TABLE 5 TO PARAGRAPH (e)—Continued

CAS No.	Chemical name	Effective date
200513–42–4	2-Propenoic acid, 2-methyl-, polymer with butyl 2-methyl-2-propenoate, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl 2-propenoate, 2-hydroxyethyl 2-methyl-2-propenoate and methyl 2-methyl-2-propenoate.	1/1/20
238420–68–3	Propanedioic acid, mono(γ-ω-perfluoro-C8–12-alkyl) derivs., di-me esters	1/1/20
238420–80–9	Propanedioic acid, mono(γ-ω-perfluoro-C8–12-alkyl) derivs., bis[4-(ethenyloxy)butyl] esters	1/1/20
1078142–10–5 ...	1,3-Propanediol, 2,2-bis[[(γ-ω-perfluoro-C6–12-alkyl)thio]methyl] derivs., polymers with 2,2-bis[[(γ-ω-perfluoro-C10–20-alkyl)thio]methyl]-1,3-propanediol, 1,6-diisocyanato-2,2,4(or 2,4,4)-trimethylhexane, 2-heptyl-3,4-bis(9-isocyanatononyl)-1-pentylcyclohexane and 2,2′-(methylimino)bis[ethanol].	1/1/20
1078712–88–5 ...	Thiols, C4–20, γ-ω-perfluoro, telomers with acrylamide and acrylic acid, sodium salts	1/1/20
1078715–61–3 ...	1-Propanaminium, 3-amino-N-(carboxymethyl)-N,N-dimethyl-, N-[2-[(γ-ω-perfluoro-C4–20-alkyl)thio]acetyl] derivs., inner salts.	1/1/20

[FR Doc. 2020–10990 Filed 6–19–20; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 19–105; MD Docket No. 20–105; FCC 20–64; FRS 16782]

Assessment and Collection of Regulatory Fees for Fiscal Year 2020

AGENCY: Federal Communications Commission.

ACTION: Final actions.

SUMMARY: In this document, the Federal Communications Commission (Commission) acts on several proposals that will impact FY 2020 regulatory fees.

DATES: These final actions are effective July 22, 2020.

FOR FURTHER INFORMATION CONTACT: Roland Helvajian, Office of Managing Director at (202) 418–0444.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* FCC 20–64, MD Docket No. 19–105, and MD Docket No. 20–105, adopted on May 12, 2019 and released on May 13, 2020. The full text of this document is available for public inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW, Washington, DC 20554, or by downloading the text from the Commission's website at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0906/FCC-17-111A1.pdf.*

I. Administrative Matters

A. Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980 (RFA),[1] the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to this *Report and Order.* The FRFA is located towards the end of this document.

B. Final Paperwork Reduction Act of 1995 Analysis

2. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

C. Congressional Review Act

3. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that these rules are non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this *Report & Order* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

II. Introduction

4. In this *Report and Order,* we follow through on our proposal in the *FY 2019 Report and Order and Further Notice of Proposed Rulemaking (FNPRM)*[2] to level the playing field between domestic and foreign licensed space stations by assessing a regulatory fee on commercial space stations licensed by other administrations (non-U.S. licensed space stations) with United States market access, among other things. We also adjust the FTE allocation for the international bearer circuit (IBC) category, and we decline to grant a categorically lower regulatory fee for VHF stations to account for signal limitations.

III. Report and Order

1. In this *Report and Order,* we level the playing field among space stations by assessing a regulatory fee on non-U.S. licensed space stations with United States market access and including those non-U.S. licensed space stations in the current regulatory fee categories for geostationary (GSO) and non-geostationary (NGSO) space stations. We impose this fee regardless of whether the non-U.S. licensed space station operator obtains the market access through a declaratory ruling or through an earth station applicant as a point of communication. We also take the related action of adding four FTEs into the satellite regulatory fee category to account for the work that benefits these new fee payors. We further adjust the FTE allocation for the international bearer circuit (IBC) category from 6.9 FTEs to eight FTEs to reflect direct FTE work in the International Bureau that benefits the fee payors in the IBC regulatory fee category. Finally, we decline to categorically lower regulatory fees for VHF stations to account for signal limitations.

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

[2] *Assessment and Collection of Regulatory Fees for Fiscal Year 2019,* Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8199 (2019) (*FY 2019 Report and Order* (84 FR 50890 (September 26, 2019) and *FY 2019 FNPRM* (84 FR 56734 (October 23, 2019))).

A. Assessing Regulatory Fees on Non-U.S. Licensed Space Stations With U.S. Market Access

2. The Commission currently assesses regulatory fees on GSO and NGSO space stations licensed by the Commission but does not assess regulatory fees on non-U.S. licensed space stations that have been granted market access to the United States.[3] The issue of assessing regulatory fees on non-U.S. licensed space stations with U.S. market access has been raised several times previously. In the *FY 1999 Report and Order,* the Commission declined to adopt such a fee.[4] In 2013 and again in 2014, the Commission sought comment on assessing regulatory fees on non-U.S. licensed space stations with U.S. market access,[5] but the Commission declined to adopt such a fee at the time because it might ''raise[ ] significant issues regarding our authority to assess such a fee as well as the policy implications if other countries decided to follow our example.'' [6] The following year, the Commission observed that excluding non-U.S. licensed satellite operators from fees amounted to a subsidy of such operators by U.S. licensed satellite operators.[7] The Commission thus concluded that the four FTEs working on market access petitions or other matters involving non-U.S. licensed space stations should be removed from the regulatory fee assessments for U.S. licensed space stations and considered indirect for regulatory fee purposes.[8]

3. The issue of assessing regulatory fees on non-U.S. licensed space stations with U.S. market access has been raised several times since Congress originally adopted the statutory schedule of regulatory fees originally in 1993.[9] In exercising our Congressional mandate to collect regulatory fees each fiscal year, we proceed with careful consideration and make changes in our process only after fully developing the record. This may mean, as it did here, that the Commission considers the adoption of a new fee category or a change in categories multiple times and only proceeds with making a change when it develops sufficient basis for making the change. This meticulous approach to making changes moreover serves the goal of ensuring that our actions in assessing regulatory fees are fair, administrable, and sustainable.[10]

4. In the *FY 2019 FNPRM,* the Commission again sought comment on assessing regulatory fees on non-U.S. licensed space stations with U.S. market access, noting that the International Bureau's policy, regulatory, international, user information, and enforcement activities all benefit non-U.S. licensed space stations that access the U.S. market.[11] Non-U.S. licensed space stations are monitored to ensure that their operators satisfy all conditions placed on their grant of U.S. market access, including space station implementation milestones and operational requirements, and are subject to enforcement action if the conditions are not met.[12] The Commission specifically sought comment on whether ''we should or must assess regulatory fees on non-U.S. licensed space stations serving the United States under section 9, given that non-U.S. licensed space stations appear to benefit from the Commission's regulatory activities in much the same manner as U.S. licensed space stations.'' [13] The Commission noted that its initial decision in 1999 was premised on the Commission's understanding at the time that its authority reached only space station ''licensees,'' *i.e.,* those licensed under Title III. We observed that section 9 of Communications Act, as amended by the RAY BAUM'S Act, does not mention ''licensees'' but only the ''number of units'' in each payor category—and that the ''unit'' used for assessing satellite space station regulatory fees is ''per operational station in geostationary orbit'' or ''per operational system in non-geostationary orbit,'' units that do not distinguish between the government issuing the license.[14] The Commission also sought comment on reallocating four International Bureau indirect FTEs as direct, if regulatory fees are adopted for non-U.S. licensed space stations.[15]

5. We conclude that we can and should adopt regulatory fees for non-U.S. licensed space stations with U.S. market access. On the question of whether we may assess regulatory fees on non-U.S. licensed space stations with U.S. market access, we start with the statutory text. The Act contemplates that we impose fees on regulatees that reflect the ''benefits provided to the payor of the fee by the Commission's activities.'' [16] The Act specifically contemplates the subset of regulatees that must be exempted from regulatory fees in a section entitled ''Parties to which fees are not applicable.'' [17]

[3] Under the Commission's rules, a satellite licensed by an administration other than the United States may seek to communicate with satellite earth stations in the United States through a process called market access. 47 CFR 25.137. Market access is either requested by the space station operator through a petition for declaratory ruling from the Commission that market access by the non-U.S. licensed space station is in the public interest, or through an application by a U.S. licensed earth station to communicate with the non-U.S. licensed space station. 47 CFR 25.137(a). In either case, the Commission does not license the space station, but the request for U.S. market access requires the submission and review of the same legal and technical information for the non-U.S. licensed space station as would be required in a license application for that space station. 47 CFR 25.137(b).

[4] *Assessment and Collection of Regulatory Fees for Fiscal Year 1999,* Report and Order, 14 FCC Rcd 9868, 9883, paragraph 39 (1999) (79 FR 37982, paragraphs 53–56 (July 3, 2014) (*FY 1999 Report and Order*).

[5] *Assessment and Collection of Regulatory Fees for Fiscal Year 2014,* Notice of Proposed Rulemaking, Second Further Notice of Proposed Rulemaking, and Order, 29 FCC Rcd 6417, 6433–34, paragraphs 47–50 (2014) (79 FR 37982, paragraphs 53–56 (July 3, 2014)) (*FY 2014 NPRM*); *Assessment and Collection of Regulatory Fees for Fiscal Year 2013,* Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 28 FCC Rcd 7790, 7809–810, paragraphs 47–49 (2013) (78 FR 34612, paragraphs 53–55 (June 10, 2013)) (*FY 2013 NPRM*).

[6] *Assessment and Collection for Regulatory Fees for Fiscal Year 2014,* Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd at 10781, paragraph 34 (79 FR 54190 (September 11, 2014)) (*FY 2014 Report and Order*).

[7] *Assessment and Collection of Regulatory Fees for Fiscal Year 2015,* Report and Order and Further Notice of Proposed Rulemaking, 30 FCC Rcd at 10278, paragraph 24 (2015) (80 FR 55775, paragraphs 24–26 (September 17, 2015)) (*FY 2015 Report and Order*).

[8] *FY 2015 Report and Order,* 30 FCC Rcd at 10278, paragraph 24.

[9] Section 6002(a) of the Omnibus Budget Reconciliation Act of 1993 (hereinafter, ''1993 Budget Act''). *See* Public Law 103–66, Title VI, 6002(a), 107 Stat. 397 (approved August 10, 1993). Congress made subsequent minor amendments to the schedule.

[10] *See FY 2012 NPRM at* 8464–65, paragraphs 14–16 (77 FR 29275 (May 17, 2012)). The concept of administrability includes the difficulty in collecting regulatory fees under a system that could have unpredictable dramatic shifts in assessed fees in certain categories from year to year.

[11] *FY 2019 Report and Order,* 34 FCC Rcd at 8212, paragraph 63.

