

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

Intelsat License LLC and its affiliated entities (collectively, “Intelsat”), in accordance with Sections 1.415 and 1.419 of the Commission’s Rules, submit these reply comments in response to the Notice of Proposed Rulemaking (“Notice”) issued by the Federal Communications Commission (“FCC” or “Commission”) proposing to reform the Commission’s policies and procedures for assessing and collecting regulatory fees.<sup>1</sup>

The Communications Act directs the Commission to collect regulatory fees annually “to recover the costs of ... enforcement activities, policy and rulemaking activities, user information services, and international activities.”<sup>2</sup> In the Notice, the Commission proposes various changes to the allocation of full-time equivalent (“FTE”) employees performing these activities.<sup>3</sup> The proposed changes would “increase the percentage of fees allocated to payors in the International Bureau from 6.7 percent to 22.0 percent”<sup>4</sup>—essentially tripling regulatory fees assessed on satellite

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<sup>1</sup> *Procedures for Assessment and Collection of Regulatory Fees*, MD Docket No. 12-201, Notice of Proposed Rulemaking, 27 FCC Rcd 8458 (2012) (“Notice”).

<sup>2</sup> 47 U.S.C. § 159(a)(1).

<sup>3</sup> *Notice*, ¶ 19.

<sup>4</sup> *Id.*, ¶ 25.

licenses.<sup>5</sup> Intelsat holds nearly 50 satellite licenses and would be significantly harmed by this FCC proposal given the already extremely high regulatory fee paid per satellite license.

Intelsat joins other commenters in supporting fundamental reform of the Commission's allocation of its regulatory costs among different segments of the communications industry.<sup>6</sup> However, Intelsat opposes reforms to the regulatory fee structure that will drastically increase the regulatory fees payable by satellite operators like Intelsat. These specific reforms would harm the satellite industry and consumers and would be inconsistent with the Commission's goal of fairness.<sup>7</sup>

**I. REGULATORY FEES FOR SATELLITE OPERATORS ARE ALREADY EXCEEDINGLY HIGH AND SHOULD NOT BE FURTHER INCREASED.**

Section 9 of the Communications Act requires regulatory fee amounts to be "adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities."<sup>8</sup> Intelsat agrees with other commenters, including the Satellite Industry Association ("SIA"), that the high regulatory fees paid by satellite operators is inconsistent with this requirement.<sup>9</sup> Once authorized, a space station license generally requires very little ongoing regulation by the International Bureau. Accordingly, Intelsat shares the concern of other

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<sup>5</sup> See Comments of the International Carrier Coalition at 7 ("Under Proposal A, the five categories of entity that are subject to regulation by the FCC's International Bureau -- Bearer Circuits, Submarine Cable Providers, Earth Stations, Space Stations (Geostationary), and Space Stations (Non-Geostationary) -- would see their annual regulatory fees more than triple."); see also Comments of the Global VSAT Forum at 4 ("Comments of GVF")

<sup>6</sup> Comments of the Satellite Industry Association at i ("Comments of SIA"); Comments of GVF at 2.

<sup>7</sup> See Comments of GVF at 3 ("Unfortunately, GVF believes the Commission's proposals affecting the International Bureau, in general, and geostationary space station licensees, in particular, do not serve the goal of fairness.") (citation omitted); Comments of SIA at 2 ("A change in the Commission's regulatory fee structure that would result in significant increases in fees paid by satellite operators would have industry-wide implications, and could harm consumers by negatively affecting the ability of satellite networks to offer cost-effective broadband and other communications and media services.").

<sup>8</sup> 47 U.S.C. § 159(b)(1)(A). See Comments of GVF at 3.

<sup>9</sup> Comments of SIA at 5-6; Comments of GVF at 3-5

commenters that current regulatory fees are disproportionately high and opposes any proposal to increase satellite operators' regulatory fees.

The majority of Commission activity in connection with satellite licensees occurs at the time of initial licensing or upon request for a modification of a satellite license.<sup>10</sup> Intelsat agrees with the Global VSAT Forum (“GVF”) and SIA that regulatory fees for satellite operators must not seek to recover any costs relating to application processing<sup>11</sup> because the International Bureau already recovers these costs through substantial application processing fees.<sup>12</sup> Space station licensees pay an application processing fee of \$120,005 for authority to launch and operate a new or replacement space station and pay \$8,575 to request modification of a space station license.<sup>13</sup> In fact, satellite operators continue to pay increasingly high application fees, even as the Commission has streamlined licensing processes and requirements for space and earth stations.<sup>14</sup> For example, in 2003, the Commission revised the space station licensing process by adopting a first-come, first-served system for most space station applications.<sup>15</sup> The Commission estimates that these revisions cut satellite licensing application processing times in half.<sup>16</sup> As such, existing satellite application processing fees amply cover the Commission’s licensing activity and should be considered independently from any regulatory fee issues.

