

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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 2013)	MD Docket No. 13-140
)	
Procedures for Assessment and Collection of Regulatory Fees)	MD Docket No. 12-201
)	

**COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (NAB)¹ submits these comments on the above-captioned rulemaking notices concerning policies for assessing regulatory fees.² Among other proposals, the Commission seeks comment on expanding the exemption from payment of certain *de minimis* regulatory fees. Second Further Notice at ¶¶ 31-33. The Commission also plans to expand its recent practice of reallocating certain full-time equivalent employees (FTEs) to better align regulatory fees with the functions of Commission staff. *Id.* at ¶¶ 22-29. NAB supports the former proposal to

¹ NAB is a nonprofit trade association that advocates on behalf of 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 Regulatory Fees for Fiscal Year 2014*, MD Docket No. 14-92, *Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, MD Docket No. 13-140, *Procedures for Assessment and Collection of Regulatory Fees*, MD Docket No. 12-201, Notice of Proposed Rulemaking, Second Further Notice of Proposed Rulemaking, and Order, FCC 14-88 (*rel.* June 13, 2014) (Second Further Notice or Order).

provide relief to additional small entities, and urges the Commission to consider certain aspects of the latter plan more carefully before implementing any permanent changes.

Raising the regulatory fee exemption threshold from the current ten dollars to \$750 or \$1,000, as mentioned in the Second Further Notice, would serve the public interest in improved radio and television service, particularly in small and rural markets. Stations in such markets face unique challenges in generating advertising revenues, given their smaller economic bases, although they still must compete against satellite radio, online music services and other ubiquitous alternatives on the same basis as stations in large markets.³ A higher threshold would relieve certain stations in these small markets of this obligation and allow them to devote more resources towards improved programming and signal quality,⁴ consistent with the Commission's goal in its pending AM revitalization proceeding.⁵ Raising the threshold would also allow applicants for AM and FM radio construction permits to direct more resources towards promptly building their facilities and launching service.⁶

For similar reasons, NAB supports the Commission's proposal to eliminate certain regulatory fee categories, including Broadcast Auxiliaries, Low Power TV/Class A Television, and TV/FM Translators and Boosters. Second Further Notice at ¶ 31.

³ The Commission has recognized the economic challenges faced by entities seeking to provide radio service in unserved, underserved and rural areas. *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, Notice of Proposed Rulemaking, MB Docket No. 09-52, 24 FCC Rcd 5239, 5271 (2009).

⁴ According to the Commission's fee schedule for fiscal year 2014, raising the *de minimis* threshold to \$1,000 would exempt all radio stations serving populations fewer than 25,000, and Class C and D AM stations serving populations of 75,000 or fewer, from regulatory fees. Order, Attachment B.

⁵ *Revitalization of the AM Radio Service*, Notice of Proposed Rulemaking, MB Docket No. 13-249, 28 FCC Rcd 15221 (2013).

⁶ Second Further Notice, Attachment F (listing fees for AM and FM radio construction permits of \$590 and \$750, respectively).

Low power television, Class A stations and TV translators often face financial challenges, yet provide valued programming to viewers across the country, including foreign language, minority-oriented and major network programming.

Finally, raising the exemption threshold and eliminating some fee categories would allow the Commission to conserve the resources needed to process and collect these fees without substantially affecting the Commission's ability to fulfill its mission, given the limited monetary amounts involved. The Commission should adopt these proposals.

Regarding the proposed reallocation of fees, the Commission in 2013 re-designated certain FTEs in the International Bureau (IB) asserting that it would more accurately reflect their engagement on matters that primarily benefit entities regulated by other bureaus.⁷ This change increased fees for entities regulated by the Media Bureau, including radio and television stations, among others. The Commission now proposes to extend this practice by reallocating FTEs in the Enforcement Bureau (EB), the Consumer and Governmental Affairs Bureau (CGB), and the Office of Engineering and Technology (OET). *Id.* at ¶ 22-25. Under the proposal, 109 additional FTEs would be attributed to Media Bureau licensees from EB and CGB alone.

NAB objects to this approach to adjusting regulatory fees. The Commission should instead adopt a comprehensive, holistic method that accounts for the functions of all Commission staff while considering the impact on classes of licensees. During the

⁷ *Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, Report and Order, MD Docket Nos. 13-140, 12-201, and 08-65, 28 FCC Rcd 12351 (2013) (FY 2013 Reg Fees Order); *Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, MD Docket Nos. 13-140, 12-201, and 08-65, 28 FCC Rcd 7790 (2013) (FY 2013 Reg Fees Notice).

2013 regulatory fees proceeding, NAB and others objected to the “selective reallocation” of IB FTEs.⁸ Commenters urged the Commission to expand its analysis to reflect the functions of other employees, such as Media Bureau FTEs who work on spectrum and wireless-related issues,⁹ and Wireline Competition Bureau employees who work on issues that benefit wireless, cable, and satellite operators.¹⁰ In response, the Commission stated that “because the International Bureau’s situation is exceptional, we do not perceive how . . . the proposed reallocation can constitute a ‘slippery slope.’”¹¹ Nonetheless, the Second Further Notice continues down the slope, proposing only the reallocation of certain FTEs in two non-core bureaus and an office, which would again unduly burden Media Bureau licensees. Second Further Notice at ¶ 22-27.

NAB thus reiterates its view that the Commission should undertake a complete accounting of the actual functions of all Commission FTEs, and allocate regulatory fees accordingly.¹² The only equitable approach is one that simultaneously and thoroughly

⁸ Comments of CTIA, MD Docket Nos. 13-140, 12-201, and 08-65 (filed June 19, 2013), at 7; Comments of National Association of Broadcasters, MD Docket Nos. 13-140, 12-201, and 08-65 (filed June 19, 2013), at 4

⁹ Media Bureau staff also work on program access and retransmission consent complaints, and implementation of the Commercial Advertisement Loudness Mitigation Act and the Twenty-First Century Communications and Video Accessibility Act, all of which benefit International Bureau regulatees. NAB Comments at 4.

¹⁰ Comments of ITTA – The Independent Telephone & Telecommunications Association, MD Docket Nos. 13-140, 12-201, and 08-65 (filed June 19, 2013), at 5-6.

¹¹ FY 2013 Reg Fees Order at ¶ 19 quoting CTIA Comments at 7.

¹² See *National Cable Television Assn. v. U.S.*, 415 U.S. 336 (1974) (striking down the Commission’s 1970 regulatory fees schedule for the cable industry as not properly calculated based on the value to the recipient); *National Cable Television Assn. v. FCC*, 554 F.2d 1094 (D.C. Cir. 1976) (holding that regulatory fees must reasonably reflect the particular expenses related to the cost of Commission services performed and value conferred upon the fee payor, and that the Commission must calculate the cost basis for each fee assessed). See also *National Association of Broadcasters v. FCC*, 554 F.2d 1118 (D.C. Cir. 1976) (holding that broadcasters were entitled to refunds of fees based

reviews the functions of all Commission employees while taking into account the relative impact of fee reallocation on all regulated entities. Otherwise, it is inevitable that some regulated entities will be unfairly burdened. For these reasons, NAB urges the Commission to refrain from selectively reallocating FTEs until a comprehensive examination of the regulatory fee process can be undertaken.

As discussed above, NAB supports the proposal to raise the *de minimis* threshold for exemption from regulatory fees, and urges the Commission to defer implementation of the proposals to reallocate only certain FTEs in the calculation of regulatory fees, to allow time for a comprehensive analysis.

Respectfully submitted,



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on Supreme Court's invalidation of the Commission's 1970 fee schedule for cable operators).