

Audit of the
Consumer and Governmental Affairs Bureau
Risk Management Strategy for
Informal Consumer Complaints
FY 2017 and FY 2018

(Report No. 18-AUD-12-08)

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EXECUTIVE SUMMARY

Lani Eko & Company, CPAs, PLLC conducted a performance audit under contract with the Federal Communications Commission (FCC), Office of Inspector General. The audit objectives were to evaluate the Consumer and Governmental Affairs Bureau (CGB) management of risk related to processing informal consumer complaints. Specifically, our objectives were to:

1. Evaluate the process for identifying internal and external risks.
2. Evaluate the risk management strategy to determine if the risks are adequately managed to meet agency goals and objectives.
3. Determine the effectiveness of the internal controls established to manage risk.

We obtained an understanding of the risks and controls in the FCC informal consumer complaint program through interviewing CGB staff, reviewing available process documentation, inquiring with FCC management and CGB personnel, and observing demonstrations of the systems used in processing consumer complaints. We used the guidance contained in the Government Accountability Office enterprise risk management framework and other relevant materials to evaluate the adequacy of CGB's risk management strategy as it related to processing informal consumer complaints. We identified four findings; the synopsis of these findings is presented below.

We determined that the CGB risk management strategy was not effective in meeting the FCC's strategic goal and objective for protecting consumers, including providing freedom from unwanted and intrusive communications. The risk management strategy lacked written procedures for handling informal consumer complaints about unwanted communications (e.g., robocalls and junk faxes). Also, the internal control design was not effective; therefore, it could not be relied upon to satisfy FCC's informal consumer complaints objectives.

Based on data provided by CGB, 55 percent and 61 percent of informal consumer complaints received in fiscal years 2017 and 2018, respectively, were not forwarded to the service providers for investigation or resolved in another manner.

We also determined that the informal consumer complaint program's performance achievements reported in the FCC's fiscal years 2017 and 2018 Annual Performance Reports to the President and Congress may lead to incorrect conclusions on the effectiveness and efficiency of the FCC informal consumer complaints program. We determined that the performance measure used was not appropriate for assessing the effectiveness and efficiency of the informal consumer complaints program, and the performance results reported were misleading. Also, FCC performance goals for processing informal consumer complaints were not objective, relevant or sufficiently rigorous because they were not based on the actual time frames required to process consumer complaints.

We determined that training provided to CGB staff that processes informal consumer complaints was not adequate to keep them up-to-date and familiar with FCC rules and regulations on matters that represent significant risks to consumers.

We made 13 recommendations to FCC's management that we deemed sufficient to address the deficiencies we noted.

We provided a draft copy of this report to FCC and CGB management for their review and comments. CGB management provided written comments on the draft audit report, which appear in Appendix B. A summary of CGB management comments and the auditor's response are provided for each finding. CGB management stated it had implemented or planned to implement 11 of the 13 recommendations in the draft report. CGB management did not concur with two of the report's recommendations. CGB management stated that the draft report fails to include relevant information CGB provided to the auditors, and the draft report misinterprets the statutory requirements regarding informal consumer complaints. The auditor reviewed the issues raised by CGB management and determined that the facts in the draft report are supported by audit evidence, and the conclusions and recommendations are appropriate.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence gathered provides a reasonable basis for our findings and conclusions. Our audit covered the period from October 1, 2016, through September 30, 2018.

The Results of Audit section of this report provides detailed audit findings and recommendations.

BACKGROUND

The Federal Communications Commission (FCC) is an independent United States government agency, directly responsible to Congress. FCC was established by the Communications Act of 1934 and is charged with regulating interstate and international communications by radio, television, wire, satellite, and cable. FCC has seven operating Bureaus and ten Staff Offices. The Consumer and Governmental Affairs Bureau (CGB) is one of the operating bureaus of FCC. CGB develops and implements the FCC's consumer policies. CGB serves as the public face of FCC through outreach and education, as well as through FCC's consumer center, which is responsible for responding to consumer inquiries and complaints. Also, CGB maintains collaborative partnerships with state, local and Tribal governments in critical areas such as emergency preparedness and implementation of new technologies. CGB has seven divisions: the Consumer Policy Division, Disability Rights Office, Consumer Affairs and Outreach Division, Office of Intragovernmental Affairs, Native Affairs, Web and Print publishing, and the Consumer Inquiries and Complaints Division.

The Consumer Inquiries and Complaints Division (CICD) is responsible for processing informal consumer inquiries and complaints, consistent with controlling laws and FCC regulations. The division receives, reviews and analyzes informal consumer complaints and responses to informal consumer complaints; maintains electronic files that provide for the tracking and maintenance of informal consumer complaints; and coordinates with other bureaus and offices to ensure that consumers are provided accurate, up-to-date information.

Per Section 208 of the Communications Act of 1934 (Title 47 USC 208) and Title 47 CFR Part 1, Section 1.711, consumers can file informal or formal consumer complaints with the FCC about the service providers¹ or communications services regulated by FCC. Our audit was limited to informal consumer complaints².

The vast majority of informal consumer complaints were filed electronically through the FCC Consumer Complaint Center (CCC) web page managed by CICD. Consumers also have the option to submit written complaints or call CICD to report problems with service providers or communications services. FCC receives 25,000 to 30,000 informal consumer complaints per month. The complaints cover matters such as unwanted communications (e.g., robocalls and junk faxes), billings, equipment, and communications services. Unwanted communications accounted for about 55 and 61 percent of the informal consumer complaints received by FCC in 2017 and 2018, respectively.

¹ Service provider is a telecommunications provider that owns circuit switching equipment (e.g., Verizon Communications, Inc. and AT&T Communications, Inc.).

² Title 47 CFR Part 1, Section 1.716 through Section 1.719.

Under FCC rules, CICD does not investigate individual informal consumer complaints. Rather, CICD processes and forwards informal complaints about telecommunications billings, equipment, and services to the carrier identified by the consumer. The service providers must respond to informal consumer complaints within 30 days. If a service provider's response does not solve a complaint, the consumer can file a rebuttal with CGB, or file a formal consumer complaint. Also, if a service provider fails to submit a response by the due date, the consumer may file a formal consumer complaint with FCC's Enforcement Bureau (EB). While filing an informal consumer complaint is free, a consumer who files a formal consumer complaint is required to pay a \$235 fee.

CICD does not forward complaints about unwanted communications, loud commercials and indecency to the service providers for investigation, even if they meet the definition of an informal consumer complaint. Rather, it is CICD's practice to refer these types of complaints to EB, as stated on the CCC web page. According to CGB, EB uses the information gained from the complaints to formulate policies and improve enforcement activity.

RESULTS OF AUDIT

Consumer and Governmental Affairs Bureau's (CGB) management of risk related to processing informal consumer complaints was not effective in meeting FCC's goals and objectives. Finding Number 1 addresses the deficiencies in the CGB's risk management strategy. Finding Numbers 2, 3, and 4 discuss the consequences of the weaknesses in the CGB's risk management strategy.

FINDING No. 1 – Risk Management Strategy Was Not Effective

CONDITION

CGB's risk management strategy for processing informal consumer complaints was not effective in protecting consumers' interest and meeting FCC's strategic goal of making telecommunications networks work for consumers, including protecting consumers from unwanted and illegal robocalls. FCC management, including CGB's Bureau Chief, is responsible for establishing goals and objectives for informal consumer complaint operations, managing inherent and residual risks³ for processing informal complaints and ensuring compliance with applicable laws and regulations.

In our assessment of CGB's risk management activity for fiscal years 2017 and 2018, we considered the following elements of its risk management:

- (a) goals and objectives,
- (b) risk assessment procedures,
- (c) risk responses,
- (d) risk monitoring and
- (e) risk communication and reporting to stakeholders and oversight bodies.