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<sup>10</sup> Comments of SIA at 7.

<sup>11</sup> See GVF Comments at 4; see also SIA Comments at 4, fn. 11.

<sup>12</sup> See, e.g., Comments of SIA at 7 (noting the “extraordinarily high” application fees paid by space station applications); see also GVF Comments at 4 (stating that “[s]atellite operators also pay very high application fees”).

<sup>13</sup> See 47 C.F.R. § 1.1107.

<sup>14</sup> See SIA Comments at 7-8.

<sup>15</sup> *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, IB Docket No. 12-267, Notice of Proposed Rulemaking, FCC 12-117, ¶ 4 (Sept. 28, 2012) (citing Amendment of the Commission’s Space Station Licensing Rules and Policies, IB Docket No. 02-34, First Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 10760 (2003)) (“Satellite Services NPRM”).

<sup>16</sup> Satellite Services NPRM, ¶ 4.

Once a license has been issued, the International Bureau expends minimal resources in the ongoing regulation of space station licensees. As SIA points out, “once a satellite is launched and on-station, it often remains at that location for several years – requiring little or no additional Commission resources.”<sup>17</sup> Although the International Bureau is charged with overseeing international coordination of satellite networks and operators pursuant to the Radio Regulations of the International Telecommunication Union (“ITU”),<sup>18</sup> such activities in reality utilize few agency resources. Private operators, rather than Commission staff, generally handle all coordination negotiations.<sup>19</sup> Specifically, “[s]atellite operators prepare all necessary filings with the ITU, and the annual number of administration-level international coordination meetings has been dwindling.”<sup>20</sup> In addition, the Commission recently initiated a comprehensive review of the Commission’s rules governing licensing and operation of space stations and earth stations as part of its ongoing efforts to streamline regulatory requirements.<sup>21</sup> The results of the Commission’s streamlining efforts will further reduce regulation of both space station and earth station licensees.

Moreover, existing space station regulatory fees already are among the highest per license fees paid.<sup>22</sup> In Fiscal Year 2012, the regulatory fee assessed on each geostationary orbit space station (“GSO”) license was \$132,875, and the regulatory fee assessed on each non-geostationary

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<sup>17</sup> Comments of SIA at 7

<sup>18</sup> See 47 C.F.R. § 0.51(o).

<sup>19</sup> Comments of SIA at 11 (“tasks associated with coordination of commercial satellites that were previously performed by Commission personnel largely have been shifted to private operators.”)

<sup>20</sup> *Id.*

<sup>21</sup> *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, IB Docket No. 12-267, Notice of Proposed Rulemaking, FCC 12-117 (Sept. 28, 2012).

<sup>22</sup> SIA Comments at 3, fn. 10 (“Space station fees are higher than any other per license fee with the exception of the fees of \$212,750 paid by submarine cable landing licensees with the highest system capacity, 20 Gbps or greater.”); GVF Comments at 4.

orbit space station (“NGSO”) license was \$143,150.<sup>23</sup> This fee is particularly high when compared to the proportionally low fee paid by earth station licensees. Currently, space station licensees are burdened with 51 percent of the regulatory fees allocated to International Bureau licensees,<sup>24</sup> while earth station licensees, who paid regulatory fees of only \$275 per license in 2012, account for only 3.9 percent of International Bureau regulatory fees. Earth stations communicate directly with space stations and operate on the same spectrum as space stations. Any International Bureau work with respect to spectrum or interference issues on behalf of space station licensees also benefits earth station licensees. They are also more numerous than satellite licensees and thus any increase in earth station regulatory fees will not impose a significant burden on any given earth station licensee.

As the regulation of satellites continues to decline, space station operators should not be required to pay increasingly high regulatory fees. According to the GVF, “[s]atellite network operators have long been concerned that their regulatory fees are disproportionately high given the very small portion of Commission resources attributable to ongoing regulation of the satellite industry.”<sup>25</sup> Intelsat shares this concern, and opposes any proposals that would result in increased regulatory fees for space station licensees.