[12] *Id.*

[13] *Id.* at 8213, paragraph 64.

[14] *Id.*

[15] *Id.* at 8214, paragraph 66.

[16] 47 U.S.C. 159(d).

[17] The statute exempts governmental and nonprofit entities, amateur radio operators, and noncommercial radio and television stations are exempt from regulatory fees under section 9(e)(1). 47 U.S.C. 159(e)(1); 47 CFR 1.1162. Moreover, we note that the exemption for noncommercial radio ad television stations, which Congress added to the statute in the RAY BAUM's Act, was a codification of an exemption that the Commission had previously established in its rules. *See* 47 CFR 1.1162(e) (1994); also compare current section 9(e) with the now-deleted section 9(h). The Commission adopted the exemption based on its interpretation of the legislative history and Congressional direction. *See Implementation of Section 9 of the Communications Act,* Notice of Proposed Rulemaking, 9 FCC Rcd 6957 at paragraphs 18 through 22 (59 FR 12570 (March 17, 1994)) (explaining noncommercial broadcast exemption based on legislative history and wording of the statute) (1994); *Implementation of Section 9 of the Communications Act,* Report and Order, 9 FCC Rcd. 533 at paragraphs 13, 20–21 (59 FR 30984 (June 16, 1994)) (1994). In addition, Congress also codified in the RAY BAUM's Act the Commission's *de minimis* rule through the adoption of new section 9(e)(2).

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Notably, Congress did not include operators of non-U.S. licensed space stations with U.S. market access in that list, and thus did not require the Commission to exempt them from an assessment of regulatory fees. Moreover, the Commission's authority to waive regulatory fees is limited to specific instances and the Commission has consistently rejected consideration of waiving the regulatory fee for classes of regulatees.[18] Given the framework where the Commission has a mandate to collect fees from its regulatees, coupled with a limited list of exempt entities and narrow waiver authority, nothing in the text of the statute supports maintaining a blanket exception from regulatory fees for non-U.S. licensed space stations granted market access.

6. U.S. licensed operators agree, arguing that we have the authority to impose regulatory fees on non-U.S. licensed space station operators with market access because section 9 provides that the purpose of regulatory fees is to recover the costs of the Commission's activities taking ''into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities.'' [19] Commenters contend that the use of the term ''number of units'' in the amended section 9(c)(1)(A), instead of ''licensee,'' broadens the language of the statute so that it appears to be applicable to both U.S. licensed and non-U.S. licensed space stations.[20] SpaceX contends that the Commission ''must consider increases and decreases only in the 'number of units' of operational GSO satellites and NGSO systems regardless of licensing administration.'' [21] Based on the plain language of statute—and the absence of any express limitation that we impose regulatory fees only on ''licensees'' or that we exempt non-U.S. licensed space stations with U.S. market access, we conclude that there is no statutory bar to adopting a new regulatory fee for non-U.S. licensed space stations with U.S. market access.

7. We dismiss the arguments of some commenters that focus on whether Congress intended to expand our authority by removing the word ''licensees'' in the amended section 9.[22] Telesat argues that ''[t]he number of 'units' says nothing about which entities are subject to the Commission's regulatory fee authority in the first instance.'' [23] Inmarsat contends that ''the plain language of RAY BAUM'S Act is not directed to the entities from which the Commission may collect fees, but the manner in which the Commission may adjust fees.'' [24] Such arguments, however, are a double-edged sword because the word ''licensees'' in that sentence was the only textual hook (under prior law) that such advocates had for arguing that the Commission's authority was limited to assessing fees on licensees. And so, although we tend to agree that this change *does not imply* a change in who could be assessed, we also find that the use of the word ''licensee'' *did not imply* that only licensees could be assessed. In other words, whether Congress intended to expand the reach of regulatory fees with this language is irrelevant. The question instead remains whether Congress precluded us from imposing regulatory fees on non-U.S. licensed space stations that clearly benefit from market access to the United States and the activities of the Commission—and nothing in the language of the Act suggests Congress intended to preclude such regulatees from the ambit of regulatory fees.

8. Absent any textual hook, commenters turn to the legislative history of section 9 [25] and argue that the Commission has taken this position previously.[26] Indeed, in the *FY 1999 Report and Order,* the Commission based its conclusion on legislative history from 1991.[27] We find that it is appropriate to re-evaluate this conclusion at this time.

9. The legislative history referred to in the *FY 1999 Report and Order* and the *FY 1995 Report and Order* is found in the House and Senate Reports, Committee on Energy and Commerce, 102 H. Rpt. 207, September 17, 1991, in which the Committee stated: ''The Committee intends that fees in this category be assessed on operators of U.S. facilities, consistent with FCC jurisdiction. Therefore, these fees will apply only to space stations directly licensed by the Commission under Title III of the Communications Act. Fees will not be applied to space stations operated by international organizations subject to the International Organizations Immunities Act, 22 U.S.C. Section 288 *et seq.*'' [28]

10. To understand these committee reports, it is helpful to recognize that in 1991 there was a very different marketplace and regulatory environment than now exists in 2020. In 1991, U.S. licensed space stations operated as either domestic satellites (domsats) [29] or international systems (separate satellite systems).[30] Satellite services in the United States, however, were mainly provided by INTELSAT and INMARSAT, which were treaty-based international governmental organizations. Both were the product of a unique set of initiatives undertaken by the United States and other countries to develop the global communications satellite systems. As a result, they both benefited from a framework of protections based in statute,[31] treaty,

See FY 2019 Report and Order, 34 FCC Rcd at 8206–07, paragraphs 46 through 47.

[18] 47 CFR 1.1166.

[19] U.S. Satellite Licensees Comments at 8 (quoting 47 U.S.C. 159(d)). These joint commenters are EchoStar Satellite Services, LLC (EchoStar), Hughes Network Systems, LLC (Hughes), Intelsat License LLC (Intelsat), and Space Exploration Technologies Corp. (SpaceX).

[20] U.S. Satellite Licensees Comments at 8–9; SpaceX Comments at 4–7; SpaceX Reply Comments at 6.

[21] SpaceX Comments at 5.

[22] OneWeb Comments at 4–7; Telesat Canada (Telesat) Comments at 3–4 & Reply Comments at 9–10; Myriota Comments at 5–6; Eutelsat Comments at 5; Kepler Communications (Kepler) Reply Comments at 2–3; Inmarsat Reply Comments at 2–3.

[23] Telesat Comments at 10.

[24] Inmarsat Reply Comments at 3.

[25] Telesat Comments at 2; Eutelsat Comments at 4–5; Inmarsat Reply Comments at 2–3.

[26] *FY 1999 Report and Order,* 14 FCC Rcd at 9883, paragraph 39; *Assessment and Collection of Regulatory Fees for Fiscal Year 1995,* Report and Order, 10 FCC Rcd 13512, 13550, paragraph 110 (1995) (60 FR 34004, paragraphs 16–18 (June 29, 1995)) (*FY 1995 Report and Order*).

[27] *FY 1999 Report and Order,* 14 FCC Rcd at 9883, paragraph 39; *FY 1995 Report and Order,* 10 FCC Rcd at 13550, paragraph 110.

[28] House and Senate Reports, Committee on Energy and Commerce, 102 H. Rpt. 207, at 33 (Sept. 17, 1991). The language of the 1991 House and Senate Report was incorporated by reference in the Conference Report accompanying the 1993 Budget Reconciliation Act, which included the regulatory fee program. *See* Conference Report H. Rept. No. 213, 103d Cong., 1st Sess. 499 (1993); *see also FY 1995 Report and Order at* 13550. The 1991 language related to a comparable bill that passed the House in 1991 but was not passed into law. *See PanAmSat Corp.* v. *FCC,* 198 F.3d 890, 895 (D.C. Cir. 1999). The Conference Report accompanying the 1993 Budget Reconciliation Act did not provide any statement on space station regulatory fees beyond incorporating by reference the language from 1991.

[29] *Domestic Communications Satellite Facilities,* 22 FCC 2d 86 (1970). The Commission's Transborder Policy did permit the use of domsats for certain international services based on criteria set forth in a letter dated July 23, 1981 from then Under Secretary of State James L. Buckley to then FCC Chairman Mark Fowler (Buckley Letter). The Buckley Letter stated that domsats could be used for public international telecommunications with nearby countries where: (1) INTELSAT could not provide the service; or (2) it would be clearly uneconomical or impractical to provide the planned service over the INTELSAT system. *See Transborder Satellite Video Services,* 88 FCC2d 258 (1981); *Satellite Business Systems,* 88 FCC2d 195 (1981).

[30] *Establishment of Satellite Systems Providing International Communications,* 101 FCC2d 1046 (1985), *recon. grtd,* 61 R.R. 2d 649 (1986), *further recon. grtd* 1 FCC Rcd 439 (1986). The term ''separate satellite system'' refers to U.S. licensed international systems that are owned and operated separately from the INTELSAT global satellite system.

[31] The Communications Satellite Act of 1962 declared it U.S. policy to join with other countries to create a commercial, global communications satellite system. Public Law 87–624, 87th Cong., 2d

and Commission policy that protected and preserved the status of each international governmental organization.

11. In this context, the phrase ''space stations operated by international organizations subject to the International Organizations Immunities Act, 22 U.S.C. Section 288 *et seq.*'' used in the 1991 legislative history referred to INTELSAT and INMARSAT, which at that time were international governmental organizations formed as a result of international treaties and with explicit support by the United States through statutory and regulatory mechanisms.[32] This conclusion is borne out by the focus in the same legislative history on licenses issued directly by the FCC (as opposed to indirect regulation of provision of INTELSAT and INMARSAT services through licenses issued to COMSAT) and on the International Organization Immunities Act, which provides certain exemptions, immunities, and privileges to international organizations and their employees, such as exemption from custom duties and internal-revenue taxes,[33] and which applied to both INTELSAT and INMARSAT as international governmental organizations. Further, it was not until 1997 that the Commission adopted a formal process for granting market access to non-U.S. licensed space stations.[34]

