
DRAFT GUIDELINES FOR PUBLIC REVIEW

**FEDERAL COMMUNICATIONS COMMISSION
DRAFT INFORMATION QUALITY GUIDELINES**

1. These are the Draft Information Quality Guidelines required by the Office of Management and Budget (OMB) in implementing section 515(a) of the Treasury and Government Appropriations Act for Fiscal Year 2001, Pub. L. No. 106-554, § 515, 114 Stat. 2763, 2763A-153 (2000), *reprinted at* 44 U.S.C.A. § 3516 Historical and Statutory Notes (“Data Quality Act”).

I. Background

2. The Data Quality Act requires the development of government-wide standards on the quality of governmental information disseminated to the public. It directs the Director of OMB to issue guidelines under the Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3504(d)(1) and 3516, providing guidance to Federal agencies “for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies in fulfillment of the provisions of [the PRA].” The Data Quality Act states that OMB guidelines shall apply to sharing by agencies of and access to information disseminated by agencies (section 515(b)(1)); requires agencies to issue their own guidelines (section 515(b)(2)(A)); and requires agencies to establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by an agency that does not comply with OMB guidelines (section 515(b)(2)(B)). Finally, the statute requires periodic reports by agencies to OMB concerning the number of complaints filed and how the complaints were handled (section 515(b)(2)(C)).
3. OMB’s guidelines implementing the Data Quality Act¹ require each agency to publish in the *Federal Register* by May 1, 2002 a notice of the availability of the agency’s draft information quality guidelines.² After considering public comment, agencies are required to provide OMB with appropriately revised draft guidelines by July 1, 2002.³ Finally, by October 1, 2002, agencies must publish in the *Federal Register* a notice that the agency’s final guidelines are available on the Internet.⁴ In accordance with these requirements, the Federal Communications Commission (hereafter identified as the Commission) makes available its Draft Information Quality Guidelines, set forth in Appendix A, for public review and comment between May 1 and June 28, 2002.

¹ Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, 66 FR 49718 (Sept. 28, 2001) (interim final guidelines), and 67 FR 369 (Jan. 3, 2002) (final guidelines), *corrected*, 67 FR 5365 (Feb. 5, 2002), *reprinted correcting errors*, 67 FR 8452 (Feb. 22, 2002) (collectively referred to as “OMB Guidelines”).

² See OMB Guidelines, 67 FR at 8259, *date extended* 67 FR 9797 (Mar. 4, 2002).

³ See OMB Guidelines, 67 FR at 8259.

⁴ See id.

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II. Summary of the Proposed Guidelines

4. Our draft guidelines substantially follow the provisions of the OMB Guidelines. First, the OMB Guidelines interpret many key statutory terms, such as “information,” “disseminate,” “quality,” “objectivity,” “utility,” and “integrity.”⁵ We have proposed definitions of these terms for our guidelines that largely incorporate OMB’s definitions, with some modifications to take into account the Commission’s unique processes. We seek comment on whether any further modification of these definitions is required.
5. We also propose procedures for reviewing and substantiating the quality, objectivity, utility, and integrity of information before it is disseminated by the Commission. We seek comment on whether any further variations may be necessary because of the nature of the Commission’s practice and procedures.
6. The Data Quality Act and OMB Guidelines require that we establish an administrative mechanism to allow affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the OMB or our guidelines.⁶ Our proposal provides that initial complaints are to be filed with a central office in the Commission that assigns the complaint to the Bureau or Office where the information dissemination product in question originated. We also propose to post a form on the Internet, beginning October 1, 2002, to be used for filing information quality complaints. The Data Quality Act permits only “affected persons” to file complaints.⁷ We therefore propose requiring that an information quality complaint contain a description of how a person is affected by the information dissemination product alleged to violate OMB or our guidelines.⁸ We also propose that if affected persons are concerned about information disseminated in the context of a rulemaking proceeding, such concerns should be raised as comments in the rulemaking process.
7. The OMB Guidelines require that agencies set time limits for action on complaints.⁹ We propose that the relevant Bureau or Office should respond to initial complaints within 45 days. As provided in the OMB Guidelines, the Bureau or Office handling the initial complaint will respond in a manner appropriate to the nature and extent of the complaint.¹⁰ Inconsequential, trivial, or frivolous complaints may require no response at all.¹¹ We may also reject complaints made in bad faith or without justification.¹² We propose that if a complaint requires corrective action, the appropriate level of correction¹³ shall occur within 60 days of the decision on the complaint. The OMB Guidelines require that persons who do not agree with the initial decision be afforded the opportunity to seek administrative review

