



## FCC Proposes Extraordinary Increases in the Annual Regulatory Fees Paid by International Undersea Cable Operators and Satellite Operators

Today the U.S. Federal Communications Commission (“FCC”) issued a notice of proposed rulemaking (“NPRM”) in MD Docket Nos. 12-201 and 08-65 including a proposal that would **increase by more than 230 percent** the annual regulatory fees paid by providers regulated by the FCC International Bureau, particularly operators of FCC-licensed international submarine cable systems and geostationary satellites (including DBS satellites).

In Section 9 of the Communications Act of 1934, as amended, the U.S. Congress established annual regulatory fees to be collected by the FCC in order to distribute and recover the costs of the FCC’s enforcement activities, policy and rulemaking activities, user information services, and international activities, and to offset congressional funding of the FCC’s operations. Section 9 requires that regulatory fees be derived by determining the number of full-time equivalent employees (“FTEs”) performing certain activities, taking into account factors that are reasonably related to the benefits provided to the payor of the fee by the FCC’s activities.

As currently implemented, the FCC treats employees in its four core bureaus (International, Media, Wireless Telecommunications, and Wireline Competition) differently depending on whether an employee is “directly” involved in a feeable activity or “indirectly” involved in a supporting capacity. In the NPRM, the FCC proposes to eliminate the distinction between directly and indirectly-involved FTEs:

Nevertheless, it is clear that the work of *all* the FTEs in a core bureau, whether direct or indirect, contributes to the cost of regulating licensees of that bureau. Therefore, we may reasonably expect that the work of the FTEs in the core bureaus would remain focused on the industry segment regulated by each of those bureaus. We seek comment on whether we should change the way FTEs are allocated within a bureau, and we propose that all the FTEs in each of the core bureaus should be considered direct FTE costs for that bureau.

This concept, if adopted without modification, would increase the total share of annual regulatory fees borne by payors licensed by the International Bureau (principally submarine cable operators and satellite operators—the FCC also assesses regulatory fees on terrestrial and satellite international bearer circuits, earth stations, and non-geostationary satellites) from 6.7 percent to 22.0 percent. Using the Fiscal Year 2012 fee schedule proposed by the FCC in MD Docket No. 12-116, adjusted upward for the NPRM’s proposed new fee allocation, we believe the fees for the two principal categories of International Bureau payors—submarine cables and geostationary satellites—would work as shown in Table 1 below:

**Table 1:**

		<b>Proposed FY 2012 Fees (MD Docket 12-116)*</b>	<b>Fees Using FCC NPRM Proposals</b>
Line 1	FY 2012 Budget	\$339,844,000	\$339,844,000
Line 2	Allocation to International Bureau	\$22,769,548 (6.7% of Line 1)	\$74,765,680 (22.0% of Line 1)
Line 3	Allocation to Submarine Cable Systems (36.1% of Line 2)	\$8,118,948	\$26,990,410
Line 4	Number of payment units for Submarine Cables	38.313	38.313
Line 5	Regulatory fee for >20Gbps Submarine Cable System assessed at rate of 1 payment unit (Line 3/Line 4)**	\$211,925	\$704,471
Line 6	Allocation to Geostationary Satellites (51.1% of Line 2)	\$11,513,948	\$38,205,262
Line 7	Number of payment units for Geostationary Satellites	87	87
Line 8	Regulatory fee for Geostationary Satellite (per space station, including DBS) assessed at rate of 1 payment unit (Line 6/Line 7)	\$132,350	\$439,141

\* *Figures in this column reflect rounding in the FCC's FY 2012 proposal.*

\*\* *Smaller-capacity Submarine Cable Systems pay fees based on a fraction of the payment unit.*

The extraordinary 232-percent increases that would result from the adoption of the NPRM's proposals (shown in Lines 5 and 8) would result principally from the fact that the FTEs of the International Bureau's Strategic Analysis and Negotiations Division ("SAND")—which undertakes a variety of intergovernmental negotiations and research activities that benefit the FCC bureaus and FCC-regulated entities as a whole—would be allocated to payors licensed by the International Bureau.

Consequently, the FCC has also sought comment on whether or not to treat SAND as it treats other FCC support bureaus, with the related FTEs allocated across all categories of fee payors, not just those regulated by the International Bureau. The NPRM notes that "the International Bureau has estimated that as much as one half of the FTEs in the Bureau work on matters covering services other than international services." Were the FCC to exclude SAND FTEs the percentage of total regulatory fees allocated to the International Bureau would fall to 10.97 percent, resulting in a regulatory fee of \$351.275 per >20Gbps Submarine Cable System and

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\$218.972 per Geostationary Satellite (assuming the fees were assessed in FY 2012)—still an increase of 65 percent of FY 2012 fees currently proposed in MD Docket No. 12-116.

The FCC has also sought comment on whether to alter the intra-bureau allocations among services.

We seek comment on whether it would better serve the public interest for management in each of the core bureaus to revise their internal FTE allocation percentages based on management's assessment of the current distribution of work within the bureau. We also seek comment on whether they should do such analysis and update of the FTE allocation among fee categories within the bureau every three years unless a substantial shift in the nature or extent of a bureau's duties warrants reexamination in the interim.

Comments on the NPRM will be due within 30 days of the NPRM's publication in the *Federal Register*, which has not yet occurred, with reply comments due within 60 days of publication.

Please note that these proposals are separate from those in the FCC's Universal Service Fund Contribution proceeding, WC Docket No. 06-122 and GN Docket No. 09-51, wherein the FCC proposes to eliminate the "international-only" exemption and eliminate or modify the limited interstate revenues exemption. See W&G Regulatory Advisory, 19 June 2012, <http://wiltshiregrannis.com/siteFiles/News/E3A7B2E55B8E56CEF4196CB040E65334.pdf>. Those separate proposals would also have adverse financial impacts on undersea cable and satellite operators.

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For more information regarding FCC regulatory fees or for assistance in filing comments on the NPRM's proposals, please contact Kent Bressie at +1 202 730 1337 or [kbressie@wiltshiregrannis.com](mailto:kbressie@wiltshiregrannis.com) or Michael Nilsson at +1 202 730 1334 or [mnilsson@wiltshiregrannis.com](mailto:mnilsson@wiltshiregrannis.com).

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