

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Procedures for Assessment and Collection of Regulatory Fees	)	MD Docket No. 12-201
	)	
Assessment and Collection of Regulatory Fees for Fiscal Year 2008	)	MD Docket No. 08-65
	)	

**REPLY COMMENTS OF THE GLOBAL VSAT FORUM**

The Global VSAT Forum (“GVF”) hereby replies to the comments filed in response to the above-captioned Notice of Proposed Rulemaking (“NPRM”) concerning the assessment and collection of Commission regulatory fees.

**I. The Comments Overwhelmingly Support A Modernized And More Transparent Regulatory Fee Process.**

The comments filed in this proceeding represent the four industry sectors regulated by the Commission (wireline, wireless, media and international). Despite the varying interests that distinguish these sectors, the comments share a common fundamental purpose – to urge the Commission to update its existing policies and procedures for assessing and collecting regulatory fees. The current approach, based on full-time equivalent employee (“FTE”) data from 1998, is repeatedly described by the commenters as obsolete given the significant changes in the telecommunications industry since that time.<sup>1</sup> The call to modernize also figures prominently in the recent analysis of the Commission’s regulatory fee process prepared by the Government

---

<sup>1</sup> See, e.g., Comments of AT&T Inc., MD Docket No. 12-201 and MD Docket No. 08-65 (Sept. 17, 2012) at 3 (“AT&T Comments”); Joint Comments of International Carrier Coalition, MD Docket No. 12-201 and MD Docket No. 08-65 (Sept. 17, 2012) at 5 (“ICC Joint Comments”).

Accountability Office, the report of which has been entered into the record of this proceeding.<sup>2</sup> GVF believes that the virtual unanimity of opinion in favor of an updated regulatory fee process should set the stage for a major reworking of that process.

The comments also uniformly emphasize that any such reworking must be guided by the statutory obligations set forth in Section 9 of the Communications Act.<sup>3</sup> Significantly, Section 9 requires that FTE adjustments take into account factors that are reasonably related to the benefits provided to a regulated entity in exchange for what that entity pays in regulatory fees.<sup>4</sup> As the Satellite Industry Association (“SIA”) puts it, Section 9 must be the “lynchpin” that focuses the Commission’s efforts on “whether and to what extent a given category of fee payers benefits from the activities that generate regulatory fee costs, and must allocate the costs accordingly.”<sup>5</sup> GVF agrees, and in its own comments explained that tying benefits received to payments made will lead to an equitable allocation of regulatory fee burdens that, in turn, will further the goal of fairness, the most important of the three enunciated goals guiding the Commission’s approach to regulatory fees.<sup>6</sup> For this reason, GVF opposes the comments of Verizon and Verizon Wireless (“Verizon”) and the United States Telecom Association (“USTelecom”) advocating, for the sake of administrative ease, the treatment of all work done by FTEs as the same and not as either

---

<sup>2</sup> See U.S. Government Accountability Office, *Federal Communications Commission, Regulatory Fee Process Needs to Be Updated*, GAO-12-686 (August 2012) at 12-14 (“GAO Report”).

<sup>3</sup> See, e.g., Comments of the Satellite Industry Association, MD Docket No. 12-201 and MD Docket No. 08-65 (Sept. 17, 2012) at 5 (“SIA Comments”); Comments of the North American Submarine Cable Association, MD Docket No. 12-201 and MD Docket No. 08-65 (Sept. 17, 2012) at 5 (“NASCA Comments”).

<sup>4</sup> See 47 U.S.C. § 159(b)(1)(A).

<sup>5</sup> SIA Comments at 5.

<sup>6</sup> See Comments of Global VSAT Forum, MD Docket No. 12-201 and MD Docket No. 08-65 (Sept. 17, 2012) at 3 (“GVF Comments”). See also AT&T Comments at 2 (“[T]he failure to keep rates current with substantive changes in Commission operations due to changes in the regulatees’ operations and services would undermine the *primary* goal of fairness.”) (emphasis added). The other two goals are administrability and sustainability.

specifically direct or indirect.<sup>7</sup> But as the Commission itself recognizes in the NPRM and as others explain in their comments, International Bureau FTEs are unlike the FTEs of the other core bureaus because the former indirectly supports services other than international services.<sup>8</sup> Fairness requires that the International Bureau FTEs be reallocated to those bureaus that benefit from their services. The Verizon and USTelecom approach is too simplistic, contrary to Section 9, and wrongly elevates the goal of administrability over the more critical goal of fairness.

