In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2020 MD Docket No. 20-105

REPLY COMMENTS OF CTIA

CTIA\(^1\) submits these reply comments in response to the Notice of Proposed Rulemaking ("Notice") seeking input on its collection of regulatory fees for Fiscal Year 2020 ("FY2020").\(^2\)

I. INTRODUCTION.

CTIA supports the Commission’s efforts to ensure regulatory fees appropriately reflect work conducted by agency staff and that any changes to the regulatory fee framework are fair, rational, administrable, and consistent with Section 9 of the Communications Act of 1934, as amended ("Act"). The Commission assesses regulatory fees based on the number of full-time equivalents ("FTEs") in each “core” bureau responsible for licensing activities, as adjusted to attribute all other FTEs to payor categories.\(^3\) Some commenters representing the broadcast industry, however, appear to suggest that the Commission deviate from this framework and instead assess regulatory fees based on Commission policy objectives (e.g., 5G activities).

\(^1\) CTIA – The Wireless Association® ("CTIA") (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st century connected life. The association’s members include wireless carriers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry’s voluntary best practices, hosts educational events that promote the wireless industry and co-produces the industry’s leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.


\(^3\) Id. ¶ 3.
urges the Commission to reject such suggestions, which would violate Section 9 of the Act, are beyond the scope of this proceeding, and would be contrary to public policy. In addition, such proposals are particularly unjustified given that the wireless sector contributes more to the Commission’s budget than any other industry segment.

II. **THE COMMISSION SHOULD MAINTAIN ITS CURRENT REGULATORY FEES APPROACH, WHICH IS CONSISTENT WITH THE ACT AND SOUND PUBLIC POLICY.**

   A. **Regulatory Fees Must Be Based On The Work Conducted By Agency Staff.**

   The Commission should reject any proposals to shift broadcasters’ or any other entities’ fair share of regulatory fees to Wireless Telecommunications Bureau (“WTB”) regulatees because of the Commission’s spectrum policy objectives or other matters not related to the work undertaken by Commission staff. Assessing regulatory fees based on something other than the work conducted by the Commission staff would violate Section 9 of the Act.

   The Commission is required under Section 9 to assess regulatory fees that “reflect the full-time equivalent number of employees within the bureaus and offices of the Commission,” and fees must 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.”5 As the Commission recently confirmed, while the RAY BAUM’S Act made some modifications to Section 9, “the fee

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4 See, e.g., Comments of the New Jersey Broadcasters Association, MD Docket No. 20-105, at 2-3 (filed June 7, 2020); Joint Comments of the State Broadcasters Associations, MD Docket No. 20-105, at 15 (filed June 12, 2020); Joint Comments of the Colorado Broadcasters Association, Florida Association of Broadcasters, Oregon Association of Broadcasters, and the Puerto Rico Broadcasters Association, MD Docket No. 20-105, at 4 (filed June 12, 2020) (“Joint Broadcasters’ Comments”).

assessment structure dictated by the statute fundamentally remains unchanged” and the
Commission’s existing methodology in assessing regulatory fees already aligns with the statute.6

The Commission has long recognized that under Section 9 of the Act, regulatory fees
must be based upon relative burdens imposed on the agency.7 The legislative history of Section
9 also makes clear that Congress intended for regulatory fees to be tied to the regulatory
activities of the Commission, and that an industry or class of users will not pay more than their
fair share of costs because of sector growth or success.8 Other policy objectives, competitive
market factors, or amounts of spectrum held by particular industry segments do not correlate to
the level of staffing or staff activity and are thus irrelevant for fulfilling the statutory charge of
Section 9 and calculating regulatory fees.9 Rather, fees must be based upon the work conducted
by Commission staff which, as the Commission itself has rightfully determined, is based on the
number of FTEs in each of the agency’s core bureaus.10 Suggestions to the contrary are beyond

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7 Assessment and Collection of Regulatory Fees for Fiscal Year 2007, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 15712, 15719-20 ¶ 19 (2007) (“Section 9 is clear... that regulatory fee assessments are based on the burden imposed on the Commission, not benefits realized by regulatees.”).
9 In response to one comment, for example, CTIA notes that regulatory fees for wireless services are assessed on the number of wireless “units” (i.e., number of subscribers or telephone number count). A merger of wireless providers would therefore not affect the number of overall wireless units that are subject to regulatory fees. Cf. Joint Broadcasters’ Comments at 4.
10 See FY2019 Order ¶ 8 (rejecting broadcasters’ arguments that the Commission is no longer required under the RAY BAUM’S Act to base regulatory fees on the core bureau’s direct FTEs, and concluding that FTE counts are the most administrable way of allocating regulatory fees).
the scope of this FY2020 regulatory fees proceeding, which seeks comment primarily on proposals for allocating fees among holders of international bearer circuits, completing the transition of a population-based full-power broadcast television regulatory fee, and continuing to phase in the Direct Broadcast Satellite Service regulatory fee.

B. The Wireless Industry Contributes More to the Commission’s Budget Than Any Other Industry Segment.

The wireless sector pays for more than half of Commission’s budget, significantly more than any other industry segment when both regulatory fees and auction revenues are taken into account. The Commission’s overall budget for FY2020 is $480.113 million. Congress directed the Commission to recover approximately $339.0 million through regulatory fees, and approximately $133 million through revenues retained from spectrum auctions. And, unlike other Commission regulatees, wireless regulatees that are spectrum auction winners already pay the federal government for the right to serve their customers through auction payments for spectrum license rights—with those auction payments alone accounting for approximately 28 percent of the Commission’s overall budget.

The following chart, which generally reflects the regulatory fees the Commission proposes to collect in FY2020 and spectrum auction proceeds, better portrays each sector’s contribution to this year’s budget:

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12 See id. at 6-7, 37.

13 The chart reflects the regulatory fees the Commission proposes to collect from WTB regulatees, inclusive of spectrum auction revenues, in comparison to the regulatory fee amounts the FCC proposes to collect from regulatees of the other core bureaus. See Notice ¶ 58. The “Other” category includes any other source of funding (e.g., universal service) for the Commission’s annual budget.
Any proposals to shift additional regulatory burdens to the wireless industry are not justified under Section 9 of the Act or public policy, particularly given that the wireless sector already contributes significantly more to the Commission’s annual budget than any other sectors.

**III. CONCLUSION.**

The Commission should follow its statutory mandate and stay the course with the FY2020 regulatory fees. As explained above, doing so would be consistent with Section 9 of the Act and would be sound public policy.

Respectfully submitted,

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