## **II. INTERNATIONAL BUREAU LICENSEES SHOULD NOT PAY ALL THE REGULATORY FEES FOR ACTIVITIES THAT BENEFIT OTHER COMMISSION LICENSEES.**

Intelsat agrees with SIA that the Commission should “link costs for the activities defined in Section 9 to the specific categories of regulatory fee payers who benefit from those activities.”<sup>26</sup> In the Notice, the Commission finds that “the work of the employees in the core bureaus and offices is

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<sup>23</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2012*, MD Docket No. 12-116, Report and Order, 27 FCC Rcd 8390, 8404-8405 (July 19, 2012). In contrast, the FCC assessed Commercial Mobile Radio Service (“CMRS”) Mobile/Cellular Services at the rate of only \$0.17 per subscriber and CMRS Messaging Services at the rate of only \$0.08 per subscriber. *Id.* at 8406.

<sup>24</sup> *Notice*, ¶ 33.

<sup>25</sup> Comments of GVF at 3 (citation omitted).

<sup>26</sup> Comments of SIA at ii.

primarily focused on the industry segment regulated by each bureau...”<sup>27</sup> The Commission’s generic finding is simply inapplicable with respect to the International Bureau. As the Notice highlights, a portion of the International Bureau’s work benefits all classes of providers, and covers services outside of the International Bureau’s direct regulatory activities.<sup>28</sup> The costs associated with these regulatory activities cannot fairly be attributed to International Bureau licensees. Certainly, International Bureau licensees should not be forced to subsidize regulatory activities of the International Bureau that benefit all classes of providers.

In the Notice, the International Bureau recognized that “as much as one half of the FTEs in the Bureau work on matters covering services other than international services.”<sup>29</sup> For example, the Commission states that the Strategic Analysis and Negotiations Division (“SAND”) of the International Bureau is involved in international work that covers all of the Commission’s regulatory responsibilities, including cross-border spectrum negotiations and representation in bilateral and multilateral meetings.<sup>30</sup> These cross-border negotiations and international meetings address not only satellite spectrum, but also wireless and other spectrum issues. América Móvil points out that “[i]n June 2012, International Bureau staff helped successfully conclude[] the Twelfth Meeting of the United States-Mexico High Level Consultative Commission on Telecommunications (HLCC).”<sup>31</sup> The HLCC agreement addresses issues that primarily affect

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<sup>27</sup> Notice, ¶ 21.

<sup>28</sup> Notice, ¶ 26.

<sup>29</sup> Notice, ¶ 27.

<sup>30</sup> Notice, ¶ 26 (“For example, this Division has primary responsibility for leading the Commission’s international representation in bilateral meetings, multilateral meetings, and cross-border spectrum negotiations with Canada and Mexico on spectrum sharing arrangements, and notifications to the [ITU], as well as participation in ITU Study Groups. Though focused on the international community, this international work covers the entire gamut of the Commission’s regulatory responsibilities.”).

<sup>31</sup> Comments of América Móvil, S.A.B. DE C.V. at 5 (“Comments of América Móvil”).

wireless and broadcast licensees.<sup>32</sup> Similarly, the International Bureau staff is preparing for the World Conference on International Telecommunications (“WCIT”) hosted by the ITU.<sup>33</sup> The International Bureau assisted in developing proposed revisions to the International Telecommunication Regulations, which will affect all FCC licensees, not just International Bureau licensees.<sup>34</sup> Additionally, the International Bureau recently initiated a proceeding to consider revisions to foreign ownership review policies and procedures, which will impact other FCC licensees, including wireless common carrier licensees.<sup>35</sup>

Intelsat supports the allocation of a portion of International Bureau FTEs among the other core bureaus whose licensees benefit from the regulatory activities of the International Bureau. According to GVF, the existing method of allocating FTEs is “based on a cost allocation basis that relies on [FTE] data from 1998...”<sup>36</sup> AT&T notes that the International Bureau has substantially reduced its regulation of the U.S. international market since 1998.<sup>37</sup> Today, no more than 50 percent of the FTEs in the International Bureau work on regulation of international services.<sup>38</sup> Intelsat agrees with other commenters that more data is needed for the Commission to appropriately

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<sup>32</sup> *Id.*

<sup>33</sup> *See Inside the Bureau*, International Bureau, Federal Communications Commission, <http://www.fcc.gov/international-bureau> (last visited Oct. 18, 2012); *see also World Conference on International Telecommunications (WCIT-12)*, FCC Encyclopedia, Federal Communications Commission, <http://www.fcc.gov/encyclopedia/world-conference-international-telecommunications-wcit-12> (last visited Oct. 18, 2012).

