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## **Re-setting The Reg Fee Meter?**

### **FCC considers re-allocating costs of regulation**

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Sometime this month, you likely sent off a sizable check to the FCC to pay the regulatory fees which the FCC annually extorts – er, perhaps that’s too harsh – exacts (yes, that’s acceptably circumspect) from its regulatees. Perhaps you would like to know where the money goes. For those who are curious – or those who want to mount an effort to convince the FCC that the fees are too high – the FCC has provided analyses of its annual budget. In particular, the FCC has listed how much money it takes in from the broadcast industry and how much money it spends regulating the industry.

The FCC’s disclosures are intended to help the agency review its formula for assessing fees among the various industries that it regulates. Congress long ago ordered the FCC to collect reg fees as a means of funding the FCC’s operations. To a significant degree, those fees are intended to cover the cost of the Commission’s regulatory activities. The fees assessed against each regulated industry – *e.g.*, broadcast, cable, wireless, satellite, etc. – are supposedly based on the costs which the FCC incurs in regulating each of those industries. Because it has been some time since the Commission took a close look at its costs of regulation vis-à-vis the reg fees it has been charging, this year the Commission has invited comment on whether (and if so, how) its fee schedules might be adjusted to more accurately reflect its costs.

It’s been almost 15 years since the FCC last looked into its reg fee methodology. That methodology is based in large measure on the number of FCC FTEs (full-time employees) devoted to each regulatory category. Because of the difficulty of tying that number down with precision, the Commission estimated it in 1994 and has used that estimate since then. With remarkable understatement, the Commission acknowledges that “the communications industry has changed considerably since we adopted our regulatory fee schedule in 1994”, and opines that review of its vintage 1994 estimates of FTE allotments is in order.

This is *not* a penny-ante undertaking. While the check that you wrote this month may have seemed quite large, the FCC was dipping even more deeply into the pockets of other

companies that it regulates. For example, satellite operators had to fork over more than \$125,000 per space station system as their annual fee. Mobile phone companies had to pay 17 cents for each cell phone unit owned by their subscribers. Telecommunications providers, such as your local phone company and VoIP companies, had to shell out a percentage of their revenues as their fee. In other words, there's a lot of money in play here, and both the FCC and the various affected industries have an interest in getting things right.

In a Further Notice of Proposed Rulemaking (*FNPRM*), the FCC has now provided data about the amounts of money that (a) it spends on each industry and (b) it currently receives from each industry. According to the Commission, it spends nearly one hundred million dollars (\$100,000,000.00) each year to regulate the media industry. Its Media Bureau directly employs 231 FTEs full time employees who split \$26 million in personnel expenses. The FCC then tacks on \$2 million in non-personnel expenses and a whopping \$65 million in overhead/support expenses. According to FCC calculations, the Media Bureau comprises an impressive 30% of the FCC's \$313 million annual budget. The FCC's Wireless Bureau – the folks who regulate cell phones, pagers, microwaves, and other wireless licenses – comes in second at 27% of the budget expense. (These and other facts and figures are set out in extensive detail, complete with a plethora of pie-charts, in the *FNPRM*.)

According to the FCC's projections, regulatory fees assessed against broadcast and cable services this year will total \$94 million – with broadcast services kicking in \$42 million and cable making up the remaining \$52 million. This total is almost double what it was in 1995. For comparison purposes, the FCC provided 1995 data which indicated that broadcasters kicked in \$21 million and cable \$30 million.

Whether the Commission's review of its per-industry cost allocations will result in higher annual reg fees for broadcasters is far from clear – but that is certainly a possibility. Those who would like to comment on the FCC's regulatory fee system and the methods used to assess fees may file reply comments by October 27.