REPORT TO THE CONGRESS

Need To Improve Administration Of Fees And Charges Of Regulatory Agencies B-145252

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

OCT. 23, 1970

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-145252

To the President of the Senate and the
Speaker of the House of Representatives

This is our report on the need to improve administration of fees and charges of the regulatory agencies. Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

Copies of this report are being sent to the Director, Office of Management and Budget, and to the Chairmen of the Civil Aeronautics Board, Federal Communications Commission, Federal Maritime Commission, Federal Power Commission, Federal Trade Commission, Interstate Commerce Commission, and Securities and Exchange Commission.

Elmer B. Staats
Comptroller General
of the United States

COMPTROLLER GENERAL'S REPORT TO THE CONGRESS

NEED TO IMPROVE ADMINISTRATION OF FEES AND CHARGES OF REGULATORY AGENCIES B-145252

D I G E S T

WHY THE REVIEW WAS MADE

Title V of the Independent Offices Appropriation Act, 1952, provides that:

--Government activities resulting in special benefits or privileges for individuals or organizations be financially self-sustaining to the maximum possible extent;

--Regulations prescribing fees be as nearly uniform as practicable, and

--Fees be fair and equitable, taking into consideration direct and indirect costs to the Government, value to the recipient, public policy or interest served, and other pertinent facts. (See p. 5.)

The Bureau of the Budget (now the Office of Management and Budget) issued policy guidance (Circular No. A-25) to agencies for implementing those requirements. The Circular broadly defines services that provide special benefits and establishes guidelines on the types of costs to be considered in setting fees and charges. (See pp. 5 to 7.)

GAO's review was undertaken to determine how effectively the agencies were implementing the law and the Bureau Circular.

FINDINGS AND CONCLUSIONS

This report concerns seven regulatory agencies: Civil Aeronautics Board (CAB), Federal Communications Commission (FCC), Federal Maritime Commission (FMC), Federal Power Commission (FPC), Federal Trade Commission (FTC), Interstate Commerce Commission (ICC), and Securities and Exchange Commission (SEC). Fees collected by the seven agencies in fiscal year 1969 totaled about $35.5 million.

GAO concluded that the fee policies of these regulatory agencies were not as nearly uniform as practicable; not all costs to the Government had been taken into consideration; and fees had not been charged in all appropriate instances. (See pp. 11 to 36.)

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The following main factors lead to those conclusions:

--There were significant policy differences among the agencies. FCC had established nominal fees. CAB's fees were designed to recover 25 percent of some costs, but not of all costs. ICC's principal fees were designed generally to recover 50 percent of the estimated costs. FPC's fees were designed to recover full costs.

--FCC and ICC assessed fees for the filing of applications, but not for licenses to operate. CAB and FPC charged both kinds--application filing fees and license fees.

--CAB, FCC, and ICC charged fees for applications for approval of mergers, consolidations, and interlocking directorates. FPC did not charge fees for such applications from electric utility companies, and SEC did not charge gas and electric utility holding companies.

--CAB, FPC, and ICC had not included certain indirect costs in arriving at the costs of services.

--Of 189 fees assessed by the seven agencies, 145 were unchanged in 4 years or were based on cost information at least 4 years old. In that period one factor alone--Government salary costs--had increased by about 20 percent. Circular No. A-25 directs that the cost of providing services shall be reviewed every year and that fees shall then be adjusted in accordance with such review. (See p. 38.)

Subsequent to GAO's review, five agencies--FCC, ICC, CAB, FPC, and SEC--took steps to change their fee schedules. FCC in August 1970 substantially increased its existing fees and established fees in areas not previously covered.

ICC issued a notice proposing to increase existing fees and assess fees in new areas.

CAB, FPC, and SEC were reviewing their fee schedules. FPC and SEC said they would consider assessing fees in new areas. However, individual actions by the agencies may not result in the uniformity intended by law. Therefore, the Office of Management and Budget should reexamine the policies and practices of the regulatory agencies in establishing their fees. There is a need for the Office to reexamine the language of Circular No. A-25, as well, to determine whether it provides adequate guidance to the regulatory agencies in implementing title V of the Independent Offices Appropriation Act of 1952.

RECOMMENDATIONS OR SUGGESTIONS

The Office of Management and Budget should make a coordinated review of the fee schedules of the regulatory agencies for consistency with the requirements of the Independent Offices Appropriation Act, 1952.

The Office should examine Circular No. A-25 to determine whether it gives adequate guidance on cost recovery.

The Office should make periodic reviews of fees and charges.

AGENCY ACTIONS AND UNRESOLVED ISSUES

The Office of Management and Budget agreed generally with GAO's conclusions and recommendations. It agreed that there should be a review of fee schedules for consistency with the Independent Offices Appropriation Act, 1952, and an examination of the language of the Circular. The Office told GAO that it would conduct a broad review of user-charge policies, as soon as possible, and that it would study carefully the issues raised in this report.

MATTERS FOR CONSIDERATION BY THE CONGRESS

This report is being submitted to the Congress because of the interest expressed in recent years by the Senate and House Appropriations Committees in the fees and charges of regulatory agencies. In reports on six of the agencies' appropriation requests for fiscal year 1969, the Committees expressed concern that the Government was not receiving sufficient return for all the services rendered to special beneficiaries.

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Contents

ABBREVIATIONS

BOB	Bureau of the Budget
CAB	Civil Aeronautics Board
FCC	Federal Communications Commission
FMC	Federal Maritime Commission
FPC	Federal Power Commission
FTC	Federal Trade Commission
GAO	General Accounting Office
ICC	Interstate Commerce Commission
SEC	Securities and Exchange Commission

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CHAPTER 1

INTRODUCTION

The General Accounting Office has reviewed the policies and practices of seven regulatory agencies in assessing fees and charges for services which convey special benefits or privileges to identifiable recipients.

We did not review all activities for which fees and charges could be assessed by the seven agencies but examined into selected activities to the extent we deemed appropriate. The scope of our review is described on page 41.

Our review, which covered activities through fiscal year 1969, was made at the headquarters offices of the following agencies.

Civil Aeronautics Board (CAB)
Federal Communications Commission (FCC)
Federal Maritime Commission (FMC)
Federal Power Commission (FPC)
Federal Trade Commission (FTC)
Interstate Commerce Commission (ICC)
Securities and Exchange Commission (SEC)

The principal officials responsible for the administration of the activities discussed in this report are listed in appendix II.

LEGISLATION GOVERNING FEES AND CHARGES

Title V of the Independent Offices Appropriation Act, 1952 (31 U.S.C. 483a), is the basic authority for the assessment of most fees and charges by the regulatory agencies. This act endorsed a program for the assessment of fees and charges for services and authorized each Federal agency head to prescribe fair and equitable fees and charges which would make special services, when appropriate, self-sustaining to the fullest extent possible. The full text of title V follows:

"It is the sense of the Congress that any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency (including wholly owned Government corporations as defined in the Government Corporation Control Act of 1945) to or for any person (including groups, associations, organizations, partnerships, corporations, or businesses), except those engaged in the transaction of official business of the Government, shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation (which, in the case of agencies in the executive branch, shall be as uniform as practicable and subject to such policies as the President may prescribe) to prescribe therefore such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amount so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts: Provided, That nothing contained in this title shall repeal or modify existing statutes prohibiting the collection, fixing the amount, or directing the disposition of any fee, charge, or price: Provided further, That nothing contained in this title shall repeal or modify existing statutes prescribing bases for calculation of any fee, charge or price, but this proviso shall not restrict the redetermination or recalculation in accordance with the prescribed bases of the amount of any such fee, charge or price."

