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The Federal Communications Commission: Structure, Operations, and Budget

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SUMMARY

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The Federal Communications Commission: Structure, Operations, and Budget

The Federal Communications Commission (FCC) is an independent federal agency established by the Communications Act of 1934 (1934 Act, or "Communications Act"). The agency is charged with regulating interstate and international communications by radio, television, wire, satellite, and cable. The mission of the FCC is to make available for all people of the United States, "without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nationwide, and worldwide wire and radio communication service with adequate facilities at reasonable charges."

The FCC operates under a public interest mandate first laid out in the 1927 Radio Act (P.L. 632, 69th Congress), but how this mandate is applied depends on how "the public interest" is interpreted. Some regulators seek to protect and benefit the public at large through regulation, while others seek to achieve the same goals through the promotion of market efficiency. Additionally, Congress granted the FCC wide latitude and flexibility to revise its interpretation of the public interest standard to reflect changing circumstances and the agency has not defined it in more concrete terms. These circumstances, paired with changes in FCC leadership, have led to significant changes over time in how the FCC regulates the broadcast and telecommunications industries.

The FCC is directed by five commissioners appointed by the President and confirmed by the Senate for five-year terms. The President designates one of the commissioners as chairperson. Three commissioners may be members of the same political party of the President and none may have a financial interest in any commission-related business. The current Commission is composed of Chairwoman Jessica Rosenworcel, Commissioner Brendan Carr, Commissioner Geoffrey Starks, and Commissioner Nathan Simington. President Joe Biden has nominated Gigi Sohn as the third Democratic member, but her nomination has not been brought before the Senate for a vote.

The day-to-day functions of the FCC are carried out by 7 bureaus and 11 offices. The current basic structure of the FCC was established in 2002 as part of the agency's effort to better reflect the industries it regulates. The seventh bureau, the Public Safety and Homeland Security Bureau, was established in 2006. The bureaus process applications for licenses and other filings, manage nonfederal spectrum, analyze complaints, conduct investigations, develop and implement regulatory programs, and participate in hearings, among other things. The offices provide support services. Bureaus and offices often collaborate when addressing FCC issues.

Beginning in the 110th Congress, the FCC has been funded through the House and Senate Financial Services and General Government (FSGG) appropriations bill as a single line item. Previously, it was funded through what is now the Commerce, Justice, Science appropriations bill, also as a single line item. Since 2009 the FCC's budget has been derived from regulatory fees collected by the agency rather than through a direct appropriation. The fees, often referred to as "Section (9) fees," are collected from license holders and certain other entities. The FCC is authorized to review the regulatory fees each year and adjust them to reflect changes in its appropriation from year to year. Most years, appropriations language prohibits the use by the commission of any excess collections received in the current fiscal year or any prior years.

For FY2023, the FCC requested a budget authority of $390,192,000 from regulatory fee offsetting collections. This request represents an increase of $16,192,000 (4.3%) from the FY2022 annualized Continuing Resolution level of $374,000,000. Of this amount, the FCC requested $132,231,000 in budget authority for the spectrum auctions program. This request represents a decrease of $2,264,000 (1.7%) from the FY2022 annualized CR level of $134,495,000. As of January 31, 2022, the FCC's spectrum auctions program has generated over $233 billion for government use; at the same time, the total cost of the auctions program has been less than $2.3 billion (1%) of the total auctions' revenue.

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Introduction

The Federal Communications Commission (FCC) is an independent federal agency, with its five members appointed by the President, subject to confirmation by the Senate. It was established by the Communications Act of 1934 (1934 Act, or "Communications Act")[1] and is charged with regulating interstate and international communications by radio, television, wire, satellite, and cable.[2] The mission of the FCC is to ensure that the American people have available, "without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nationwide, and worldwide wire and radio communication service with adequate facilities at reasonable charges."[3]

The 1934 Act is divided into titles and sections that describe various powers and concerns of the commission.[4]

- Title I—FCC Administration and Powers. The 1934 Act originally called for a commission consisting of seven members, but that number was reduced to five in 1983. Commissioners are appointed by the President and approved by the Senate to serve five-year terms; the President designates one member to serve as chairman.
- Title II—Common carrier regulation, primarily telephone regulation, including circuit-switched telephone services offered by cable companies. Common carriers are communication companies that provide facilities for transmission but do not originate messages, such as telephone and microwave providers. The 1934 Act limits FCC regulation to interstate and international common carriers, although a joint federal-state board coordinates regulation between the FCC and state regulatory commissions.
- Title III—Broadcast station requirements. Much existing broadcast regulation was established prior to 1934 by the Federal Radio Commission, and most provisions of the Radio Act of 1927 were subsumed into Title III of the 1934 Act.
- Title IV—Procedural and administrative provisions, such as hearings, joint boards, judicial review of the FCC's orders, petitions, and inquiries.
- Title V—Penal provisions and forfeitures, such as violations of rules and regulations.
- Title VI—Cable communications, such as the use of cable channels and cable ownership restrictions, franchising, and video programming services provided by telephone companies.
- Title VII—Miscellaneous provisions and powers, such as war powers of the President, closed captioning of public service announcements, and telecommunications development fund.