⁵ See OMB Guidelines, 67 FR at 8453-54, 8459-60.

⁶ See OMB Guidelines, 67 FR at 8458-59.

⁷ See section 515(a)(2)(B).

⁸ OMB Guidelines, 66 FR at 49721.

⁹ OMB Guidelines, 67 FR at 8459.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.

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of that decision.¹⁴ The proposed procedures provide that applications for review should be presented to the Commission for determination.¹⁵ Our proposed procedures provide that action on applications for review should occur within 120 days. Where warranted, the Commission may deny applications for review without providing reasons. We seek comment on the proposed procedures.

III. Procedural Matters and Ordering Paragraphs

8. Comment Filing. The OMB Guidelines require that upon consideration of public comments and after appropriate revision, we must submit a draft of final agency guidelines to OMB by July 1, 2002. Interested parties may file written comments on or before June 28, 2002.
9. Parties interested in commenting on these Draft Information Quality Guidelines must submit written comments on or before June 28, 2002. Hand-delivered or messenger-delivered comments, including comments sent by overnight mail (other than United States Postal Service (USPS) Express Mail and Priority Mail), must be addressed to 9300 East Hampton Drive, Capitol Heights, MD 20743. This location is open 8:00 a.m. to 5:30 p.m. USPS first-class mail, Express Mail, and Priority Mail should be addressed to the Commission's headquarters at 445 12th Street SW, Room 1-A807, Washington, DC 20554.
10. Parties who wish to submit written comments via USPS mail should be aware that the Commission continues to experience delays in receiving surface mail. Due to precautions necessitated by last fall's anthrax contaminations, the Commission continues to divert all USPS mail addressed to our 12th street headquarters to our Capitol Heights facility for screening prior to delivery at the Commission. Thus, parties wishing to submit written comments via USPS should mail their comments significantly in advance of the June 28 deadline.
11. Parties wishing to submit written comments by electronic mail should address them to KWheeles@fcc.gov with a subject line that notes that this electronic communication contains comments on the Commission's Draft Information Quality Guidelines.
12. All relevant and timely comments will be considered before these guidelines are finalized.
13. Ex Parte. This proceeding is deemed exempt for purposes of the *ex parte* rules.¹⁶
14. Further Information. For further information, contact Dr. Karen Wheeless, Office of Managing Director, 445 12th Street SW, Room 1-A807, Washington, DC 20554 or by e-mail to KWheeles@fcc.gov.

¹⁴ OMB Guidelines, 67 FR at 8459.

¹⁵ See 47 U.S.C. § 405(a).

¹⁶ See 47 C.F.R. § 1.1204.

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APPENDIX A**DRAFT INFORMATION QUALITY GUIDELINES****I. Purpose and Scope**

