

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of)	
)	
Assessment and Collection of)	MD Docket No. 04-73
Regulatory Fees for Fiscal Year 2004)	
)	

REPLY COMMENTS OF THE SATELLITE INDUSTRY ASSOCIATION

The Satellite Industry Association (“SIA”) hereby files these reply comments in the above-captioned proceeding. SIA supports the proposal made by Tyco Telecommunications (US) Inc. (“Tyco”) that the Commission rework its international bearer circuit regulatory regime to reflect the disparity in regulatory costs generated by common carriers and private carriers. For reasons that are discussed below, Tyco’s proposal should not be limited to international bearer circuits that are provided via submarine cable, but rather should be expanded to encompass all international bearer circuits, without regard to whether they are provided via submarine cable or via satellite.

SIA is a U.S.-based national trade association representing the leading U.S. satellite manufacturers, system operators, service providers, and launch service companies. SIA serves as an advocate for the U.S. commercial satellite industry on regulatory and policy issues common to its members. With its member

companies providing a broad range of manufactured products and services, SIA represents the unified voice of the U.S. commercial satellite industry.¹

In its initial comments, Tyco proposes that the Commission remedy the inequities of its current regulatory fee regime for private submarine cables.² Specifically, Tyco suggests that the Commission create a new private submarine cable operator category of fees and divide fees related to international bearer circuits between private cable operators and facilities-based common carriers.³ Because facilities-based common carriers are subject to more regulation than private cable operators, they impose a heavier regulatory burden on the Commission than do private cable operators. Tyco, quite reasonably, asks that this disparity in regulatory burden be reflected in the Commission's international bearer circuit regulatory fees.

Tyco's proposal, however, does not go far enough, because the operators of private submarine cables are not the only private carriers that are subject to international bearer circuit fees. Satellite operators also provide international circuits on a non-common carrier basis and, like the operators of private submarine cable, pay international bearer circuit regulatory fees for those non-common carrier circuits, while also carrying the full fee burden of Title III

¹ SIA's executive members include: The Boeing Company; Globalstar, L.P.; Hughes Network Systems, Inc.; ICO Global Communications; Intelsat; Iridium Satellite LLC; Lockheed Martin Corp.; Loral Space & Communications Ltd.; Mobile Satellite Ventures; Northrop Grumman Corporation; PanAmSat Corporation; and SES Americom, Inc. SIA's associate members include Eutelsat, Inmarsat, New Skies Satellites, Inc., and Verestar Inc.

² Comments of Tyco Telecommunications (US) Inc., MD Docket No. 04-73 (filed Apr. 21, 2004) [hereinafter "Tyco Comments"].

³ *Id.* at 20.

regulation of their satellite facilities.⁴ Like their private submarine cable counterparts, non-common carrier satellite operators do not impose Title II regulatory burdens on the Commission. Consequently, the proposed new fee category should include non-common carrier satellite providers as well as private submarine cable providers.⁵

Carving out only private submarine cable operators would exacerbate, not remedy, the unfairness of the Commission's current system. Such an approach would force non-common carrier satellite service providers to shoulder an even greater proportion of common carrier costs, while exempting the essentially equivalent private submarine cable service from those costs. Rather than taking this approach, the Commission should treat all non-common carriers providing international bearer circuits in a like manner, regardless of the platform used to provide these circuits.

The Commission can achieve this end by creating a new regulatory fee category encompassing all non-common carrier providers of international bearer circuits. Then, as Tyco suggests, the Commission should allocate its international bearer circuit fee revenue requirement between common carriers and non-

⁴ In addition to paying international bearer circuit fees, satellite operators pay substantial non-circuit based regulatory fees on a per space station (GSO satellites) and per system (NGSO satellites) basis.

⁵ The D.C. Circuit, in *PanAmSat Corp. v. FCC*, 198 F.3d 890 (D.C. Cir. 1999), determined that the Commission's decision to impose international bearer circuit fees on non-common carrier satellite service providers was permissible. The issue addressed by Tyco and SIA in this proceeding, however (*i.e.* that such fees should be reasonably allocated between common carriers and non-common carriers) was not before the court.

common carriers in a manner that fairly reflects the regulatory costs generated by each category.⁶

CONCLUSION

For the foregoing reasons, the Commission should reform its international bearer circuit fee regime to reflect the disparate regulatory costs generated by common carriers and non-common carriers.

Respectfully submitted,

SATELLITE INDUSTRY ASSOCIATION

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April 30, 2004

⁶ Tyco Comments at 20.