

Total Annual Burden: 112 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality:

Ordinarily questions of a sensitive nature are not involved in the preservation of records of communications common carriers. The Commission contends that areas in which detailed information is required are fully subject to regulation and the issue of data being regarded as sensitive will arise in special circumstances only. In such circumstances, the respondent is instructed on the appropriate procedures to follow to safeguard sensitive data. For procedures for requesting confidential treatment of data, go to 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this comment period to obtain the three year clearance from them. There is no change in the reporting, recordkeeping and/or third party disclosure requirements. There is no change to the Commission's burden estimates.

Section 220 of the Communications Act of 1934, as amended, makes it unlawful for carriers to willfully destroy information retained for the Commission. Part 42 of the Commission's rules prescribes guidelines to ensure that carriers maintain the necessary records needed by the FCC for its regulatory obligations.

Section 42.2 requires a carrier to: (1) Maintain at its operating company headquarters a master index of records which identifies the records retained, the related retention period, and the locations where the records are maintained; and (2) to explain the premature loss or destruction of any records by adding a certified statement to the index listing the lost records and describing the circumstances of the loss.

Section 42.5 requires that records kept in a machine-readable medium be accompanied by a statement indicating the type of data included in the record and certifying that the information contained in it has been accurately duplicated.

Section 42.6 requires a carrier to retain telephone toll records for 18 months that are necessary to provide the following billing information about telephone toll calls: the name, address, and telephone number of the caller, telephone number called, date, time and length of the call.

Section 42.7 allows a carrier to establish its own retention periods for all of its records, except records of telephone toll calls and records relevant to complaint proceedings.

Section 42.10 requires a nondominant interexchange carrier (IXC) to make available to the public, in at least one location, during normal business hours, information on the current rates, terms, and conditions for all of its interstate, domestic interexchange services. The information also must be made available on a carriers Internet website.

Section 42.11 requires that a nondominant IXC maintain, for submission to the Commission and to state regulatory commissions upon request, price and service information regarding all of the carrier's international and interstate, domestic, interexchange service offerings. (Both 47 CFR sections 42.10 and 42.11 are approved under OMB control number 3060-0704.)

Documentation of premature records destruction is necessary so that the Commission can be aware of the frequency and consequences of such destruction. If carriers were allowed to destroy records at will, the Commission could lose historical information, thus making it impossible to regulate the industry properly. A specific retention period for telephone toll records of eighteen months is imposed to assist Department of Justice in law enforcement. See section 42.6 of the Commission's rules.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of the Secretary, Office of Managing Director.*

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**BILLING CODE 6712-01-S**

## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Proposed Collection; 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 ("PRA"). The FTC seeks public comments on its proposal to extend through December 31, 2013 the current OMB clearance for information collection requirements contained in its Affiliate Marketing Rule (or "Rule"). That clearance expires on December 31, 2010.

**DATES:** Comments must be filed by September 17, 2010.

**ADDRESSES:** Interested parties are invited to submit written comments

electronically or in paper form by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Comments in electronic form should be submitted by using the following weblink: (<https://ftcpublish.commentworks.com/AffiliateMarketingPRA>) (and following the instructions on the web-based form). Comments filed in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex J), 600 Pennsylvania Avenue, N.W., Washington, DC 20580, in the manner detailed in the **SUPPLEMENTARY INFORMATION** section below.

### FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be addressed to Anthony Rodriguez, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, DC 20580, (202) 326-2757.

### SUPPLEMENTARY INFORMATION:

#### Request for Comments

Interested parties are invited to submit written comments. Comments should refer to "Affiliate Marketing Rule: FTC File No. P105411" to facilitate the organization of comments. Please note that your comment – including your name and your state – 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>).

