

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

In the Matter of )  
 )  
Assessment and Collection of Regulatory ) MD Docket No. 07-81  
Fees for Fiscal Year 2007 )

**REPLY COMMENTS OF THE  
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION**

The National Cable & Telecommunications Association (“NCTA”) hereby submits its reply comments in response to the above-referenced Notice of Proposed Rulemaking.<sup>1</sup> NCTA is the principal trade association for the U.S. cable industry, representing cable operators serving more than 90 percent of the nation's cable television households and more than 200 cable program networks. The cable industry is the nation’s largest broadband provider of high-speed Internet access after investing \$110 billion since 1996 to build a two-way interactive network with fiber optic technology. Cable companies also provide state-of-the-art voice service to millions of American homes and are rapidly making these services available nationwide.

In the NPRM, the Commission tentatively concludes that providers of interconnected voice over Internet Protocol (VoIP) service should pay regulatory fees.<sup>2</sup> As a policy matter, NCTA does not oppose the imposition of regulatory fees on VoIP providers, provided that the fee is no more burdensome than the fee imposed on other voice service providers.<sup>3</sup> As

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<sup>1</sup> See *Assessment and Collection of Regulatory Fees for Fiscal Year 2007*, MD Docket No. 07-81, Notice of Proposed Rulemaking, FCC 07-55 (rel. Apr. 18, 2007) (NPRM)

<sup>2</sup> NPRM at ¶ 10.

<sup>3</sup> The VON Coalition has identified a number of serious shortcomings in the legal analysis provided by the Commission in the NPRM. See Comments of the VON Coalition at 3-14. The Commission obviously cannot impose any regulatory fees on interconnected VoIP providers until it complies with the applicable statutory requirements.

companies using different technologies increasingly compete with each other by offering bundled packages of services, the Commission must ensure that its regulatory fees do not unfairly burden any one set of competitors.<sup>4</sup>

The Commission also seeks comment on whether VoIP regulatory fees should be assessed based on a VoIP provider's revenue, as is the case for interstate telecommunications service providers, or whether it should be based on telephone numbers or subscribers, as is the case with CMRS providers.<sup>5</sup> NCTA recommends that such fees be assessed on a per-number or per-subscriber basis. As explained by Comcast, in a market in which customers buy bundled packages of services, a subscriber-based approach is superior to a revenue-based approach because it eliminates the need for arbitrary allocations of revenue among services and because it treats all competitors the same.<sup>6</sup> The same logic applies to regulatory fees.<sup>7</sup>

In Attachment D of the NPRM, the Commission proposes a schedule of specific fees for 2007 for all segments of the industry.<sup>8</sup> That schedule does not include a separate category

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<sup>4</sup> For example, last year NCTA demonstrated that, on a per-subscriber basis, the fee assessed on cable operators is orders of magnitude higher than the amount paid by DBS providers. *See Assessment and Collection of Regulatory Fees for Fiscal Year 2006*, MD Docket No. 06-68, Comments of the National Cable & Telecommunications Association (filed April 14, 2006) (demonstrating that DBS pays 6.7 cents per subscriber as compared to 77 cents per subscriber for cable). NCTA once again urges the Commission to eliminate this disparate treatment, in a separate rulemaking if necessary. *See Assessment and Collection of Regulatory Fees for Fiscal Year 2006*, MD Docket No. 06-68, Report and Order, Concurring Statement of Michael J. Copps; *see also id.*, Statement of Commissioner Jonathan Adelstein, Approving in Part, Concurring in Part.

<sup>5</sup> NPRM at ¶ 10. As the Commission explains in the NPRM, CMRS providers receive an initial assessment that is based on the Numbering Resource Utilization Forecast (NRUF) forms. If that initial assessment does not accurately reflect the number of subscribers a provider serves, the provider may correct the assessment. *Id.* at ¶¶ 23-24.

<sup>6</sup> *See* Comments of Comcast Corporation at 1.

<sup>7</sup> Some interconnected VoIP providers currently follow the requirements for telecommunications service providers and pay regulatory fees based on their revenues. As it did in connection with universal service contributions, the Commission should give such providers the option to continue paying regulatory fees on the same basis as they do today. *See Universal Service Contribution Methodology*, WC Docket No. 06-122, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518, 7546, ¶56, n.189.

<sup>8</sup> NPRM at Attachment D.

identifying specific proposed fees for VoIP providers. The VON Coalition argues that interconnected VoIP providers should pay a lower fee than other providers of voice services because they place less of a burden on the Commission's resources and receive few, if any, of the benefits available to regulated telecommunications carriers.<sup>9</sup>

Although NCTA agrees with the VON Coalition's view that a lower fee could be justified, we believe that a competitively and technologically neutral approach to regulatory fees represents a better approach for the Commission to follow. Specifically, we agree with Comcast's proposal that the Commission impose a fee no higher than the one imposed on CMRS providers and roughly equivalent to the per-subscriber impact of the revenue-based fee assessed on telecommunications carriers.<sup>10</sup> Such an approach ensures that no entity receives the competitive benefit of lower fees based solely on the technology it uses.<sup>11</sup> As noted above, we encourage the Commission to extend this principle of competitive and technological neutrality to the fees paid by providers of video services by eliminating the significant disparity between cable operators and DBS providers.

Respectfully submitted,

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<sup>9</sup> Comments of the VON Coalition at 14-18.

<sup>10</sup> Comments of Comcast Corporation at 2.

<sup>11</sup> “[A]ll providers of the same service should be treated in the same manner regardless of the technology that they employ.” *Appropriate Regulatory Treatment of Broadband Access to the Internet Over Wireless Networks*, WT Docket No. 07-53, Declaratory Ruling, Statement of Chairman Kevin J. Martin (rel. Mar. 23, 2007).