

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Assessment and Collection of Regulatory Fees)	MD Docket No. 16-166
for Fiscal Year 2016)	
)	

COMMENTS OF CTIA

CTIA¹ submits these comments in response to the Commission’s Notice of Proposed Rulemaking (“*Notice*”) seeking input on its collection of regulatory fees for Fiscal Year (“FY”) 2016.²

I. INTRODUCTION.

CTIA supports the Commission’s ongoing efforts to improve the regulatory fee framework. Over the last several years, the Commission has made meaningful adjustments to improve the regulatory fee mechanism. As it looks ahead, further reform should adhere to two core principles: (1) regulatory fees should reflect the work conducted by Commission staff; and (2) the fee mechanism must be rational, transparent, and administrable. CTIA limits its comments here to three specific issues:

- The Commission should adopt its tentative conclusion to reject the proposals of ITTA – The Voice of Mid-Size Communications Companies (“ITTA”) to: (1) reassign any

¹ CTIA® represents the U.S. wireless communications industry. With members from wireless carriers and their suppliers to providers and manufacturers of wireless data services and products, the association brings together a dynamic group of companies that enable consumers to lead a 21st century connected life. CTIA members benefit from its vigorous advocacy at all levels of government for policies that foster the continued innovation, investment and economic impact of America’s competitive and world-leading mobile ecosystem. The association also coordinates the industry’s voluntary best practices and initiatives and convenes the industry’s leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.

² *Assessment and Collection of Regulatory Fees for Fiscal Year 2016*, Notice of Proposed Rulemaking, FCC 16-61, MD Docket No. 16-166 (rel. May 19, 2016) (“*Notice*”).

Wireline Competition Bureau (“WCB”) full-time employees (“FTEs”) to the Wireless Telecommunications Bureau (“WTB”); (2) combine the commercial mobile radio service (“CMRS”) and Interstate Telecommunications Service Provider (“ITSP”) regulatory fee categories; or (3) create a new subcategory for CMRS within the ITSP regulatory fee category.

- There is no clear case at this time for the reclassification of FTEs that work on universal service and numbering issues from direct to indirect, thus further analysis is required before any such reclassification is undertaken.
- The Commission should encourage Congress to authorize it to use excess regulatory fees collected in past years to reduce future collection requirements.

II. THE COMMISSION SHOULD ADOPT ITS TENTATIVE CONCLUSION TO REJECT ITTA’S PROPOSALS THAT WOULD IMPROPERLY SHIFT WIRELINE REGULATORY FEES ONTO WIRELESS CARRIERS.

CTIA strongly supports the Commission’s tentative conclusion that there is no basis to adopt ITTA’s proposals.³ Since at least 2008, ITTA has made repeated attempts seeking to shift a disproportionate share of regulatory fees onto WTB regulatees, and on each occasion CTIA has shown them to be ill-conceived and inappropriate. In contrast, CTIA has shown that the wireless sector already contributes more to the Commission’s budget than any other industry segment given CMRS regulatory fees and spectrum license auction proceeds.⁴

After considerable and detailed analysis, the Commission tentatively concludes that ITTA’s proposals should be rejected. The Commission’s analysis shows that there is no basis to reassign WCB FTEs to the WTB because WTB FTEs already participate in WCB proceedings to the extent they raise wireless issues.⁵ The Commission’s analysis also demonstrates that the work WCB FTEs undertake on wireline issues that also affect the CMRS industry does not

³ Notice ¶¶ 17-18.

⁴ See, e.g., Reply Comments of CTIA, MD Docket No. 15-121, at 9-10 (filed Dec. 7, 2015); Reply Comments of CTIA, MD Docket Nos. 15-121, 14-92, at 2-5 (filed July 6, 2015); Comments of CTIA, MD Docket Nos. 14-92, 13-140, 12-201, at 3-6 (filed July 7, 2014); Comments of CTIA, MD Docket Nos. 13-140, 12-201, 08-65, at 2-6 (filed June 19, 2013).

⁵ Notice ¶ 18.

support assessing both wireline and wireless fees on CMRS providers.⁶ Moreover, the Commission finds that the substantial differences between wireless and wireline services in terms of regulatory oversight by WCB and WTB militate against combining the CMRS and ITSP fee categories.⁷

The Commission's findings validate CTIA's long-held stance that ITTA's proposals are inappropriate. The Commission should reject ITTA's proposals once and for all so that the Commission can direct its resources to other relevant inquiries and issues.

III. THE COMMISSION NEEDS TO ENGAGE IN FURTHER ANALYSIS BEFORE RECLASSIFYING ANY FTES THAT WORK ON UNIVERSAL SERVICE AND NUMBERING ISSUES AS INDIRECT.

As the Commission has affirmed, there is a high standard for the reclassification of FTEs. Any reclassification should occur "only after performing considerable analysis and finding the clearest case for reassignment."⁸ While the Commission previously chose to reclassify certain International Bureau FTEs, that was an "exceptional" case and "a similar examination of possible FTE reallocations among other licensing bureaus [is] a much more difficult and lengthy task."⁹ There is insufficient information at this time to support a clear case for the reclassification of FTEs that work on universal service or numbering issues from direct to indirect. In order to make such a determination, the Commission would need to undertake further review to assess whether the reclassification would be rationale and allow for an administrable regulatory fee mechanism.