[1] The Communications Act of 1934, 47 U.S.C. §151 et seq., has been amended numerous times, most significantly in the past 25 years by the Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56 (1996). References in this report are to the 1934 Act, as amended, unless indicated.

[2] See "About the FCC," at http://www.fcc.gov/aboutus.html.

[3] 47 U.S.C. §151.

[4] When Congress established the FCC in 1934, it merged responsibilities previously assigned to the Federal Radio Commission, the Interstate Commerce Commission, and the Postmaster General into a single agency, divided into three bureaus, Broadcast, Telegraph, and Telephone.

FCC Leadership

The FCC is directed by five commissioners appointed by the President and confirmed by the Senate for five-year terms. The President designates one of the commissioners as chairperson. Three commissioners may be members of the same political party of the President and none may have a financial interest in any commission-related business.

- Jessica Rosenworcel, Chair (sworn in for a second term on December 7, 2021, for a term to expire on July 1, 2025);
- Brendan Carr (sworn in on August 11, 2017);
- Geoffrey Starks (sworn in on January 30, 2019); and
- Nathan Simington (sworn in on December 8, 2020).

President Joe Biden has nominated Gigi Sohn as the third Democratic member, but her nomination has not been brought before the Senate for a vote.

FCC Structure

The day-to-day functions of the FCC are carried out by 7 bureaus and 11 offices. The current basic structure of the FCC was established in 2002 as part of the agency's effort to better reflect the industries it regulates. The seventh bureau, the Public Safety and Homeland Security Bureau, was established in 2006, largely in response to Hurricane Katrina.

The bureaus process applications for licenses and other filings, analyze complaints, conduct investigations, develop and implement regulatory programs,[5] and participate in hearings, among other things. The offices provide support services. Bureaus and offices often collaborate when addressing FCC issues.[6] The bureaus hold the following responsibilities:

- Consumer and Governmental Affairs Bureau—Develops and implements consumer policies, including disability access and policies affecting Tribal nations. The bureau serves as the public face of the commission through outreach and education, as well as responding to consumer inquiries and informal complaints. The bureau also maintains collaborative partnerships with state, local, and tribal governments in such critical areas as emergency preparedness and implementation of new technologies. In addition, the Bureau's Disability Rights Office provides expert policy and compliance advice on accessibility with respect to various forms of communications for persons with disabilities.
- Enforcement Bureau—Enforces the Communications Act and the FCC's rules. It protects consumers, ensures efficient use of spectrum, furthers public safety, promotes competition, resolves intercarrier disputes, and protects the integrity of FCC programs and activities from fraud, waste, and abuse.
- International Bureau—Administers the FCC's international telecommunications and satellite programs and policies, including licensing and regulatory functions. The bureau promotes pro-competitive policies abroad, coordinating the FCC's global spectrum activities and advocating U.S. interests in international

[5] For information about the FCC rulemaking process, see https://www.fcc.gov/general/fcc-rulemaking. Detailed information about the rulemaking process at federal regulatory agencies can be found in CRS In Focus IF10003, *An Overview of Federal Regulations and the Rulemaking Process*, by Maeve P. Carey, and CRS Report RL32240, *The Federal Rulemaking Process: An Overview*, coordinated by Maeve P. Carey.

[6] FCC Fact Sheet, http://www.fcc.gov/cgb/consumerfacts/aboutfcc.html.

communications and competition. The bureau works to promote high-quality, reliable, interconnected, and interoperable communications infrastructure on a global scale.