<sup>34</sup> *Id.*

<sup>35</sup> *International Bureau Seeks Further Comment on Foreign Ownership Policies, Forbearance from Section 310(b)(3) for Common Carrier Licensees*, Public Notice, IB Docket No. 11-133, Public Notice, DA 12-573 (Apr. 11, 2012); *In the Matter of Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, Notice of Proposed Rulemaking, 26 FCC Rcd 11703 (2011).

<sup>36</sup> Comments of GVF at 2.

<sup>37</sup> Comments of AT&T, Inc. at 2, fn. 5.

<sup>38</sup> *Notice*, ¶ 27; Comments of SIA at 15.

allocate FTEs among the core bureaus.<sup>39</sup> However, to continue to require International Bureau licensees to be solely responsible for the costs associated with regulatory activities that benefit all classes of providers would be inconsistent with the Commission's stated goal of fairness.

### **III. U.S. LICENSEES SHOULD NOT BE FORCED TO SUBSIDIZE NON-U.S. LICENSED COMPETITORS.**

A significant amount of the work of the International Bureau benefits non-U.S. licensees *that pay no regulatory fees*. U.S.-licensed satellite operators and service providers, such as Intelsat, directly compete in the provision of satellite service with non-U.S. licensed providers, including Inmarsat, Telesat, SES, and Hispasat. Requiring U.S. satellite operators to subsidize regulatory activities that in some instances solely benefit their competitors is inconsistent with the goals of the Commission and is harmful to the public interest.

U.S. licensees compete directly with non-U.S. licensees in the domestic telecommunications market, including in the provision of satellite services. The Commission has established a process by which non-U.S. licensed satellite operators may obtain authority to serve the U.S. market pursuant to the World Trade Organization Agreement on Basic Telecommunications Services ("WTO Telecom Agreement").<sup>40</sup> As part of this Agreement, the U.S. "committed to allow foreign suppliers to provide a broad range of basic telecommunications services, including satellite services,

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<sup>39</sup> See, e.g., Comments of GVF at 5 ("GVF believes the goal of fairness also requires a higher level of transparency in the way in which FTEs are allocated among the core bureaus. The NPRM offers little details beyond the bare allocation percentages. Without more background as to how and why FTEs are to be allocated going forward, affected regulatees lack the necessary information to provide reasoned comments on the Commission's fee proposals."). See also *Regulatory Fee Process Needs to be Updated*, United States Government Accountability Office, GAO-12-686, at 23-25 (Aug. 2012) ("GAO Report").

<sup>40</sup> *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, IB Docket No. 96-111, First Order on Reconsideration, 15 FCC Rcd 7207, ¶¶ 1, 3 (1999).

in the United States.”<sup>41</sup> In furtherance of this commitment, the Commission took measures to “encourage and ease entry by non-U.S. satellites into the U.S. market.”<sup>42</sup> As a result, U.S.-licensed and non-U.S. licensed providers of satellite services now compete for the same customers in the domestic market.<sup>43</sup>

Despite the fact that non-U.S. licensed satellite operators serve customers in the U.S. market, the Commission does not impose application fees or regulatory fees on these entities. Under procedures established by the Commission, non-U.S. licensed satellite operators may file a Petition for Declaratory Ruling seeking Commission approval for a non-U.S. satellite to provide service in the U.S. The petition must be accompanied by all information required by Sections 25.114 and 25.137 of the Commission’s rules. The International Bureau evaluates these petitions, and conducts an “analysis of the information submitted to determine whether the non-U.S. satellite will operate consistently with all applicable Commission requirements, including technical requirements.”<sup>44</sup> Even though Commission staff must undertake the same review of these petitions as they would for any U.S. license application, non-U.S. satellite operators pay no application fee associated with Petition for Declaratory Ruling seeking Commission approval for a non-U.S. satellite to provide service in the U.S. Moreover, once authorized to serve the U.S. market, non-U.S. licensees benefit from the regulatory activities of the International Bureau without paying any

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<sup>41</sup> *Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, Report and Order, 12 FCC Rcd 24094, 24096-24097, ¶ 3 (1997) (DISCO II Order).

