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The Federal Communications Commission: Current Structure and Its Role in the Changing Telecommunications Landscape

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SUMMARY

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The Federal Communications Commission: Current Structure and Its Role in the Changing Telecommunications Landscape

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 can have a financial interest in any commission-related business. The current commissioners are Ajit Pai (Chair), Michael O'Rielly, Brendan Carr, Jessica Rosenworcel, and Geoffrey Starks.

The day-to-day functions of the FCC are carried out by 7 bureaus and 10 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 non-federal 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 FY2021, the FCC requested $343,070,000 in budget authority from regulatory fee collections. This request represents an increase of $4,070,000 or 1.2% from the FY2020 appropriated level of $339,000,000. The FCC also requested $134,495,000 in budget authority for the spectrum auctions program. This request represents an increase of $1,956,000 or 1.5% from the FY2020 appropriated level of $132,539,000. To date, the FCC's spectrum auctions program has generated over $117 billion for government use; at the same time, the total cost of the auctions program has been less than $2.1 billion, or 1.7% of the total auctions' revenue.

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Overview of the Federal Communications Commission

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.

[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.

- Title VII—Miscellaneous provisions and powers, such as war powers of the President, closed captioning of public service announcements, and telecommunications development fund.

FCC Leadership

The FCC is directed by five commissioners appointed by the President and confirmed by the Senate for five-year terms (except when filling an unexpired term). The President designates one of the commissioners to serve as chairperson. Three commissioners may be members of the same political party as the President and none can have a financial interest in any commission-related business.

- Ajit Pai, Chair (originally sworn in on May 14, 2012; designated chairman by President Trump in January 2017 and confirmed by the Senate for a second term on October 2, 2017);
- Michael O'Rielly (sworn in for a second term on January 29, 2015);
- Brendan Carr (sworn in on August 11, 2017);
- Jessica Rosenworcel (sworn in on August 11, 2017); and
- Geoffrey Starks (sworn in on January 30, 2019).

FCC Structure

The day-to-day functions of the FCC are carried out by 7 bureaus and 10 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,

[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.

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 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 Commission policymaking, for enhancing the development and use of auctions, and for implementing consistent and effective

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

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]

- 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 FCC.
- Media Relations—Informs the media of FCC decisions and serves as the FCC's main point of contact with the media.
- Workplace Diversity—Ensures that FCC provides employment opportunities for all persons regardless of race, color, sex, national origin, religion, age, disability, or sexual orientation.

Additionally, an FCC Secretary serves to preserve the integrity of the FCC's records, oversee the receipt and distribution of documents filed by the public through electronic and paper filing systems, and give effective legal notice of FCC decisions by publishing them in the *Federal Register* and the *FCC Record*.

FCC Strategic Plan

The current FCC Strategic Plan covers the five-year period FY2018-FY2022.[9] The plan outlines four goals:

- Closing the Digital Divide—Broadband is acknowledged as being critical to economic opportunity, but broadband is unavailable or unaffordable in many parts of the country. The FCC is to seek to help close the digital divide, bring down the cost of broadband deployment, and create incentives for providers to connect consumers in hard-to-serve areas.
- Promoting Innovation—Fostering a competitive, dynamic, and innovative market for communications services is a key priority for the FCC. The FCC plans to promote entrepreneurship, expand economic opportunity, and remove barriers to entry and investment.
- Protecting Consumers and Public Safety—Serving the broader public interest is the FCC's core mission. The FCC plans to work to combat unwanted and unlawful robocalls, make communications accessible for people with disabilities,

[8] The Office of Strategic Planning and Policy Analysis had been charged with providing advice to the chairman, 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 2018-2022*, February 12, 2018, https://docs.fcc.gov/public/attachments/DOC-349143A1.pdf.

and protect public safety (e.g., ensuring delivery of 9-1-1 calls, restoring communications after disasters).