In assessing the elements of risk management, we reviewed CGB's FY 2018 Entity Level Assessment and the report to FCC Managing Director. We found that the representations made by CGB's Bureau Chief were not adequately supported. We requested but did not receive CGB's FY 2017 Entity Level Assessment for our examination. Therefore, we were unable to conclude on the effectiveness of CGB's FY 2017 risk management activity. We determined that the CGB risk management activity was not adequately documented and did not fully address the essential elements of an effective risk management process. Therefore, it could not be used to assess the effectiveness of CGB's informal consumer complaints process.

³ Inherent risk is the risk to an entity in the absence of management's response to the risk. Residual risk is the risk that remains after management's response to inherent risk. (GAO-14-704G, 7.03)

Detailed information regarding our assessment of CGB's FY 2018 risk management strategy is discussed below.

Goals and Objectives

CGB lacked written goals that align with FCC's strategic goals. The stated mission of CGB is to develop and implement FCC's consumer policies, including disability access and policies affecting tribal nations. CGB did not provide the auditors with written goals that linked CGB's mission with FCC's strategic goal for protecting consumers. According to the Office of Management and Budget (OMB) Circular A-11, Section 230.1, strategic goals reflect the long-term outcomes an agency aspires to achieve by implementing its mission. The strategic goals are the foundation for formulating meaningful objectives and are useful for communicating Federal agency efforts to address the challenges and opportunities on behalf of American people.

CGB did not provide evidence or articulate how its stated strategic objectives result in the achievement of FCC's mission and goals that are relevant to the consumer protection program. We noted that CGB did not define its objectives in specific, measurable terms such as, what it intends to achieve, how it will be achieved, who is to achieve it, and the time frames for achieving its objectives. Because CGB did not define its objectives in measurable terms (quantitative and qualitative), its performance toward achieving those objectives may be difficult to assess.

Risk Identification and Assessment

CGB did not adequately document its risk identification and assessment process. In the absence of formal risk identification and risk assessment, the auditor developed an Objectives/Risk Template⁴ for CGB to complete in order to obtain an understanding of CGB's approach to risk management. CGB did not have any written procedures or defined processes for identifying new risks and updating known risks that impact informal consumer complaints activity. During our interview, CGB management told the auditors that Consumer Inquiries and Complaints Division (CICD) managers and staff discuss the risks associated with particular projects and initiatives during their weekly meetings. CGB did not provide minutes of meetings or provide a list of risks it identified to the auditors for examination. There was no evidence that CGB gave appropriate consideration to where the risks originated, root causes of risks, and inherent risks embodied in the informal consumer complaint program when identifying risks to attaining its objectives. Additionally, CGB did not provide evidence to show how the risks identified by its staff and managers link to CGB objectives.

CGB did not provide documentary evidence that its risk assessment process included a consideration of the probability of the identified risks occurring, the impact of the risks on objectives, or the prioritization of risks to CGB objectives. Also, the documentation CGB provided

⁴ The auditors, Lani Eko & Company, provided this template to CGB Management for completion.

as support for its risk assessment did not show that CGB considered its risk exposure to the significant categories of complaints, such as unwanted communications complaints.

Risk Response

CGB management lacked an effective method to respond to risks. Organizations are required to manage risks through internal controls that help to ensure that management implements directives to mitigate risks. However, CGB did not have any documented procedures for managing risks. In response to the auditor's request, CGB documented, in the Objectives/Risk Template provided by the auditor, its controls for managing risks in the informal consumer complaint program. CGB's response did not provide any evidence that its management considered the risk consequences, including the likelihood⁵ of the risks occurring and the impact⁶ of those risks on the CGB objectives. As a result, CGB may not be able to assess its exposure to risks effectively. Also, there was no cost-benefit analysis and ranking of risks performed in the development of responses to the risks. In addition, CGB did not identify its official who is accountable for the implementation of risk response.

Monitor Risk

CGB lacked an effective plan to monitor risks. Performance measures are useful monitoring tools for assessing whether risk response actions (or internal control) enable an entity to operate within the defined risk tolerances. CGB implemented performance measures (e.g., Speed of Disposal (SOD) and CICD Monthly Performance Reporting) to monitor the achievements of its stated objectives, and assess the effectiveness of its processing of informal consumer complaints and risk response actions.

We determined that these monitoring tools were not appropriate for monitoring the achievements of CGB consumer program objectives, assessing the quality of complaints processing performance, or determining whether controls are effective in mitigating the risks to the CGB objectives. For example, there was no evidence of how CGB used monitoring tools to assess consumers' satisfaction or to respond to an unusual increase in the volume of complaints received. Therefore, we question whether CGB management and stakeholders were aware of the required modifications to the objectives and risks, or the effectiveness of CGB's procedures for managing risks.

We noted that CGB had not developed any monitoring tools to evaluate the effectiveness of some of its cited controls. The education of consumers on what to expect from the informal complaint process is identified in the Objectives/Risk Template as a control to mitigate the risk of consumer dissatisfaction with the informal complaint process. However, CGB did not develop monitoring tools to assess the effectiveness of its consumer education program.

⁵ Likelihood is the probability of a risk occurring.

⁶ Impact is the ability to achieve objectives if the risk occurred.

Also, CGB performance measures did not align with FCC objectives and performance goals. For example, FCC FY 2018 – 2022 - Strategic Plan, Performance Goal 3.1.1 states, *implement proposals to target and eliminate unlawful telemarketing and robocalling*. However, none of CGB’s performance measures contributed to measuring FCC’s progress in lessening the number of unwanted telemarketing communications and robocalls. We noted that CGB responses for three out of the four objectives (i.e., operations, reporting and compliance) in the Objectives/Risk Template did not have associated performance measures.

Risk Communication and Reporting

CGB had not developed written procedures for communicating its risks in meeting its objectives to internal and external stakeholders. FCC's annual assurance statement on its internal control to the President and Congress relies, in part, on the statements of assurance that FCC components provided to the FCC Managing Director. CGB’s Bureau Chief reported to the FCC Managing Director⁷ that CGB’s internal controls over operations were effective, and that it complied with laws and regulations. We requested evidence to support CGB’s assertions because CGB’s Entity Level Assessment justification statements did not provide sufficient detail to support CGB management’s conclusion that the internal controls over operations were operating effectively. However, CGB did not provide the auditors any documentation to support their assertions.

CRITERIA

According to OMB Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, Federal leaders and managers are responsible for establishing goals and objectives around operating environments, ensuring compliance with relevant laws and regulations, and managing both expected and unexpected or unanticipated events. They are responsible for implementing management practices that identify, assess, respond, and report on risks.

Government Accountability Office (GAO)’s *Standards for Internal Control in the Federal Government* states,

Principle 3, Section 3.09, “Management develops and maintains documentation of its internal control system.” Section 3.10, “Effective documentation assists in management’s design of internal control by establishing and communicating the who, what, when, where, and why of internal control execution to personnel...”

⁷ In a letter accompanying CGB’s FY 2018 Entity Level Assessment. FCC bureaus and offices use the Entity Level Assessment to assist the Office of Managing Director in evaluating the “tone at the top” and identifying key controls at the component level, as required by the Office of Management and Budget Circular A-123 and the Federal Manager’s Financial Integrity Act (FMFIA) of 1982.

Principle 6, Section 6.03, “Management defines objectives in specific terms so they are understood at all levels of the entity. This involves clearly defining what is to be achieved, who is to achieve it, how it will be achieved, and the time frames for achievement...Management defines objectives in alignment with the organization’s mission, strategic plan, and performance goals.” Section 6.04, “Management defines objectives in measurable terms so that performance toward achieving those objectives can be assessed...Measurable objectives are also stated in a quantitative or qualitative form that permits reasonably consistent measurement.”

