October 21, 2021

Secretary Marlene H Dortch
Federal Communications Commission
45 L Street NE
Washington DC 20554

Re: Notice of Proposed Rulemaking, *Assessment and Collection of Regulatory Fees for Fiscal Year 2021*, MD Docket No. 21-190

Dear Secretary Dortch,

Engine is a non-profit technology policy, research, and advocacy organization that bridges the gap between policymakers and startups. Engine works with the government and a community of thousands of high-technology, growth-oriented startups across the nation to support the development of technology entrepreneurship through economic research, policy analysis, and advocacy on local and national issues.

The NPRM proposes dramatically broadening the types of entities that must pay regulatory fees to the agency, including unlicensed spectrum users in a new fee category, which would sweep in a wide variety of technology companies, including startups. Imposing a new fee for unlicensed users and technology companies will harm the startup ecosystem and consumers. Consumers and startups have long benefitted from the FCC's current balanced approach, which has made way for innovation and competition within the technology industry. A change to this approach that creates burdens and complexity will directly harm small and mid-sized companies that have come to rely on comprehensible fee structures for their vitality and growth.

I. Startups are particularly ill-equipped to handle new or increased regulatory fees.

Startups cannot withstand onerous regulation that unnecessarily imposes higher fees. In 2018, startups with seed funding had on average $1.2 million, an amount that has to last almost two years before the next round—giving a company roughly $55,000 per month—and has to

cover a variety of costs such as salary, overhead, development and marketing.[1] For the vast majority of the startups that don't raise capital through these funding mechanisms, the budget—and therefore the margin for unforeseen costs—is likely much lower. On bootstrap budgets, startups are particularly ill-equipped to afford additional regulatory fees or even the costs associated with navigating the regulatory environment to determine if new fees apply.

There is a relationship between more highly-regulated spaces and lower rates of entry along with the greater likelihood of a startup closing.[2] According to the Fraser Institute's report on Technology Startups, regulation enacted on startups either raises the barrier to entry or burdens them with fees that stifle their ability to expand. Further data from the Mercatus Center has found that increases in regulatory policies disproportionally burdens startups, yet has no significant effect on large firms.[3] Even policies nominally aimed at "large" technology companies can have unintended consequences for the startup ecosystem, so the FCC should carefully consider how new regulatory fees could directly fall on or be passed down to startups.

II. The FCC's proposed fee category is overly broad and will burden startups and consumers.

A. Creating a new regulatory fee for unlicensed spectrum users would stifle the demand for —and innovative use of—unlicensed spectrum.

The NPRM's proposal suggests creating a fee category for "unlicensed spectrum users" which would include a wide range of users, including startups. Startups, which are cash constrained as described above, could be forced to try to pass this fee to their consumers to offset the financial burden. The FCC's current approach has allowed many companies, including startups, to create low-cost and innovative products and services that rely on unlicensed spectrum, which has contributed to economic and job growth and benefited consumers.

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[1] The State of The Startup Ecosystem. Engine.https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/60819983b7f8be1a2a99972d/1619106194054/The+State+of+the+Startup+Ecosystem.pdf April 2021

[2] Liya Palagashvili, Liya, and Suarez, Paola. *Technology Startups and Industry Specific Regulations*. Fraser Instittue https://www.fraserinstitute.org/sites/default/files/technology-startups-and-industry-specific-regulations.pdf 2020.

[3] Chambers, D., P. McLaughlin, and T. Richards (2018). *Regulation, Entre- preneurship, and Firm Size.* Mercatus Working Paper. Mercatus Center, George Mason University.

B. Creating a regulatory fee for technology companies that are advantaged by FCC activities, including universal service programs, could harm startups.

Historically, the Commission has used Section 9 of the Communications Act to implement fees on service providers, telecommunications carriers, and other licensed spectrum users. These companies are direct beneficiaries of FCC programming and resources and are accordingly subject to regulatory fees. The FCC should limit regulatory fees to entities that directly benefit from the Commission's regulated activities and create a clear nexus between the Commission agency and the entities paying regulatory fees.

Startups do not typically interact directly with the FCC and are usually not direct beneficiaries of FCC programming and resources. To the extent that startups are indirectly advantaged by FCC activities, they already face the passed-down fees from their vendors that are direct beneficiaries of FCC programming and resources. As an example, virtually all startups subscribe to broadband service and already pay into the Universal Service Fund through fees on their monthly broadband bill. Assessing fees on companies based on whether a company gets any advantage from the FCC's universal service programming—including an indirect benefit from the fact that having more people online means having a larger potential user base—will sweep in startups that can't afford the new fees. Even if it's just aimed at "large" tech companies, those costs will be passed down to consumers and startups. In other contexts, where governments have levied a regulatory fee or tax specifically on large companies, those costs are passed down to users, including startups that rely on products and services from large industry players for telehealth services and internet of things products amongst others. For instance, in Europe the French Digital Services Tax targeted the largest firms providing intermediation services and online advertising sales. Yet, studies indicated that this tax would be passed down to consumers and smaller companies in the digital marketplace.[4] If the proposed fee is approved, startups and other mid-sized companies with low margins have no choice but to shoulder the cost or pass the burden to their consumers, making them less competitive in the marketplace.

III. Conclusion

[4] Deloitte, Taj, *The French Digital Services Tax: An Economic Impact Assessment* (2019), available at: https://taj-strategie.fr/content/uploads/2020/03/dst-impact-assessment-march-2019.pdf

Engine appreciates the opportunity to comment on the questions regarding new regulatory fees. Creating new regulatory fees—including for unlicensed spectrum users or companies that indirectly benefit from the FCC's universal service activity or other programming—would have a detrimental impact on the startup ecosystem and consumers.