Another common theme advanced in the comments is the need to make the regulatory fee process more transparent. Many commenters note the lack of substantive information from the Commission needed to understand how and why regulatory fees are assessed as they are.<sup>9</sup> The GAO Report also stresses this important point, citing the lack of transparency in the Commission process as a particular problem that “limit[s] the ability of industry stakeholders to understand exactly how FCC has been determining its assessment of regulatory fees in recent years, and may have limited stakeholders’ ability to effectively provide input to this process.”<sup>10</sup> The GAO Report also notes a lack of full transparency with regard to informing industry stakeholders about the approximately \$66 million in excess regulatory fees collected by the Commission as of Fiscal Year 2011.<sup>11</sup> GVF called for enhanced transparency in its own comments, and repeats that call here, so that affected parties can be empowered to provide meaningful input to the Commission

---

<sup>7</sup> See Comments of Verizon and Verizon Wireless, MD Docket No. 12-201 and MD Docket No. 08-65 (Sept. 17, 2012) at 4 (“Verizon Comments”); Comments of the United States Telecom Association, MD Docket No. 12-201 and MD Docket No. 08-65 (Sept. 17, 2012) at 6 (“USTelecom Comments”).

<sup>8</sup> See NPRM at ¶ 27; ICC Comments at 11.

<sup>9</sup> See, e.g., Comments of the National Association of Broadcasters, MD Docket No. 12-201 and MD Docket No. 08-65 (Sept. 17, 2012) at 4 (“NAB Comments”); SIA Comments at 3.

<sup>10</sup> GAO Report at 24.

<sup>11</sup> *Id.* at 29.

regarding a fair regulatory fee process.<sup>12</sup> GVF also supports the commenters who requested that the \$66 million in excess regulatory fees be either refunded or credited.<sup>13</sup>

## **II. The Comments Offer Compelling Reasons To Oppose The Proposed Increase In The International Bureau Regulatory Fee Allocation.**

With payment-benefit parity under Section 9, the primary goal of fairness, and the need for enhanced transparency serving as necessary touchstones for this proceeding, GVF urges the Commission to heed the comments filed by those parties opposing the projected three-fold increase in International Bureau regulatory fees that will result from the proposed reallocation of FTEs among the bureaus. These comments make the compelling case that such a sharp rise in fees cannot be justified given the comparatively limited amount of Commission services that the affected International Bureau regulatees will receive in exchange. SIA's comments on this point are particularly relevant. SIA presents a detailed history of how the Commission has streamlined space station and earth station regulation over the past several years, reasonably concluding that "the evidence suggests a reduction – not an increase – in the level of Commission costs attributable to regulatory activities involving the satellite industry."<sup>14</sup> SIA also correctly notes that the processing of license applications – "the largest investment of FCC resources attributable to a given satellite system" – is already paid for through substantial application fees and thus must be excluded from any regulatory fee calculation.<sup>15</sup> GVF agrees with SIA on both points.

---

<sup>12</sup> See GVF Comments at 5.

<sup>13</sup> See Verizon Comments at 3; USTelecom Comments at 7.

<sup>14</sup> SIA Comments at 7-12. The Commission has proposed numerous additional steps to streamline satellite service regulatory requirements in its recently released Notice of Proposed Rulemaking reviewing the licensing and operations of space stations and earth stations. See *Comprehensive Review of Licensing and Operating Rules for Satellite Service*, Notice of Proposed Rulemaking, IB Docket No. 12-267, FCC 12-117 (rel. Sept. 28, 2012) ("Part 25 Review NPRM").

<sup>15</sup> *Id.* at 22.

Comments filed by the submarine cable operators industry likewise point out the glaring disconnect between the proposed International Bureau fee allocation and the level of benefits received in return. The International Carrier Coalition (“ICC”) specifically objects on the basis that “neither the Commission’s procedures for regulating [International Bureau] entities, or the number of entities subject to regulation has materially changed since 1998.”<sup>16</sup> In addition, the ICC and others make the persuasive point that, by proposing no change to the percentage of regulatory fees collected from Wireless Bureau regulatees, the Commission fails to account for the fact that the wireless industry has grown (in the Commission’s word) “exponentially” since 1998, with a concomitant shift in Commission resources devoted to that industry.<sup>17</sup> Certainly a rise in Commission services benefiting one industry sector must be reflected in the regulatory fee burden allocated to that sector.