1. The Federal Communications Commission (hereafter identified as the Commission) is publishing these guidelines to ensure and maximize the quality, objectivity, utility, and integrity of specific types of information it disseminates, as required by section 515(a) of the Treasury and Government Appropriations Act for Fiscal Year 2001, Pub. L. No. 106-554, § 515, 114 Stat. 2763, 2763A-153 (2000), *reprinted at* 44 U.S.C.A. § 3516 Historical and Statutory Notes (“Data Quality Act”).
2. The purpose of this Appendix is to describe the Commission’s policy and procedures for reviewing and substantiating the quality of information before it is disseminated to the public, and to describe the Commission’s administrative mechanisms allowing affected persons to seek and obtain, where appropriate, correction of information disseminated that does not comply with the Office of Management and Budget (OMB) Guidelines, Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, 66 FR 49718 (Sept. 28, 2001) (interim final guidelines), and 67 FR 369 (Jan. 3, 2002) (final guidelines), *corrected*, 67 FR 5365 (Feb. 5, 2002), *reprinted correcting errors*, 67 FR 8452 (Feb. 22, 2002), or the Commission’s final Information Quality Guidelines, which will be issued October 1, 2002.
3. These guidelines apply only to information disseminated by the Commission as defined in these guidelines. Other information distributed by the Commission that is not addressed by these guidelines may be subject to other Commission policies and correction procedures.
4. This document provides guidance to Commission staff and informs the public of the Commission’s policies and procedures. These guidelines are not rules or regulations. They are not legally enforceable and do not create any legal rights or impose any legally binding requirements or obligations on the Commission or the public. Nothing in these guidelines affects any otherwise available judicial review of Commission action. These guidelines may not apply to a particular situation based on the circumstances, and the Commission retains discretion to adopt approaches on a case-by-case basis that differ from the guidelines where appropriate. Any decisions regarding a particular case, matter or action will be made based on applicable statutes, regulations and requirements. Interested parties are free to raise questions and objections regarding the substance of the guidelines and the appropriateness of using them in a particular situation. The Commission will consider whether or not the guidelines are appropriate in that situation. Factors such as imminent threats to public health or homeland security, statutory or court-ordered deadlines, or other time constraints, may limit or preclude applicability of these guidelines.

II. Definitions

For purposes of these guidelines, the following definitions apply:

- 1 *Adjudicative processes* refer to the findings and determinations made in the course of formal and informal adjudications. Examples of adjudicative processes include, but are not limited to:

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- i. Formal and informal complaint processes;
 - ii. Notices, Opinions, or Orders that assign liability, assess damages, issue fines, revoke licenses, require forfeitures, seek consent, deny requests and pleadings, or any other action on the part of a non-Commission party;
 - iii. Consent decrees;
 - iv. Cease and desist orders;
 - v. Pleadings, petitions, filings, requests, motions;
 - vi. Items on the Accelerated Docket;
 - vii. Cases before or decisions of Administrative law judges;
 - viii. Settlement negotiations;
 - ix. Decisions and orders related to licensing;
 - x. Applications for approval under section 271 of the Communications Act (as amended); and
 - xi. Tariff investigations under sections 204 and 205 of the Communications Act (as amended).
2. *Affected persons* are people who may benefit from or be harmed by the dissemination of a specific information dissemination product.
3. *Complaint* refers to a written communication to the Commission that includes enough information so that the Commission can readily determine the specific information dissemination product the complaining party believes needs correcting, how the complaining party is affected by the information dissemination product sought to be corrected, the sections of these guidelines or the OMB Guidelines the complaining party believes have not been followed, what resolution the complaining party would like, and how to get in contact with the comment writer.
4. *Data* are the basic or underlying elements of information. All information dissemination products covered by these guidelines are based upon data. Additionally, covered information dissemination products may contain analysis of the data and conclusions drawn from this analysis.
5. *Dissemination* means Commission-initiated or sponsored distribution of information to the public. Dissemination does not include distribution limited to government employees or agency contractors or grantees; intra- or inter-agency use or sharing of government information; responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act, or other similar laws; correspondence with individuals or persons; archival records; press releases and other non-scientific/non-statistical general, procedural, or organizational information; and public filings, subpoenas, or adjudicative processes.
6. *Influential*, when used in the phrase “influential scientific, financial, or statistical information,” means that the Commission can reasonably determine that dissemination of the information will have or does have a clear and substantial impact on important public policies or important private sector decisions.
7. *Information* means any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. This definition includes information disseminated from an Internet page, but does not include the provision of hyperlinks to information that others disseminate. This definition does not include opinions where the presentation

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makes it clear that what is being offered is someone's opinion rather than an official view.