- Media Bureau—Recommends, develops, and administers the policy and licensing programs relating to electronic media, including broadcast, cable, and satellite television in the United States and its territories.
- Public Safety and Homeland Security Bureau—Develops and implements policies and programs to strengthen public safety communications, homeland security, national security, emergency management and preparedness, disaster management, and network reliability. These efforts include rulemaking proceedings that promote more efficient use of public safety spectrum, improve public alerting mechanisms, enhance the nation's 911 emergency calling system, and establish frameworks for communications prioritization during crisis. The bureau also maintains 24/7 operations capability and promotes Commission preparedness to assist the public, first responders, the communications industry, and all levels of government in responding to emergencies and major disasters where reliable public safety communications are essential.
- Wireless Telecommunications Bureau—Responsible for wireless telecommunications programs and policies in the United States and its territories, including licensing and regulatory functions.[7] Wireless communications services include cellular, paging, personal communications, mobile broadband, and other radio services used by businesses and private citizens.
- Wireline Competition Bureau—Develops, recommends, and implements policies and programs for wireline telecommunications, including fixed (as opposed to mobile) broadband and telephone landlines, striving to promote the widespread development and availability of these services. The bureau has primary responsibility for the Universal Service Fund which helps connect all Americans to communications networks.

The offices hold the following responsibilities:

- Administrative Law Judges—Composed of one judge (and associated staff) who presides over hearings and issues decisions on matters referred by the FCC.
- Communications Business Opportunities—Promotes competition and innovation in the provision and ownership of telecommunications services by supporting opportunities for small businesses as well as women and minority-owned communications businesses.
- Economics and Analytics—Responsible for expanding and deepening the use of economic analysis into FCC policymaking, for enhancing the development and use of auctions, and for implementing consistent and effective agency-wide data practices and policies. The office also manages the FCC's auctions in support of and in coordination with the FCC's bureaus and offices. In January 2019, the FCC voted along party lines to eliminate the Office of Strategic Planning and Policy Analysis and replace it with the Office of Economics and Analytics.[8]

[7] Except those involving satellite communications broadcasting, including licensing, enforcement, and regulatory functions. These functions are handled by the International Bureau.

[8] The Office of Strategic Planning and Policy Analysis had been charged with providing advice to the chairman,

- Engineering and Technology—Advises the FCC on technical and engineering matters. This office develops and administers FCC decisions regarding spectrum allocations and grants equipment authorizations and experimental licenses.
- General Counsel—Serves as the FCC's chief legal advisor and representative.
- Inspector General—Conducts and supervises audits and investigations relating to FCC programs and operations.
- Legislative Affairs—Serves as the liaison between the FCC and Congress, as well as other federal agencies.
- Managing Director—Administers and manages the operations of the FCC.
- Media Relations—Informs the media of FCC decisions and serves as the FCC's main point of contact with the media.
- Secretary—Preserves the integrity of FCC records. The office oversees the receipt and distribution of documents filed by the public through electronic and paper filing systems. In addition, the office gives effective legal notice of FCC decisions by publishing them in the Federal Register and the FCC Record.
- Workplace Diversity—Ensures that FCC provides employment opportunities for all persons regardless of race, color, sex, national origin, religion, age, disability, or sexual orientation.

FCC Strategic Plan

The current FCC Strategic Plan covers the five-year period FY2022-2026.[9] The plan outlines six goals:

- **Pursue a "100 Percent" Broadband Policy.** The COVID-19 pandemic put a spotlight on the serious broadband gaps that exist across the country, including in rural infrastructure, affordability for low-income Americans, and at-home access for students. This continuing digital divide means millions of Americans do not have meaningful access to essential infrastructure for 21st century success. In response to the COVID-19 pandemic and the challenges that many Americans face, the agency should advance access to communications that are essential for Americans to work remotely, learn remotely, receive healthcare, and engage in commerce. To this end, the FCC will pursue policies to help bring affordable, reliable, high-speed broadband to 100% of the country.
- **Promote Diversity, Equity, Inclusion, and Accessibility.** The FCC will seek to gain a deeper understanding of how the agency's rules, policies, and programs may promote or inhibit advances in diversity, equity, inclusion, and accessibility. The FCC will pursue focused action and investments to eliminate historical, systemic, and structural barriers that perpetuate disadvantaged or underserved individuals and communities. In so doing, the FCC will work to ensure equitable and inclusive access and facilitate the ability of underserved individuals and communities to leverage and benefit from the wide range of opportunities made possible by digital technologies, media, communication services, and next-

commissioners, bureaus, and offices; developing strategic plans; identifying agency's policy objectives; and providing research, advice, and analysis of advanced, novel, and nontraditional communications issues.

[9] Federal Communications Commission, *Strategic Plan 2022-2026*, February 2022, https://docs.fcc.gov/public/attachments/DOC-381830A1.pdf.

generation networks. In addition, the FCC recognizes that it is more effective when its workforce reflects the experience, judgement, and input of individuals from many different backgrounds. Advancing equity is core to the agency's management and policymaking processes and will benefit all Americans.