Because comments will be made public, they should not include any sensitive personal information, such as any 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 "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential" as provided in Section 6(f) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing matter 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).<sup>1</sup>

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 using the following weblink (<https://ftcpublishcommentworks.com/AffiliateMarketingPRA>) (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://ftcpublishcommentworks.com/AffiliateMarketingPRA>). If this Notice appears at ([www.regulations.gov/search/index.jsp](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](http://www.regulations.gov) forwards to it.

The FTC Act and other laws that 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 FTC 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>).

Under the PRA, 44 U.S.C. 3501-3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. "Collection of information" means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB

extend the existing paperwork clearance for the regulations noted herein.

The FTC invites comments on: (1) whether the required collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (2) the accuracy of the agency's estimate of the burden of the required collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before September 17, 2010.

### Background

The Affiliate Marketing Rule, 16 CFR Part 680, was proposed by the FTC under section 214 of the Fair and Accurate Credit Transactions Act ("FACT Act"), Pub. L. No. 108-159 (December 6, 2003). The FACT Act amended the Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.*, which was enacted to enable consumers to protect the privacy of their consumer credit information. As mandated by the FACT Act, the Rule specifies disclosure requirements for certain affiliated companies subject to the Commission's jurisdiction. Except as discussed below, these requirements constitute "collections of information" for purposes of the PRA. Specifically, the FACT Act and the Rule require covered entities to provide consumers with notice and an opportunity to opt out of the use of certain information before sending marketing solicitations. The Rule generally provides that, if a company communicates certain information about a consumer ("eligibility information") to an affiliate, the affiliate may not use that information to make or send solicitations to the consumer unless the consumer is given notice and a reasonable opportunity to opt out of such use of the information and the consumer does not opt out.

To minimize compliance costs and burdens for entities, particularly any small businesses that may be affected, the Rule contains model disclosures and opt-out notices that may be used to satisfy the statutory requirements. The

Rule also gives covered entities flexibility to satisfy the notice and opt-out requirement by sending the consumer a free-standing opt-out notice or by adding the opt-out notice to the privacy notices already provided to consumers, such as those provided in accordance with the provisions of Title V, subtitle A of the GLBA. In either event, the time necessary to prepare or incorporate an opt-out notice would be minimal because those entities could either use the model disclosure verbatim or base their own disclosures upon it. Moreover, verbatim adoption of the model notice does not constitute a PRA "collection of information."<sup>2</sup>

### Burden statement:

Except where otherwise specifically noted, staff's estimates of burden are based on its knowledge of the consumer credit industries and knowledge of the entities over which the Commission has jurisdiction. This said, estimating PRA burden of the Rule's disclosure requirements is difficult given the highly diverse group of affected entities that may use certain eligibility information shared by their affiliates to send marketing notices to consumers.

The estimates provided in this burden statement may well overstate actual burden. As noted above, verbatim adoption of the disclosure of information provided by the Federal government is not a "collection of information" to which to assign PRA burden estimates, and an unknown number of covered entities will opt to use the model disclosure language. Second, an uncertain, but possibly significant, number of entities subject to the FTC's jurisdiction do not have affiliates and thus would not be covered by section 214 of the FACT Act or the Rule. Third, Commission staff does not know how many companies subject to the FTC's jurisdiction under the Rule actually share eligibility information among affiliates and, of those, how many affiliates use such information to make marketing solicitations to consumers. Fourth, still other entities may choose to rely on the exceptions to the Rule's notice and opt-out requirements.<sup>3</sup> Finally, the population estimates below to apply further calculations are based on industry data that, while providing tallies of business

<sup>1</sup> 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).

<sup>2</sup> "The public disclosure of information originally supplied by the Federal government to the recipient for purpose of disclosure to the public is not included within [the definition of collection of information]." 5 CFR 1320.3(c)(2).