8. *Information dissemination product* means any book, paper, map, machine-readable material, audiovisual production, or other documentary material regardless of physical form or characteristic that is covered by these guidelines and disseminated to the public as an expression of an official Commission position. This definition can include electronic documents, CD-ROMs, or web pages.
9. *Integrity* refers to the security of information – protection of the information from unauthorized access or revision to ensure that the information is not compromised through corruption or falsification.
10. *Non-scientific/non-statistical general, procedural, or organizational information* includes but is not limited to:
 - i. Press releases
 - ii. Fact sheets and brochures
 - iii. Speeches/Remarks/Presentations and their accompanying visual materials
 - iv. Listings of:
 - a. Licensees, registrations, fees paid
 - b. Phone directories
 - c. Job openings
 - d. Transcriptions or minutes (video, audio, or print) of meetings
 - e. Glossaries
 - f. Links to non-Commission sites
 - g. Standards
 - h. FAQ's
 - v. Organizational descriptions
 - a. Organization charts
 - b. Budget submittals
 - c. Strategic and performance plans
 - d. Descriptions of laws, regulations, rules that underpin Commission activities
 - e. Biographies
 - vi. Applications, standards, and help products
 - vii. Forms (for printing or on-line filing)
 - viii. Database search results
 - ix. How-to-file materials
 - x. Fee information
 - xi. Electronic comment filings
11. *Objectivity* involves two distinct elements, presentation and substance. In a substantive sense objectivity means that, where appropriate, data should have full, accurate, transparent documentation; and error sources affecting data quality should be identified and disclosed to users. In a scientific, financial, or statistical context, substantive objectivity means that the original and supporting data shall be generated, and the analytic results shall be developed, using sound statistical and research methods. Presentational objectivity involves a focus on ensuring clarity, accuracy, completeness, and reliability.
12. *Quality* is a term encompassing utility, objectivity, and integrity. Therefore, the

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guidelines sometimes refer to these four statutory terms, collectively, as "quality."

13. *Reproducibility* means that the information is capable of being substantially reproduced, subject to an acceptable degree of imprecision. For information judged to have more influence or important impact, the degree of imprecision that is tolerated is reduced. With respect to analytic results, "capable of being substantially reproduced" means that independent analysis of the original or supporting data using identical methods would generate similar analytic results, subject to an acceptable degree of imprecision or error.
14. *Transparency* refers to practices of describing the data and methods used in developing an information dissemination product in a way that it would be possible for an independent reanalysis to occur by a qualified individual or organization. Transparency does not require that information be disclosed where disclosure would result in harm to other compelling interests such as privacy, trade secrets, intellectual property, confidentiality protections, or public safety.
15. *Utility* refers to the usefulness of the information to its intended users, including the public. In assessing the usefulness of information that the Commission disseminates to the public, the Commission will consider the uses of the information not only from the perspective of the Commission but also from the perspective of the public.

III. Pre-Dissemination Information Review and Substantiation Process

1. Beginning October 1, 2002, the following process will apply to information dissemination products distributed by the Commission in order to ensure and maximize the quality, objectivity, utility, and integrity of the information. The information dissemination products covered by these guidelines include reports prepared for Congress or required by legislation, such as the annual reports of services, prices, and competition in various communication industries.
2. Information exempt from these guidelines includes information associated with public filings, subpoenas, or adjudicative processes; non-scientific/non-statistical general, procedural, or organizational information; information that is not initiated or sponsored by the Commission; information that expresses personal opinions rather than formal agency views; information for the primary use of federal employees (inter- or intra-agency), contractors, or grantees; responses to requests made under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act, or similar laws; agency correspondence; archival records; trade secrets, intellectual property, confidential data or information; and non-routine or emergency public safety information.
3. For each information dissemination product covered by these guidelines every Bureau or Office shall conduct a pre-dissemination review using the standards below:
 - a. Quality will be demonstrated through the incorporation of a methodological section or appendix that describes, at a minimum, the design and methods used during the creation, collection, and processing of the data; the compilation and/or analysis of the data; and the pre-release review of the information dissemination product for clarity, completeness, accuracy, and reliability.

