

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Assessment and Collection of Space and Earth Station Regulatory Fees for Fiscal Year 2024)	MD Docket No. 24-85
)	
Review of the Commission's Assessment and Collection of Regulatory Fees for Fiscal Year 2024)	MD Docket No. 24-86
)	

**REPLY COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (NAB)¹ submits these brief reply comments regarding the Commission's proposal to revise its methodology for setting earth station regulatory fees.²

Many broadcasters use earth stations to receive programming, including live sports and network news, contribute programming, and cover breaking news. As the Notice observes, historically earth station regulatory fees have been assessed based on an initial per unit fee that has been adjusted year-to-year to reflect changes in the annual appropriation or the number of units of earth station fee payors.³ The Notice's proposal to increase earth station fee payors' share of Space Bureau regulatory fees from 8% to an expected 20% based

¹ The National Association of Broadcasters (NAB) is the nonprofit trade association that advocates on behalf of free local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

² *Assessment and Collection of Space and Earth Station Regulatory Fees for Fiscal Year 2024; Review of the Commission's Assessment and Collection of Regulatory Fees for Fiscal Year 2024*, Notice of Proposed Rulemaking, MD Docket Nos. 24-85, 24-86 (rel. Mar. 13, 2024) (Notice).

³ Notice at ¶ 69.

on the number of FTEs in the new Space Bureau’s Earth Station Licensing Division (ESLD) will result in a dramatic and unplanned increase in regulatory fees for earth station licensees. Indeed, earth station licensees could see their fees nearly tripled.

NAB appreciates the Commission’s recognition of the proposal’s substantial impact on earth station licensees and its inquiry into whether it should “create subcategories of earth station regulatory fee payors to better differentiate the amount of regulatory burdens associated with different types of earth station licenses.”⁴ To comply with its statutory mandate that regulatory fees “take into account factors that are reasonably related to the benefits received by the payor of the fee,” it is essential that the Commission ensure that its proposal is tailored to reflect the burdens associated with different categories of earth stations and the benefits received.⁵ Specifically, NAB agrees with NCTA that Receive-Only earth stations should remain exempt from regulatory fees and that Transmit/Receive earth stations should pay substantially lower fees than other, more complex categories of earth stations.⁶ NAB also supports NCTA’s proposal that any fee increase for earth stations should be phased in over a period of three years.⁷

⁴ Notice at ¶ 73.

⁵ 47 U.S.C. § 159(d). The Commission should also ensure that it is not overestimating the number of FTEs working full-time on earth station matters. NAB was surprised to learn that 11 FTEs were working on earth station matters, especially given the limited interaction broadcasters have with the FCC regarding their earth stations. The FCC should confirm that the FCC staff listed on the ESLD page of the FCC website are in fact working exclusively on earth station matters and exclude those staff that should be categorized as indirect. The Commission should also reject some commenters’ assertions that earth stations should be assigned 30% of Space Bureau costs on the grounds that the ESLD page of the FCC website now lists 13 staff. Even if additional staff were added recently, they should not be included in the FY 2024 FTE counts.

⁶ Comments of NCTA – The Internet & Television Association, MD Docket Nos. 24-85, 24-86, at 3-6 (Apr. 12, 2024) (NCTA Comments).

⁷ *Id.* at 6-7.

As both the Notice and NCTA observe, Receive-Only earth stations have not been required to pay regulatory fees for nearly three decades because of the very minimal resources dedicated to their regulation.⁸ No authorization is required to operate Receive-Only stations, and although Receive-Only earth stations may register with the Commission voluntarily, there is no requirement that they do so.⁹ Although the Notice does not appear to suggest the Commission intends to assess fees on Receive-Only earth stations, NAB agrees with NCTA that reimposing a fee would not be justified and would only serve to disincentivize Receive-Only earth stations from voluntarily registering with the Commission.¹⁰

NAB also agrees that Transmit/Receive earth stations' fees should be lower than other categories of earth stations that are more technically complex and require more FTE resources to manage.¹¹ The FCC itself has found that applications for other categories of earth stations are more resource-intensive to process. For instance, in 2020 the FCC adopted a higher application fee for blanket-licensed mobile earth stations, explaining that “the Commission’s costs are higher to review these types of applications” because they are “generally more complex, given the mobile nature of the services to be provided, and thus require significant engineering review and legal analysis to process.”¹² Such earth stations therefore impose a greater burden on FCC resources and should pay higher regulatory fees than less complex Transmit/Receive earth stations.