<sup>3</sup> Exceptions include, for example, having a preexisting business relationship with a consumer, using information in response to a communication initiated by the consumer, and solicitations authorized or requested by the consumer.

entities within industries and industry segments, does not identify those entities individually. Thus, there is no clear path to ascertain how many individual businesses have newly entered and departed within a given industry classification, from one year to the next or from one triennial PRA clearance cycle to the next. Accordingly, there is no ready way to quantify how many establishments accounted for in the data reflects those previously accounted for in the FTC's prior PRA analysis, *i.e.*, entities that would already have experienced a declining learning curve applying the Rule with the passage of time. For simplicity, the FTC analysis will continue to treat covered entities as newly undergoing the previously assumed learning curve cycle, although this would effectively overstate estimated burden for unidentified covered entities that have remained in existence since OMB's most recently issued PRA clearance for the Rule.<sup>4</sup>

As in the past, FTC staff's estimates assume a higher burden will be incurred during the first year of a prospective OMB three-year clearance, with a lesser burden for each of the subsequent two years because the opt-out notice to consumers is required to be given only once. Institutions may provide for an indefinite period for the opt-out or they may time limit it, but for no less than five years.

Staff's labor cost estimates take into account: managerial and professional time for reviewing internal policies and determining compliance obligations; technical time for creating the notice and opt-out, in either paper or electronic form; and clerical time for disseminating the notice and opt-out.<sup>5</sup> In addition, staff's cost estimates presume that the availability of model disclosures and opt-out notices will simplify the compliance review and implementation processes, thereby significantly reducing the cost of compliance. Moreover, the Rule gives entities considerable flexibility to determine the scope and duration of the opt-out. Indeed, this flexibility permits entities to send a single joint notice on behalf of all of its affiliates.

#### **Estimated total average annual hours burden: 1,043,961 hours**

Based, in part, on industry data regarding the number of businesses under various industry codes, staff

estimates that 1,101,780 non-GLBA entities under FTC jurisdiction have affiliates and would be affected by the Rule.<sup>6</sup> Staff further estimates that there are an average of 5 businesses per family or affiliated relationship, and that the affiliated entities will choose to send a joint notice, as permitted by the Rule. Thus, an estimated 220,356 non-GLBA business families may send the affiliate marketing notice. Staff also estimates that non-GLBA entities under the jurisdiction of the FTC would each incur 14 hours of burden during the prospective requested three-year PRA clearance period, comprised of a projected 7 hours of managerial time, 2 hours of technical time, and 5 hours of clerical assistance.

Based on the above, total burden for non-GLBA entities during the prospective three-year clearance period would be approximately 3,084,984 hours, cumulatively. Associated labor cost would total \$100,841,592.<sup>7</sup> These estimates include the start-up burden and attendant costs, such as determining compliance obligations. Non-GLBA entities, however, will give notice only once during the clearance period ahead. Thus, averaged over that

<sup>6</sup> This estimate is derived from an analysis of a database of U.S. businesses based on SIC codes for businesses that market goods or services to consumers, which included the following industries: transportation services; communication; electric, gas, and sanitary services; retail trade; finance, insurance, and real estate; and services (excluding business services and engineering, management services). See (<http://www.naics.com/search.html>). This estimate excludes businesses not subject to the FTC's jurisdiction and businesses that do not use data or information subject to the rule. To the resulting sub-total (6,677,796), staff applies a continuing assumed rate of affiliation of 16.75 percent, see 69 FR 33324, 33334 (June 15, 2004), reduced by a continuing estimate of 100,000 entities subject to the Commission's GLBA privacy notice regulations, see *id.*, applied to the same assumed rate of affiliation. The net total is 1,101,780.