Principle 7, Section 7.05, “Management analyzes the identified risks to estimate their significance, which provides a basis for responding to the risks...” Section 7.06, “Management estimates the significance of a risk by considering the magnitude of impact, likelihood of occurrence, and nature of the risk.” Section 7.08, “Management designs responses to the analyzed risks so that risks are within the defined risk tolerance for the defined objective.”

CAUSE

CGB did not develop a risk profile to address the risks CGB faced toward achieving its goals and objectives arising from processing informal consumer complaints. Also, CGB did not develop and implement appropriate control activities for addressing significant risks in the processing of informal consumer complaints.

The FCC Risk Officer and the Performance Improvement Officer’s support and collaboration with CGB were not sufficient for the implementation of effective risk management and internal control at CGB.

EFFECT

The absence of essential elements of risk management increases the likelihood that CGB may not effectively respond to deficiencies in processing informal consumer complaints, enforce accountability of CGB officials responsible for processing informal consumer complaints, and assess the effectiveness of informal consumer complaint processing.

CGB’s current risk management practices could lead to ineffective use of its resources. For example, CGB may not allocate sufficient resources to the consumer complaints program activities that represent the most significant risks to achieving of CGB objectives.

RECOMMENDATIONS

We recommend FCC management:

1. Direct CGB, in coordination with the FCC Chief Risk Officer (CRO), to develop a risk profile that aligns with the FCC strategic goals and objectives, and CGB's vision and mission.
2. Ensure that CGB integrates its mission, goals, and objectives specific to the informal consumer complaints program into its risk management strategy.
3. Direct the FCC CRO and the FCC Performance Improvement Officer to provide written guidance and training to CGB on the implementation of CGB's risk management activities.

MANAGEMENT RESPONSE

CGB stated that it would work in coordination with the FCC's Chief Risk Officer and Performance Improvement Officer to enhance its risk management strategy and implement recommendations 1, 2 and 3.

AUDITOR RESPONSE

We understand that FCC-OIG will confirm CGB's implementation of recommendations 1, 2 and 3 through its audit recommendation follow-up process.

FINDING No. 2 –All Informal Consumer Complaints Under FCC Jurisdiction Were Not Investigated

CONDITION

The Federal Communications Commission (FCC) did not adequately respond to the risks associated with all classes of informal consumer complaints. FCC stated that consumer complaint procedures are a principal vehicle to promote compliance with the requirements of the Communications Act of 1934, as amended, and FCC's implementing rules and orders.

Based on the documentation provided by CGB, we noted that CGB did not forward to service providers for investigation 186,451 of the total 340,467 (or 55 percent) of informal consumer complaints filed in FY 2017. Additionally, CGB did not forward to the service providers for investigation 236,875 (or 61 percent) of the total 387,716 informal consumer complaints filed in FY 2018. The subjects of these informal consumer complaints fall within the jurisdiction of FCC and include Unwanted Calls (Robocalls), Junk Faxes, Indecency, and Loud Commercials. We

present below in Table 1, a summary of informal consumer complaints that were not served on the service providers for investigation, and referred to other FCC bureaus.

Table 1: Uninvestigated Complaints Referred to FCC Bureau

Complaint Category	Responsible Bureau	FY 2017		FY 2018	
		Number of Complaints Not Investigated	Uninvestigated Complaints As Percentage of Total Complaints Filed with FCC	Number of Complaints Not Investigated	Uninvestigated Complaints As Percentage of Total Complaints Filed with FCC
Unwanted Calls	Enforcement Bureau	173,439	50.94%	223,904	57.74%
Junk Faxes	Enforcement Bureau	3,423	1.00%	2,944	0.76%
Loud Commercials	Enforcement Bureau	3,278	0.96%	3,597	0.93%
Radio	Enforcement Bureau	1,853	0.55%	1,614	0.42%
Indecency	Enforcement Bureau	1,468	0.43%	1,084	0.28%
Misc.	Enforcement Bureau	1,972	0.58%	2,201	0.57%
Total (EB)		185,433	54.46%	235,344	60.70%
Misc.	Media Bureau	926	0.27%	1,098	0.28%
Misc.	Wireless Bureau	53	0.02%	407	0.10%
Misc.	Public Safety Bureau	39	0.01%	26	0.01%
Total Uninvestigated Complaints		186,451	54.76%	236,875	61.09%
*Total Complaints Filed with FCC		340,467		387,716	

*Auditors noted immaterial differences due to timing in recording the receipts of complaints.

To assess the reasonableness of CGB management’s reported percentages of uninvestigated informal consumer complaints, the auditors examined a random sample of 78⁸ informal consumer complaints received in FY 2017 and FY 2018. The auditors found that CGB had not forwarded for investigation 52 percent of the complaints it received in FY 2017. In FY 2018, CGB did not forward for investigation 70 percent of the informal consumer complaints received.

According to CGB management, if a consumer did not direct their complaint to a carrier⁹, the complaint is not subject to the requirements of Title 47 USC 208, and Title 47 CFR Part 1, Section 1.717, and Section 1.718. Therefore, CGB does not refer such complaints to a carrier for investigation. CGB management informed the auditors that complaints that fall into the categories discussed in Table 1 are referred to other FCC Bureaus, primarily FCC Enforcement Bureau (EB) and the Bureaus use the information gained from the referred informal consumer complaints to inform the development of communications policies. Additionally, CGB management stated the

⁸ The sample of 78 is a total of 38 and 40 uninvestigated informal consumer complaints filed with FCC in FY 2017 and FY 2018, respectively.

⁹ Carrier is an entity that provides wired and wireless communication services to the general public for a fee.

complaints are analyzed to detect patterns or trends that could lead to EB investigation or enforcement actions against service providers. We noted that CGB management had not formalized its procedures for processing informal consumer complaints through an FCC directive. For example, CGB did not have a written directive or other documented policy that defines carrier complaints versus non-carrier complaints, and there were no criteria to distinguish (or identify) the types of complaints that meet the criteria for referral to other FCC bureaus.

In the absence of an FCC Directive for processing informal complaints, CGB provided the auditors for review FCC Consumer Complaint Center (CCC)¹⁰ article, “Processing Complaints – Tips,” that provides macros¹¹ for managing complaints that are forwarded to the service providers for investigation. The auditors determined this document was not sufficient to replace formal written policies and procedures. Written formal policies and procedures communicate the direction of an organization, detail the appropriate standard of actions and responsibilities of staff, and maintain management accountability. Because there was no FCC directive for processing informal complaints, we questioned whether CGB was meeting the intent of the FCC rule.

CRITERIA

Title 47 CFR Part E, Complaints, Applications, Tariffs, and Reports Involving Common Carriers, states, “§1.717, The Commission will forward informal complaints to the appropriate carrier for investigation and may set a due date for the carrier to provide a written response to the informal complaint to the Commission, with a copy to the complainant...” “§1.718, “When an informal complaint has not been satisfied pursuant to §1.717, the complainant may file a formal complaint with this Commission in the form specified in §1.721...”

GAO’s *Standards for Internal Control in the Federal Government* states,

Principle 3, “Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity’s objectives.”

Principle 7, “Management should identify, analyze, and respond to risks related to achieving the defined objectives.”

Principle 10, “Management should design control activities to achieve objectives and respond to risks.”

CAUSE

CGB’s risk management did not identify and assess risks for each category of informal consumer complaint and relevant controls to mitigate or reduce those risks.

¹⁰ The Consumer Complaint Center is the FCC webpage for filing informal consumer complaints with FCC. The CGB Consumer Inquiry and Complaints Division manages the portal.

¹¹ Macros are a workflow tool that performs specific actions in a complaint ticket.