- Reforming the FCC's Processes—One of the chairman's top priorities has been to implement process reforms to make the work of the FCC more transparent, open, and accountable to the public. The FCC plans to modernize and streamline its operations and programs to improve decisionmaking, build consensus, and reduce regulatory burdens.

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 annually collects and retains regulatory fees to offset costs incurred by the agency and to carry out its functions. Since 2009 the FCC's budget has been derived from regulatory fees collected by the agency rather than through a direct appropriation.[10] 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. 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. The most recent regulatory fee order was released by the Commission on August 29, 2018. A more recent regulatory fee proceeding has been delayed.[11] The FCC's budgets from FY2010 to FY2020[12] are in **Figure 1**.

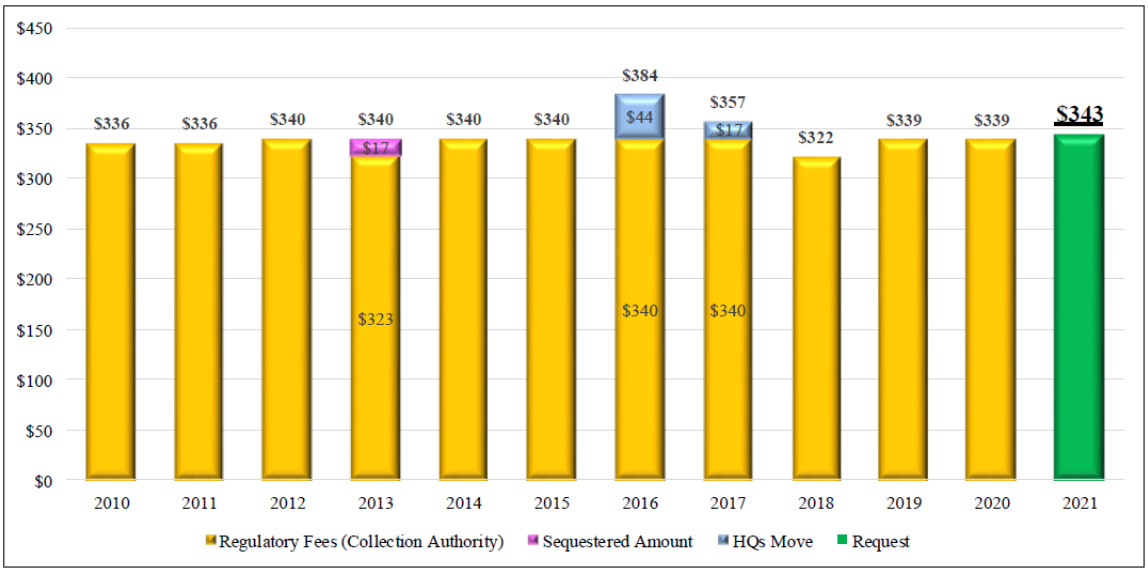
[10] This requirement was included in the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66, 47 U.S.C. §159).

[11] https://www.fcc.gov/document/assessment-and-collection-regulatory-fees-fiscal-year-2019-0.

[12] https://www.fcc.gov/document/fcc-fy-2019-budget-estimate-congress. The figure for FY2019 is the FCC's requested budget.

Figure 1. FCC FY2010-FY2019 Appropriated Budget Authority and FY2020 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.

Availability of Regulatory Fees

On March 23, 2018, the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018 (the "RAY BAUM'S Act" or "2018 Act") became law as part of the Consolidated Appropriations Act, 2018 (P.L. 115-141). The 2018 Act requires the FCC to transfer all excess collections for FY2018 and prior years to the General Fund of the U.S. Treasury for the sole purpose of deficit reduction. The 2018 Act also requires the Commission to transfer any excess collections in FY2019 and in subsequent years to the General Fund of the U.S. Treasury for the sole purpose of deficit reduction. On October 1, 2018, the Commission transferred over $9 million in excess collections from FY2018 as well as approximately $112 million in excess collections from FY2017 and prior years to the General Fund of the U.S. Treasury.