<sup>7</sup> The associated labor cost is based on the labor cost burden per notice by adding the hourly mean private sector wages for managerial, technical, and clerical work and multiplying that sum by the estimated number of hours. The classifications used are "Management Occupations" for managerial employees, "Computer and Mathematical Science Occupations" for technical staff, and "Office and Administrative Support" for clerical workers. See National Compensation Survey: Occupational Earnings in the United States 2008, U.S. Department of Labor released August 2009, Bulletin 2720, Table 3 ("Summary: Full-time civilian workers: Mean and median hourly, weekly, and annual earnings and mean weekly and annual hours") (<http://www.bls.gov/ncs/ocs/sp/ncb0717.pdf>). The respective private sector hourly wages for these classifications are \$43.60, \$35.84, and \$16.15. Estimated hours spent for each labor category are 7, 2, and 5, respectively. Multiplying each occupation's hourly wage by the associated time estimate, labor cost burden per notice equals \$457.63. This subtotal is then multiplied by the estimated number of non-GLB business families projected to send the affiliate marketing notice (220,356) to determine cumulative labor cost burden for non-GLBA entities (\$100,841,592).

three-year period, the estimated annual burden for non-GLBA entities is 1,028,328 hours and \$33,613,864 in labor costs.<sup>8</sup>

Entities that are subject to the Commission's GLBA privacy notice regulation already provide privacy notices to their customers.<sup>9</sup> Because the FACT Act and the Rule contemplate that the affiliate marketing notice can be included in the GLBA notices, the burden on GLBA regulated entities would be greatly reduced. Accordingly, the GLBA entities would incur 6 hours of burden during the first year of the clearance period, comprised of a projected 5 hours of managerial time and 1 hour of technical time to execute the notice, given that the Rule provides a model.<sup>10</sup> Staff further estimates that 3,350 GLBA entities under the FTC's jurisdiction would be affected,<sup>11</sup> so that the total burden for GLBA entities during the first year of the clearance period would approximate 20,100 hours and \$850,364 in associated labor costs.<sup>12</sup> Allowing for increased familiarity with procedure, the PRA burden in ensuing years would decline, with GLBA entities each incurring an estimated 4 hours of annual burden (3 hours of managerial time and 1 hour of technical time) during the remaining two years of the clearance, amounting to 13,400 hours and \$558,244 in labor costs in each of the ensuing two years. Thus, averaged over the three-year clearance period, the estimated annual burden for GLBA entities is 15,633 hours and \$655,618 in labor costs.

Cumulatively for both GLBA and non-GLBA entities, the average annual burden over the prospective three-year clearance period is 1,043,961 burden hours and \$34,269,482 in labor costs. GLBA entities are already providing notices to their customers so there are no new capital or non-labor costs, as this notice may be consolidated into their current notices. For non-GLBA entities, the Rule provides for simple and concise model forms that

<sup>8</sup>  $3,084,984 \text{ hours} \div 3 = 1,028,328$ ;  $\$100,841,592 \div 3 = \$33,613,864$ .

<sup>9</sup> Financial institutions must provide a privacy notice at the time the customer relationship is established and then annually so long as the relationship continues. Staff's estimates assume that the affiliate marketing opt-out will be incorporated in the institution's initial and annual notices.

<sup>10</sup> As stated above, no clerical time is included in the estimate because the notice likely would be combined with existing GLBA notices.

<sup>11</sup> Based on the previously stated estimates of 100,000 GLBA business entities at an assumed rate of affiliation of 16.75 percent (16,750), divided by the presumed ratio of 5 businesses per family, this yields a total of 3,350 GLBA business families subject to the Rule.

<sup>12</sup>  $3,350 \text{ GLBA entities} \times [(\$43.60 \times 5 \text{ hours}) + (\$35.84 \times 1 \text{ hour})] = \$850,364$ .

<sup>4</sup> On December 27, 2007, OMB granted three years' clearance for the Rule under Control No. 3084-0131.

<sup>5</sup> No clerical time was included in staff's burden analysis for GLBA entities as the notice would likely be combined with existing GLBA notices.

institutions may use to comply. Thus, any capital or non-labor costs associated with compliance for these entities are negligible.