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- b. Objectivity will be demonstrated by including in the information dissemination product's methodology section or appendix a discussion of other scientifically, financially, or statistically responsible and reliable alternative views and perspectives, if these alternative views or perspectives are not already noted in other sections of the information dissemination product.
- c. Utility will be demonstrated by the responsible Bureau/Office incorporating into the methodology section or appendix examples of the use of the information dissemination product. These examples could include, but are not limited to, listing of the legislation requiring the information dissemination product or the specific request for the information dissemination product.
- d. Integrity is demonstrated by the Commission's routine, day-to-day compliance across all operations and processes with relevant data protection and security sections of applicable statutes and regulations and therefore does not have to be specifically addressed in information dissemination products covered by these guidelines.

IV. The Complaint and Appeals Process**1. Filing a Complaint.**

- a. Except as provided in subsection (b) below, affected persons may seek timely correction of information dissemination products maintained and distributed by the Commission that do not comply with the Commission's or OMB's guidelines by completing the Data Quality Comment form that will be found, beginning October 1, 2002, at www.fcc.gov/omd/dataquality. This form can be submitted electronically by clicking on the link found at the end of the form, or by printing a copy and mailing it to the Federal Communications Commission, 445 12th Street, SW, Room 1-A807, Washington, DC 20554.
- b. The procedures for filing and resolving complaints set forth in these guidelines, including the timetables set forth herein, do not apply to information disseminated in rulemaking proceedings. Affected persons seeking correction of information disseminated in the context of a rulemaking proceeding should raise concerns about the quality, objectivity, utility and integrity of the information in accordance with the procedures for public comment in the rulemaking process rather than the complaint process set forth in these guidelines. Commenters's concerns will be addressed, as appropriate, in the context of decisions in those proceedings.

2. Complaint Resolution.

- a. A determination will be made within 45 days of receipt of the complaint on whether correction is warranted.
- b. The decision on appropriate corrective action will be based upon the nature and timeliness of the information dissemination product involved and such factors as the significance of the correction on the use of the information dissemination product and the magnitude of the correction. Inconsequential, trivial, or frivolous complaints may require no response at all. If corrective action is warranted, the correction will occur within 60 days of this notification to the complaining party.

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- c. If a correction is warranted, the appropriate Bureau or Office handling the complaint will respond to the complaint in a manner appropriate to the nature and extent of the complaint. Examples of appropriate responses include personal contacts via letter or telephone, form letters, errata notices, press releases, or mass mailings that correct a widely disseminated error or address a frequently raised complaint.
3. Right to Appeal

If the person who requested correction does not agree with the initial decision (including corrective action, if any), the person may file an application for review by the Commission within 30 days of the date of the notification of action on the complaint or the corrective action. Applications for review must be submitted in writing to the Federal Communications Commission, Office of Managing Director/Data Quality Appeal, 445 12th Street SW, Washington, DC 20554. E-mail copies of the written appeal may be sent, beginning October 1, 2002, to DataQualityAppeal@fcc.gov.

 - a. The written appeal must include a copy of the original complaint and the response thereto, and an explanation of how the initial resolution of the complaint or the corrective action was contrary to the Commission's or OMB's information quality guidelines.
 - b. Applications for review will be resolved within 120 days. The Commission, in appropriate cases, may deny an application for review without providing reasons.

V. Reporting Requirements

1. On an annual fiscal-year basis, the Commission shall submit a report to the Director of OMB providing information (both quantitative and qualitative, where appropriate) on the number and nature of complaints received regarding compliance with OMB guidelines, and how such complaints were resolved.
2. The report shall be submitted no later than January 1 of each following year.
3. The first report shall be submitted by January 1, 2004.

VI. Effective Dates

1. Pre-dissemination review under section III, above, shall apply to information dissemination products that the Commission first disseminates on or after October 1, 2002.
2. The administrative mechanisms noted in section IV shall apply only to information dissemination products that the Commission disseminates on or after October 1, 2002, regardless of when the Commission first disseminated the information.