FCC had not developed and implemented procedural rules, directives, or policies for processing the categories of informal consumer complaints that are not directed to the carriers, such as complaints regarding unwanted calls and junk faxes.

In the absence of such policies and procedures, the FCC lacked a clear, formal definition of a common carrier complaint that meets criteria for referral to the service providers for investigation.

EFFECT

The consumers may be susceptible to increased risks of unfair, deceptive, and sometimes fraudulent business practices that could result from unwanted communications.

RECOMMENDATIONS

We recommend FCC management:

4. Develop a methodology to evaluate risks associated with uninvestigated complaints and implement controls to mitigate the risks of consumers' exposure to unfair and deceptive business practices.
5. Revise the FCC rule (47 CFR Part 1.717 and 1.718) or issue a directive that defines the categories of informal consumer complaints that will be referred to service providers for investigation and those categories (such as unwanted calls and junk faxes) that will not be referred to service providers for investigation, and will be resolved in other manners by CGB. The revised rule or directive should include a definition of a common carrier complaint.
6. Develop and implement formal policies and procedures to guide CGB in the execution of its responsibilities for informal consumer complaints against non-carriers.

MANAGEMENT RESPONSE

CGB does not concur with recommendations 4 and 5 and believes its current processes and procedures for informal consumer complaints served on the common carriers fulfill recommendation 6.

Also, CGB disagrees with the accuracy of this finding. It is a CGB position that it processed informal consumer complaints in compliance with the FCC's rules outlined in Part 1 at 47 CFR §§1.716-1.718 and adopted under Section 208 of the Communications Act. CGB disagrees with recommendation 4 because its management believes the current processes and procedures effectively address the risks associated with processing all classes of informal consumer

complaints. Also, CGB management rejects recommendation 5 because it considers that FCC rule is clear that only informal complaints about the practices of carriers are served on carriers.

AUDITOR RESPONSE

Our conclusion in finding 1, *CGB's risk management strategy was not effective*, supports recommendation 4 that CGB develops a methodology to evaluate and respond to risks associated with uninvestigated complaints. We noted that CGB management accepted all of the auditor's recommendations for finding 1. Findings 2, 3, and 4 are the consequences we noted because of the ineffective risk management strategy for processing informal consumer complaints.

Also, our understanding of FCC's rules outlined in Part 1 at 47 CFR §§1.716-1.718, do not support the CGB management position that unwanted communications complaints are not served on carriers. However, we encourage CGB management to document its understanding of the requirements of Part 1 at 47 CFR §§1.716-1.718 in a directive or written policies and procedures manual.

We do not agree with CGB management that CGB's current policies and procedures fulfill the requirements of recommendation 6. Formal policies and procedures were requested but none were provided. We believe what CGB management referred to as formal written policies and procedures are the "Processing Complaints – Tips," that provides macros for managing informal consumer complaints. As stated in the finding, the "Processing Complaints – Tips" is deficient as a formal policies and procedures manual because it does not provide a specific appropriate standard of actions, the responsibilities of staff, or address management accountability

FINDING No. 3 – Performance Measures Were Not Reflective of the Actual Level of Effort Required for Processing Informal Consumer Complaints

CONDITION

FCC uses Speed of Disposal (SOD) to measure the speed at which FCC closes an informal consumer complaint. FCC reported in its Annual Performance Report (APR) to OMB and Congress that it closed 99.90 percent and 99.87 percent of the informal consumer complaints within its established SOD goal in FY 2017 and FY 2018, respectively. Table 2 below presents SOD performance achievements reported by FCC.

Table 2: FCC Speed of Disposal for FY 2017 and FY 2018

Complaint Category	Total Complaints Processed	Processing Goal (Days)	Complaints Processed within Goal	Performance (in percentage)
FY 2017				
Junk Fax and Telemarketing Complaints	169,651	30	168,953	99.59%
Slamming Complaints	254	180	254	100.00%
Other Telecommunications Complaints	170,562	180	170,244	99.81%
Total	340,467		339,451	99.90% ¹²
FY 2018				
Junk Fax and Telemarketing Complaints	221,731	30	221,657	99.97%
Slamming Complaints	176	180	173	98.30%
Other Telecommunications Complaints	165,809	180	165,390	99.75%
Total	387,716		387,220	99.87%

Based on our review, FCC’s performance goals for processing informal consumer complaints were not objective, relevant, or sufficiently rigorous. The SOD performance goals did not represent the level of effort (i.e., the estimated number of days) required to process informal consumer complaints. For example, CGB established processing goals of 30 days for junk fax and telemarketing (i.e., unwanted calls) complaints. These categories of informal consumer complaints are not forwarded to service providers for investigation or resolved in any other manner by FCC. Instead, CGB sends the consumers emails to acknowledge receipt of their complaints. The consumers are also provided copies of consumer guides to help the consumers to address the subject matter of their complaints. Based on our review of the CGB complaint-handling instructions for CGB’s Consumer Advocacy and Mediation Specialist (CAMS), the auditor estimated that the processing time for junk fax and telemarketing complaints is less than one day per complaint. Therefore, FCC’s performance goal (30 days) may not be sufficiently rigorous to accurately assess FCC’s progress towards the achievement of its consumer protection goals and objectives. CGB management informed the auditors there may be situations where junk faxes and telemarketing complaints require additional actions and may take extra time to process. CGB did not provide a specific example of “additional actions” to justify 30 days of processing time for junk fax and telemarketing complaints. Also, the auditors could not envision additional processing actions that could support the performance goal of 30 days.

Additionally, FCC overstated the performance results (i.e., SOD) reported in its AFRs for FY 2017 and FY 2018. CGB improperly included the junk fax and telemarketing complaints in its calculation of SOD. The junk faxes and telemarketing complaints accounted for 50 percent and 57 percent of total informal consumer complaints processed and reported in CGB’s SOD performance results for FY 2017 and FY 2018, respectively. Furthermore, including telemarketing and junk faxes complaints in the SOD performance results may give consumers and Congress the impression that the service providers investigated these complaints.

¹² FCC reported 99.7% in the FY 2017 Annual Performance Report.

CGB management stated that “unwanted call complaints are correctly included in the SOD goals because they are received via the CCC and CIGD ‘processes’ [quotation marks added by CGB] them by sending educational content to consumers (similar to other complaints) as well as referring them to EB.” However, the auditors noted that, per CGB’s Consumer Complaints Monthly Overview, October 2018, CGB sent educational content to consumers for only 2,789 out of 183,207 complaints filed for the six-month period of May 1, 2018 through October 31, 2018. Also, CGB did not assign the junk fax, and telemarketing complaints to CAMS and the referral to EB was an automated process. CGB retained ownership and accountability for the junk faxes and telemarketing complaints referred to EB. There was no evidence of additional processing or analysis performed by CGB for these categories of complaints once they were classified as ones that would be referred to EB.

We also found that FCC did not have objective and relevant performance goals for categories of informal consumer complaints referred to as Slamming and Other Telecommunications (e.g., billing, service, and accessibility issues) complaints. FCC’s performance goal for processing Slamming and Other Telecommunications complaints was 180 days. In our opinion, the performance goal did not accurately represent the efforts involved in processing those types of informal complaints from receipt through closure. The four primary tasks associated with CGB’s processing of these categories of consumer complaints were as follows:

- (1) CGB reviews and forwards the complaint to a service provider,
- (2) Service provider investigates and responds to the consumer complaint,
- (3) CGB reviews the service provider’s response, and
- (4) CGB reviews rebuttal response, if any, and closes the consumer complaint.