12. Today, there are many commercial non-U.S. licensed satellite companies offering service in the United States. The two International Government Organizations operating satellites at that time—INTELSAT and INMARSAT—are no longer International Governmental Organizations but instead are commercial enterprises. INTELSAT became a private company in 2001, Intelsat, Ltd., after 37 years as an International Governmental Organization.[35] Intelsat's corporate headquarters are in Luxembourg and the United States, and it currently has a fleet of more than 50 satellites.[36] INMARSAT, now Inmarsat, Inc., is headquartered in London, England, has offices in over 40 countries, and owns and operates 13 satellites.[37] Other commercial non-U.S. licensed satellite companies include Eutelsat Communications SA, a public corporation, which has 38 satellites, is headquartered in France,[38] and has satellites licensed by France and other countries, including the United States; [39] and Telesat, a private Canadian satellite company, with 16 satellites.[40] These companies, and others, have U.S. market access and compete with the U.S. licensed satellite companies such as commenters EchoStar Satellite Services (EchoStar) and Space Exploration Technologies (SpaceX). We find that the 1991 legislative history [41] purportedly limiting regulatory fees to U.S. licensed satellites is no longer relevant because in stating that ''[f]ees will not be applied to space stations operated by international organizations'' it was not exempting from regulatory fees commercial non-U.S. licensed satellites with general U.S. market access, which did not exist at that time, but two International Governmental Organizations that no longer exist. In other words, we find that the legislative history of the Act poses no bar to assessing regulatory fees on non-U.S. licensed space stations with U.S. market access. Operators of non-U.S. licensed space stations contend that Congress did in fact contemplate certain circumstances in which non-US licensed space stations could be used to provide service in the United States.[42] But at that time, Congress could not have been contemplating non-U.S. licensed space stations that provide commercial service in the United States on an ongoing, unrestricted basis under the same regulatory framework as their U.S. licensed counterparts.[43] The circumstances that the operators cite consisted of very limited provision of service in the U.S. through non-U.S. licensed space stations upon a showing that existing U.S. domestic satellite capacity was inadequate to satisfy specific service requirements.[44] Such case-by-case approval of use of a non-U.S. licensed satellite on a bilateral, government-to-government basis to provide limited services was much more rare, and of a very different nature, than the regulations that the Commission adopted years later to permit U.S. market access by non-U.S. licensed space stations.[45]

Sess. (Aug. 31, 1962), 76 Stat. 419. Similarly, the International Maritime Satellite Telecommunications Act of 1978 declared it U.S. policy to provide for U.S. participation in INMARSAT in order to develop a global maritime satellite system that will meet the maritime commercial and safety needs of the United States and foreign countries. Public Law 95–564, 92 Stat. 2392 (1978). The statutes provided that COMSAT would be the U.S. signatory to both INTELSAT and INMARSAT. COMSAT, itself, had its own unique status under treaties. All three entities were privatized by 2000/2001 in accordance with the requirements of the ORBIT Act. For a review of the privatization process for these entities, refer to the FCC's multiple ORBIT Act reports. *See, e.g., FCC Report to Congress as Required by the ORBIT Act,* 15 FCC Rcd 11288 (2000); *FCC Report to Congress as Required by the ORBIT Act,* 16 FCC Rcd 12810 (2001).

[32] *Communications Satellite Corp.* v. *FCC,* 836 F.2d 623 (1988) (providing a helpful description of the statutory and treaty-based genesis of INTELSAT, and the complicated regulatory framework whereby it provided international services to the U.S. domestic market); *Satellites that Form a Global Communications System in Geostationary Orbit,* Memorandum Opinion, Order and Authorization, 15 FCC Rcd 15460, *recon. denied,* 15 FCC Rcd 25234 (2000), *further proceedings,* 16 FCC Rcd 12280 (2001). As such, they had the unique circumstance that their global satellite systems were not licensed by any national licensing authority.

[33] 22 U.S.C. 288a (Privileges, exemptions, and immunities of international organizations).

[34] The adoption by the United States in 1997 of the WTO Agreement on Basic Telecommunications Services obligated the United States to open its satellite markets to foreign systems licensed by other WTO member countries. *Fourth Protocol to the General Agreement on Trade in Services (GATS)* (April 30, 1996), 36 I.L.M. 336 (1997) (entered into force Jan. 1, 1998). The Commission therefore adopted procedures to give satellite systems licensed by other countries access to the U.S. market. *Amendment of the Commission's Regulatory Policies to Allow Non–U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States,* Report and Order, 12 FCC Rcd 24094 (1997) (62 FR 64167 (December 4, 1997)) (*DISCO II*). Prior to the adoption *of DISCO II,* the Commission allowed very limited provision of service in the U.S. through non-U.S. licensed space stations only upon a showing that existing U.S. domestic satellite capacity was inadequate to satisfy specific service requirements. Letter from Bertram Rein, Deputy Assistant Secretary of Bureau of Economic and Business Affairs, U.S. Department of State, to Kenneth Williamson, Minister of Embassy of Canada (Nov. 7, 1972). *See also* Letter from Thomas Tycz, Chief, Satellite and Radiocommunication Division, F.C.C. International Bureau, to Teresa Baer, Attorney, Latham & Watkins (Feb. 13, 1996) (confirming verbal grant of special temporary authority for Hughes Communications Galaxy, Inc. to lease capacity from a Brazilian satellite to provide domestic U.S. service).

[35] *See http://www.intelsat.com/about-us/history/.*

[36] *See http://www.intelsat.com/global-network/satellites/overview/.*

[37] *See https://www.inmarsat.com/about-us/our-technology/our-satellites/.*

[38] *See https://www.eutelsat.com/en/group/our-history.html.*

[39] Eutelsat Comments at 1.

[40] *See https://www.telesat.com/services.*

[41] SpaceX observes that this legislative history is nearly 30 years old and ''extremely dated.'' SpaceX Reply Comments at 6–7.

[42] Letter from Joseph A. Godles, Attorney for Telesat Canada, *et al.,* to Marlene H. Dortch, Secretary, FCC (filed April 22, 2020) (*Godles April 22 Ex Parte*).

[43] *See DISCO II,* 12 FCC Rcd at 24098, paragraph 7 (stating that ''[a]s required by Title III of the Communications Act of 1934, as amended (Communications Act), we will examine all requests to determine whether grant of authority is consistent with the public interest, convenience and necessity.'' *See also* DISCO II, 12 FCC Rcd at 24098, paragraph 7, n.7 *(*citing 47 U.S.C. 301, *et seq.*).

[44] *See* footnote [49], *supra.*

[45] In 1993, the Commission considered and rejected the adoption of the type of market access provisions that the Commission would adopt several years later. *Amendment of the Commission's Rules to Establish Rules & Policies Pertaining to A Non-Voice, Non-Geostationary Mobile-Satellite Serv.,* Report and Order, 8 FCC Rcd. 8450, 8454 paragraph 13 (1993) (58 FR 68053 (December 23, 1993)) (adopting rules clarifying ''the basic tenets that [non-voice, non-geostationary orbit

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13. Non-U.S. licensed space station operators contend that Congressional silence subsequent to the Commission's statements regarding the legislative history of section 9 presumes Congress's approval of the Commission's prior interpretation and argue that the ''acquiescence doctrine'' supports their position.[46] While this doctrine recognizes that Congressional silence may have some bearing on the interpretation of a statute, it neither requires that an agency's interpretation be cemented in stone if not overtaken by subsequent legislative action, nor forecloses an agency from changing its interpretation of a statute and how the legislative history should inform such interpretation,[47] no matter how longstanding, particularly when the prior interpretation is based on error.[48] Here we acknowledge a change in our interpretation of the legislative history underlying section 9 based on a fuller and more accurate analysis of the context of the legislative history at the time it was adopted.[49]

14. On the policy question of whether we should assess regulatory fees on non-U.S. licensed space stations with U.S. market access, we start with the fact that these non-U.S. licensed space stations benefit from the Commission's regulatory activities in much the same manner as U.S. licensees.[50] Operators of U.S. licensed space stations argue that non-U.S. licensed operators consume, and benefit from, Commission resources just as do U.S. licensees.[51] They estimate that nearly half of all satellite space station authorizations granted between 2014 and 2018 (30 of 62) were filed by non-U.S. operators [52] and that non-U.S. operators participate actively in Commission rulemaking proceedings and benefit from Commission monitoring and enforcement activities.[53]

15. Certain non-U.S. licensed space stations argue that they should not contribute regulatory fees because the Commission incurs no costs regulating them and that non-U.S. licensed space stations do not benefit from the FCC's regulatory activities, including international coordination and enforcement activities.[54] Inmarsat contends that non-U.S. licensed satellites do not benefit from FCC regulatory activities because oversight of their operations is accomplished by the country that licenses the satellite, not by the FCC.[55]

16. We find that the Commission devotes significant resources to processing the growing number of market access petitions of non-U.S. licensed satellites and that they benefit from much of the same oversight and regulation by the Commission as the U.S. licensed satellites. For example, processing a petition for market access requires evaluation of the same legal and technical information as required of U.S. licensed applicants. The operators of non-U.S. licensed space stations also benefit from the Commission's oversight efforts regarding all space and earth station operations in the U.S. market, since enforcement of Commission rules and policies in connection with all operators—whether licensed by the United States or otherwise—provides a fair and safe environment for all participants in the U.S. marketplace. Likewise, the Commission's adjudication, rulemaking, and international coordination efforts benefit all U.S. marketplace participants by evaluating and minimizing the risks of radiofrequency interference, increasing the number of participants in the U.S. satellite market, opening up additional frequency bands for use by satellite services, providing a level and uniform regime for mitigating the danger of orbital debris, and streamlining Commission rules that apply to all providers of satellite services in the United States, whether through U.S. licensed or non-U.S. licensed space stations.[56] The active

satellite service] transceivers operating in the United States *must communicate with or through U.S. authorized space stations only,* and that *such communications must be authorized as well by the space station licensee* or an authorized vendor'' and explicitly rejecting a proposal that the FCC ''devise a rule that will allow domestically authorized user transceivers to access foreign-licensed [non-voice, non-geostationary orbit satellite service] space station systems'' stating that ''[w]e do not believe that this type of arrangement should be dealt with by regulation.'') (emphasis added).

[46] *See Godles April. 22 Ex Parte* at 3.

[47] Courts do not uniformly embrace the proposition that Congressional silence denotes acquiescence. *See Chisholm* v. *FCC,* 538 F.2d 349, 361 (D.C. Cir. 1976) (''We begin by noting that attributing legal significance to Congressional inaction is a dangerous business''), *citing Power Reactor Development Co.* v. *International Union of Electrical, Radio and Machine Workers, AFL–CIO,* 367 U.S. 396, 408–10 (1961). The Supreme Court has said that Congressional failure to repudiate particular decisions ''frequently betokens unawareness, preoccupation, or paralysis'' rather than conscious choice, *Zuber* v. *Allen,* 396 U.S. 168, 185–86 n.21 (1969) and ''affords the most dubious foundation for drawing positive inferences,'' *United States* v. *Price,* 361 U.S. 304, 310–11 (1960) (Harlan, J.). *See also Jones* v. *Liberty Glass Co.,* 332 U.S. 524, 533 (1947) (''The doctrine of legislative acquiescence is at best only an auxiliary tool for use in interpreting ambiguous statutory provisions'').