In addition, specific provisions for the assessment of certain fees and charges are contained in the Federal Power Act (16 U.S.C. 791a to 825r), which is applicable to the Federal Power Commission; and the Securities Act of 1933,

as amended (15 U.S.C. 77a), the Securities Exchange Act of 1934, as amended (15 U.S.C. 78a to 78jj), and the Trust Indenture Act of 1939 (15 U.S.C. 77aaa to 77bbbb), all of which are applicable to the Securities and Exchange Commission.

EXECUTIVE BRANCH POLICIES

Bureau of the Budget (BOB)[1] Circular No. A-25, dated September 23, 1959, sets forth general policies for the executive branch of the Government with respect to the charges (user charges) to be made against recipients of certain Government services and property. The Circular provides that a reasonable charge should be made to each identifiable recipient for a measurable unit or amount of Government service or property from which he derives a special benefit. The Circular defines a special service as follows:

> "Where a service (or privilege) provides special benefits to an identifiable recipient above and beyond those which accrue to the public at large, a charge should be imposed to recover the full cost to the Federal Government of rendering that service. For example, a special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:
>
> "(a) Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public (e.g., receiving a patent, crop insurance, or a license to carry on a specific business); or
>
> "(b) Provides business stability or assures public confidence in the business

[1] On July 1, 1970, the Bureau of the Budget became part of the Office of Management and Budget.

activity of the beneficiary (e.g., certificates of necessity and convenience for airline routes, or safety inspections of craft); or

"(c) Is performed at the request of the recipient and is above and beyond the services regularly received by other members of the same industry or group, or of the general public (e.g., receiving a passport, visa, airman's certificate, or an inspection after regular duty hours)."

Full cost is intended to cover direct and indirect costs to the Government of carrying out an activity. The Circular states that:

"*** Costs shall be determined or estimated from the best available records in the agency, and new cost accounting systems will not be established solely for this purpose. The cost computation shall cover the direct and indirect costs to the Government in carrying out the activity, including but not limited to:

"(1) Salaries, employee leave, travel expense, rent, cost of fee collection, postage, maintenance, operation and depreciation of buildings and equipment, and personnel costs other than direct salaries (e.g., retirement and employee insurance);

"(2) A proportionate share of the agency's management and supervisory costs;

"(3) A proportionate share of military pay and allowances, where applicable;

"(4) The costs of enforcement, research, establishing standards, and regulation, to the extent they are determined by the agency head to be properly chargeable to the activity."

The Circular provides also that the cost of providing the service be reviewed every year and the fees adjusted as necessary.

Each agency is responsible for the initiation, development, and adoption of schedules of charges and fees consistent with the policies of Circular No. A-25. Agencies are responsible for (1) identifying the services or activities covered by the Circular, (2) determining the extent of the special benefits provided, (3) applying accepted cost accounting principles in determining costs, and (4) establishing the charges.

BOB examiners responsible for each agency review periodic reports submitted by the agency on activities governed by Circular No. A-25.

In May 1966, the President of the United States advised the heads of departments and agencies of the importance of assessing fees and charges for special services. He stated that:

> "When the Federal Government provides special services for special groups it is both good economics and good government to charge fees for these services
>
> > "---good economics, because user charges make possible an efficient allocation of resources among alternative programs
> >
> > "---good government, because user charges ensure equitable treatment of the general taxpayer."

He stated also that the responsibility for reviewing and revising administrative user charges is a continuing one and that each official should give user charge legislative proposals his continuing active support.

RECENT LEGISLATIVE CONCERN

The House and Senate Committees on Appropriations expressed interest and concern about the fees and charges

being assessed by the agencies provided for in the Independent Offices and Department of Housing and Urban Development Appropriation Bill, 1969. Appropriations for the regulatory agencies discussed in this report, except the FMC, are included in the aforementioned bill. The House Committee on Appropriations commented in its report on this bill (H.R. 1348, 90th Cong., 2d sess., May 3, 1968) as follows:

> "*** The Committee is concerned that the Federal government is not receiving sufficient return for all the services which it renders to special beneficiaries. This is particularly noteworthy with respect to the value to the recipient of certificates, franchises and operating permits. *** Other operating rights granted by agencies and commissions of Government have substantial values to the recipients. Accordingly, the Committee recommends that the applicable agencies review their schedule of fees and charges with a view to making increases or adjustments as may be warranted, *** to offset in part the increasing needs for direct appropriations for operating costs of the agencies concerned."

The Senate Committee on Appropriations in its report on the bill (S.R. 1375, 90th Cong., 2d sess., July 9, 1968) stated that it joined with the House Committee in the concern that the Federal Government was not receiving sufficient return for all the services it rendered and in the House Committee's recommendation that the applicable agencies review their schedule of fees and charges.

FEES AND CHARGES COLLECTED IN FISCAL YEAR 1969

For fiscal year 1969, the seven regulatory agencies reported collections of fees and charges totaling $35.5 million. The agencies' total appropriations, mostly for salaries and expenses, for the same period amounted to $110.4 million. The agencies have established 189 fees and charges for services rendered to special beneficiaries. The following schedule shows, by agency, appropriations and fees collected for fiscal year 1969.

Agency	Total appropriations	Fees collected
	(000 omitted)	
CAB	$ 9,850	$ 1,031
FCC	20,720	4,738
FMC	3,743	18
FPC	15,878	8,211
FTC	16,900	4
ICC	24,664	1,477
SEC	18,624	19,996
Total	$110,379	$35,475

Except for portions of certain FPC fees which are distributed among certain States or deposited in special accounts in the Treasury, fees and charges collected are deposited into the general fund of the Treasury as miscellaneous receipts, as required by title V of the Independent Offices Appropriation Act, 1952, and are not available for expenditure by the agencies. The fees and charges, however, have the effect of offsetting or reducing the cost to the general taxpayer of the services rendered to special beneficiaries by these agencies.

Collectively, the agencies perform many services for the benefit of special recipients--services such as grants of authority to enter upon, continue, discontinue, or otherwise modify a specific business activity; approvals of proposed tariffs; approvals of public offerings of securities; and approvals of interbusiness relationships including mergers, consolidations, and interlocking directorates. These authorizations and approvals can, and often do, result in substantial financial benefits to the recipients such as protection from uncontrolled competition, increased operating effectiveness, or business stability.

The types of services provided by the seven agencies are described in more detail in the following sections of the report.

CHAPTER 2

INCONSISTENT POLICIES IN ESTABLISHING FEES AND CHARGES

The policies of the seven regulatory agencies in establishing fees and charges vary significantly and, in our opinion, do not result in equitable and uniform schedules of fees as intended by title V of the Independent Offices Appropriation Act, 1952, and Circular No. A-25. Some agencies assessed fees that were intended to recover all or a substantial part of the costs of providing certain benefits, whereas other agencies assessed no fees or nominal fees for providing similar types of benefits.

The following sections of this report discuss the agencies' policies in determining those services providing special benefits to identifiable recipients; the concepts, principles, and other factors considered by them in assessing fees; the extent of their development of appropriate cost data as a basis for establishing the amounts of the fees; and examples of their fees and charges.