Based on our inquiries of CGB staff and a review of narratives provided to the auditors, we estimated that the average time required to process Slamming and Other Telecommunication complaints was 65 days, as shown in Table 3 below¹³:

Table 3: Primary Tasks - Complaint Processing Time

Primary Tasks for Complaint Processing	Number of Days
(1) CGB forwards complaints to service provider	3
(2) Service provider’s response	30
(3) CGB reviews service provider’s response and place in “Solved” status	4
(4) CGB reviews rebuttal response, if any, and closes complaint	28
Total	65

FCC’s performance goal of 180 days is achievable but not rigorous. Therefore, the performance goal was not objective and relevant for accurately measuring the effectiveness of FCC informal consumer complaints program.

¹³ Except for Item (c), we determined the number of days from the information provided by CGB or inquiries of CGB staff. We estimated the number of days for Item (c) based on auditor review of the information provided by CGB and inquiries of CGB staff.

We reviewed FCC’s performance measures and determined they were output-based, instead of outcome-based. The performance measures focus on the number of complaints closed and how fast they were closed. Outcome-based performance measures would address the value and impact of CGB’s complaint processing to consumers. CGB management stated that SOD was developed several years ago as a tool for monitoring the complaints backlog. Therefore, SOD is not intended to be used to determine the effectiveness of FCC efforts to process informal complaints. Also, CGB informed us there was no complaints backlog in FY 2017 and FY 2018.

In 2010, GAO issued an audit report that provided recommendations to improve the effectiveness and accountability of FCC’s efforts for overseeing wireless phone service. GAO recommended that FCC develop goals and related performance measures for its informal complaint processing efforts that clearly articulate the intended outcomes and essential dimensions of performance.¹⁴

In response to GAO’s recommendations, FCC developed three goals and performance measures as follows:

Table 4: Goals and Performance Measures

Goals	Measures	Results
Serve tickets on providers within an average of three business days	Created Date versus Served Date	1.57 Days
Receive 90 percent of providers responses with 30 days	Served Date versus Response Date	96.60%
Ninety percent of complaints closed without rebuttals	Re-Opened Tickets	6.00%

We found that CGB’s revised performance measures still focus on the outputs of processing consumer complaints (e.g., how fast an informal consumer complaint is closed). The revised performance measures did not address the outcomes - a qualitative measure - of processing informal consumer complaints for CGB management to assess program effectiveness. For example, the performance measures did not include a measure of consumers’ satisfaction with the informal consumer complaints program or the number of complaints resolved by the service providers. Additionally, there were no performance measures for uninvestigated complaints, or the challenges FCC confronted in protecting consumers from financial loss.

According to CGB management, its “Re-Opened Ticket” performance measure evidenced consumers’ satisfaction with the informal complaint process. In our opinion, the number of re-opened tickets (or rebuttals) may not be a useful measure of consumers’ satisfaction. A consumer may elect to forgo filing a rebuttal because of reasons other than satisfaction with the outcome of a complaint filed with FCC, such as the inability of a service provider to resolve a complaint or the consumer’s presumption that the rebuttal process is ineffective.

¹⁴ GAO-10-34, *TELECOMMUNICATIONS: FCC Needs to Improve Oversight of Wireless Phone Service*

In late FY 2018, CGB implemented additional performance tools to monitor informal complaint processing. However, CGB had no written documentation to demonstrate how it used the performance tools to improve the processing of the informal consumer complaints or measure FCC's progress toward the achievement of its goals of protecting consumers. Also, CGB developed a performance tool that categorized consumer complaint data by service providers. There was no evidence provided to the auditors that the consumer complaint data were shared directly with the service providers, especially those service providers that accounted for the majority of informal consumer complaints investigated. Also, CGB did not compile robocall data by service providers and did not maintain documentation to demonstrate how CGB used robocalls data to improve consumers' protection (such as protection from insurance, healthcare, and lawsuits scams). Another CGB performance tool was used to track the movement of complaint tickets (i.e., tickets served on service providers or other federal agencies). However, there was no evidence the data gathered was used to monitor CGB's effectiveness and efficiency in the processing of consumer complaints.

CRITERIA

According to the GPRA Modernization Act of 2010, Section 1115, performance plan shall express goals in an objective, quantifiable, and measurable form. In Section 1124, the Act requires an agency to designate a Performance Improvement Officer to a) ensure achievement of the mission and goals of agency through strategic and performance planning, measurements, analysis, regular assessment of progress, and use of performance information to improve results achieved; and conduct a periodic review of agency performance.

GAO's *Standards for Internal Control in the Federal Government* states,

Principle 13, "Management should use quality information to achieve the entity's objectives." Section 13.02, "Management designs a process that uses the entity's objectives and related risks to identify the information requirements needed to achieve the objectives and address the risks. Information requirements consider the expectations of both internal and external users..." Section 13.04, "Management obtains relevant data from reliable internal and external sources in a timely manner based on the identified information requirements. Relevant data have a logical connection with, or bearing upon, the identified information requirements. Reliable internal and external sources provide data that are reasonably free from error and bias and faithfully represent what they purport to represent..." Section 13.05, "Management processes the obtained data into quality information that supports the internal control system... Quality information meets the identified information requirements when relevant data from reliable sources are used... Management uses the quality information to make informed decisions and evaluate the entity's performance in achieving key objectives and addressing risks."

Principle 6, Section 6.07, "Management determines whether performance measures for the defined objectives are appropriate for evaluating the entity's performance in achieving those objectives. For quantitative objectives, performance measures may be a targeted percentage

or numerical value. For qualitative objectives, management may need to design performance measures that indicate a level or degree of performance, such as milestones.”

Principle 10, Section 10.03, “...*Establishment and review of performance measures and indicators*, Management establishes activities to monitor performance measures and indicators. These may include comparisons and assessments relating different sets of data to one another so that analyses of the relationships can be made and appropriate actions taken. Management designs controls aimed at validating the propriety and integrity of both entity and individual performance measures and indicators.”

CAUSE

CGB management did not adequately consider FCC goals and objectives, the time required for processing informal consumer complaints, and differences in the categories of consumer complaints when developing their performance measures and goals.

FCC had not developed a formal definition of what it considers a “solved complaint.” For example, a performance measure for the solved complaint could be defined as a complaint where a service provider meets the demand of a consumer. Such a definition of “solved complaint” is useful because it measures the progress toward FCC’s consumers protection objective. On the other hand, if a solved complaint is defined as a complaint closed based on an established deadline or service provider’s failure to respond to complaints, it is not effective. Such a definition of “solved complaint” quantifies the output (e.g., number) of processed consumer complaints, not CGB progress towards meeting a FCC consumer protection objective.

EFFECT

CGB’s performance results may not be reliable for assessing the effectiveness of informal consumer complaint processing, promptly responding to inefficiencies in informal consumer complaints processing, and enforcing accountability for CGB officials responsible for processing informal consumer complaints.

CGB’s performance results were not suitable for making decisions on consumer program priorities and identifying opportunities for improving the processing of informal consumer complaints.

Also, service providers may not be informed of the magnitude of unwanted communications complaints and the concerns raised by consumers.

RECOMMENDATIONS

We recommend FCC management:

7. Consider whether the use of SOD as a performance measure is appropriate since CGB did not have any consumer complaints processing backlogs in recent years. If SOD is retained as a performance tool, develop and implement performance goals for SOD based on the actual processing timeframes for activities associated with informal consumer complaints.
8. Develop and implement performance goals based on actual processing timeframes for activities associated with informal consumer complaints. Also, establish outcome-based performance measures appropriate for assessing the effectiveness of CGB's processing of informal consumer complaints and evaluating its progress in achieving its performance goals and objectives.
9. Develop and document a formal definition for "solved complaint".
10. Develop and implement internal controls to ensure performance measures are appropriate for the stated objectives.
11. Develop and implement internal controls to ensure relevance and accuracy of consumer complaint data, and conclusions from performance results are suitable for making decisions on consumer program priorities. The performance measures for processing informal complaints should exclude complaints closed without any CGB action to address the individual consumer's complaint (e.g., informal consumer complaints referred to other FCC Bureaus).
12. Consider the feasibility of collecting data on unwanted communications by service providers and sharing the data with the service providers to communicate the magnitude of the issue.