[48] *Chisholm* v. *FCC,* 538 F.2d 349, 364 (D.C. Cir. 1976) (''We note initially that an administrative agency is permitted to change its interpretation of a statute, especially where the prior interpretation is based on error, no matter how longstanding.'') (internal citations omitted). Similarly, an agency may change its policies and standards, so long as it provides a reasoned explanation for change. *See, e.g., FCC vs. Fox Television Stations, Inc.,* 556 U.S. 502, 514–15 (2009); *National Labor Relations Board* v. *CNN America, Inc.,* 865 F.3d 740, 751 (D.C. Cir. 2017).

[49] We also note that when Congress recently re-visited section 9 as part of the RAY BAUM'S Act, it did not elect to amend the list of entities exempted from assessment of regulatory fees to include non-U.S. licensed space stations. Although non-U.S. licensed space station operators state that ''[n]othing in Ray Baum's Act, or in the associated legislative history, evidences any intent to alter the FCC's understanding that its authority to impose regulatory fees on space stations is limited to those licensed pursuant to Title III,'' *Godles April 22 Ex Parte* at 4, it could equally be said that Congress demonstrated no intent to endorse our prior interpretation or reiterate some intent to exempt non-U.S. licensed space stations in the legislative history of the RAY BAUM'S Act.

[50] *FY 2019 Report and Order,* 34 FCC Rcd at 8213, paragraph 64.

[51] *See, e.g.,* U.S. Satellite Licensees Comments at 1–2.

[52] In addition, they note that there are more market access requests than new satellite applications; in 2019 there were nine new market access requests, but only six new U.S. satellite license applications. U.S. Satellite Licensees Reply Comments at 2–3.

[53] U.S. Satellite Licensees Reply Comments at 2. Furthermore, SpaceX highlights that Eutelsat and Telesat are also involved in a proceeding to repurpose C-band satellite spectrum in which these non-U.S. operators and others have argued that they may not be denied access to portions of the 3700–4200 GHz band in the United States without significant compensation. SpaceX Reply Comments at 2–3.

[54] Eutelsat Comments at 2–3 (''Foreign-licensed satellite operators do not receive a Commission license or the benefits that come with it.''); Myriota Comments at 3 (''Foreign-licensed satellite system operators do not receive an FCC space station license or the significant benefits associated with it. . . .''); Eutelsat Comments at 3 (''While [compliance] oversight is ongoing, the administrative burden is both minimal and conducted for the benefit of United States space and earth station licensees.''); Myriota Comments at 3 (''Although [compliance] oversight is ongoing, however, the actual administrative cost of such monitoring is minimal and imposing a recurring regulatory fee to recover these *de minimis* costs would not be appropriate.''); Inmarsat Reply Comments at 4 (''[Non-U.S. licensed space stations] do not receive the benefit of United States-led coordination negotiations, relying instead on the country of licensure.'').

[55] Inmarsat Reply Comments at 4 (''Spacecraft maintenance, end-of-life, and orbital debris mitigation are supervised not by the United States, but by the administration issuing the license.'')

[56] *FY 2019 Report and Order,* 34 FCC Rcd at 8212–13, paragraph 63 (citing *Mitigation of Orbital Debris in the New Space Age,* IB Docket No. 18–313, Notice of Proposed Rulemaking and Order on Reconsideration, 33 FCC Rcd 11352 (2018) (84 FR 4742 (February 19, 2019)) (*Orbital Debris NPRM*); *Amendment of Parts 2 and 25 of the Commission's Rules to Facilitate the Use of Earth Stations in Motion Communicating with Non-Geostationary Orbit Space Stations in Frequency Bands Allocated to the Fixed-Satellite Service,* IB Docket No. 18–315, Notice of Proposed Rulemaking, 33 FCC Rcd 11416 (2018) (83 FR 67180 (December 28, 2018)) (*ESIM NPRM*); *Amendment of the Commission's Policies and Rules for Processing Applications in the Direct Broadcast Satellite Service,* IB Docket No. 06–160, Second Notice of Proposed Rulemaking, 33 FCC Rcd 11303 (2018) 84 FR 2126 (February 6, 2019); *Amendment of Parts 2 and 25 of the Commission's Rules to Facilitate the Use of Earth Stations in*

participation of operators of non-U.S. licensed space stations in these adjudications and rulemakings—either individually or through involvement in industry trade organizations—demonstrates that they recognize benefits from Commission action to their operations within the U.S. market, since they would not participate in such proceedings if they held no possibility of benefit to them.[57] Thus, the significant benefits to non-U.S. licensed satellites with market access support including them in regulatory fees.

17. In the *FY 2019 FNPRM,* we also sought comment on whether assessing non-U.S. licensed space stations would promote regulatory parity among space station operators.[58] U.S. licensees argue that the current fee system is inequitable and encourages companies to simply move overseas to evade fees and oversight.[59] Non-U.S. licensed satellite operators respond by contending that imposing regulatory fees on non-U.S. licensed satellites would place those entities at a competitive disadvantage.[60] Non-U.S. licensed satellite operators are already paying regulatory fees in their own jurisdictions and, they assert, our regulatory fees would be a duplicative fee.[61] Operators of non-U.S. licensed space stations also contend that imposing regulatory fees will negatively impact U.S. consumers because smaller foreign operators will bypass the U.S. market and the increased costs will be passed on to U.S. consumers.[62] Imposing such a fee, they argue, would jeopardize the United States' position in the global satellite market and other jurisdictions could also now impose similar charges on U.S. licensed satellites.[63]

18. We agree with the comments of U.S. licensed space station operators—who express more concern about fee inequity in the United States than the prospect of new or increased fees in other markets—that entities receiving U.S. market access, through either a space station or earth station authorization, should be subject to the same satellite regulatory fees as those assessed on U.S. licensed space station systems.[64] Indeed, we are not convinced by the parade of horribles cited by non-U.S. licensed satellite operators as they offer insufficient evidence to support their claims.

19. Non-U.S. licensed satellite operators also argue that an assessment of fees conflicts with international trade agreements under the WTO Agreement on Basic Telecommunications Services.[65] Eutelsat and Telesat contend that under the Commission's *DISCO II* decision, the Commission rejected the idea of issuing a separate license for non-U.S. licensed space stations.[66] In response, SpaceX asserts that spreading the regulatory costs evenly across U.S. and non-U.S. licensed space station operators instead of imposing the entire cost on U.S. space station licensees is fully consistent with the *DISCO II* decision.[67] We find that our actions are consistent with the *DISCO II* decision because we are treating non-U.S. licensed space station operators the same as U.S. licensed space station operators in assessing regulatory fees.

20. Non-U.S. licensed space station operators argue that it would be unfair now to assess regulatory fees on non-U.S. licensed space stations accessing the U.S. market because they have relied on a prior finding that regulatory fees for space stations were to be assessed on only those stations licensed by the United States and that they have made business plans based on this long-standing prior finding.[68] Licensees have no vested right to an unchanged regulatory framework.[69] This is as true for market access grantees as it is for licensees, since both are subject to the Commission's regulatory framework while providing service in the United States. Moreover, each year the Commission engages in a proceeding seeking comment on its proposed fees for the year and frequently makes adjustments to the regulatory scheme to reflect changes in fact and law. For the reasons stated herein, we have concluded that non-U.S. licensed space stations accessing the U.S. market should be subject to assessment of regulatory fees under section 9.[70]

21. Including non-U.S. licensed space stations in the Commission's assessment of regulatory fees is important to fulfilling Congress's mandate that the Commission recover the costs associated with its activities, since market access by non-U.S. licensed space stations has become a significant portion of the satellite services regulated by the Commission and exemption of non-U.S. licensed space stations places the burden of regulatory fees—which are designed to defray the costs of Commission regulatory activities (which we undertake to serve the overall interests of the public, including all parties engaged in the communications marketplace)—solely on the shoulders

Motion Communicating with Geostationary Orbit Space Stations in Frequency Bands Allocated to the Fixed Satellite Service, IB Docket No 17–95, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9327 (2018) (84 FR 53630 (October 8, 2019) and 84 FR 5654 (February 22, 2019)); *Further Streamlining Part 25 Rules Governing Satellite Services,* IB Docket No. 18–314, Notice of Proposed Rulemaking, 33 FCC Rcd 11502 (2018) (84 FR 638 (January 31, 2019)) (*Part 25 Further Streamlining NPRM*); *Streamlining Licensing Procedures for Small Satellites,* IB Docket No. 18–86, Notice of Proposed Rulemaking 33 FCC Rcd 4152 (2018) (83 FR 24064 (May 24, 2018)); *Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters,* IB Docket No. 16–408, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 7809 (2017) (82 FR 59972 (December 18, 2017) and 82 FR 52869 (November 15, 2017)); *Amendment of Parts 2 and 25 of the Commission's Rules to Facilitate the Use of Earth Stations in Motion Communicating with Geostationary Orbit Space Stations in Frequency Bands Allocated to the Fixed-Satellite Service,* IB Docket No. 17–95, Notice of Proposed Rulemaking, 32 FCC Rcd 4239 (2017) (82 FR 27652 (June 16, 2017)).

[57] Market access recipients filed comments in nearly all of the Commission's recent satellite rulemaking proceedings. *See, e.g.,* Comments of WorldVu Satellites Limited d/b/a OneWeb, SES Americom and Eutelsat in *Orbital Debris NPRM,* (filings made Apr. 5, 2019); *ESIM NPRM* (filings made Feb. 11, 2019) and *Part 25 Further Streamlining NPRM* (filings made Mar. 18, 2019).

[58] *FY 2019 Report and Order,* 34 FCC Rcd at 8212–13, paragraph 63.

[59] U.S. Satellite Licensees Comments at 2.

[60] WorldVu Satellites Limited d/b/a OneWeb (OneWeb) Comments at 1–4; Kepler Reply Comments at 4.

[61] Eutelsat Comments at 2, 7; Telesat Reply Comments at 3–4.

[62] OneWeb Comments at 7–8 & Reply Comments at 6; Myriota Comments at 3–4; Kepler Reply Comments at 4–5; Telesat Reply Comments at 4.

[63] OneWeb Comments at 7–8 & Reply Comments at 4–5; Myriota Comments at 3–4; Eutelsat Comments at 6–8; Telesat Reply Comments at 5; Inmarsat Reply Comments at 4; Kepler Reply Comments at 4.

[64] U.S. Satellite Licensees Comments at 6–7. SpaceX proposes that earth station operators that received U.S. market access prior to August 27, 2019, the release date of the *FY 2019 Report and Order,* would be exempt from such regulatory fees under this proposal. SpaceX Comments at 2–3.

[65] Telesat Comments at 12 & Reply Comments at 5; Kepler Reply Comments at 3; Inmarsat Reply Comments at 4–5. AT&T disagrees that this assessment of fees would be precluded by international agreements. AT&T Reply Comments at 5–6; OneWeb Reply Comments at 7–8.