- **Empower Consumers.** Consumers who are well informed about their rights and what they're buying are more confident and more likely to participate in the digital economy. The FCC will tackle new challenges to consumer rights and opportunities stemming from the COVID-19 pandemic, plans for post-COVID recovery, and digital transitions. The FCC also will pursue effective enforcement and new approaches to protect consumers from unwanted and intrusive communications, phone-based scams, telephone privacy issues, and other trends that affect consumers. The FCC will work to enhance competition and pursue policies that protect the competitive process to improve consumer choice and access to information. The FCC will work to foster a regulatory landscape that fosters media competition, diversity, and localism. The FCC also must work to ensure the availability of quality, functionally equivalent communications services for persons with disabilities.
- **Enhance Public Safety and National Security.** The FCC will pursue policies to promote the availability of secure, reliable, interoperable, redundant, and rapidly restorable critical communications infrastructure and services. The FCC also will promote the public's access to reliable 911 and emergency alerting, and support public safety's access to first responder communications. The FCC will work in coordination with federal and state, local, tribal, and territorial government partners and industry stakeholders to support disaster response and to ensure the nation's defense and homeland security.
- **Advance America's Global Competitiveness.** The FCC will take action to promote investment and advance the development and deployment of new communications technologies, such as 5G, that will allow the nation to remain a global leader in an increasingly competitive, international marketplace. The FCC will identify incentives and policies to close security gaps and accelerate trustworthy innovation. The FCC will work with its federal partners to advocate for U.S. interests abroad.
- **Foster Operational Excellence.** The FCC should be a model for excellence in government by effectively managing its resources, maintaining a commitment to transparent and responsive processes that encourage public involvement and decisionmaking that best serves the public interest, and encouraging a culture of collaboration both internally and across government agencies.

The FCC has identified performance objectives associated with each strategic goal. Commission management annually develops targets and measures related to each performance goal to provide direction toward accomplishing those goals. Targets and measures are published in the FCC's Performance Plan, and submitted with the commission's annual budget request to Congress. Results of the commission's efforts to meet its goals, targets, and measures are found in the FCC's Annual Performance Report published each February. The FCC also issues a Summary of Performance and Financial Results every February, providing a concise, citizen-focused review of the agency's accomplishments.

FCC Operations: Budget, Authorization, and Reporting to Congress

Since the 110th Congress, the FCC has been funded through the House and Senate Financial Services and General Government (FSGG) appropriations bill as a single line item. Previously, it was funded through what is now the Commerce, Justice, Science appropriations bill, also as a single line item. The FCC's budgets from FY2012 to FY2023 are shown in **Figure 1**.

Since 2009, the FCC's budget has been derived 100% from regulatory fees collected by the agency rather than through any direct appropriation.[10] The FCC annually collects and retains regulatory fees to offset costs incurred by the agency and to carry out its functions. The FCC is authorized to review the regulatory fees each year and adjust them to reflect changes in its appropriation from year to year. The commission originally implemented the Regulatory Fee Collection Program by rulemaking on July 18, 1994.