MANAGEMENT RESPONSE

CGB stated that it had fulfilled recommendations 8, 10, 11, and 12. CGB believes its performance measures meet stated objectives, address CGB's efforts to process informal consumer complaints, and allow management to assess program effectiveness and evaluate progress in achieving its goals. Concerning recommendations 7 and 9, CGB will reconsider the appropriateness of the timeframe established for processing all classes of informal consumer complaints and refine its definition of what is a solved complaint.

CGB informed the auditor the draft audit report fails to focus on performance measures in place and incorrectly concludes that performance measures were output based. CGB cited examples to

demonstrate that the performance measures focus on the outcome, including how fast a complaint is served after receipt, how many providers timely respond to informal consumer complaints, and how many tickets are re-opened by consumers following a provider response. According to CGB, GAO found that its performance measures address the outcome of CGB's effort to process informal consumer complaints and assess the effectiveness of the consumer complaint program.

AUDITOR'S RESPONSE

We understand that FCC-OIG will confirm CGB's implementation of recommendations 7, 8, 9, 10, 11 and 12 through its audit recommendation follow-up process.

The auditor continues to maintain that CGB performance measures did not address the outcome of the FCC informal consumer complaint program. We determined that they were not useful in measuring CGB's progress toward achieving its stated goals and objectives. Also, CGB's statement that GAO found its performance measures to be outcome based is misleading. The report was issued ten years ago, and GAO does not state anywhere in its report¹⁵ that CGB performance measures were outcome-based. GAO recommended that FCC develop goals and performance measures for informal consumer complaints processing that articulate intended outcomes and address important dimensions of performance. In its management response to GAO's finding, FCC argued that the appropriate performance measures should measure procedural aspects rather than the substantive outcomes of its informal consumer complaint processing.

FINDING No. 4 – Improvement is Needed in CGB Training Program

CONDITION

CGB training was not adequate for CICD staff to maintain up-to-date familiarity with FCC rules and regulations on matters that accounted for the bulk of FCC's informal consumer complaints. The CICD staff received training related to their job duties. However, the training did not cover the types of complaints that represent the most significant risk to the FCC consumer protection program.

Based on FY 2017 and FY 2018 training records for CICD staff, CGB management did not provide any training on processing consumer complaints regarding unwanted calls and junk faxes. These two classes of complaints totaled approximately 52 percent and 66 percent of total informal complaints filed in FY 2017 and FY 2018, respectively. Also, billings and availability-of-service issues accounted for the majority of phone and internet-related complaints investigated by the

¹⁵ <https://www.gao.gov/assets/300/298222.pdf>

service providers¹⁶. CGB did not provide evidence of any training on billing and availability-of-service for the auditors' examination.

Further, we were unable to ascertain whether the training that was conducted enabled CICD staff to maintain a level of competence that prepares them to accomplish their assigned responsibilities and achieve FCC consumer protection objectives. CGB conducted four training courses in FY 2017 and FY 2018, as follows: Zendesk¹⁷ Refresher Training, Tier 2 Ticket Processing, Digital Television (DTV), and Post Auction/Incentive Auction. For two of the training courses (i.e., Refresher and DTV), CGB provided the auditors a list of the staff invited to the training. However, CGB did not provide the training manual/slides, agenda, or sign-in sheets to auditors for examination. Also, CGB did not provide the Tier 2 Processing training agenda and list of participants for auditors' examination. We reviewed the Post Auction/Incentive Auction training material; however, the attendance records for the training were not made available for auditors' examination. Therefore, we were unable to review the content and assess the relevance of two of the four training courses, or ascertain which or how many CICD staff attended any of the four training courses.

CRITERIA

GAO's *Standards for Internal Control in the Federal Government* states,

Principle 3, Section 3.10, "Effective documentation assists in management's design of internal control by establishing and communicating the who, what, when, where, and why of internal control execution to personnel. Documentation also provides a means to retain organizational knowledge and mitigate the risk of having that knowledge limited to a few personnel, as well as a means to communicate that knowledge as needed to external parties, such as external auditors."

Principle 4, "Management should demonstrate a commitment to recruit, develop, and retain competent individuals...Section 4.02, "Management establishes expectations of competence for key roles, and other roles at management's discretion, to help the entity achieve its objectives. Competence is the qualification to carry out assigned responsibilities. It requires relevant knowledge, skills, and abilities, which are gained largely from professional experience, training, and certifications..." "...Section 4.04 "Personnel need to possess and maintain a level of competence that allows them to accomplish their assigned responsibilities, as well as understand the importance of effective internal control..."

¹⁶ Based on a six-month data available for examination by the auditors.

¹⁷ Zendesk hosts the Consumer Complaint Center (CCC) system. Zendesk is a licensed customized solution for tracking, prioritizing, and processing consumer complaints.

CAUSE

CGB did not adequately consider the program risk (i.e., subject matter, and volume of complaints) when developing employee training requirements.

CGB had not developed training policies and practices that will enable staff development that is essential to achieving its strategic goals and objectives.

EFFECT

The inadequacy of CGB's training of CICD staff increases the risks of financial losses to consumers that could result from unwanted communications.

RECOMMENDATIONS

We recommend FCC management:

13. Develop and implement a risk-based training program, policies and procedures, and a tracking mechanism that focus on the most significant subject matter such as informal consumer complaints, including unwanted calls, junk faxes, and billing issues.

MANAGEMENT RESPONSE

CGB management stated that it had met recommendation 13. According to CGB, it has taken proactive steps to improve the training program during the pendency of the audit. According to CGB, it now has a better documented, risk-based Training Plan that requires it to conduct regular training on the processing of tickets in the Consumer Complaint Center, the answering of phone calls at the Call Center, and any emerging communications issues. Also, CGB stated that all training materials and sign-in sheets for each training session would be available. In conjunction with the above training, CGB will convey information to staff on relevant issues and processes via multiple additional channels, including scripts, Hot News, email, and system notifications.

AUDITOR RESPONSE

We understand that FCC-OIG will confirm CGB's implementation of recommendation 13 through its audit recommendation follow-up process.

APPENDIX A – OBJECTIVES, SCOPE, AND METHODOLOGY

The objective of our performance audit was to evaluate the Federal Communications Commission (FCC) Consumer and Governmental Affairs Bureau's (CGB) management of risk related to processing informal consumer complaints. Specifically, the audit objectives were to:

1. Evaluate the process for identifying internal and external risks.
2. Evaluate the risk management strategy to determine if the risks are adequately managed to meet agency goals and objectives.
3. Determine the effectiveness of the internal controls established to manage risk.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Our audit covered the period from October 1, 2016, through September 30, 2018.

To achieve the audit objectives, we performed audit procedures as deemed appropriate, including:

- Obtained and reviewed significant provisions of laws and regulations applicable to processing informal consumer complaints.
- Reviewed GAO reports on enterprise risk management (ERM) and related challenges faced by federal agencies in implementing ERM to update our understanding and awareness of best practices.
- Made inquiries of appropriate CGB management and staff via questionnaires and obtained documentation to understand the following: how FCC implemented the provisions of 47 CFR Part 1, Section 717 and Section 208 of the Communications Act of 1934 (Title 47 USC 208); significant consumer complaints processing activities; and guidance provided in FCC's directives, policies and procedures manuals. We held subsequent meetings with CGB management to confirm our understanding and verify their responses. We also attended demonstrations of the informal consumer complaint processing and monitoring function of the Consumer Complaint Center.
- Evaluated CGB's processes for identifying internal and external risks to its objectives.
- Evaluated CGB's risk management strategy to determine if risks were adequately managed to meet agency goals and objectives.
- Reviewed CGB's performance measures to determine if they were appropriate for evaluating CGB's performance in achieving CGB's goals and objectives related to informal consumer complaint processing.
- Reviewed documentation maintained to support consumer complaint data and information reported in the FY 2017 and FY 2018 Annual Performance Report.