CIVIL AERONAUTICS BOARD

Functions

CAB regulates the economic aspects of air carrier operations, both domestic and international, and participates in the promotion, economic development, and regulation of U.S. civil aviation in interstate and foreign commerce. In carrying out these responsibilities, CAB grants certificates of public convenience and necessity to air carriers to inaugurate, expand, discontinue, or otherwise modify routes; prescribes or approves tariffs or rates and rate practices; prevents unfair competition among air carriers; and approves business relationships such as mergers and interlocking directorates among air carriers.

Fee schedules

In March 1968 CAB established a $200 fee for filing applications to engage in air transportation or to amend, modify, or transfer authorizations to engage in air transportation. In addition, license fees were established for successful applicants, based on the estimated increase in gross transport revenues for the first full year of operations, as estimated by CAB, resulting from the new or changed authority, as follows.

Increase in gross transport revenue	License fee
$ 100,000 to $ 1,000,000	$ 1,200
1,000,000 to 5,000,000	6,000
5,000,000 to 10,000,000	12,000
10,000,000 or over	25,000

Examples of other fees established by CAB in March 1968 are:

Type of applications	Amount of fee
Discontinuance of service or points of service	$1,000 per point
Mergers, consolidations, or acquisitions of control of U.S. air carriers	2,000 per airline involved
Interlocking relationships	135
Change of name or use of trade name	100
Operating authorization to engage in airfreight forwarding	275

Bases for fees

CAB determined that, in conducting its regulatory activities, special benefits were conferred on identifiable recipients above and beyond those which accrued to the general public and that the public interest would be served by the establishment of a schedule of filing and license fees. The agency referred to title V of the Independent Offices Appropriation Act of 1952, which directed agencies to

charge not only for any work or service performed but also for any license or certificate granted. CAB stated that every application filed invoked procedures for processing and review and that, since all applicants received the benefits of its procedures, they should all contribute toward the costs of these procedures through filing fees. On the other hand, CAB believed that applicants who secured a license for new or changed airline routes benefited more than those who did not and hence should pay a greater share of the cost of airline route proceedings through license fees.

The schedule of fees and charges adopted by CAB in March 1968 represented its judgment as to what was fair and equitable, taking the statutory standards into account. Further, CAB stated that the license fees established for new or changed airline routes were inherently conservative since they were keyed to the estimated increases in gross transport revenues during the first, or developmental, year of operations.

In the establishment of its schedule of fees and charges, CAB included about 50 percent of certain fiscal year 1966 direct costs of four operating bureaus primarily involved in processing applications. These direct costs consisted of personnel compensation and benefits, travel and transportation costs, materials and supplies, communications and utilities expenses. CAB determined that 25 percent of these costs should be recovered on a substantially uniform basis for the various types of benefits provided to identifiable recipients. CAB computed average unit costs and established the fees and charges on the basis of the number of applications or cases of each type completed in fiscal year 1966.

However, CAB did not include certain indirect costs in the basis for computing the fees. These indirect costs, which Circular No. A-25 specifically provided should be included in cost determinations, were a proportionate share of management and supervisory costs, depreciation of equipment, costs of collecting the fees, and costs of leave earned by its employees. CAB informed us in January 1970 that its staff was engaged in its annual review of the

fees and charges and that it would take into consideration the matters discussed in this report.

BOB participation in development of fees

Prior to establishing its schedule of fees and charges, CAB submitted proposed legislation to BOB which would have authorized CAB to prescribe annual fees or charges to be paid by each air carrier holding operating authority. The proposed legislation required the recovery of all CAB's administrative costs for carrying out its functions.

BOB informed CAB that it thought an attempt to recover the entire administrative costs of CAB from the regulated airlines would be inappropriate. BOB also stated that some portion of CAB's activities benefited the general public and should be financed from general revenues. BOB stated further that, on the other hand, the costs incurred in connection with the handling of applications for various types of operating authority provided special benefits for which charges were clearly appropriate and consistent with administration policy as set forth in Circular No. A-25. BOB stated that it appeared inappropriate to request new legislation without first establishing filing and licensing fees which were authorized under existing legislation.

BOB commented that FCC and ICC had established fees and charges, which had been accepted both by the Congress and the regulated industries, and furnished CAB copies of the schedules of charges used by those agencies. BOB stated that these programs had been highly successful and could serve as models for the development of a similar schedule adapted to the special needs of the aviation industry.

CAB officials stated in June 1967 that the proposed filing and license fees, their bases, and the total estimated recovery of costs had been discussed with the staff of BOB on two occasions. CAB officials stated also that the BOB staff had expressed no objection thereto and that the BOB staff had taken the position that CAB should establish license fees based on benefits accruing to the recipients of authorizations. Although Circular No. A-25 seems to require the recovery of full costs, including indirect costs,

it appears that BOB did not object to CAB's not recovering full costs, nor to CAB's not including certain indirect costs in its cost computations.

FEDERAL COMMUNICATIONS COMMISSION

Functions

FCC regulates interstate and foreign communications by wire and radio (including TV). FCC is responsible for attaining and maintaining maximum benefits for the people of the United States in the use of the radio spectrum; and for regulating the rates and services of common carriers of communications. In carrying out these responsibilities, FCC licenses radio, television, and related services; licenses safety and special radio services; performs inspections of radio stations; and administers radio operator examinations. Also, for the common carrier services, FCC regulates the rates and practices of telephone, telegraph, and cable companies and approves or disapproves proposed mergers and acquisitions of properties and extensions and reductions in service.

Fee schedules

FCC established a schedule of filing fees, effective in March 1964, for applicants seeking operating authorities or approvals of other proposed actions. The fees covered 86 services, later increased to 89, performed by FCC in carrying out its licensing and regulatory functions and ranged from a minimum of $2 to a maximum of $150. Some examples of these fees follow.

Type of application	Amount of fee
Construction, major changes to existing stations, assignments or transfers of stations, or renewals of station licenses:	
AM-FM stations	$ 75
Television stations	150
Operation of new or extended telephone or telegraph lines or discontinuance of a portion of service:	
Telephone	50
Telegraph	10
Consolidations or acquisitions of control of telephone companies	50
Interlocking relationships	10
Modification of licenses in the amateur radio service	2

Bases for fees

FCC stated that the general public was the primary beneficiary of its activities but recognized that its licensees derived benefits by virtue of their licenses which were above and beyond those which accrued to the general public. FCC determined that its schedule of fees was fair and equitable; the nominal fees could be readily collected with little inconvenience to the agency or to its licensees and reconciled best with the various standards contained in the Independent Offices Appropriation Act, 1952.

The FCC schedule of fees and charges was based on instructions of the majority of the Commissioners that no individual fee should exceed $100, later increased to $150. The maximum fee was made applicable to applications for new or major changes in television stations and assignments, transfers, or renewals of television station licenses, and the fees for the other benefits or privileges granted by FCC were scaled downward among the radio, telephone and telegraph, and safety and special radio services. FCC did not seek recovery of its total costs but only a portion thereof and stated that the fees, although nominal in relation to the applicable service, were just and reasonable.

The FCC recognized that the fees and charges did not accurately cover the costs of processing particular applications or the value conferred on recipients of its services. FCC stated that it was difficult to allocate costs to particular applications and arrive at figures which were not inconsistent with value to the recipient or which were not excessively high. FCC believed that its schedule of fees was a reasonable compromise because the fees were nominal yet they differentiated between the various regulated services and recovered a portion of the costs attributable to regulation.