<sup>42</sup> *Id.* at 24099, ¶ 9.

<sup>43</sup> *See id.* at 24112, ¶ 39.

<sup>44</sup> *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, IB Docket No. 96-111, First Order on Reconsideration, 15 FCC Rcd 7207, ¶ 11 (1999).

regulatory fees.<sup>45</sup> U.S.-licensees should not be required to pay high regulatory fees that subsidize the regulation of non-U.S. licensees competing in the United States.

Forcing U.S. licensees to subsidize the Commission's regulation of their competitors is inconsistent with the public interest. First, this policy puts U.S. operators at a disadvantage by inhibiting their ability to price competitively. Intelsat agrees with other commenters that U.S.-licensed operators may have no option but to pass the increased cost of regulatory fees to consumers.<sup>46</sup> As a result, non-U.S. licensees seeking to serve the same customers may be able to offer a lower price than a U.S. licensee. Second, this policy harms the domestic telecommunications market. To avoid the imposition of high regulatory fees, Intelsat agrees with other commenters that companies may elect to seek licensure by non-U.S. regulators.<sup>47</sup> There is evidence that this already is occurring.<sup>48</sup> The Commission should not adopt policies that place U.S. licensees at a competitive disadvantage and encourage satellite operators that wish to serve the United States to seek licenses from foreign governments.

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<sup>45</sup> For example, both Inmarsat and SES are participating on the Advisory Committee for the World Radio Conference ("WRC-15"), which will provide the FCC with advice and recommended proposals for WRC-15. *See WAC Meetings and Documents*, FCC Encyclopedia, Federal Communications Commission, <http://www.fcc.gov/encyclopedia/wac-meetings-documents> (last visited Oct. 18, 2012); *see also WRC-15 Advisory Committee Membership List*, World Radiocommunication Conference (WRC-15), FCC Encyclopedia, Federal Communication Commission, <http://transition.fcc.gov/bureaus/ib/wrc-15/docs/WRC-15%20Advisory%20Committee%20Membership%20List%20Rev%208%208%2012.doc> (last visited Oct. 18, 2012).

<sup>46</sup> Comments of SIA at 24. The NAB suggests that it may be more fair to raise regulatory fees for satellite operators because they are "international," and "more likely to be larger entities with greater resources." Comments of the NAB at 6. However, "simply pass[ing] through increased regulatory fees" to customers, as NAB suggests, could harm the competitive position of U.S.-licensed satellite operators versus their foreign-licensed competitors that also serve the U.S. market. *Id.*

<sup>47</sup> *See* Comments of the NASCA at 20 (stating that recent Commission proposals to eliminate the LIRE exemption and reallocate regulatory fees "could significantly alter the economics of landing international submarine cable systems in the United States, potentially encouraging investment elsewhere.") (citation omitted); *see also* Comments of the International Carrier Coalition at 4.

<sup>48</sup> *See, e.g., Globalstar Licensee, LLC Application for Modification of Non-geostationary Mobile Satellite Service Space Station License*, Order, SAT-MOD-20040904-00165, DA 11-520 (Mar. 18, 2011).

**IV. THE FCC SHOULD SEEK CONGRESSIONAL AUTHORITY TO REFUND EXCESS COLLECTED FEES.**

Intelsat encourages the FCC to ask for Congressional authority to refund or credit excess collected fees. According to the GAO Report, “[o]n average, FCC collected 2 percent more each year in regulatory fees than it was required to collect in its annual appropriations acts over the past 10 fiscal years.”<sup>49</sup> As a result, the FCC has collected \$66 million in excess fees.<sup>50</sup> According to the GAO Report, until Congress provides for the disposition of funds, the total excess funds will only increase.<sup>51</sup> Intelsat joins other commenters in urging the Commission to ask Congress for authority to refund past fees paid in excess or reduce the fee requirement in subsequent years.<sup>52</sup>

**V. CONCLUSION**

Intelsat joins other commenters in support of the Commission’s decision to revise the regulatory fee structure. However, Intelsat urges the Commission not to adopt any proposals that would unfairly burden satellite operators that already pay extremely high regulatory fees.

Respectfully submitted,

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<sup>49</sup> GAO Report at 2.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.* at 28-29.

<sup>52</sup> *See, e.g.*, Comments of the United States Telecom Association at 7.