- Reviewed FCC’s initiatives for improving transparency of performance measures by following up on FCC’s implementation of GAO recommendations.
- Reviewed the latest Entity Level Assessment to determine CGB’s compliance with OMB Circular A-123 risk assessment requirements.
- Evaluated the effectiveness of internal control over informal consumer complaint processing to determine if consumers were educated about their rights and CICD staff members received appropriate training on FCC consumer policy for informal consumer complaints processing.
- Selected samples and performed tests of informal consumer complaint tickets, rebuttals, and unserved tickets to determine if CICD’s processing procedures were consistent with FCC rules (i.e., Title 47 CFR Part 1, Sections 711-719).
- Evaluated internal control over informal consumer complaints reporting to determine if all informal complaints are recorded, categorized correctly, and disseminated to stakeholders in a uniform method.
- Evaluated the effectiveness of internal control over the Consumer Complaint Center support of FCC consumer program objectives and related risks.

APPENDIX B – MANAGEMENT’S RESPONSE



UNITED STATES GOVERNMENT
FEDERAL COMMUNICATIONS COMMISSION

Consumer and Governmental Affairs Bureau

MEMORANDUM

DATE: April 27, 2020

TO: David L. Hunt, Inspector General

FROM: Patrick Webre, Bureau Chief

SUBJECT: Management’s Response to Independent Auditor’s Report of the Federal Communications Commission (FCC)

Thank you for the opportunity to respond to the draft audit report from the Office of Inspector General. This performance audit was conducted by Lani Eko & Company, CPAs, PLLC.

The Consumer Inquiries and Complaints Division worked closely with your office and the auditor over the past year and a half to furnish a wealth of information to provide an in-depth understanding of the informal consumer complaint process and facilitate an efficient audit process. The Division has implemented several of the draft report’s recommendations and plans to implement others as described below. The Division does not concur with some of the draft report’s recommendations, and believes the draft report fails to include relevant information provided, such as responses to the audit request list, narratives, demonstrations of the Consumer Complaint Center¹⁸ and other supporting documentation. The draft report misinterprets the statutory requirements regarding informal consumer complaints and disregards the Division’s responses to the draft notices of findings and recommendations, specifically that informal consumer complaints about unwanted calls are not complaints about the behavior of common carriers and thus are outside the scope of rule 1.716, et al.¹⁹

Auditor Finding No. 1 – Risk Management Strategy Was Not Effective.

Recommendations:

1. Direct CGB, in coordination with the FCC Chief Risk Officer (CRO), to develop a risk profile that aligns with the FCC strategic goals and objectives, and CGB’s vision and mission.

¹⁸ The Consumer Complaint Center is the FCC’s free online informal consumer complaint portal where consumers can file complaints and inquiries involving communications services and issues.

¹⁹47 CFR §§ 1.716-1.718.

2. Ensure that CGB integrates its mission, goals, and objectives specific to the informal consumer complaints program into its risk management strategy.
3. Direct the FCC CRO and the FCC Performance Improvement Officer to provide written guidance and training to CGB on the implementation of CGB's risk management activities.

Management Response:

The Division will work in coordination with the FCC's Chief Risk Officer and Performance Improvement Officer to enhance its risk management strategy and implement recommendations 1, 2 and 3.

Auditor Finding No. 2 – All Informal Consumer Complaints Under FCC Jurisdiction Were Not Investigated.

Recommendations:

4. Develop a methodology to evaluate risks associated with uninvestigated complaints and implement controls to mitigate the risks of consumers' exposure to unfair and deceptive business practices.
5. Revise the FCC rule (47 CFR Part 1.717 and 1.718) or issue a directive that defines the categories of informal consumer complaints that will be referred to service providers for investigation and those categories (such as unwanted calls and junk faxes) that will not be referred to service providers for investigation, and will be resolved in other manners by CGB. The revised rule or directive should include a definition of a common carrier complaint.
6. Develop and implement formal policies and procedures to guide CGB in the execution of its responsibilities for informal consumer complaints against non-carriers.

Management Response:

We believe the Division's current processes and procedures fulfill recommendation 6 regarding informal consumer complaints that are not served. The Division has developed and implemented policies and procedures to guide its processing of informal consumer complaints, including those not directed toward—and thus not served on—carriers. The Division discussed these policies and procedures with the auditor and provided documentation of complaint processing for complaints that are served and complaints that are referred. The Division will nonetheless continue to refine those policies and procedures to ensure that the informal consumer complaint process works as smoothly and efficiently as possible for consumers.

The Division does not concur with recommendations 4 and 5. The Division also disagrees with the accuracy of the draft report's finding.

The Division processes informal consumer complaints in compliance with the FCC's rules set forth in Part 1 at 47 CFR §§1.716-1.718 and adopted pursuant to Section 208 of the Communications Act. The FCC's rules require informal consumer complaints involving the behavior of carriers to be served on the carrier and the carrier is required to respond to the FCC with a copy to the consumer. Informal consumer complaints and inquiries that do not involve the behavior of carriers, including unwanted call complaints, are referred internally to inform policy or enforcement activities, referred externally to state or federal agencies, and/or responded to with educational content. This flexibility allows the FCC to effectively address emerging and new consumer communications issues while being responsive to

consumers who file complaints that are not against a carrier. The Division has procedures in place for handling every type of inquiry and complaint received.

The draft audit report claims that the Division's referral process, in particular with respect to unwanted call complaints, left consumers susceptible to increased risks of unfair and deceptive business practices. The facts do not support this conclusion. As an initial matter, the FTC has jurisdiction over unfair and deceptive business practices; the FCC does not. As such, referring such complaints to the FTC and the Commission's Enforcement Bureau (which handles certain violations of the Telephone Consumer Protection Act and Truth in Caller ID Act against non-carriers) is a much more effective means of preventing unfair and deceptive business practices than referring the complaint to a carrier. Indeed, the draft audit report does not even explain which carrier such complaints should be referred to, since the likelihood of the caller and the consumer having the same carrier is remote and most calls transit through the networks of multiple distinct carriers before reaching a consumer (originating carrier, intermediate carrier(s), and terminating carrier). And as the Division noted during the audit, consumers do not ordinarily expect the agency to refer a complaint against one party (the caller) to another (a carrier) nor are consumers harmed in any way when such complaints are referred for potential enforcement action. In short, the FCC's rules involving unwanted calls address the individual or entity placing the call, not the carrier delivering the call, and the Division thus treats complaints about such calls accordingly.

It is important to note that consumers are informed of these policies. The Consumer Complaint Center clearly states that complaints about unwanted calls, loud commercials, and indecency are not resolved individually. This message is provided to consumers at multiple points in the complaint process. In addition, consumers are provided with educational content after their complaint submission, and they are informed that their complaint data is used internally for policy development and potential enforcement. Unwanted calls data is also released to the public (without personally identifiable information) for use by carriers and third-party developers to inform their development of tools and other strategies to address unwanted calls. The FCC has also used complaint data to spur industry cooperation to address the issue of unwanted calls, including the blocking and tracing of unwanted calls.