We believe that the establishment of nominal fees was inconsistent with the intent of law and executive branch policies and directives that the heads of executive agencies establish fees to make special Government services and privileges self-sustaining to the fullest extent possible, taking into consideration such factors as direct and indirect cost to the Government and the value of a

service or privilege to a recipient. The House Committee on Appropriations commented in May 1968 that the fees paid by licensees in the multibillion-dollar radio and television industries (maximum of $75 and $150, respectively) were negligible in comparison to the value of the licenses.

FCC informed us subsequent to our review, that it had under consideration a major revision of its fee schedule, and in August 1970, FCC adopted a revised fee schedule. According to FCC, the revised fee schedule encompasses substantial increases in the level of the fees. FCC stated that, in the formulation of the revised fee schedule, it had considered, in varying degrees, the direct and indirect cost to the Government, the value to the recipient, and the public interest served.

BOB participation in development of fees

The fee schedule in effect from 1964 to 1970 was reviewed by BOB when proposed by FCC. In acknowledging receipt of a copy of that proposed schedule, BOB stated that FCC's achievement was to be commended and that the task of relating the benefits for particular broadcasters to the benefits conferred on the public generally had no doubt been a difficult one. BOB did not comment on the nominal nature of the fees nor on whether the fees complied with the provisions of its regulations regarding the recovery of full costs where special benefits accrued to identifiable recipients above and beyond those that accrued to the public at large.

In March 1964 the Director, BOB, wrote to the Chairman of the Subcommittee on Communications and Power, House Committee on Interstate and Foreign Commerce, a letter concerning a bill which proposed to prohibit FCC's assessing fees or charges except where specifically permitted by law. The Director stated that enactment of the bill would not be in accord with the President's program and urged that it not receive favorable action.

The Director stated it was clear that those who were licensed by FCC received special benefits and privileges beyond those accruing to the public generally. BOB believed, therefore, that it was eminently fair and just that those

who benefited from these specific activities bear an equitable portion of the related costs instead of the taxpayers' bearing the entire cost. BOB stated that it was this principle which underlay FCC's fee schedule and that there appeared to be no evidence to indicate that such fees would be a burden upon the radio and television industry or other users of the broadcast services.

Other fee matters

FCC had not assessed license fees in addition to application filing fees on applicants who received approval to acquire, construct, or make major changes to radio and television stations or approval to acquire, construct, or extend telephone and telegraph lines.

We believe that there were other services performed by FCC for which fees should have been established. One such service is the approval of certain equipment--such as broadcast monitors, industrial and medical ultrasonic equipment, and microwave ovens--after the equipment has been successfully tested in the FCC laboratory. During the 3-year period ended June 30, 1968, FCC reported that it granted about 200 such approvals.

In August 1970 FCC began to assess license fees to several types of applicants, including the successful radio, television, telephone, and telegraph applicants. In addition, FCC now assesses fees for several other services, including the approval of certain equipment.

FEDERAL POWER COMMISSION

Functions

FPC regulates electric power companies that are interstate public utilities, encourages coordinated power system planning and interconnection of facilities for economy and reliability of service, and licenses non-Federal hydroelectric projects affecting lands of the United States, or located on streams which flow into interstate commerce. FPC also regulates pipeline companies and independent producers involved in transmission or sale of natural gas for resale in interstate commerce. In carrying out these responsibilities, FPC, for the electric power industry, issues licenses to non-Federal hydroelectric projects; regulates wholesale rates and services; and approves certain security issues, dispositions of property, and mergers of interstate electric utilities.

With regard to the responsibilities of regulating the natural gas industry, FPC issues certificates of public convenience and necessity for the construction or acquisition, operation, and abandonment of pipeline facilities; approves the sale of gas by producers to pipeline companies for resale; regulates rates for gas sold by producers and pipeline companies for resale; reviews the level of earnings of particular pipeline companies; institutes rulemaking proceedings; and verifies that pipeline companies and producers make refunds and rate reductions to the proper parties as ordered by the Commission.

Fee schedules

Effective February 7, 1966, FPC established a schedule of filing fees for eight types of applications submitted by natural gas pipeline companies seeking operating authorities or approvals of other proposed actions, or amendments thereto. In addition to a filing fee of $50 for each application, FPC established a fee of fifteen one-hundreths of 1 percent of an applicant's costs of construction or acquisition of facilities. The percentage factor was fixed at a rate designed to recover FPC's average annual cost of processing applications for pipeline certificates. The

application of this formula means that a company securing a certificate for a new or extended pipeline costing $1 million would be assessed fees totaling $1,550. A new pipeline or extension costing $50 million would result in fees of $75,050.

Provision for the assessment of fees and charges on non-Federal hydroelectric projects is contained in the Federal Power Act. Pursuant to part I of the act, FPC licensees of non-Federal hydroelectric projects, with certain exceptions, are required to pay reasonable annual charges in amounts to be fixed by FPC for reimbursing the related costs of administration. The annual charges vary depending on FPC's administrative costs and the authorized horsepower capacities and power generation of the projects. In fiscal year 1967, these charges were as high as $98,000 for one project, and for 25 projects exceeded $25,000 each. The Federal Power Act also provides for the assessment of annual fees against owners of non-Federal power projects directly benefited by a storage reservoir or other headwater improvement of the United States or its licensees or permittees; by the use of Government lands, dams, or structures; and by the use of Indian lands.

Bases for fees

The FPC based the fees for applications for the construction or acquisition of pipeline facilities on its estimated costs of processing the applications, the number of applications filed, and the estimated costs of construction or acquisition of facilities for which applications had been filed in certain prior years. FPC stated that the fees were designed to fulfill the self-sustaining principle required by legislation (title V of the Independent Offices Appropriation Act, 1952) and should, within a reasonable degree of tolerance, achieve this objective.

FPC determined its costs of processing the applications for which fees were to be established, as follows. Inasmuch as the agency did not have detailed cost data from its accounting system, it determined that in 1966 about 90 man-years were devoted to processing pipeline applications at an average salary cost of $10,000 a year, or a total average salary cost of $900,000. To this cost an overhead factor

of $200,000, or about 22 percent, was added to arrive at a total estimated average cost of $1,100,000 a year.

This approach does not appear to be in conflict with the provisions of Circular No. A-25 which provides that costs should be determined or estimated from the best available records in the agency and new cost accounting systems should not be established for determining costs. The records of FPC did not show the bases or elements considered in arriving at the overhead factor, and for this reason we were unable to make an independent determination as to the adequacy of the overhead factors in providing for all derect and indirect costs cited in Circular No. A-25.

FPC determined that its regulatory activities relating to natural gas applications conveyed special benefits. It stated that the fees prescribed were fair and equitable, particularly when viewed in light of the benefit received and the fact that the amount in any event was recoverable by the gas pipeline companies as an allowable cost of service. It further stated that, although the maximum fees prescribed were by no means nominal, the impact of even such a relatively high fee was not unreasonable in view of the magnitude of the construction activities to which such fees related.

In regard to computing or estimating the costs to be reimbursed annually by non-Federal hydroelectric projects as provided in section 10e of part 1 of the Federal Power Act, FPC included its direct costs but did not include certain indirect costs. These indirect costs, which Circular No. A-25 specifically provided should be included in cost determinations, were employees' leave and maintenance, operation, and depreciation of buildings and equipment. We did not find any evidence to indicate that BOB was aware that FPC had not included these indirect costs in its computations or estimates.