[66] Eutelsat Comments at 2, 7, citing *DISCO II* at 24174, paragraph 188; Telesat Reply Comments at 6. OneWeb also argues that our proposal would violate *DISCO II* because it would put non-U.S. licensed satellite operators at a disadvantage. OneWeb Comments at 2. We disagree, as discussed above, because the U.S. licensed satellite operators competing against non-U.S. licensed operators, are disadvantaged due to the imposition of regulatory fees on the U.S. licensed operators.

[67] SpaceX Reply Comments at 8–9.

[68] *Godles April 22 Ex Parte* at 3.

[69] *Improving Public Safety Communications in the 800 Mhz Band,* 21 FCC Rcd 678, 682 (2006); *Motient Communications Inc.,* 19 FCC Rcd 13086, 13093 (2004), *citing Amendment of Part 1 of Commission's Rules—Competitive Bidding Procedures,* Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rule Making, 15 FCC Rcd 15293, 15306 paragraph 22 (2000) (65 FR 52323 (August 29, 2000) and 65 FR 52401 (August 29, 2000)).

[70] Congress mandates that the Commission recover as an offsetting collection its fiscal year appropriation and prescribes the mechanism to do so. Congress has prescribed that regulatees bear the FTE burden associated with the Commission's work in respect to a given set of regulatees.

of U.S. licensees, either directly or indirectly.[71] We find that this is not sustainable, since the ability to gain the same benefits of Commission activities without being assessed regulatory fees presents an incentive for space station operators, even U.S.-based companies, to elect to be licensed by a foreign administration in order to still have access to the U.S. market, but without being assessed regulatory fees. In summary, we conclude that assessing the same regulatory fees on non-U.S. licensed space stations with market access as we assess on U.S. licensed space stations will better reflect the benefits received by these operators through the Commission's adjudicatory, enforcement, regulatory, and international coordination activities. Moreover, it will promote regulatory parity and fairness among space station operators by evenly distributing the regulatory cost recovery.

22. In the interest of equity and to eliminate regulatory arbitrage, we further conclude that regulatory fees for non-U.S. licensed space stations should be contributed regardless of the method by which the space station obtains U.S. market access. In addition to receiving U.S. market access directly through a petition for declaratory ruling, a non-U.S. licensed space station operator may also receive market access by being added as a point of communication in an earth station license application. In either case, the Commission's review of the space station market access request is the same. The earth station application may be filed by the non-U.S. licensed operator, one of its subsidiaries, or an independent third party. Currently, neither the earth station licensee nor the non-U.S. satellite operator with market access through that earth station pays a regulatory fee despite the benefits it receives and the additional Commission resources consumed by such market access. We find that it serves the public interest to assess regulatory fees in the same manner against all non-U.S. licensed satellite operators with U.S. market access, regardless of how that access is obtained.

23. We next address the mechanisms of assessment when non-U.S. satellite operators gain market access through earth stations. As of October 1, 2019, there are approximately 25 non-U.S. licensed space stations serving the U.S. market through earth station licensees. SpaceX proposes creating a new regulatory fee category for earth station authorizations that include a first-time market access grant for a satellite system to ''apply the same regulatory fee applicable to non-U.S. licensed systems granted market access at the space station level.'' [72] SpaceX asserts that doing so ''would eliminate an opportunity for regulatory arbitrage while ensuring that the Commission's regulatory fee structure equitably covers satellite systems granted access to the U.S. market regardless of the mechanism used to achieve that end.'' [73] We agree with SpaceX that assessing a regulatory fee to cover non-U.S. licensed space stations that gain market access through an earth station serves the public interest, although we assess the space station benefiting from the market access rather than the earth station operator(s). Doing so will place the responsibility with the space station operator directly benefiting from market access rather than one or multiple earth stations that may be communicating with many other satellites as well.

24. We will therefore require non-U.S. licensed space stations that enter into the U.S. market through earth station authorizations to be subject to regulatory fees similar to those space stations receiving U.S. market access directly through a petition for declaratory ruling.[74] Failure to pay a regulatory fee will subject the operator of the non-U.S. licensed space station to statutory penalties and the Commission's rules governing nonpayment.[75] In addition to other penalties, non-payment may result in removal of the delinquent non-U.S. space station as a point of communication for any associated earth station authorizations. Non-payment may also prevent such space station to obtain future U.S. market access or other regulatory benefits until such matters are resolved.[76] This action eliminates any regulatory arbitrage or gaming opportunity by eliminating any regulatory fee differences between receiving U.S. market access directly through a petition for declaratory ruling or indirectly, through an earth station license application.

25. In some cases, non-U.S. licensed space stations that do not access earth stations aboard aircraft (ESAA) terminals in the United States or its territorial waters have been identified as a point of communication for U.S. licensed ESAA terminals.[77] To the extent such license clearly limits U.S. licensed ESAA terminals' access to these non-U.S. licensed space stations to situations in which these terminals are in foreign territories and/or over international waters and the license does not otherwise allow the non-U.S. licensed space station access to the U.S. market, the non-U.S. licensed space station does not fall within the category of a non-U.S. licensed space station with access to the U.S. market for regulatory fee purposes. In addition, a non-U.S. licensed space station that communicates with a U.S. licensed earth station solely for tracking, telemetry and command (TT&C) purposes will not fall within the category of a non-U.S. licensed space station with access to the U.S. market for regulatory fee purposes.[78] The relevant earth station license, however, must clearly limit the non-U.S. licensed space station's access to TT&C communications only. If it does not include such a limitation, the relevant non-U.S. licensed space station will be

[71] The Commission's prior solution in 2015 of recategorizing four International Bureau FTEs as indirect to avoid assessing U.S. licensed space stations for work that directly benefited non-U.S. licensed space stations that did not pay regulatory fees still required U.S. licensees to bear the costs of the non-U.S. licensed space station operators participation in the regulatory environment; it simply broadened the base of U.S. licensees bearing those costs, since the costs were labeled as indirect, and therefore borne by all FCC entities that were assessed regulatory fees. *See FY 2015 Report and Order,* 30 FCC Rcd at 10278, paragraph 24.

[72] SpaceX Comments at 8. Kepler argues that it would be inequitable to assess the same regulatory fee on a foreign satellite operator with a single earth station. Kepler Reply Comments at 5. We note the same argument can be made regardless of whether the foreign operator communicating with only one earth station does so through a petition for declaratory ruling and an earth station license or solely through an earth station license.

[73] SpaceX Comments at 8.

[74] As a general matter, a single NGSO constellation that includes both U.S. and foreign-licensed satellites will be treated the same as any wholly U.S. or foreign-licensed constellation for regulatory fee purposes.

[75] Under sections 9A(c)(1) & (2) of the Act, the Commission is required to impose a late payment penalty of 25 percent of the unpaid regulatory fee debt and to assess interest on the unpaid regulatory fee (including the 25 percent penalty) until the debt is paid in full. The Commission is also required to pursue collection of all past due regulatory fees (including penalty and interest) using all collection remedies available to it under the Debt Collection Improvement Act of 1996. These remedies include offsetting regulatory fee debt against monies owed to the debtor by the Commission, and referral of the debt to the United States Treasury for further collection efforts, including centralized offset against monies other Federal agencies may owe the debtor. 31 U.S.C. 3701 *et seq.;* 31 CFR part 901; 47 CFR 1.1901. The failure to timely pay regulatory fees also subjects regulatees to the Commission's ''red light'' rule and revocation of authorizations. 47 CFR 1.1910 and 1.1164(f).

[76] *See* 47 U.S.C. 159A(c)(3) (dismissal of applications or filings); *id.* at 159A(c)(4) (revocations); 47 CFR 1.1164(f) (same).

[77] *See* Letter from Karis Hastings, Counsel to SES, to Marlene H. Dortch, Secretary, Federal Communications Commission, at 2 (May 5, 2020).

[78] *See* Letter from Pamela L. Meredith, Counsel to Kongsberg Satellite Services AS, to Marlene H. Dortch, Secretary, Federal Communications Commission, at 1–2 (May 5, 2020).

subject to regulatory fees. Accordingly, non-U.S. licensed space station operators may notify the Commission by July 15, 2020, as discussed below, to certify that their access is solely for TT&C and identify the relevant earth station licenses for any needed express condition that the relevant non-U.S. licensed space station is identified a point of communication for TT&C purposes only.[79] Otherwise, they will be assessed regulatory fees.

26. We understand that non-U.S. licensed satellite operators have not always been conscientious in the past about advising the Commission when they have ceased to provide service to the U.S. from a particular satellite. To provide a clear deadline for operators to correct the record and afford the International Bureau and the Office of Managing Director an opportunity to create a definitive list of market access grants from which to develop the final fee amounts, non-U.S. licensed space station operators with U.S. market access may notify the Commission by July 15, 2020 whether they want to relinquish that market access.[80] Operators that relinquish their U.S. market access will not be assessed regulatory fees this year. Accordingly, for FY 2020 we will require regulatory fees to be paid by those non-U.S. licensed space stations that have U.S. market access after July 15, 2020.[81] We instruct the International Bureau, when it receives a notice of surrender of market access by the operator of a non-U.S. licensed space station, to remove the space station as a point of communication in all earth station licenses, regardless of whether the earth station licensee itself requests removal of the non-U.S. licensed space station as a point of communication.[82] We do this so that a non-U.S. licensed space station operator would not be prejudiced by non-action of a third-party earth station licensee.

27. Accordingly, we will issue an invoice for the annual space station regulatory fee to the non-U.S. licensed space station operator of record listed on the Schedule S filed in connection with a grant of a petition for declaratory ruling to access the U.S. market, or with an earth station application to add the non-U.S. licensed space station as a point of communication, as of July 16, 2020.[83] To facilitate administration of regulatory fees, we require that all non-U.S. licensed space station operators with such market access to obtain an FCC Registration Number by August 1, 2020.[84] Further, we remind non-U.S. licensed space station operators who do not pay the regulatory fees in a timely fashion that they will be in violation of our regulatory fee rules and, while being subject to other regulatory fee enforcement consequences, may be unable to obtain future U.S. market access until such matters are resolved.[85] To reiterate, this fee will be assessed on any non-U.S. licensed space station that has been granted market access through existing earth stations licensees as of July 16, 2020.[86]

28. We also conclude that we should reallocate four International Bureau indirect FTEs as direct to account for our decision to assess regulatory fees on non-U.S. licensed space stations. The Commission previously recategorized four International Bureau FTEs as indirect to avoid assessing U.S. licensed space stations for work that directly involved non-U.S. licensed space stations that did not pay regulatory fees.[87] We find that it is appropriate to make this adjustment to account for our decision to assess regulatory fees on non-U.S. licensed space stations and the section 9 requirement that the Commission set regulatory fees to ''reflect the full-time equivalent number of employees within the bureaus and 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.'' [88] We accordingly add four FTEs to the satellite regulatory fee category as direct FTEs to account for the work that was allocated as indirect previously. We note, however, that we add back these four FTEs only to correct the total number of direct FTEs in the International Bureau for regulatory fee purposes. The apportionment of fees among International Bureau regulatees is calculated based on the factors reasonably related to the benefits provided to the payors of the fee, as discussed below.