The Division does not concur with recommendation 4 that it needs to develop a methodology to evaluate risks associated with unserved complaints and implement controls to mitigate or eliminate the risks of consumers' exposure to unfair and deceptive business practices. As stated above, the FTC addresses unfair and deceptive business practices. The FCC does not. The Division processes and procedures effectively address the risks associated with all classes of informal consumer complaints, including those not served on carriers. The Division has evaluated the risks associated with unserved complaints and has implemented various controls to mitigate the risks.

The Division also does not concur with recommendation 5 to revise the FCC rules or issue a directive to identify the categories of informal complaints served on carriers and those categories of consumer complaints (such as junk faxes and unwanted calls) that are not served on carriers. The rules already make clear that only informal complaints about the practices of carriers, not all informal complaints, are served on carriers—as it would make no sense to read the rules as requiring the service of complaints about loud commercials or other non-carrier activities on a telephone carrier.

Auditor Finding No. 3 - Performance Measures Were Not Reflective Of The Actual Level Of Effort Required For Processing Informal Consumer Complaint[s]

Recommendations:

7. Consider whether the use of SOD as a performance measure is appropriate since CGB did not have consumer complaints processing backlog in recent years. If SOD is retained as a performance tool,

develop and implement performance goals for SOD based on the actual processing timeframes for activities associated with informal consumer complaints.

8. Develop and implement performance goals based on actual processing timeframes for activities associated with informal consumer complaints. Also, establish outcome-based performance measures appropriate for assessing the effectiveness of CGB's processing of informal consumer complaints and evaluating its progress in achieving its performance goals and objectives.

9. Develop and document a formal definition for "solved complaint" (e.g., when the service provider responded by providing the relief requested by a consumer, the consumer has not indicated unhappiness with the closing of a complaint, or when FCC at its discretion, closes a complaint).

10. Develop and implement internal controls to ensure performance measures are appropriate for the stated objectives.

11. Develop and implement internal controls to ensure relevance and accuracy of consumer complaint data and conclusions from performance results are suitable for making decisions on consumer program priorities. The performance measures for processing informal complaints should exclude complaints closed without any CGB action to address the individual consumer's complaint (e.g., informal consumer complaints referred to other FCC Bureaus).

12. Consider the feasibility of collecting data on unwanted communications by service providers and sharing the data with the service providers to communicate the magnitude of the issue.

Management Response:

The Division has already met recommendations 8, 10, 11 and 12. The existing performance measures are appropriate to meet stated objectives, address the outcomes of the Division's efforts to process informal consumer complaints, and allow for management to assess program effectiveness and evaluate progress in achieving its goals. These measures were implemented to ensure consumer complaint processing met rigorous goals to guarantee efficient and effective complaint processing. These goals, by their nature, only include complaints that are served. In addition, the Division releases unwanted call data to the public (without personally identifiable information) for use by carriers and third-party developers to inform their development of tools and other strategies to address unwanted calls. See <https://www.fcc.gov/consumer-help-center-data>. The FCC has also used complaint data to spur industry cooperation to address the issue of unwanted calls, including the blocking and tracing of unwanted calls.

Pursuant to recommendation 7, the Division will revisit the Speed of Disposal (SOD) processing timeframes based on the current informal consumer complaint process and the likelihood of a complaint processing backlog. With respect to recommendation 9, the Division will further refine its definition of a solved complaint.

The draft audit report fails to focus on performance measures put in place by the Division, as well as the real-time reporting that is used daily to assess the effectiveness of the informal consumer complaint process. The draft report incorrectly concludes that the Division's performance measures were output based and focused on the number of complaints closed and how fast they were closed. The existing goals and measures focus on the outcomes of processing consumer complaints as well as important dimensions of performance, including how fast a complaint is served after receipt, how many providers timely respond to informal consumer complaints, and how many tickets are re-opened by consumers following a provider response. As GAO found, the performance measures address the outcomes of the Division's efforts to process informal consumer complaints and allow for management to assess program

effectiveness. See <https://www.gao.gov/products/GAO-10-34>. The draft audit report further claims the performance measures do not include a measure of satisfaction. However, the re-opened ticket performance measure reflects the number of consumers who file a rebuttal after they have received a carrier response. The filing of a rebuttal requires the carrier to take another look at the issue and provide an additional response to the FCC and the consumer. This metric is an outcome-based indicator of consumer satisfaction.

The draft report notes that the Division does not have a formal definition of a “solved” complaint. The purpose of the informal consumer complaint process is to facilitate a conversation between the consumer and their carrier to address the consumer’s issue. As noted above, the Division will refine its existing definition of solved complaint. However, defining a “solved” complaint as one where the carrier “meets the demand of the consumer” as suggested by the draft report is both ineffective and inappropriate. There are informal consumer complaints filed where the consumer is not entitled to have their demand met by the carrier, and the carrier response satisfies the complaint.²⁰

Audit Finding No. 4 – Improvement is needed in CGB Training Program.

Recommendations:

13. Develop and implement a risk-based training program, policies and procedures, and a tracking mechanism that focus on the most significant subject matter such as informal consumer complaints, including unwanted calls, junk faxes, and billing issues.

Management Response:

The Division has met recommendation 13. The Division has taken proactive steps to improve its training program during the pendency of the audit. The Division now has a better documented, risk-based Training Plan that requires it to conduct regular training on the processing of tickets in the Consumer Complaint Center, the answering of phone calls at the Call Center and any emerging communications issues. In addition, all training materials and sign in sheets for each training session will be available. In conjunction with the above training, information will be conveyed to staff on relevant issues and processes via multiple additional channels including scripts, Hot News, email and system notifications.

As a general matter, the Consumer Complaint Center has a catalog of about 300 scripts. These scripts contain relevant information on communications issues. These scripts are searchable so that staff can locate them when needed. The Division continuously updates the scripts to keep them current with relevant telecommunications issues, rules and policies and staff is notified of these updates. In addition, information on emerging issues is provided to staff through multiple channels other than scripts, including emails and Hot News, which provides concise summaries of communications issue changes. The Division also conducts one-on-one remediation/training if an individual staff member requires it.

The recommendation focuses on unwanted call training and the draft report notes that staff did not receive training on unwanted call complaints during the audit period. The Division conducted unwanted calls training on 10/18/18 – 18 days beyond the audit period. In addition, the unwanted calls script was updated three times within the audit period. There were also four items posted in Hot News about unwanted calls during the audit period. These script updates and news items were conveyed to

²⁰ Examples of instances where carrier responses satisfy the complaint are situations where a consumer wants a carrier to provide service to their residence but is unwilling to help pay for construction, where a consumer fails to pay their bill for multiple months, is disconnected and demands service be restored without any type of payment plan.

staff, providing them with new substantive information on the issue of unwanted calls during the audit period.

Conclusion to Management Response to Auditor Report

Over the past year and a half, the Division has spent a significant amount of time and resources to fully address all auditor questions and document requests. The draft audit report's analysis does not reflect the documentation and explanations provided by the Division. The Division requests that the auditor considers all of the information provided prior to issuing the final report on this audit.

In summary, the Division has implemented the draft report's recommendations 6, 8, 10, 11, 12 and 13, and plans to implement 1, 2, 3, 7 and 9. The Division does not concur with the draft report's recommendations 4 and 5. We look forward to working with the OIG and its auditor and on improving our processes going forward.

/s/ Patrick Webre

Patrick Webre
Bureau Chief

APPENDIX C – LIST OF ACRONYMS

AFR	Agency Financial Report
CAMS	Consumer Advocacy Mediation Specialist
CCC	Consumer Complaint Center
CGB	Consumer and Governmental Affairs Bureau
CICD	Consumer Inquiry and Complaints Division
EB	Enforcement Bureau
FCC	Federal Communications Commission
FY	Fiscal Year
GAO	Government Accountability Office
OIG	Office of Inspector General
OMB	Office of Management and Budget
SOD	Speed of Disposal