BOB participation in development of fees

In November 1964 BOB requested FPC to review its activities to suggest various ways in which it could reform its operations and save the Federal Government significant

amounts of money. FPC replied that it would give further study to the possibility of assessing fees and charges in appropriate areas where this was not already being done.

In April 1965 the Chairman of FPC informed the Director, Bureau of the Budget, of the proposal to establish fees that would recover, approximately, the average annual costs of processing gas pipeline certificate applications and stated that FPC believed this would be in line with statutory authority and the policies enunciated in Circular No. A-25. The Director concurred with the Chairman.

Other fee matters

We believe that there are other areas of FPC's regulatory functions where fees should be assessed. For example, FPC does not assess fees for authorizing companies to engage in the transmission of electric energy between the United States and a foreign country. On the other hand, FPC does assess fees of $50 for permits to companies to import or export natural gas and $50 for permits to construct or operate border facilities in connection therewith.

FPC does not assess fees for the issuance of certificates authorizing independent gas producers to contract to sell natural gas to pipeline companies for resale in interstate commerce. Before granting such a certificate to an independent gas producer, FPC reviews and approves the terms, conditions, and rates of the contracts. FPC also determines that the producer will be able to supply gas of sufficient quantity and quality to fulfill his part of the contract. We believe that the FPC policy of granting these certificates without charge to the recipients is inconsistent with its policy to assess pipeline companies seeking authority to sell natural gas a fee of $50. FPC has not established fees to defray the costs of approving mergers, consolidations, and interlocking directorates for electric utility companies.

FPC informed us in January 1970 that it was conducting a comprehensive review of the status of its fees and of activities for which fees were not being charged.

INTERSTATE COMMERCE COMMISSION

Functions

ICC regulates carriers engaged in transportation in interstate commerce and in foreign commerce to the extent that it takes place within the United States. These include common carriers--railroads, express companies, sleeping car companies, motor carriers, water carriers, pipelines (except for water and gas), and freight forwarders--and motor and water contract carriers.

In carrying out these responsibilities, the ICC grants operating authorities; prepares studies and analyses of operating costs for use in rate proceedings; regulates rates; reviews for approval, applications for abandonments and extensions of railroad lines, financial reorganizations, and rate agreements between carriers; reviews proposed discontinuances of or changes in the operation or service of trains and ferries; and formally issues orders, rules and regulations; and examines carrier tariffs or rate schedules for compliance with ICC's tariff rules.

Fee schedules

ICC established a schedule of filing fees effective in July 1966 for applicants seeking operating authority or approval of other proposed actions. The fees covered 34 types of services and ranged from a minimum of $5 to a maximum of $200.

Some examples of the fees established by ICC are:

Type of application	Amount of fee
To acquire trackage rights over, joint ownership in, or joint use of, any railroad lines owned and operated by any other carrier and terminals incident thereto	$200
For operating authority as a motor common carrier or water common carrier	200
For operating authority as a freight forwarder	200
For authority to abandon all or a portion of a line of railroad or the operation thereof	200
For mergers or consolidations of carriers	200
To issue securities	200
For the pooling or division of traffic	100
For authority to hold a position as officer or director in more than one railroad carrier	10
To renew authority of motor carriers to transport explosives	5

Bases for fees

ICC considered public policy or interest served, value of the benefits or privileges granted to identifiable recipients, and the costs of providing such benefits or privileges in establishing its fees and charges. ICC stated that the fact that the public generally might also benefit from the existence of new or improved transportation services did not alter the fact that the direct and primary beneficiaries of ICC activities were those who received licenses to carry on profitable businesses with protection from uncontrolled competition or who were granted authorizations to carry out business transactions or take actions which would otherwise be prohibited by law.

Because of the lack of appropriate cost records, ICC used cost data based primarily on a 4-week period, from August 30 to September 28, 1964, in setting the amounts of fees and charges. ICC recognized that this procedure did not produce cost data as extensive or unit costs as accurate as desired but believed that it was as accurate an estimate of costs as could be made. This data was used as a general aid in determining what fees would be fair and equitable and as a check to make certain that no fee would be higher than the estimated unit cost of providing the applicable benefit or privilege. Generally, the fees were designed to recover about 50 percent of the estimated costs.

Under the fee schedule, there is a single application filing fee for all applications leading to the principal types of proceedings which make up the major part of ICC's formal case docket. ICC developed an average cost of $430 for these applications. The filing fee was established at $200, or approximately 50 percent of the average cost for 18 types of applications. The fees for the remaining types of applications were established after a comparison with relevant cost data and in light of the prior determination that none of these fees should be as much as $200.

ICC's records showed that the unit costs for processing the 18 individual types of applications ranged from $226 to $2,019. It appears that, as a result of the use of an average cost as a basis for establishing one fee although the

costs of processing the various types of applications varied widely, many applicants were not being charged the fair and equitable fees intended by the Independent Offices Appropriation Act of 1952.

In the costs it developed, ICC did not identify amounts for depreciation of equipment, travel expense, postage, or the costs of collecting the fees. Circular No. A-25 provides that these items be included in determination of the costs of providing services to identifiable recipients.

In May 1969 ICC issued a notice of proposed rulemaking to revise its current fee schedule. The revised fee schedule showed that ICC proposed substantial increases in some application filing fees.

ICC informed us in January 1970 that the revised fees would more nearly relate to recovery of 50 percent of the actual cost of the various types of proceedings. This is to be accomplished, in part, through the use of supplemental fees in addition to the basic fee when the cost of handling a particular case varies significantly from the average. The supplemental fee is to be based on the cost to ICC, over and above that recovered by the filing fee.

ICC informed us that, during its May 1969 review of fees currently being charged, it had developed different methods of arriving at unit costs which, in turn, had enabled ICC to determine costs more accurately. ICC stated that, where possible, the new unit costs included such items as travel, postage, and costs of collecting fees.

In the current and the proposed fee schedules, applicants who receive operating authorities or changes to existing authorities have not been assessed license fees in addition to application filing fees. ICC has taken the position that a person filing an application, petition, or other type of request starts in motion the ICC's administrative procedures and imposes upon the ICC the legal duty to process, consider, and determine the merits of the request in a manner commensurate with pertinent statutory requirements and considerations of due process of law. ICC advised us that the costs of fulfilling these obligations and the

costs of processing applications through proceedings were essentially the same regardless of ICC's ultimate decision in the matter, i.e., whether an applicant has been successful or unsuccessful in receiving an operating authority or change thereto.

It is interesting to note that ICC, in establishing its fee structure, appears to place less weight on the "value to the recipient" consideration specified in the Independent Offices Appropriation Act than does CAB. CAB, while assessing a fee on all applications, charges additional fees (for licenses) which relate more directly to the value of the license; i.e., the estimated increase in gross transport revenue.

BOB participation in development of fees

In August 1963 and again in October 1963, BOB urged ICC to give serious consideration to establishing fees for its activities which provide special benefits to individuals and groups. The records of ICC showed that officials of ICC held discussions with BOB in 1965 on a proposed schedule of fees, that these discussions elicited no adverse reactions.