⁶ *Id.*

⁷ *Id.*

⁸ *Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, Report and Order, 28 FCC Rcd 12351, 12357 ¶ 19 (2013).

⁹ *Id.*

CTIA recognizes that multiple stakeholders benefit from the Commission's universal service and numbering policies. For example, all programs supported by the Universal Service Fund ("USF") – *i.e.*, the High Cost, Lifeline, Rural Health Care, and Schools and Libraries Programs – are transitioning away from traditional voice service to broadband Internet access, expanding the types of service providers that can participate in and benefit from these programs. Indeed, a wide range of providers offer broadband Internet access over a variety of technologies, including wireline, wireless, cable, and satellite. All providers of telecommunications and interconnected VoIP services – which include wireline and wireless carriers, cable companies, and international carriers – also contribute to the USF. Similarly, the availability of numbering resources benefits all telecommunications and interconnected VoIP service providers, regardless of whether those services are provided by wireless, wireline, cable, or satellite technology.¹⁰

Whether some or all FTEs that work on universal service and numbering issues should be reclassified, however, is a very complex matter. Without further detailed analysis, there is insufficient evidence demonstrating the clearest case for the reassignment of any FTEs. First, the Commission should consider the reclassification of FTEs from direct to indirect only if the work conducted by the staff clearly necessitates it. FTEs should not be reclassified simply to provide relief to regulatees of one bureau at the expense of others.

Moreover, further analysis is needed to determine whether reclassification in this case is appropriate, and if so, how it could be accomplished in a fair and administrable manner. For example, when considering reclassifying FTEs based upon a particular subject matter such as

¹⁰ While international carriers may not directly receive numbering resources, they still benefit from the availability of those resources because they must originate and/or terminate telecommunications on the domestic public switched network. *Cf. Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, 9173-74 ¶ 779 (1997) (explaining that carriers that provide telecommunications between the United States and foreign points must contribute to USF because they either terminate or originate telecommunications on the domestic public switched network).

universal service or numbering, the Commission should examine the issue holistically, taking into account FTEs of other bureaus that work on that issue. Thus, if the Commission were to reclassify as indirect all WCB FTEs that work on universal service and numbering issues, it should similarly reclassify all WTB FTEs that also work on those issues. The Commission's analysis must consider factors such as WTB auction experts leading the reverse auction component of Connect America Fund ("CAF") Phase II, even though wireline carriers receive CAF funding and no wireless provider has been designated to receive CAF or CAF Phase II funding.

In addition, while the *Notice* provides recent data about FTEs working on universal service and numbering issues,¹¹ the Commission's analysis should consider more than the last six to twelve months. The number of FTEs working on any given issue could change significantly year-to-year depending on the individual proceedings the Commission undertakes in any given year. Indeed, there has been significant work within the past year on adopting and implementing various components of the CAF, reforming the Lifeline Program, and implementing procedures to allow VoIP providers to obtain numbers directly from the numbering administrator, among other things. Only additional detailed analysis will show whether and how the number of FTEs working on particular issues may fluctuate and thus the impact of the potential reclassification of those FTEs. For these reasons, the Commission should engage in further analysis prior to any assessment of whether to reclassify USF and numbering FTEs as indirect FTEs.

¹¹ *Notice* ¶ 19.

IV. THE COMMISSION SHOULD ENCOURAGE CONGRESS TO AUTHORIZE THE USE OF EXCESS REGULATORY FEES COLLECTED IN PAST YEARS IN ORDER TO REDUCE FUTURE COLLECTION REQUIREMENTS.

As CTIA and others have noted for several years, the Commission routinely over-collects regulatory fees each year, including an additional \$7.67 million in FY2015.¹² These substantial fees simply sit in a separate account within the U.S. Department of Treasury and cannot be used without Congressional action. Use of these excess fees would have been especially useful this year as the Commission is proposing an additional one-time amount of more than \$44 million to offset facilities reduction costs associated with decreasing the agency's office space footprint and/or move its office location if necessary.¹³ According to the Commission, regulatees' aggregate fees by category would increase on average by approximately 11 to 13 percent for 2016 as a result of these facilities reduction costs.¹⁴ For CMRS regulatees, the *Notice* proposes a fee increase for this year of more than 17 percent from 17 to 20 cents per unit.

The Commission therefore should continue to encourage Congress to address the disposition of those excess regulatory fees by authorizing the Commission to use the excess fees in the next funding year to reduce the collection requirement. This is common practice in other similarly-situated regulatory agencies.¹⁵

¹² *Notice* ¶ 2, n.1.

¹³ *Id.* ¶ 6, n.24.

¹⁴ *Id.*

¹⁵ Government Accountability Office, *Regulatory Fee Process Needs to be Updated*, GAO-12-686, at 34 (Aug. 2012).

V. CONCLUSION.

The Commission should adopt final regulatory fees for FY2016 consistent with the recommendations in these Comments.

Respectfully submitted,

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