

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

In the Matter of	
Assessment and Collection of Regulatory Fees for Fiscal Year 2014;	MD Docket No. 14-92
Assessment and Collection of Regulatory Fees for Fiscal Year 2014;	MD Docket No. 13-140
Procedures for Assessment and Collection of Regulatory Fees	MD Docket No. 12-201

COMMENTS OF AT&T

AT&T Services, Inc., on its own behalf and on behalf of its affiliates, (AT&T) files these comments in response to the Commission's *Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking (Second Further Notice)* issued in this docket.¹

A. FTE Reallocations

- 1. The Commission has not made the case for the reallocation of Enforcement Bureau and Consumer & Governmental Affairs Bureau FTEs as direct FTEs to the Wireline Competition Bureau, Wireless Telecommunications Bureau, and the Media Bureau.**

Purportedly at the suggestion of the Satellite Industry Association (SIA), the Commission is seeking comments on a proposal to reallocate Enforcement Bureau (EB) and Consumer & Governmental Affairs Bureau (CGB) full time equivalents (FTEs) as direct FTEs to the Wireline Competition Bureau, the Wireless Telecommunications Bureau, and the Media Bureau. SIA's proposal appears based on its perception of the amount of work that FTEs in the EB and CGB actually perform for the International Bureau. This perception, however, may miss the point.

¹ *Assessment and Collection of Regulatory Fees for Fiscal Year 2014; etc., Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking*, FCC 14-88 (rel. June 13, 2014) (*Second Further Notice*).

The EB is, of course, charged with “enforcing the provisions of the Communications Act, the Commission’s rules, orders, and various licensing terms and conditions.”² The CGB on the other hand, “develops and implements the commission’s consumer policies . . . [and] maintains collaborative partnerships with state, local and Tribal governments in critical areas such as emergency preparedness and implementation of new technologies.”³ Both of these bureaus have duties pertaining to the entities that are covered by the International Bureau. And the role of these bureaus is equally prophylactic as it is prosecutorial (e.g., addressing specific consumer complaints or violations of the Act or Commission rules); that is, the number of actual violations or complaints shouldn’t govern the support the bureaus receive, because the bureaus are also deterring behavior that may give rise to violations and complaints. Similar to the local police and fire departments, citizens don’t pay for their services based on the number of times they call on the departments, but rather based on property taxes—typically assessed by property valuations. Taxpayers don’t pay based on actual usage because these departments stand at the ready to provide services to all regardless of past need and because their existence has a beneficial effect on the community as a whole. Likewise, the International Bureau’s regulated entities need to share in the support of the work of these two bureaus.⁴ In any event, the case hasn’t yet been made for simply exempting them from supporting the work of these bureaus.

B. Revising the *De Minimis* Threshold

1. The Commission should base the *de minimis* threshold on a rational, objective standard and not merely an arbitrary number.

AT&T supports having a *de minimis* threshold for regulatory fee payments; however, it also believes that, *when appropriate*, all regulated parties ought to contribute to the

² See: <http://www.fcc.gov/enforcement-bureau>

³ See: <http://www.fcc.gov/encyclopedia/consumer-and-governmental-affairs-bureau>

⁴ Moreover, the Commission concedes that the CGB handles consumer complaints filed against DBS providers. See *Second Further Notice*, para. 24. In light of this, reducing their contribution to zero would appear more than inappropriate and inconsistent with the goal of fairness.

Commission's work. In our view, the *de minimis* threshold ought to be based on a rational, objective standard and not merely an arbitrary figure pulled out of a hat. One such standard might be a fee amount just north of the point at which it costs the Commission more to assess and recover the fee than the fee actually brings in. The figures cited by the Commission in the *Second Further Notice* do not appear to be based on any objective standard (e.g., \$100, \$500, \$750, or \$1,000).⁵ Rather they appear to be purely arbitrary. Using an objective standard for the regulatory fee *de minimis* threshold would be in conformance with the Commission's stated goals of fairness, administrability, and sustainability.⁶

C. A Cap or Limitation on Fee Increases

1. The Commission should not cap increases in regulatory fees when the Commission is addressing a relatively long-standing distortion of the regulatory fee scheme.

In prior comments, AT&T opposed the imposition of a 7.5% cap on regulatory fee increases.⁷ We contended that, when the Commission is addressing a long-standing imbalance in the assessment of regulatory fees, it should not compound the injustice caused by that imbalance by dragging out the process by which the injustice is being addressed. As we noted, a cap on rate increases would seem totally unnecessary if the Commission had in fact fairly accounted for proper FTE distribution among the core bureaus earlier.⁸

In the *Second Further Notice*, the Commission seeks comments on whether it ought to continue to apply a 7.5% (or higher) cap on fee increases as a result of the Commission's reform measures.⁹ AT&T would support a reasonable cap if the record showed that uncapped increase would in fact have a severe impact on the economic wellbeing of licensees and that the

⁵ *Second Further Notice*, para. 31.