Other fee matters

We believe there is a service performed by ICC that benefits identifiable recipients and for which fees should be established. Annually, ICC develops and issues, without charge, a property valuation report on each oil pipeline common carrier over which it has regulatory jurisdiction for rate purposes. To develop these reports, ICC must maintain dollar inventories of the property of carriers; review and analyze annual reports filed by the carriers on property additions and deletions; collect labor and material costs for developing indexes for use in estimating the cost to reproduce carrier property at current price levels; make studies to establish depreciation rates; and develop the present value of land and rights and working capital. For fiscal year 1969, the Congress earmarked $150,000 of ICC's appropriations for pipeline valuations.

In a letter dated April 19, 1968, to the Chairman, Senate Committee on Commerce, the Chairman of ICC stated that the benefits of this program accrued largely to the

oil pipeline industry rather than to the public. Also, in House Report 1904, Ninetieth Congress, second session, dated September 18, 1968, the committee of conference on fiscal year 1969 appropriations for independent executive bureaus, boards, commissions, corporations, agencies, offices, and the Department of Housing and Urban Development, noted that no charges were being made for pipeline valuations and urged ICC to review its fee structure to cover the cost of pipeline valuations.

ICC informed us in January 1970 that the proposed revision to its fee schedule included the establishment of application filing fees for valuations of properties of oil pipeline carriers. ICC stated further that, in light of congressional expression concerning pipeline valuations, the proposed fees would seek to recover the full costs of performing this service.

ICC informed us also that the proposed revision to the fee schedule included the establishment of filing fees for 11 other types of services for which fees were not presently assessed.

SECURITIES AND EXCHANGE COMMISSION

Functions

The primary purpose of SEC is to protect the interests of the investing public. In carrying out these responsibilities, SEC requires the issuers of securities for public sale to file a registration statement and a related prospectus containing significant information about the issuer and the offering to ensure that investors will be provided with the material facts concerning security offerings.

SEC also investigates suspected fraud, deceit, and manipulation in the sale and trading of securities; regulates national securities exchanges and over-the-counter markets in the interest of maintaining just and equitable principles of trade for the protection of the public investors; regulates financing and other corporate matters of interstate public utility holding companies engaged in the electric utility business or in retail distribution of gas; and requires foreign and domestic investment companies to register with the Commission and supervises their activities. SEC does not issue licenses or certificates, approve tariffs, or perform certain other activities that are common among several of the other regulatory agencies.

Fee schedules and bases for fees

Except for minor activities which involve searching and certifying its records when requested by interested individuals or groups, SEC has not established any fees or charges pursuant to the authority contained in title V of the Independent Offices Appropriation Act, 1952. The enabling legislation of SEC requires or authorizes the assessment of certain fees or charges and specifies the rates or bases at which they shall or may be assessed. The types of fees and charges and their rates or bases are as follows:

1. Registration of securities--one fiftieth of 1 percent of the maximum aggregate price of securities proposed to be offered, or a minimum of $100;

2. Registration of national securities exchanges--one five-hundredth of 1 percent of the aggregate of the dollar amount of the sale of securities transacted on the exchanges during a calendar year;

3. Applications for qualification of a trust indenture--$100;

4. Regulation of brokers and dealers who are registered with SEC but who are not members of a registered securities association--reasonable fees and charges to defray SEC's costs of regulating such brokers and dealers.

SEC had one fee (item 4 above) based on cost determinations and SEC included direct and indirect costs as required by Circular No. A-25.

BOB participation in development of fees

The records of SEC showed that there were numerous communications between BOB and SEC on the subject of fees and charges beginning shortly after the enactment of title V of the Independent Offices Appropriation Act, 1952. SEC was the first of the regulatory agencies discussed in this report to undertake implementation of the act by proposing in 1952 a schedule of fees and charges designed to make self-sustaining many of its activities for which no fees had theretofore been assessed. However, because of extensive opposition from all segments of the industry to which the proposed fees applied and expressions of congressional concern on the proposed fees and charges, SEC terminated its proposal.

Thereafter, on several occasions SEC submitted legislative proposals to BOB, or directly to the Congress with BOB's approval, for increasing its fees or for establishing new fees. SEC stated, in response to BOB directives to the agency to adopt fees, that a fair fee schedule would include increases in existing fees specifically authorized by its enabling legislation. SEC stated also that such increases and new fees should be imposed by specific legislation.

Other fee matters

We believe that there are other services performed by SEC that benefit identifiable recipients and for which fees should be established.

For example, SEC is authorized under section 3(b) of the Securities Act of 1933, as amended, to exempt any class of securities from registration with SEC if it finds that the enforcement of the registration provisions of the act with respect to such securities is not necessary in the public interest and for the protection of investors by reason of the small amount involved or the limited character of the public offering. The act imposes a maximum of $300,000 upon the size of the issues which may be exempted by SEC.

Pursuant to the authority under section 3(b) SEC adopted Regulation A which permits a company to obtain needed capital, not in excess of $300,000 in any one year, from a public offering of its securities without registration, provided certain conditions are met. Securities exempted under Regulation A are of the same types (e.g., stocks, bonds, notes, etc.) and are issued for the same general purposes as other offerings of securities that are required by SEC to be registered and for which is required a fee of one-fiftieth of 1 percent of the maximum aggregate price at which such securities are proposed to be offered, with a minimum fee of $100.

To qualify for an exemption from registration, a company must file a notification supplying basic information about the company with the SEC regional office in the region in which the company has its principal place of business. A company must also file, except for certain offerings of $50,000 or less, an offering circular and use it in the offering. SEC must review the filed information and determine that the offering is made in accordance with the terms and conditions of the regulation and with prescribed disclosure standards. During fiscal year 1967, 383 offerings of securities covering proposed offerings of about $74.8 million were filed for exemption under Regulation A, and SEC reported that its costs in fiscal year 1967 for examining

these filings amounted to about $566,000. We believe that SEC should establish fees for these reviews and determinations.

SEC has not assessed fees on public utility holding companies filing applications seeking SEC approval of exemptions from provisions of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a), relating to such matters as certain financial transactions, dividends, contributions, intercompany loans, and acquisitions of securities and other assets, including proposed mergers and consolidations. SEC estimated that it would receive 165 such applications during fiscal year 1971. SEC informed us in January 1970 that it had under review a proposal to impose fees for these services but that approval had been deferred pending the outcome of proposed legislation recently submitted to the Congress concerning the transfer of functions under this act to the Federal Power Commission.

SEC informed us also that it was considering other sources of fees.

FEDERAL MARITIME COMMISSION

Functions

FMC administers the shipping statutes which require the regulation of the domestic offshore and international waterborne commerce of the United States. In carrying out these responsibilities, FMC regulates the rates, services, practices, and agreements of carriers and conferences of carriers in the foreign commerce of the United States; studies the structure and practices of international steamship conferences to determine the public interest implications of conference ratemaking processes and shipping practices; observes the effect of freight rate levels and disparities on U.S. commodity exports to world markets; regulates the rates and practices of carriers in the offshore trades; issues licenses to and review tariffs filed by independent ocean freight forwarders; reviews tariffs filed by ocean freight terminals and makes determinations of passenger vessel financial responsibility for oceanborne passenger traffic.

Fee schedule and basis for the fee

FMC has established a fee, $100, for only one of its major regulatory functions, the filing of applications for licenses by independent ocean freight forwarders. In October 1969, subsequent to the completion of our review, FMC increased this fee to $125.

