

**STATEMENT OF
COMMISSIONER AJIT PAI**

Re: *Assessment and Collection of Regulatory Fees for Fiscal Year 2015*, MD Docket No. 15-121; *Amendment of Part 1 of the Commission's Rules*, MD Docket No. 15-121; *Assessment and Collection of Regulatory Fees for Fiscal Year 2014*, MD Docket No. 14-92.

Each year, the FCC must update its schedule of regulatory fees to “reflect . . . changes in the nature of its services”¹ so that regulatory fees reflect the Commission’s current activities and the benefits regulated entities receive from those activities.² In 2012, the Government Accountability Office evaluated the FCC’s performance of this annual function and told the Commission something that it and most regulatees already knew: Our assessment of regulatory fees lacked “transparency” and was “based on obsolete data” from 1998.³ Most fundamentally, our fee assessments didn’t reflect the advent of cross-platform convergence in the communications marketplace—that is, companies from formerly distinct niches competing to offer the same services—or the accompanying change to our substantive regulatory framework. Intermodal competitors faced radically different fee requirements based on little more than historical accident. That violates the bedrock principle that similar services should be regulated similarly.

So over the last three years, I’ve welcomed the opportunity to work first with Chairman Genachowski, then Chairwoman Clyburn, and now Chairman Wheeler to improve our assessment of regulatory fees and carry out the statutory command. I am pleased with the progress that we’ve been making. In 2013, for example, we updated our data and reassessed regulatory fees accordingly.⁴ This year, we begin to correct a long-time imbalance in the treatment of multichannel video programming distributors (MVPDs) that exempted two of the nation’s largest MVPDs from contributing to the regulatory costs of the Media Bureau because they happened to be satellite operators.⁵ And perhaps next year we will reexamine and revise the regulatory fees that broadcasters pay.⁶

Of course, some issues are out of our hands. For example, when we collect too much in regulatory fees, we cannot use that excess to offset future assessments. But Congress can change that. In fact, they’ve already begun to dig into the issue of regulatory fees through the FCC reauthorization process. In the House of Representatives, the Energy and Commerce Committee recently highlighted the

¹ See Communications Act § 9(b)(3) (“[T]he Commission shall, by regulation, amend the Schedule of Regulatory Fees if the Commission determines that the Schedule requires amendment to comply with the requirements of paragraph (1)(A). In making such amendments, the Commission shall add, delete, or reclassify services in the Schedule to reflect additions, deletions, or changes in the nature of its services as a consequence of Commission rulemaking proceedings or changes in law.”).

² See Communications Act § 9(b)(1)(A) (“The fees assessed . . . shall . . . be derived by determining the full-time equivalent number of employees . . . within the . . . offices of the Commission, 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 . . .”).

³ Government Accountability Office, *Federal Communications Commission Regulatory Fee Process Needs to be Updated*, GAO-12-686 (Aug. 2012).

⁴ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2013 et al.*, MD Docket Nos. 13-140, 12-201, 08-65, Report and Order, 28 FCC Rcd 12351 (2013).

⁵ *Order* at para. 28. As the Commission noted last year, “DBS providers currently pay less than nine percent of the regulatory fees they would be assessed if the Commission . . . required DBS to pay the same rate as cable television and IPTV.” *Assessment and Collection of Regulatory Fees for Fiscal Year 2014 et al.*, MD Docket Nos. 14-92, 13-140, 12-201, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 10767, 10782, para. 39 (2014).

⁶ *Order* at para. 13.

need to reform regulatory fees in draft legislation.⁷ Among other things, that legislation would correct a quirk in the law in order to allow application fees (which are intended to offset the FCC's costs) to offset regulatory fees rather than just being deposited in the Treasury as they are now. And the reauthorization effort is bicameral—the Senate Commerce, Science, and Transportation Committee has held a hearing on the topic.

I commend the initiatives at the Commission and in Congress to bring the FCC's assessment of regulatory fees in line with the 21st century communications marketplace. I stand ready to work further with my colleagues and all interested parties to ensure that this goal is met.

⁷ Walden Releases Draft Bill to Reauthorize FCC (Mar. 17, 2015), <http://energycommerce.house.gov/press-release/walden-releases-draft-bill-reauthorize-fcc>.