



Highlights of [GAO-12-686](#), a report to congressional requesters

Why GAO Did This Study

FCC must by law assess annual regulatory fees on telecommunications entities to recover its entire appropriation—about \$336 million in fiscal year 2011. The entities from which FCC collects fees fall into one of five main industry sectors (broadcast, cable, wireline, wireless, and international) and are assigned to one of 86 fee categories, such as paging services. Recently, FCC stated that it was planning to consider reforms to its regulatory fee process. GAO was asked to examine (1) FCC's process for assessing regulatory fees among industry sectors, (2) FCC's regulatory fee collections over the past 10 years, and (3) alternative approaches to assessing regulatory fees. GAO reviewed FCC data and documents, interviewed officials from FCC and the telecommunications industry, and, to identify alternative approaches to assessing regulatory fees, met with five fee-funded U.S. and Canadian regulatory agencies.

What GAO Recommends

Congress should consider whether FCC's excess fees should be appropriated for FCC's use or, if not, what their disposition should be. FCC should perform an updated FTE analysis and require at least biennial updates going forward; determine whether and how to revise the current fee schedule, including the number of fee categories; increase the transparency of its regulatory fee process; and consider the approaches of other fee-funded regulatory agencies. FCC agreed with GAO's recommendations.

View [GAO-12-686](#). For more information, contact Mark L. Goldstein at (202) 512-2834 or goldsteinm@gao.gov

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FEDERAL COMMUNICATIONS COMMISSION

Regulatory Fee Process Needs to Be Updated

What GAO Found

The Federal Communications Commission (FCC) assesses regulatory fees among industry sectors and fee categories based on obsolete data, with limited transparency. The Communications Act requires FCC to base its regulatory fees on the number of full-time equivalents (FTE) that perform regulatory tasks in certain bureaus, among other things. FCC based its fiscal year 2011 regulatory fee assessments on its fiscal year 1998 division of FTEs among fee categories. It has not updated the FTE analysis on which it bases its regulatory fees, in part to avoid fluctuations in fees from year to year. FCC officials stated that the agency has complied with its statutory authority by dividing fees among fee categories based on FTE data—although the data is from fiscal year 1998—since the statute does not prescribe a specific time for FCC to update its FTE analysis. As a result, after 13 years in a rapidly changing industry, FCC has not validated the extent to which its fees correlate to its workload. Major changes in the telecommunications industry include the increasing use of wireless and broadband services and a convergence of telecommunications industries. Moreover, FCC's practice is inconsistent with federal guidance on user fees. As a result of FCC's use of obsolete data in assessing regulatory fees, companies in some fee categories may be subsidizing companies in others. FCC officials said it has become more challenging to align current FTEs to the 86 fee categories given the increasingly cross-cutting nature of FCC's work, raising the potential that FCC's fee categories may also be out of date. FCC's regulatory fee process also lacks transparency because of the limited nature of the information FCC has published on it. This has made it difficult for industry and other stakeholders to understand and provide input on fee assessments. On July 17, 2012, FCC released a regulatory fee reform *Notice of Proposed Rulemaking (NPRM)* proposing changes to FCC's regulatory fee program related to many issues raised in this report.

On average over the past 10 years, FCC collected 2 percent more in regulatory fees than it was required to collect. Prior to fiscal year 2008, FCC's annual appropriations stated that any excess regulatory fees remained available until expended; since 2008, FCC's annual appropriations have prohibited the use of any excess fees from the current year or previous years without an appropriation by Congress. As a result, \$66 million in excess fees currently resides in an account at the Department of Treasury that cannot be used without congressional action. The account has increased by an average of \$6.7 million per year for fiscal years 2006 through 2011. Congress has not provided for the disposition of these accumulating excess funds.

Approaches of other fee-funded regulatory agencies could be instructive as FCC considers reforms. For example, the Nuclear Regulatory Commission, Federal Energy Regulatory Commission, and Canadian Radio-television and Telecommunications Commission assess fees based on an annually or biennially updated analysis of costs by industry sector. Regarding excess fees, officials at five other fee-funded regulatory agencies stated that their agencies either apply excess fees as an adjustment to the subsequent year's fees or refund them.