29. Finally, we find that subjecting non-U.S. licensed space stations with U.S. market access to the space station regulatory fees is an amendment as defined in section 9(d) of the Act.[89] Such an amendment must be submitted to Congress at least 90 days before it becomes effective pursuant to section 9A(b)(2).[90]

B. Apportionment of Fees Among International Bureau Regulatees

30. The Commission has previously determined over the course of several orders that a significant number of FTEs in the International Bureau do work that should be considered indirect for regulatory fee purposes and set the number of direct FTEs at 24.[91] The

[79] We note that an earth station authorization allowing any other kind of data acquisition by a non-U.S. licensed space station will be considered to have access to the U.S. market and will be subject to the regulatory fees.

[80] Such a voluntary surrender of market access can be made through existing procedures for surrender of grants of market access or removal of a non-U.S. licensed space station as a point of communications in an earth station license.

[81] We note that after FY 2020 it is the responsibility of a non-U.S. licensed space station with U.S. market access to inform the Commission (International Bureau) by September 30th before the new fiscal year begins that it is relinquishing its U.S. market access; failing timely notification, the non-U.S. licensed station will be assessed regulatory fees for the ensuing fiscal year. For example, in FY 2021, a non-U.S. licensed space station with U.S. market access must inform the Commission (International Bureau) by September 30, 2020 that it wishes to relinquish its market access or it will be charged the FY 2021 regulatory fee in September 2021.

[82] The International Bureau will include notice of such surrenders in its routine weekly Public Notices of Actions Taken for satellite space and earth stations.

[83] In some cases, a single GSO satellite with access to the U.S. market may be operated by more than one entity, as reflected in the terms of the license or market access grant. In such cases, the satellite operators should notify OMD which operator/FRN is the contact for the space station regulatory fee purposes and that operator/FRN will be billed. If no notification is received, OMD will assign one party as the FRN contact for billing purposes.

[84] *https://apps.fcc.gov/coresWeb/publicHome.do.*

[85] *See* 47 U.S.C. 159(a).

[86] For FY 2021 and subsequent years, the date of assessment will be October 1, which is the standard date of assessment for space and earth stations.

[87] *FY 2015 Report and Order,* 30 FCC Rcd at 10278, paragraph 24. At the time, the Commission stated that the number of market access requests by these entities can vary; however, four FTEs was appropriate to be reallocated as indirect in calculating benefit to International Bureau fee payors at the time. *See id.* paragraph 24, and n. 94.

[88] 47 U.S.C. 159(d).

[89] *Id.*

[90] 47 U.S.C. 159A(b)(2).

[91] In FY 2013, the Commission proposed that all Satellite Division FTEs working on issues involving regulatees, 25 FTEs, be considered direct FTEs for determining the regulatory fees for space stations and earth stations. *FY 2013 NPRM,* 28 FCC Rcd at 7800, paragraphs 22–23. The Commission further proposed that two FTEs from the Telecommunications and Analysis Division be allocated as direct FTEs for regulatory fee purposes. *Id.* at 7802, paragraph 27. The Commission also proposed that the Global Strategy and Negotiation Division would be considered indirect because their activities benefit the Commission as a whole and are not specifically focused on International Bureau regulatees. *Id.* at 7802–803, paragraph 28. The Commission adopted the proposal, but revised the number of direct International Bureau FTEs to 28. *Assessment and Collection of FY 2013 Regulatory Fees,* Report and Order, 28 FCC Rcd 12351, 12355–56, paragraph 14 (78 FR 52433 (August 23, 2013)) (*FY 2013 Report and Order*). Then, in 2015, the Commission further reduced the number of direct FTEs in the International Bureau to 24 due to the number of International Bureau FTEs in the Satellite Division working on non-U.S. licensed space station market access requests. *FY 2015 Report and Order,* 30 FCC Rcd at 10278, paragraph 24.

International Bureau fees are divided into a satellite category (with subcategories of GSO space stations, NGSO space stations, and earth stations) and an international bearer circuits category (consisting of submarine cable systems in one subcategory and terrestrial and satellite international facilities in another). In the *FY 2019 Report and Order,* the Commission explained that we currently allocate 17.1 of the 24 International Bureau FTEs to the satellite category and 6.9 to the international bearer circuits category.[92] Including the 4 FTEs that were previously considered indirect because of their work with non-U.S. licensed space stations as discussed above brings those totals to 21.1 FTEs assigned to the satellite category and 6.9 to the international bearer circuit category.

31. In the *FY 2019 FNPRM,* we sought comment on whether we should adjust the apportionment among fee categories within the International Bureau.[93] In response, the International Bureau undertook a review of its work, staffing, and distribution of responsibilities benefiting its fee payers, division by division and between the Telecommunications and Analysis Division and the Satellite Division. Based on this review, we find that adjusting the FTE allocation for the international bearer circuit category to 8 FTEs rather than 6.9 FTEs would better reflect the direct FTE work in the International Bureau that benefits the fee payors in the international bearer circuit category. This action brings the FTEs for the satellite category to 20 and the total number of direct FTEs for the International Bureau to 28.

32. We are not persuaded by the Submarine Cable Coalition's assertion that two FTEs from the Telecommunications and Analysis Division are sufficient for international bearer circuit regulation.[94] As we explained in the *FY 2015 Report and Order,* two FTEs do not take into account all the work provided for this industry by the International Bureau.[95] Currently, almost all of the work of the Telecommunications and Analysis Division, as well as some of the work by the Office of the Bureau Chief, benefits international telecommunications service providers including submarine cable operators.[96]

33. The Submarine Cable Coalition also argues that the number of FTEs in the International Bureau was not appropriately reduced when the Office of Economics and Analytics was created and the reassignment of staff led to decreases in the direct FTEs in the Media, Wireline Competition, and Wireless Telecommunication Bureaus.[97] None of the 24 FTEs from the International Bureau identified as direct for regulatory fee purposes, however, were moved to the Office of Economics and Analytics. Therefore, the number of direct FTEs in the International Bureau was not reduced due to the creation of the Office of Economics and Analytics. Accordingly, we reject these arguments. In the *FY 2019 Report and Order* we recognized that the increase to fees for International Bureau regulatees was not trivial when we rejected similar arguments and explained that such an increase was consistent with previous FTE shifts we have made as well as the statute.[98]

34. *GSO and NGSO Space Stations Apportionment.* In the *FY 2019 FNPRM,* we sought comment on adjustments to the allocation of FTEs among GSO and NGSO space and earth station operators.[99] The FY 2019 annual regulatory fee per unit for Space Stations (Geostationary Orbit) is $159,625, and the comparable fee per unit for Space Stations (Non-Geostationary Orbit) is $154,875.[100]

35. In response, SES Americom, Intelsat, EchoStar, and Hughes (collectively, the GSO Satellite Operators), request that the Commission rebalance the cost allocations between GSO and NGSO space stations to address perceived unfairness in the current balance and because the current balance purportedly does not align with underlying costs.[101] The GSO Satellite Operators observe that, for FY 2019, the expected regulatory fee revenue from GSO satellite operators was $15,643,250, which is more than 14 times the expected $1,084,125 regulatory fee revenue for NGSO satellite operators.[102] This imbalance in regulatory fee revenue results from the large disparity in number of units between GSO space stations (98) and NGSO space stations (7),[103] even though under a single NGSO license hundreds, or thousands, of satellites can be operated while counting as a single unit for regulatory fee purposes, whereas only one satellite can be operated per GSO space station regulatory fee unit.[104]

36. We agree with the GSO Satellite Operators that the significantly larger amount of regulatory fee payments by GSO operators cannot be attributed to them benefiting more from the Commission's regulatory activities. We instead allocate 80% of space station fees to Space Stations (Geostationary Orbit) and 20% to Space Stations (Non-Geostationary Orbit). We consider three factors that reflect the benefits of Commission oversight to GSO and NGSO operators: The number of applications processed (that is, the benefits of adjudication), the number of changes made to the Commission's rules (that is, the benefit of rulemaking), and the number of FTEs working on oversight for each category of operators.

37. First, using the data compiled from the International Bureau Filing System, we looked at the applications received and processed by the International Bureau for each of the most recent three years (that is, 2017–2019).[105] The breakdown shows that GSO applications accounted for 79% (108/136) of applications disposed in 2019 and 79% (124/157) of applications received in 2019. For 2018, the GSO share is 75% (88/117) disposed and 84% (77/92) received. For 2017, the GSO share is 84% (122/146) disposed and 77% (128/167) received. Thus, the

[92] *FY 2019 Report and Order,* 34 FCC Rcd at 8197, paragraph 20.

[93] *Id.* at 8214, paragraph 67.

[94] Submarine Cable Coalition Comments at 3–4. The Commission initially indicated the number of FTEs was two in 2013. *FY 2013 NPRM,* 28 FCC Rcd at 7802, paragraph 27.

[95] *FY 2015 Report and Order,* 30 FCC Rcd 10273, paragraph 12.

[96] One exception is the work in the Telecommunications and Analysis Division on foreign ownership issues under section 310 of the Communications Act, 47 U.S.C. 310, which benefits domestic common carrier wireless providers by facilitating foreign investment in wireless carriers.

[97] Submarine Cable Coalition Comments at 4–5.

[98] *FY 2019 Report and Order,* 34 FCC Rcd at 8195, paragraphs 15–18.

[99] *Id.* at 8214, paragraph 67 (citing Letter from Jennifer A. Manner, Senior Vice President, EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC, to Marlene H. Dortch, Secretary, FCC, MD Docket No. 19–105, Attachment at 1 (filed Aug. 8, 2019) (EchoStar August 8 *Ex Parte* Letter)).

[100] 47 CFR 1.1156(a).

[101] GSO Satellite Operators Comments at 1–2.

[102] *Id.* at 2 (citing *FY 2019 Report and Order,* 34 FCC Rcd at 8223–24, Appendix B).

[103] It may also arise from the fact that the Commission does not assess regulatory fees on licenses that do not have operational satellites associated with them. Thus, even though there may be an increase in NGSO licensing in recent years, there would not be an increase in regulatory fees if those licensed systems had not yet launched and operated satellites.

[104] *See, e.g., Space Exploration Holdings, LLC, Application for Approval for Orbital Deployment and Operating Authority for the SpaceX NGSO Satellite System,* IBFS File Nos. SAT–LOA–20161115–00118, SAT–LOA–20170726–00110, 33 FCC Rcd 3391 (2018).

[105] The application counts include applications from U.S. and non-U.S. space station operators for new systems, requests for modification or amendment, and requests for special temporary authority. By reporting the data as part of this proceeding, we address the request of the Satellite Industry Association to provide additional factual detail on fee decisions. Satellite Industry Association Comments at 17.

total number of applications received and disposed of in this three-year period continues to support a significantly greater allocation of adjudication benefits to GSO than NGSO systems in the range of 75% to 84%.