**Willard K. Tom,**  
General Counsel.

[FR Doc. 2010-17466 Filed 7-16-10; 8:45 am]

BILLING CODE 6750-01-S

## FEDERAL COMMUNICATIONS COMMISSION

[DA 10-1262]

### Consumer Advisory Committee

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission announces the next meeting date and agenda of its Consumer Advisory Committee ("Committee"). The purpose of the Committee is to make recommendations to the Commission regarding consumer issues within the jurisdiction of the Commission and to facilitate the participation of all consumers in proceedings before the Commission.

**DATES:** The meeting of the Committee will take place on Wednesday August 4, 2010, 2 p.m. to 4 p.m., at the Commission's Headquarters Building, Room 3B516.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Scott Marshall, Consumer and Governmental Affairs Bureau, (202) 418-2809 (voice), (202) 418-0179 (TTY), or e-mail [Scott.Marshall@fcc.gov](mailto:Scott.Marshall@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's document DA 10-1262 released July 6, 2010, announcing the agenda, date and time of the Committee's next meeting.

At its August 4, 2010 meeting, the Committee will complete unfinished business from its June 30, 2010 meeting, specifically consideration of two recommendations: One regarding consumer information disclosures to be filed in CG Docket 09-158 and a second regarding the Lifeline and Link-up programs. The Committee may also consider other matters within the jurisdiction of the Commission. A limited amount of time on the agenda will be available for oral comments from the public attending at the meeting site. It is anticipated that out-of-town Committee members will participate via teleconference, with members local to the FCC Headquarters Building participating in person. A limited

amount of space in the meeting room will be available for members of the public.

The Committee is organized under, and operates in accordance with, the provisions of the Federal Advisory Committee Act, 5 U.S.C., App. 2 (1988). A notice of each meeting will be published in the **Federal Register** at least fifteen (15) days in advance of the meeting. Records will be maintained of each meeting and made available for public inspection. Members of the public may send written comments to: Scott Marshall, Designated Federal Officer of the Committee at [scott\\_marshall@fcc.gov](mailto:scott_marshall@fcc.gov).

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, assistive listening devices, and Braille copies of the agenda and handouts will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. The request should include a detailed description of the accommodation needed and contact information. Please provide as much advance notice as possible; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

Federal Communications Commission.

**Joel Gurin,**  
Chief, Consumer and Governmental Affairs Bureau.

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BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 10-51; FCC 10-111]

### Structure and Practices of the Video Relay Service Program

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In this document, the Commission takes a fresh look at its video relay service (VRS) rules so that the Commission can ensure that this vital program is effective, efficient, and sustainable in the future. VRS allows persons with hearing or speech disabilities to use American Sign Language (ASL) to communicate with friends and family and to conduct business in near real time. In this proceeding, the Commission seeks to improve the program to ensure that it is

available to and used by the full spectrum of eligible users, encourages innovation, and is provided efficiently so as to be less susceptible to the waste, fraud, and abuse that plague the current program and threaten its long-term viability. The Commission's goal is to solicit a wide range of thoughts and proposals for making the program work better for those who could benefit from it and those who pay into it.

**DATES:** Comments are due on or before August 18, 2010. Reply comments are due on or before August 3, 2010.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554

You may submit comments, identified by [CG Docket number 10-51 and/or FCC Number 10-111, by any of the following methods:

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS) <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number, which in this instance is CG Docket No. 10-51.

- Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in response. In addition, parties submitting an electronic copy must send a copy of such filing to (1) Mark Stone, Consumer and Governmental Affairs Bureau, [mark.stone@fcc.gov](mailto:mark.stone@fcc.gov); (2) Nicholas Alexander, Wireline Competition Bureau, [nicholas.alexander@fcc.gov](mailto:nicholas.alexander@fcc.gov); (3) Diane Mason, Consumer and Governmental Affairs Bureau, [diane.mason@fcc.gov](mailto:diane.mason@fcc.gov); and (4) Nicholas A. Degani, Wireline Competition Bureau, [nicholas.degani@fcc.gov](mailto:nicholas.degani@fcc.gov).

- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. In addition, parties must send one copy of each pleading to: the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Washington, DC 20554.