectfully submitted,

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