38. Second, using compiled data for the last three years on the number of Commission-level items originating from the Satellite Division of the International Bureau, we considered each items' relative precedential value to GSO and NGSO operators.[106] The list consists of 6 items during 2017–2019,[107] of which 3 held more benefit for GSOs and 3 held more benefit for NGSOs.[108] Accordingly, the data presented suggests that there was approximately the same rulemaking benefit to GSO operators as to NGSO operators. We note, however, that, quantifying only the most recent rulemaking activities does not take into account any continued benefits derived from older rulemakings. Some of those continued benefits are received through the efforts of adjudication and administration of the rules adopted in those rulemakings. Accordingly, we find that attributing a value to rulemaking activities directly is a somewhat subjective exercise and lacks precision.

39. Third, we considered whether we could examine FTE activities directly, but there has been no change in the number of FTEs attributable to satellite regulatory activities in the International Bureau from previous years and the International Bureau does not separate FTEs by work done on GSO versus NGSO matters.[109] Indeed, a single FTE may work on authorizations and rulemakings that benefit both categories of satellite operations. Because we are unable to assess benefits based on a clearly identifiable division of work by assigned FTEs, we must estimate the relative percentage of FTEs that are attributable to benefitting either GSO or NGSO systems based on the factors above.

40. We recognize the considerable challenge of assigning a precise number to the apportionment of regulatory fees between GSO and NGSO space stations. Taking all of the foregoing factors and data into consideration we conclude, however, that the GSO/NGSO ratio should be adjusted to reflect that GSO space stations derived roughly 75–84% of the benefit from the Commission's adjudicatory efforts. Given that our consideration of FTE activities did not yield a clearly identifiable division between GSO and NGSO, and because it is difficult to be precise in quantifying benefits of rulemaking activities, we believe a number in the middle of the 75–84% range is appropriate. We are also mindful that the number of NGSO units for which regulatory fees are assessed is small, so selection of a number at the bottom end of the 75–84% range would result in a much greater change in the regulatory fee assessed. We find that selecting a number in the middle of the 75–84% range best reflects the other factors considered in our re-balancing and imposes a balanced burden in that range on all space station operators, including the smaller number of NGSO system operators. Accordingly, for FY 2020, GSO and NGSO space stations will be allocated 80% and 20% of the space station fees, respectively.

41. *Earth Station and Space Station Apportionment.* Although the *FY 2019 FNPRM* did not propose adjusting the allocation within the satellite category for earth station regulatory fees, certain satellite operators asked that we review such apportionment [110] and suggested that we implement different earth station subcategories for regulatory fee purposes.[111]

42. We decline to adopt any changes at this time. We find that there is insufficient evidence in the record to increase the apportionment of fees paid by earth station licensees. GSO Satellite Operators state that earth station licensees collectively are responsible for $1,402,500 in total regulatory fees, which is less than one-eleventh of the regulatory fees paid by GSO space station licensees.[112] Although the GSO Satellite Operators claim that this proportion is out of synch with actual relative costs,[113] they do not provide any data to support this claim, or propose an appropriate apportionment of fees between earth and space stations. In support of their claim, GSO Satellite Operators point solely to a pair of proceedings focused on Earth Stations in Motion (ESIMs).[114] Although earth station licensees do benefit from these proceedings, we also find that the proceedings are of equal, if not more, benefit to space station licensees, which would gain access to additional frequency bands in which to sell transponder capacity for mobility services and increased streamlining of their regulatory environment. Accordingly, the record does not support an increase of the apportionment of fees paid by earth station licensees at this time.

43. We also find that the record does not support implementing different classes of earth stations for regulatory fee purposes or increasing earth station regulatory fees. GSO Satellite Operators suggest that blanket-licensed earth station licensees involving multiple antennas under a single authorization should pay higher fees than other earth station licensees because blanket-licensed earth station licensees require more regulatory oversight.[115] The GSO Satellite Operators, however, provide no factual support for the proposition other than a conclusory statement. GSO Satellite Operators instead observe that the fee schedule originally adopted by Congress differentiated between blanket-licensed earth stations and stand-alone antennas.[116] But the prior statutory differentiation pertained to application fees, not regulatory fees—

[106] We limited our review to Commission-level items because of their greater precedential value and because they include rulemaking proceedings that affect the industry as a whole, rather than a particular entity.

[107] Notices of Proposed Rulemakings that resulted in the adoption of an Order within the same three-year period were not included since inclusion could result in double-counting of an eventual benefit.

[108] The following proceedings primarily benefit GSO systems: (1) *Amendment of the Commission's Policies and Rules for Processing Applications in the Direct Broadcast Satellite Service*, Second Report & Order, IB Docket No. 06–160 (rel. Sep. 27, 2019); (2) *Further Streamlining Part 25 Rules Governing Satellite Services,* Notice of Proposed Rulemaking, 33 FCC Rcd 11502 (2018); and (3) *Facilitating the Communications of Earth Stations in Motion with Non-Geostationary Orbit Space Stations,* Report and Order and Further Notice of Proposed Rulemaking, 33 FCC Rcd 9327 (84 FR 53630 (October 8, 2019) and 84 FR 5654 (February 22, 2019)) (2018). The following rulemaking proceedings primarily benefit NGSO systems: (1) *Mitigation of Orbital Debris in the New Space Age,* Notice of Proposed Rulemaking, 33 FCC Rcd 11352 (2019); (2) *Streamlining Licensing Procedures for Small Satellites,* Report and Order, 34 FCC Rcd 13077 (2019); (3) *Facilitating the Communications of Earth Stations in Motion with Non-Geostationary Orbit Space Stations,* Notice of Proposed Rulemaking, 33 FCC Rcd 11416 (83 FR 67180 (December 28, 2018)) (2018). One of the six items, *Mitigation of Orbital Debris in the New Space Age,* could be seen as benefitting both GSOs and NGSOs, but since the item largely addresses mitigation of debris resulting from new space operations in NGSOs, it was counted as benefitting NGSO more.

[109] Similarly, the International Bureau also does not separate FTEs by work done on U.S. licensed versus non-U.S. licensed space stations. Most regulatory activities benefit all space stations, whether U.S. licensed or not.

[110] GSO Satellite Operators Comments, at 4; SIA Comments at 9.

[111] GSO Satellite Operators Comments at 4.

[112] *Id.*

[113] *Id.*

[114] *Id.* (citing *Amendment of Parts 2 and 25 of the Commission's Rules to Facilitate the Use of Earth Stations in Motion Communicating with Geostationary Orbit Space Stations in Frequency Bands Allocated to the Fixed-Satellite Service,* Notice of Proposed Rulemaking, 32 FCC Rcd 4239 (2017); *Facilitating the Communications of Earth Stations in Motion with Non-Geostationary Orbit Space Stations,* Notice of Proposed Rulemaking, 33 FCC Rcd 11416 (2018).

[115] GSO Satellite Operators Comments at 4.

[116] *Id.* at 4–5.

i.e., it was not tied to the statutory factors that bind us in setting regulatory fees.[117] Accordingly, we find no basis in the record to support an increase in regulatory fees for earth station licenses or to support the creation of a separate, higher regulatory fee for blanket-licensed earth stations.

C. Regulatory Fees Paid by VHF Broadcasters

44. In the *FY 2018 Report and Order,* we adopted a new methodology for assessment of broadcast television regulatory fees, finding that the service contour-based population method more accurately reflects the actual market served by full-power television stations for purposes of assessing regulatory fees than the DMA-based methodology we previously employed.[118] We also said that we would phase in implementation of the new methodology in two years, using a transitional fee structure for FY 2019 fees and the new methodology for assessment of FY 2020 fees.[119]

45. In the *FY 2019 FNPRM,* we sought comment on whether we should adjust population counts for the new methodology to address a signal limitation issue raised by commenters to the *FY 2019 NPRM.*[120] Specifically, those commenters argued that VHF channels should have lower regulatory fees because the predicted contour distance does not adequately account for all of the possible effects on the VHF station signal, such as environmental noise issues, the result of which may limit the signal and the population reached. Thus, they argued, the population count is overstated for VHF stations and should be adjusted downward accordingly.[121]

46. Commenters reiterate and amplify the signal limitation concern. NAB explains that following the digital transition, some VHF channels encountered environmental noise that affected the reliability of those broadcasters' signals.[122] As a compensatory measure, some VHF stations have increased their power levels, resulting in an increase in the theoretical, but not the actual, population served and higher regulatory fees under the new methodology.[123] PMCM TV argues that we should assess VHF stations, and especially low band VHF stations, a significantly lower regulatory fee.[124] Maranatha Broadcasting proposes that we average the fee amounts assessed to the commercial full power UHF stations in a given market and apply the average UHF fee as the fee to be assessed VHF stations in the same market.[125] Maranatha Broadcasting argues that the population methodology does not properly account for ''the inherent technical inferiority of the VHF signal in the digital broadcast world,'' and that VHF stations should not be charged more than UHF stations in the same market.[126]

47. We decline to categorically lower regulatory fees for VHF stations to account for signal limitations. Inconsistencies in the reports of low-VHF reception issues have led the Media Bureau to conclude that there is nothing inherent in VHF transmission that creates signal deficiencies but that environmental noise issues can affect reception in certain areas and situations. And although we agree that environmental noise blockages affecting signal strength and reception exist, they do not exist across the board. The impact of signal disruptions, to the extent they exist, varies widely from service area to service area and does not lend itself to an across-the-board rule. However, we do agree with NAB and propose to take into account the licensed power increases that go beyond the maximum allowed for VHF stations. Therefore, we will assess the fees for those VHF stations that are licensed with a power level that exceeds the maximum based on the maximum power level specified for channels 2–6 in § 73.622(f)(6) and for channels 7–13 in § 73.622(f)(7).

IV. Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[127] an Initial Regulatory Flexibility Analysis (IRFA) was included in the FY 2019 Further Notice of Proposed Rulemaking.[128] The Commission sought written public comment on these proposals including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the IRFA.[129]

A. Need for, and Objectives of, the Report and Order

2. In this *Report and Order,* the Commission assesses for the first time a regulatory fee on non-U.S. licensed space stations with United States market access, by including those non-U.S. licensed space stations in the current regulatory fee categories for GSO and NGSO space stations. This fee is assessed regardless of whether the foreign satellite operator obtains the market access through a declaratory ruling or through an earth station applicant as a point of communication. In either case, the Commission's review of the space station market access request is the same. The earth station application may be filed by the foreign operator, one of its subsidiaries, or an independent third party. Currently, the regulatory fee paid by an earth station licensee that has secured market access for a foreign satellite operator is the same as the fee paid by any other earth station licensee in its class, despite the additional Commission resources consumed by such market access requests. For these reasons, and because it is inequitable and anticompetitive for U.S. licensed space stations to pay regulatory fees while non-U.S. licensed space stations with U.S. market access do not, the Commission assesses its existing GSO and NGSO regulatory fee categories on non-U.S. licensed space stations that have access to the United States market, either through a petition for market access or through an earth station.

B. Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA

3. None.

[117] The GSO Satellite Operators cite section 159(g) of Title 47 of the United States Code in support, which was repealed in 2018. GSO Satellite Operators Comments at 5 n.12. Section 159(g) was entitled ''Application of Application Fees'' and addressed the separate issue of FCC filing fees, not regulatory fees.

[118] *Assessment and Collection of Regulatory Fees for Fiscal Year 2018,* Report and Order and Order, 33 FCC Rcd 8497, 8501–8502, paragraphs 13–15 (2018) (83 FR 47079, paragraphs 13–15 (September 18, 2018)) (*FY 2018 Report and Order*).

[119] *Id.*

[120] *FY 2019 Report and Order,* 34 FCC Rcd at 8214–15, paragraph 68 and *FY 2019 NPRM* (84 FR 26234 (June 5, 2019)).

[121] *Id.*

[122] NAB Comments at 2.

[123] NAB Comments at 3–4; NAB suggests a station's original DTV contour is a more accurate reflection of a VHF station's actual coverage and population reach. *See also* Maranatha Broadcasting Comments at 1–4.

[124] PMCM Comments at 4. PMCM TV and Maranatha Broadcasting observe that the advertising revenues for TV are based on the DMA where the station is located, because that is where most of the audience is, and not on the population outside the DMA that may also be able to reach the station. PMCM TV Comments at 4; Maranatha Broadcasting Comments at 5.

[125] Maranatha Broadcasting Comments at 6–7. *See also* Letter from Barry Fisher, President, Maranatha Broadcasting Company, Inc., to Marlene H. Dortch, Secretary, FCC, MD Docket No. 19–105, (filed May 1, 2020).

[126] Maranatha Broadcasting Comments at 7.

[127] 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612 has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 847 (1996).

[128] *Assessment and Collection of Regulatory Fees for Fiscal Year 2019,* Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8189 (2019) (*FY 2019 FNPRM*).

[129] 5 U.S.C. 604.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

4. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. In this section respond specifically to any comment filed by Chief Counsel of SBA. The Chief Counsel did not file any comments in response to the proposed rules in the Further Notice of Proposed Rulemaking in this proceeding

D. Description and Estimate of the Number of Small Entities To Which the Rules Will Apply

5. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.[130] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [131] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[132] A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[133] Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.[134]

6. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein.[135] First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.[136] These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses.[137]

7. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' [138] Nationwide, as of August 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).[139]

8. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' [140] U.S. Census Bureau data from the 2012 Census of Governments [141] indicate that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.[142] Of this number there were 37,132 General purpose governments (county,[143] municipal and town or township [144]) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts [145] and special districts [146]) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category show that the majority of these governments have populations of less than 50,000.[147] Based on this data we estimate that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.'' [148]

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[130] 5 U.S.C. 603(b)(3).

[131] 5 U.S.C. 601(6).

[132] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[133] 15 U.S.C. 632.

[134] *See* SBA, Office of Advocacy, ''Frequently Asked Questions,'' *https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf.*

[135] *See* 5 U.S.C. 601(3)–(6).

[136] *See* SBA, Office of Advocacy, ''Frequently Asked Questions, Question 1—What is a small business?'' *https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf* (June 2016).

[137] *See* SBA, Office of Advocacy, ''Frequently Asked Questions, Question 2—How many small businesses are there in the U.S.?'' *https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf* (June 2016).

[138] 5 U.S.C. 601(4).

[139] Data from the Urban Institute, National Center for Charitable Statistics (NCCS) reporting on nonprofit organizations registered with the IRS was used to estimate the number of small organizations. Reports generated using the NCCS online database indicated that as of August 2016 there were 356,494 registered nonprofits with total revenues of less than $100,000. Of this number, 326,897 entities filed tax returns with 65,113 registered nonprofits reporting total revenues of $50,000 or less on the IRS Form 990–N for Small Exempt Organizations and 261,784 nonprofits reporting total revenues of $100,000 or less on some other version of the IRS Form 990 within 24 months of the August 2016 data release date. *See http://nccs.urban.org/sites/all/nccs-archive/html//tablewiz/tw.php* where the report showing this data can be generated by selecting the following data fields: Report: ''The Number and Finances of All Registered 501(c) Nonprofits''; Show: ''Registered Nonprofits''; By: ''Total Revenue Level (years 1995, Aug to 2016, Aug)''; and For: ''2016, Aug'' then selecting ''Show Results.''

[140] 5 U.S.C. 601(5).

[141] *See* 13 U.S.C. 161. The Census of Government is conducted every five (5) years compiling data for years ending with ''2'' and ''7''. *See also* Program Description Census of Government *https://factfinder.census.gov/faces/affhelp/jsf/pages/metadata.xhtml?lang=en&type=program&id=program.en.COG#.*

[142] *See* U.S. Census Bureau, 2012 Census of Governments, Local Governments by Type and State: 2012—United States—States, *https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG02.US01.* Local governmental jurisdictions are classified in two categories—General purpose governments (county, municipal and town or township) and Special purpose governments (special districts and independent school districts).

[143] *See* U.S. Census Bureau, 2012 Census of Governments, County Governments by Population-Size Group and State: 2012—United States—States. *https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG06.US01.* There were 2,114 county governments with populations less than 50,000.

[144] *See* U.S. Census Bureau, 2012 Census of Governments, Subcounty General-Purpose Governments by Population-Size Group and State: 2012—United States—States. *https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG07.US01.* There were 18,811 municipal and 16,207 town and township governments with populations less than 50,000.

[145] *See* U.S. Census Bureau, 2012 Census of Governments, Elementary and Secondary School Systems by Enrollment-Size Group and State: 2012—United States—States. *https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG11.US01.* There were 12,184 independent school districts with enrollment populations less than 50,000.

[146] *See* U.S. Census Bureau, 2012 Census of Governments, Special District Governments by Function and State: 2012—United States—States. *https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG09.US01.* The U.S. Census Bureau data did not provide a population breakout for special district governments.

[147] *See* U.S. Census Bureau, 2012 Census of Governments, County Governments by Population-Size Group and State: 2012—United States—States. *https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG06.US01;* Subcounty General-Purpose Governments by Population-Size Group and State: 2012—United States—States—*https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG07.US01;* and Elementary and Secondary School Systems by Enrollment-Size Group and State: 2012—United States—States. *https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG11.US01.* While U.S. Census Bureau data did not provide a population breakout for special district governments, if the population of less than 50,000 for this category of local government is consistent with the other types of local governments the majority of the 38, 266 special district governments have populations of less than 50,000.

[148] *Id.*

Governmental entities are, however, exempt from application fees.[149]

9. *All Other Telecommunications.* The ''All Other Telecommunications'' category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation.[150] This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.[151] Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.[152] The SBA has developed a small business size standard for All Other Telecommunications, which consists of all such firms with annual receipts of $35 million or less.[153] For this category, U.S. Census Bureau data for 2012 shows that there were 1,442 firms that operated for the entire year.[154] Of those firms, a total of 1,400 had annual receipts less than $25 million and 15 firms had annual receipts of $25 million to $49, 999,999.[155] Thus, the Commission estimates that the majority of ''All Other Telecommunications'' firms potentially affected by our action can be considered small.

E. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

10. This *Report and Order* does not adopt any new reporting, recordkeeping, or other compliance requirements.

F. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

11. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[156]

12. This *Report and Order* does not adopt any new reporting requirements. Therefore, no adverse economic impact on small entities will be sustained based on reporting requirements. In keeping with the requirements of the Regulatory Flexibility Act, we have considered certain alternative means of mitigating the effects of fee increases to a particular industry segment. For example, The Commission's annual de minimis threshold of $1,000, replaced last year with a new section 9(e)(2) annual regulatory fee exemption of $1,000, will reduce burdens on small entities with annual regulatory fees that total $1,000 or less. Also, regulatees may also seek waivers or other relief on the basis of financial hardship. *See* 47 CFR 1.1166.

G. Federal Rules That May Duplicate, Overlap, or Conflict

13. None.

V. Ordering Clauses

14. Accordingly, it is ordered that, pursuant to the authority found in sections 4(i) and (j), 9, 9A, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 159, 159A, and 303(r), this *Report and Order* is hereby adopted.

15. *It is further ordered* that the *Report and Order* shall be effective 30 days after publication in the **Federal Register**.

16. *It is further ordered* that the amendment adopted in section III A shall be effective 90 days after notice to Congress, pursuant to section 159A(b) of the Communications Act of 1934, as amended, 47 U.S.C. 159A(b),

17. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Report and Order,* including the Final Regulatory Flexibility Analysis in this document, to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer.

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[149] 47 U.S.C. 158(d)(1)(A).

[150] *See* U.S. Census Bureau, 2017 NAICS Definitions, NAICS Code ''517919 All Other Telecommunications'', *https://www.census.gov/cgi-bin/sssd/naics/naicsrch?input=517919&search=2017+NAICS+Search&search=2017.*

[151] *Id.*

[152] *Id.*

[153] *See* 13 CFR 121.201, NAICS code 517919.

[154] U.S. Census Bureau, *2012 Economic Census of the United States,* Table EC1251SSSZ4, Information: Subject Series—Estab and Firm Size: Receipts Size of Firms for the United States: 2012, NAICS code 517919, *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ4//naics~517919.*

[155] *Id.*

[156] 5 U.S.C. 603(c)(1)–(c)(4).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 200528–0149]

RIN 0648–BH59

International Fisheries; Eastern Pacific Tuna Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Area of Overlap Between the Convention Areas of the Inter-American Tropical Tuna Commission and the Western and Central Pacific Fisheries Commission

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: Under authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFCIA) and the Tuna Conventions Act, NMFS issues this final rule that revises the management regime for U.S. fishing vessels that target tunas and other highly migratory fish species (HMS) in the area of overlapping jurisdiction in the Pacific Ocean between the Inter-American Tropical Tuna Commission (IATTC) and the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC). The rule applies all regulations implementing IATTC resolutions in the area of overlapping jurisdiction and some regulations implementing WCPFC provisions. NMFS is undertaking this action based on an evaluation of the management regime in the area of overlapping jurisdiction, in order to satisfy the obligations of the United States as a member of the IATTC and the WCPFC, pursuant to the authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFCIA) and the Tuna Conventions Act.

DATES: This rule is effective on July 22, 2020, except for 50 CFR 300.218, which is delayed. NOAA will publish a document in the **Federal Register** announcing the effective date.