GVF also agrees with those commenters who note that only a portion of the International Bureau’s FTEs should be considered direct costs for its regulatees.<sup>18</sup> The Commission in the NPRM noted that an estimated one-half of the International Bureau’s FTEs work on matters covering services other than international services and asked whether these FTEs should be reallocated among the core bureaus on a proportional basis.<sup>19</sup> GVF supports that approach as a minimum step. But the fifty percent figure very likely understates the level of work that benefits services other than international services, as evidenced by the comments of the North American

---

<sup>16</sup> ICC Joint Comments at 7. *See also* Comments of Telstra Incorporated and Australia-Japan Cable (Guam) Limited, MD Docket Nos. 12-201 and 08-65 at 1 (“[T]he Commission should explore establishing a methodology that would substantially reduce the large submarine cable system fee to more closely reflect the extent to which the Commission’s activities today benefit licensed submarine cable system.”) (“Telstra Comments”).

<sup>17</sup> *See, e.g.*, ICC Joint Comments at 9 and NASCA Comments at 14, *citing* NPRM at ¶ 1. In the NPRM, the Commission acknowledged that “the mobile wireless industry has grown exponentially, shifting Commission resources to, among other things, the wireless industry.” NPRM at ¶ 1.

<sup>18</sup> *See, e.g.*, ICC Joint Comments at 11; SIA Comments 12.

<sup>19</sup> *See* NPRM at ¶ 27.

Submarine Cable Association (“NASCA”). NASCA details a long list of International Bureau tasks that provide no specific regulatory benefits to its regulatees.<sup>20</sup> Each of these tasks should figure into a fair and proper reallocation of FTEs.

Where satellite licensees are concerned, the direct cost/indirect cost disparity is even more pronounced. As SIA explains, “[t]he only International Bureau employees whose work is ‘primarily focused’ on the satellite industry are found in the Satellite Division, and therefore only Satellite Division FTEs can fairly be considered direct costs for satellite regulatory fee payers.”<sup>21</sup> GVF agrees. Any other formulation will produce a flawed result based on “unfounded assumptions regarding the fraction of the overall resources of the Commission attributable to oversight of the satellite industry.”<sup>22</sup> Moreover, as noted above, the Commission has just embarked on its “first wholesale examination of the rules governing satellite services in over a decade,” with a view, *inter alia*, to “removing unnecessary Commission oversight and regulation of technical decisions better left to licensees.”<sup>23</sup> This new proceeding should soon reduce even further the amount of post-licensing activities the Commission has to perform relative to its space station authorization holders.

The National Association of Broadcasters (“NAB”) describes the proposed reallocation of one-half of the International Bureau FTEs as “troublesome” because it will lead to an increase

---

<sup>20</sup> See NASCA Comments at 12-13 (citing advising the Chairman on matters of international policy and defense, developing rules regarding international broadcasting, providing advice to trade officials, collecting data on market developments in other countries, ensuring that the Commission complies with international agreements and treaties, advising and coordinating the Chairman’s international travel, and coordinating with other bureaus and agencies on matters of homeland security and emergency response). See also Telstra Comments at 2 (urging the Commission to explore whether more than half of the International Bureau’s FTEs can be allocated to other bureaus).

<sup>21</sup> SIA Comments at 13.

<sup>22</sup> *Id.* at 4.

<sup>23</sup> Part 25 Review NPRM at ¶¶ 2, 5.

in the share of fees assessed to media licensees.<sup>24</sup> But ultimately the NAB's concern is one of insufficient transparency, as the NAB simply seeks information, currently lacking, that will enable parties to "determine if reallocating a portion of [International Bureau FTEs] to the licensees of other bureaus would be fair, and how such a distribution should work."<sup>25</sup> GVF nevertheless shares the NAB's desire for more information relevant to the regulatory fee process, and urges the Commission to compile and disseminate that information at the earliest possible date.

### **III. Conclusion.**

The comments filed in response to the NPRM provide overwhelming support for a major revision of the Commission's regulatory fee process. GVF urges the Commission to undertake this important task in a manner consistent with the comments submitted by International Bureau regulatees and others that seek a fair and transparent determination of regulatory fees allocated to International Bureau regulatees.

#### **GLOBAL VSAT FORUM**

By: 

---

David Hartshorn  
Secretary General  
Global VSAT Forum  
2 Victoria Square, Victoria Street  
St. Albans, Hertfordshire AL1 3TF  
United Kingdom

October 23, 2012

---

<sup>24</sup> NAB Comments at 3.

<sup>25</sup> *Id.* at 5.