⁶ *Procedures for Assessment and Collection of Regulatory Fees; Assessment and Collection of Regulatory Fees for Fiscal Year 2008, Notice of Proposed Rulemaking*, FCC 12-77 paras. 13-17 (rel. July 17, 2012).

⁷ See Comments of AT&T, MD Docket Nos. 13-140, 12-201, & 08-65 (filed June 19, 2013).

⁸ See *id.* at 2.

⁹ *Second Further Notice*, para. 34.

substantial fee increase wasn't the result of efforts by the Commission to address a long-standing regulatory fee payment imbalance among regulated entities. Otherwise, the proposed cap would be both unnecessary and contrary to the Commission's stated goal of fairness.

D. Combining Existing Regulatory Fee Categories

1. The Commission should not combine wireline and wireless voice services into one category and assess fees on voice revenues for the new category.

Once again the Commission seeks comments on its proposal to combine “wireless cellular services with the ITSP category to create one regulatory fee category whose regulatory fees [would be] calculated on the combined number of FTEs in the Commission's Wireline Competition Bureau and Wireless Telecommunications Bureau.”¹⁰ In prior comments, AT&T has opposed this proposal and it continues to do so here.¹¹ Briefly, although both wireline and wireless services involve voice telecommunications services, they remain strikingly different services. While wireline and wireless carriers both have some similar obligations (*e.g.*, access to emergency services, CALEA, and universal service fees), they provide services in significantly different ways, which translates into different regulatory issues—such as, tariffing and pricing requirements (price cap or rate of return), accounting regulations, section 251(b) obligations, and the like for wireline telecommunications service providers; and spectrum auctions, pole siting rules, 9-1-1 location accuracy measurements, radio frequency regulations, and the like for CMRS providers. Even if AT&T were to concede that both wireline and wireless services were “fruit,” they would still be apples and oranges, not watermelon and cantaloupes. The Commission hasn't successfully made the case for this proposal.

In the *Second Further Notice*, the Commission concedes that, in order to combine wireless cellular service with the ITSP category, the Commission would be amending the Schedule of Regulatory Fees, which would trigger the obligation to notify Congress of the

¹⁰ *Id.*, para. 37.

¹¹ *See* AT&T at 3-4. AT&T incorporates those comments here for all purposes.

amendment at least 90 days before the effective date of the amendment.¹² Amendments to the Schedule of Regulatory Fees are made “to reflect additions, deletions, or changes in the nature of its services as a consequence of Commission rulemaking proceedings or changes in the law.”¹³ It is not clear from the *Second Further Notice* what changes the Commission believes justify this proposed amendment. Nor is it clear how the proposal to combine wireless cellular service in the ITSP category matches the Commission’s stated aim of fostering fairness, administrability, and sustainability. Overall, the proposal lacks merit and context.

2. The Commission should not assess regulatory fees on RespOrgs for each managed toll-free number without additional detail of the impact of any such fee on RespOrg carriers.

The Commission is reassessing the wisdom of excluding RespOrgs from the imposition of regulatory fees. The Commission notes that it had presumed that most RespOrgs were carriers and already paying regulatory fees but feels now that it may no longer be a realistic assumption.¹⁴ The Commission contends that imposing a fee on RespOrgs could “reduce the ITSP regulatory fee total.”¹⁵ It is unclear, however, how this proposal would impact carriers that are already paying on toll-free revenues, most of whom are RespOrgs and presumably would be subject to this assessment. Given the lack of clarity on this proposal, AT&T is reluctant to support it and asks the Commission to provide additional detail to help RespOrg carriers determine the real-world impact of this proposal.

AT&T

By: /s/ William A. Brown

¹² *Second Further Notice*, para. 40. See also 47 U.S.C. § 159(b).

¹³ 47 U.S.C. § 159(b)(3).

¹⁴ *Second Further Notice*, para. 51,

¹⁵ *Id.*

William A. Brown
Gary L. Phillips
Lori Fink

AT&T Services, Inc.
1120 20th Street, N.W.
Suite 1000
Washington, D.C. 20036
Tel: 202.457.3007
William.Aubrey.Brown@att.com

July 7, 2014

Attorneys for AT&T