The amount of the fee was based on an estimate, made some time prior to September 1961 by a predecessor agency of FMC, of the cost involved in processing an application to register an ocean freight forwarder. This estimate was based on only the cost for time of the personnel directly or indirectly involved in the registration program. Pursuant to legislation enacted in September 1961, independent ocean freight forwarders were required to be licensed by FMC rather than simply registered. To be licensed by FMC, applicants must be investigated and information must be developed to determine that they are fit, willing, and able to function as independent ocean freight forwarders.

In discussions by FMC of the proposed fee with industry representatives, the industry representatives expressed the

view that the fee should be $250. They contended that, if a freight forwarder could not afford a $250 fee, then he did not belong in the business of forwarding. However, FMC decided to establish the fee at $100. An FMC official informed us that the $100 fee was established because it recouped all reasonable charges which could be assessed against the licensing program, was low enough so as not to deter small business applicants, and was high enough to discourage the filing of frivolous applications.

In May 1968 this official informed us that, on the basis of a then-recent review of the fee and FMC's costs of processing an application for a license, FMC felt certain that the fee was consistent with the costs incurred. FMC's costs for a typical application were said to be $60.44 for salary costs and $39.56 for overhead and miscellaneous items, totaling as it happens exactly $100. The basis for the cost of overhead and miscellaneous items, amounting to about 65 percent of salary costs, was not stated. FMC reported that it received 48 applications for freight forwarders licenses in fiscal year 1968 and 39 applications in fiscal year 1967, representing collections of fees totaling $4,800 and $3,900 respectively. Because of the limited amount of activity in the licensing function, we did not ascertain the extent or adequacy of FMC's review of the $100 fee.

BOB participation in development of fees

In March 1964 BOB sent a memorandum to the Chairman, FMC, urging FMC to continue to review activities to which the principle of establishing fees and charges might be appropriately applied and to take appropriate action to that end. In February 1965 BOB transmitted to FMC a copy of a statement of the President at a Cabinet meeting held on February 11, 1965, in which he asked each department and agency head to implement further the administration's policy on fees and charges. BOB stated that it was ready to assist the departments and agencies in considering activities for new or increased application of the principle of fees and charges.

Other fee matters

With the exception of the fee for independent ocean freight forwarders, FMC has not established fees and charges for benefits granted identifiable recipients pursuant to its functions in regulating the domestic offshore and foreign commerce of the United States primarily because most of the U.S. foreign trade is carried on carriers belonging to foreign nationals or foreign countries. FMC stated that the assessment of fees or charges on foreign-flag carriers or on foreign-based conferences of carriers would result in strong representations and protests by the foreign countries to both the President of the United States and the Department of State and possible retaliatory measures by the foreign countries against U.S. carriers. FMC stated further that it would be unfair and discriminatory to assess fees and charges only on U.S. carriers and U.S. based shipping conferences receiving benefits from its functions.

FEDERAL TRADE COMMISSION

Functions

FTC has the duty of preserving free competitive enterprise through prevention of monopolistic and unfair trade. In carrying out these responsibilities, FTC maintains surveillance over trade practices of U.S. industries, investigates possible unfair methods of competition and unfair or deceptive practices, and issues advisory opinions pertaining to the legality of proposed business activities. FTC also provides supervision over the registration and operations of associations of American exporters engaged solely in export trade. FTC does not, however, grant operating authorities, approve tariffs, or perform certain of the other activities that are common among several of the other regulatory agencies.

Fee schedules and bases for fees

FTC assesses fees for activities such as copying and certifying records and documents at the request of individuals or groups, and bases its fees on what other Federal agencies are generally assessing for similar activities. Because of the small demand for such services, fees collected amounted to about $2,000 to $4,000 a year.

BOB participation in development of fees

In February 1965 BOB transmitted to FTC a copy of a statement of the President at a Cabinet meeting held on February 11, 1965, in which he asked each department and agency head to implement further the administration's policy on fees and charges. BOB stated that it was ready to assist the departments and agencies in considering activities for new or increased application of the principle of fees and charges.

CHAPTER 3

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

Title V of the Independent Offices Appropriation Act, 1952, provides that activities resulting in special benefits or privileges to individuals or organizations be self-sustaining to the fullest extent possible; regulations prescribing fees be as uniform as practicable; and fees be fair and equitable, taking into consideration direct and indirect costs to the Government, value to the recipient, public policy or interest served, and other pertinent facts.

Our review has led us to the conclusions that fees of the regulatory agencies are not as uniform as practicable, that not all costs to the Government have been taken into consideration, and that fees have not been charged in all appropriate instances. These conclusions raise, in turn, questions of whether the activities resulting in special benefits or privileges are self-sustaining to the fullest extent possible and of whether the fees are fair and equitable.

Fee policies

There were significant differences among the policies established by the agencies as bases for setting fees. FCC had determined that only nominal application filing fees shall be charged. At CAB the fees were intended to recover 25 percent of certain, but not all, costs; and ICC designed its major fees generally to recover 50 percent of its estimated cost. On the other hand, the policy of FPC was to set fees at a level which would recover full costs.

Although the agencies are regulating different industries, we believe that, because there are sufficient similarities in the types of benefits and privileges conferred to identifiable recipients, there is reason to question the wide variance in policies. The granting of an authority to enter upon, continue, discontinue, or otherwise modify a specific business activity--whether it be an airline, a

believe that the agencies should include such increases in their fees on a timely basis.

Other fee considerations

We have noted other inconsistencies among the agencies. For example, CAB and FPC charged license fees in addition to application filing fees to successful applicants who had been granted licenses to operate, whereas FCC and ICC assessed only application filing fees. Also, CAB, FCC, and ICC charged fees for applications for approval of mergers, consolidations, and interlocking directorates; but FPC did not charge fees for such applications from electric utility companies, and SEC did not charge fees for such applications from gas and electric public utility holding companies.

We noted also that there were some services provided by certain agencies--FCC, ICC, and SEC--that were unique to the particular agencies and for which fees were not being charged.

Executive branch oversight of fees

We believe that the foregoing suggests a need for the Office of Management and Budget to reexamine policies and practices of the regulatory agencies in establishing their fees--a reexamination which should go beyond the review by the various budget examiners of the periodic reports submitted by the agencies on activities governed by Circular No. A-25.

We believe that there is a need for the Office of Management and Budget to reexamine the language of Circular No. A-25 as well. The Circular states on one hand that, where a service or privilege provides special benefits to an identifiable recipient above and beyond those which accrue to the public at large, a charge should be imposed to recover the full cost to the Federal Government of rendering that service and, on the other hand, that no charge should be made for services when the identification of the ultimate beneficiary is obscure and the service can be primarily considered as benefitting broadly the general public.

This language appears to be of questionable value to the regulatory agencies in implementing title V of the Independent Offices Appropriation Act, 1952, because it gives no recognition to the fact that many regulatory activities confer special benefits to identifiable recipients and at the same time substantially benefit the general public.

RECOMMENDATIONS TO THE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

We recommend to the Director, Office of Management and Budget, that the Office (1) make a coordinated review of the fee schedules of the regulatory agencies for consistency with the requirements of the Independent Offices Appropriation Act, 1952, (2) reexamine the language of Circular No. A-25 to ascertain whether it furnishes adequate guidance to the regulatory agencies on the matter of recovering costs, and (3) make periodic reviews of fees and charges.