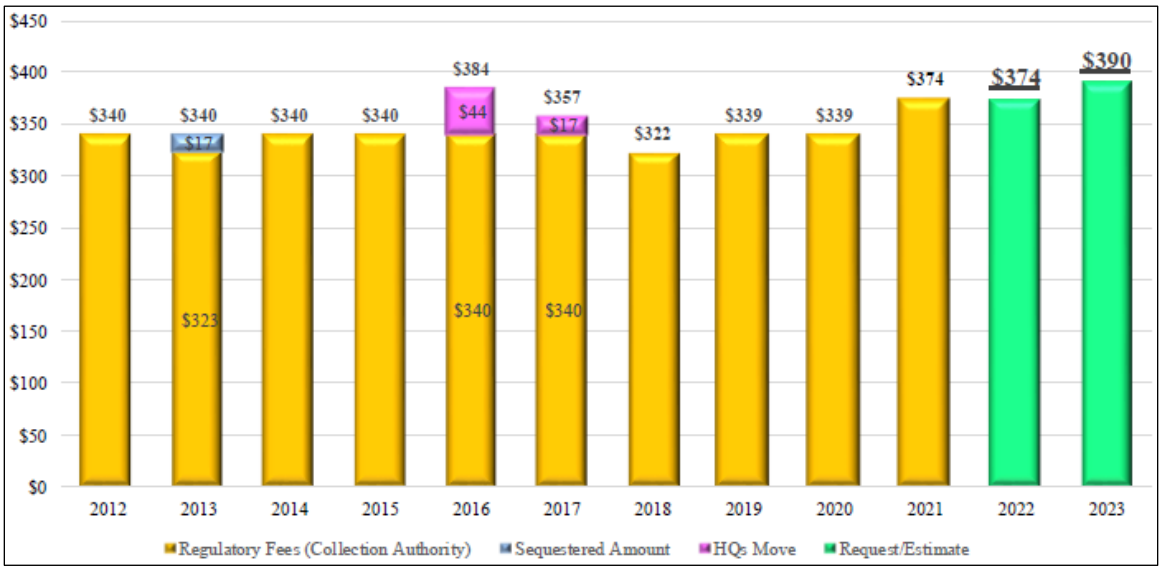
FCC FY2023 Budget

For FY2023, the FCC requested a budget authority of $390,192,000 from regulatory fee offsetting collections. This request represents an increase of $16,192,000 (4.3%) from the FY2022 annualized Continuing Resolution level of $374,000,000. Of this amount, the FCC requested $132,231,000 in budget authority for the spectrum auctions program. This request represents a decrease of $2,264,000 (1.7%) from the FY2022 annualized CR level of $134,495,000. As of January 31, 2022, the FCC's spectrum auctions program has generated over $233 billion for government use; at the same time, the total cost of the auctions program has been less than $2.3 billion (1%) of the total auctions' revenue.

[10] This requirement was included in the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66, 47 U.S.C. §159). The fees, often referred to as "Section (9) fees," are collected from license holders and certain other entities (e.g., cable television systems). The regulatory fees do not apply to governmental entities, amateur radio operator licensees, nonprofit entities, and certain other non-commercial entities.

Figure 1. FCC FY2012-FY2021 Appropriated Budget Authority, FY2022 Budget Estimate, and FY2023 Budget Request

(Dollars in Millions)



Source: FCC.

Notes: For FYs 2016 and 2017, $44 million and $17 million, respectively, represent amounts provided for the necessary expenses associated with moving the FCC headquarters to a new facility to significantly reduce space consumption.

In FY2013, FCC's appropriated budget authority was reduced by $17 million due to the FY2013 sequestration order implemented on March 1, 2013, as required by the Budget Control Act of 2011. The total amount shown for FY2013 in the above graph includes the $17 million sequestered amount.

FCC Authorization

Through the Consolidated Appropriations Act, 2018 (P.L. 115-141), the FCC was reauthorized for the first time since 1990 (FCC Authorization Act of 1990, P.L. 101-396).

FCC Reporting to Congress

The FCC publishes four periodic reports for Congress. All of these reports are available on the FCC website, https://www.fcc.gov/about/strategic-plans-budget.

- **Strategic Plan.** The five-year Strategic Plan is the framework around which the FCC develops its yearly Performance Plan and Performance Budget. It is developed and submitted in accordance with the Government Performance and Results Modernization Act of 2010, P.L. 111-352.
- **Performance Budget.** The annual Performance Budget includes performance targets based on the FCC's strategic goals and objectives, and serves as the guide for implementing the Strategic Plan. The Performance Budget becomes part of the President's annual budget request.
- **Agency Financial Report.** The annual Agency Financial Report contains financial and other information, such as a financial discussion and analysis of the agency's status, financial statements, and audit reports.

- **Annual Performance Report.** At the end of the fiscal year, the FCC publishes an Annual Performance Report that compares the agency's actual performance with its targets.[11]

Activity in the 117th Congress

One hearing related to FCC operations and budget has been held thus far in the 117th Congress:

- "Connecting America: Oversight of the FCC"
  March 31, 2022
  Committee on Energy and Commerce
  Subcommittee on Communications and Technology[12]

No bills that would affect the operation of the FCC have been introduced in the 117th Congress.

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[11] OMB Circular A-136 allows agencies the option of producing (1) two separate reports, an Agency Financial Report and an Annual Performance Report, or (2) a consolidated Performance and Accountability Report. The same information is provided to Congress in either case. The FCC elected the first option for FY2011. Also, in addition to the reports it submits to Congress, the FCC publishes an annual Summary of Performance and Financial Information, which is a citizen-focused summary of the FCC's yearly activities.

[12] https://energycommerce.house.gov/committee-activity/hearings/hearing-on-connecting-america-oversight-of-the-fcc Senate Committee on Appropriations.