⁸ See Notice at ¶ 68 (“In 1995, the Commission deleted receive-only earth stations as a service subject to regulatory fee requirements”); NCTA Comments at 3-4.

⁹ See NCTA Comments at 3-4.

¹⁰ See *id.*

¹¹ *Id.*

¹² *Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission’s Rules*, Report and Order, 35 FCC Rcd 15089, 15140 (2020).

The Commission should also consider whether it is appropriate to assess higher regulatory fees on all blanket-licensed earth station licensees. Earth station regulatory fees are currently assessed on a per authorization basis. Thus, licensees pay the same amount regardless of whether they have a single earth station or several thousand earth stations under a blanket license.¹³ As the Notice acknowledges, commenters have previously suggested higher fees would be appropriate for blanket licenses because “the greater number of operating facilities under such licenses requires a higher level of regulatory oversight” than does a single ground antenna.¹⁴ Commenters specifically noted that “a single ESIM blanket license can cover not only multiple antennas, but also multiple antenna models, with each model requiring staff review to ensure conformance with Commission technical rules.”¹⁵

Not only might the regulatory burden on Commission FTEs be greater in some instances, but the benefits of the Commission’s earth station regulatory activities likely are greater for licensees with several thousand earth stations under a blanket license, and their regulatory fees should reflect the increased benefits received. In apportioning regulatory fees among payors in a given fee category, the Commission has consistently found that “larger licensees receive greater benefits from the license” and should pay a larger proportion of the costs.¹⁶ The FCC has therefore required broadcasters in larger markets, wireless and cable

¹³ Notice at ¶ 68.

¹⁴ *Id.* at ¶ 73; Comments of SES Americom, Inc., Intelsat License LLC, EchoStar Satellite Services LLC, and Hughes Network Systems, LLC, MD Docket No. 19-105, at 4-5 (Dec. 9, 2019) (Satellite Operators’ Comments).

¹⁵ Satellite Operators’ Comments at 4.

¹⁶ *Assessment and Collection of Regulatory Fees for Fiscal Year 2019*, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8189, 8205 (2019); see also *Assessment and Collection of Regulatory Fees for Fiscal Year 2023*, Report and Order, 88 Fed. Reg. 63694, 63705 (2023) (“We find it reasonable to continue to assess higher

providers with more subscribers, and larger capacity submarine cable systems to pay more in regulatory fees.¹⁷ Blanket-licensed earth station licensees should be treated similarly.

NAB also supports NCTA's request that any increase be phased in over a period of three years.¹⁸ Broadcasters and other earth station licensees have had no reason to anticipate this change or to adjust their operating budgets to accommodate such a substantial increase.¹⁹ The fee increase will be burdensome especially for smaller broadcasters that provide a free service to the public and have no way to pass on the increased costs to consumers. As NCTA explains, phasing in the proposed change would be consistent with steps the Commission has taken in the past to limit the adverse impact of large fee increases on fee payors.²⁰ It would also afford the Commission time to better account for the work performed by FTEs in the ESLD on behalf of various categories of earth station licensees and ensure its revised methodology is fair, administrable, and sustainable.

regulatory fees on licensees with larger facilities that benefit more from the Commission's work and thus should pay a larger proportion of the Commission's costs.").

¹⁷ *Id.*

¹⁸ See NCTA Comments at 6-7.

¹⁹ Indeed, as the Notice indicates, the Commission last considered altering earth station regulatory fees in FY 2020 and determined that there was insufficient evidence to increase the apportionment of fees paid by earth station licensees. See Notice at ¶ 69.

²⁰ See NCTA Comments at 7 (explaining how DBS fees were phased in over a period of six years and IPTV and VoIP fees were delayed for a year giving such providers time to adjust their operations and prepare for fee increases).

Respectfully submitted,

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BROADCASTERS**

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A handwritten signature in black ink, appearing to read "Rick Kaplan", with a long horizontal flourish extending to the right.

Rick Kaplan
Emily Gomes
Robert Weller

April 29, 2024