In commenting on our draft report in March 1970 (see app. I, p. 45), the Office of Management and Budget agreed generally with our recommendations. The Office stated that, as soon as possible it would conduct a broad review of user charge policies, which would include a careful study of the issues discussed in the report, and agreed that it should reexamine the language of Circular No. A-25 to ascertain whether the Circular furnishes adequate guidance for fixing fees and charges as required by the act.

CHAPTER 4

SCOPE OF REVIEW

We reviewed the applicable legislation and implementing directives of the Office of Management and Budget relating to the assessment of fees and charges. We also reviewed the enabling legislation of the seven regulatory agencies and their pertinent policies, procedures, and practices; examined the agencies' records; and held discussions with officials to ascertain the bases for which fees and charges were assessed.

Our review was made at the Washington, D.C., offices of the agencies.

APPENDIXES

EXECUTIVE OFFICE OF THE PRESIDENT

BUREAU OF THE BUDGET
WASHINGTON, D.C. 20503

MAR 21 1970

Mr. A. T. Samuelson, Director
Civil Division
General Accounting Office
Washington, D.C. 20548

Dear Mr. Samuelson:

This letter is in reply to your request for comments on the draft report to Congress on the "Need to Improve Administration of Fees and Charges for Services Performed by Certain Regulatory Agencies." The report was received just as the Bureau became heavily involved in preparation of the 1971 budget, and we have only recently been able to consider it. I regret the delay.

The Bureau agrees that there should be a review of the fee schedules of regulatory agencies for consistency with the Independent Offices Appropriations Act of 1952 and a re-examination of the language of Bureau of the Budget Circular A-25 to ascertain whether it furnishes adequate guidance for fixing fees and charges as required by the Act. As soon as possible, the Bureau will conduct a broad review of user charge policies. The issues raised in the draft report will be given careful study as part of this review.

For your information, I am enclosing a copy of a document that describes a recent administrative action to revise user charges of the Federal Communication Commission. It was adopted by the FCC on February 18, 1970, and will result in essentially full cost recovery for its operations.

Sincerely,

James R. Schlesinger

James R. Schlesinger
Acting Deputy Director

Enclosure

PRINCIPAL OFFICIALS

RESPONSIBILE FOR ADMINISTRATION

OF THE ACTIVITIES DISCUSSED IN THIS REPORT

	Tenure of office	
	From	To
OFFICE OF MANAGEMENT AND BUDGET		
DIRECTOR:		
George P. Shultz	July 1970	Present
DEPUTY DIRECTOR:		
Caspar W. Weinberger	July 1970	Present
BUREAU OF THE BUDGET (note a)		
DIRECTOR:		
Robert P. Mayo	Jan. 1969	July 1970
Charles J. Zwick	Jan. 1968	Jan. 1969
Charles B. Schultze	June 1965	Jan. 1968
Kermit Gordon	Dec. 1962	June 1965
CIVIL AERONAUTICS BOARD		
CHAIRMAN:		
Secor D. Browne	Oct. 1969	Present
John H. Crooker, Jr.	Mar. 1968	Sept. 1969
Charles S. Murphy	June 1965	Mar. 1968
EXECUTIVE DIRECTOR:		
Troy B. Conner	Feb. 1970	Present
Charles F. Kiefer	May 1966	Jan. 1970
Edward J. Driscoll	Aug. 1963	May 1966

[a]On July 1, 1970 the Bureau of the Budget became part of the Office of Management and Budget

PRINCIPAL OFFICIALS

RESPONSIBLE FOR ADMINISTRATION

OF THE ACTIVITIES DISCUSSED IN THIS REPORT

(continued)

	Tenure of office	
	From	To
FEDERAL COMMUNICATIONS COMMISSION		
CHAIRMAN:		
Dean Burch	Nov. 1969	Present
Rosel H. Hyde	June 1966	Oct. 1969
E. William Henry	June 1963	May 1966
EXECUTIVE DIRECTOR:		
Max D. Paglin	Mar. 1966	Present
Curtis B. Plummer	Dec. 1962	Mar. 1966
FEDERAL MARITIME COMMISSION		
CHAIRMAN:		
Helen D. Bentley	Oct. 1969	Present
James F. Fanseen (acting)	Sept. 1969	Sept. 1969
John Harllee	Aug. 1963	Sept. 1969
Thomas E. Stakem	Oct. 1961	Aug. 1963
MANAGING DIRECTOR:		
Aaron W. Reese	Apr. 1970	Present
Vacant	Jan. 1970	Apr. 1970
James E. Mazure (acting)	Jan. 1969	Jan. 1970
Edward Schmeltzer	Mar. 1966	Jan. 1969
Timothy J. May	Sept. 1963	Feb. 1966

PRINCIPAL OFFICIALS

RESPONSIBLE FOR ADMINISTRATION

OF THE ACTIVITIES DISCUSSED IN THIS REPORT
(continued)

	Tenure of office	
	From	To
FEDERAL POWER COMMISSION		
CHAIRMAN:		
John N. Nassikas	Aug. 1969	Present
Lee C. White	Mar. 1966	July 1969
David S. Black (acting)	Dec. 1965	Mar. 1966
Joseph C. Swidler	Sept. 1961	Dec. 1965
EXECUTIVE DIRECTOR:		
Webster P. Maxson	Oct. 1969	Present
Marsh Moy (acting)	May 1969	Sept. 1969
Murray Comarow	June 1966	May 1969
Harry J. Trainor	June 1959	June 1966
FEDERAL TRADE COMMISSION		
CHAIRMAN:		
Miles W. Kirkpatrick	Sept. 1970	Present
A. Everette MacIntyre (acting)	Aug. 1970	Sept. 1970
Caspar W. Weinberger	Jan. 1970	Aug. 1970
Paul Rand Dixon	Mar. 1961	Dec. 1969
EXECUTIVE DIRECTOR:		
Basil J. Mezines (acting)	July 1970	Present
John A. Delaney (acting)	Nov. 1969	June 1970
John N. Wheelock	Apr. 1961	Oct. 1969

PRINCIPAL OFFICIALS

RESPONSIBLE FOR ADMINISTRATION

OF THE ACTIVITIES DISCUSSED IN THIS REPORT

	Tenure of office	
	From	To
INTERSTATE COMMERCE COMMISSION		
CHAIRMAN:		
George M. Stafford	Jan. 1970	Present
Mrs. Virginia Mae Brown	Jan. 1969	Dec. 1969
Paul J. Tierney	Jan. 1968	Dec. 1968
William H. Tucker	Jan. 1967	Dec. 1967
John W. Bush	Jan. 1966	Dec. 1966
Charles A. Webb	Jan. 1965	Dec. 1965
Abe McGregor Goff	Jan. 1964	Dec. 1964
Lawrence K. Walrath	Jan. 1963	Dec. 1963
MANAGING DIRECTOR:		
Nyle M. Jackson	Sept. 1970	Present
Martin E. Foley (acting)	Nov. 1969	Aug. 1970
Bernard F. Schmid	May 1956	Oct. 1969
SECURITIES AND EXCHANGE COMMISSION		
CHAIRMAN:		
Hamer H. Budge	Feb. 1969	Present
Manuel F. Cohen	Aug. 1964	Feb. 1969
COMPTROLLER:		
Frank J. Donaty	July 1956	Present

U.S. GAO Wash., D.C.