FCC FY2021 Budget

For FY2021, the FCC requested $343,070,000 in budget authority from regulatory fee collections. This request represents an increase of $4,070,000, or 1.2%, from the FY2020 appropriated level of $339,000,000. The FCC also requested $134,495,000 in budget authority for the spectrum auctions program. This request represents an increase of $1,956,000, or 1.5%, from the FY2020 appropriated level of $132,539,000. To date, the FCC's spectrum auctions program has generated over $117 billion for government use; at the same time, the total cost of the auctions program has been less than $2.1 billion, or 1.7% of the total auctions' revenue.

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.

- **Strategic Plan.** The Strategic Plan is the framework around which the FCC develops its yearly Performance Plan and Performance Budget. The FCC submitted its current four-year Strategic Plan for 2018-2022 in February 2018, 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.[13]

All of these reports are available on the FCC website, https://www.fcc.gov/about/strategic-plans-budget.

Activity in the 116th Congress

One FCC-focused hearing has been held in the 116th Congress. On April 3, 2019, the House Committee on Appropriations Subcommittee on Financial Services and General Government held a hearing on the FY2020 FCC budget. The hearing addressed issues including 5G deployment, federal preemption of state and local tower siting requirements, merger reviews, robocalls, and net neutrality. No bills that would affect the operation of the FCC have been introduced in the 116th Congress.

Trends in FCC Regulation: Defining the Public Interest

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 which of two regulatory philosophies

[13] 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.

is relied upon to interpret it. The first seeks to protect and benefit the public at large through regulation, while the second seeks to achieve the same goals through the promotion of market efficiency.[14] 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.[15] 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. This evolution can be illustrated in changes to the agency's strategic goals under former Chairman Tom Wheeler to current Chairman Ajit Pai, which, in turn, led to the repeal in 2017 of the FCC's 2015 net neutrality rules and to changes in the agency's structure in 2019.

FCC Strategic Goals

The FCC's strategic goals are set forth in its quadrennial Strategic Plan. How these goals change from one plan to the next can illustrate how the priorities of the commission change over time, especially when there is a change in the political majority of the commission and therefore, the political party of the chairman. **Table 1** outlines the strategic goals of Chairman Wheeler in the FY2015-FY2018 Strategic Plan compared to those of Chairman Pai in the FY2018-FY2022 Strategic Plan.[16]

Chairman Wheeler was a proponent of protecting and benefitting the public through regulation. His support of this regulatory philosophy can be seen in the language used in the strategic goals, such as the "rights of users" and the "responsibilities of network providers." Another example can be seen in the following language: "The FCC has a responsibility to promote the expansion of these networks and to ensure they have the incentive and the ability to compete fairly with one another in providing broadband services."

On the other hand, Chairman Pai speaks about protecting and benefitting the public through the promotion of market incentives and efficiency. His support of this regulatory philosophy can be seen in the language used in the strategic goals, such as "reducing regulatory burdens" and ensuring that "regulations reflect the realities of the current marketplace, promote entrepreneurship, expand economic opportunity, and remove barriers to entry and investment."

The use of this particular language may seem somewhat vague, but within the context of the net neutrality debate, discussed below, and the replacement of the Office of Strategic Planning and Policy Analysis with the Office of Economics and Analytics, those words take on more specific meaning, each intending to support the policy agenda of the Chairman.

[14] "The Value of the FCC's Public Interest Mandate in Empowering Community Voices," New America Foundation, December 14, 2017, https://www.newamerica.org/millennials/dm/value-fccs-public-interest-mandate-empowering-community-voices/.

[15] "90 Years Later, the Broadcast Public Interest Standard Remains Ill-Defined," The Brookings Institute, March 23, 2017, https://www.brookings.edu/blog/techtank/2017/03/23/90-years-later-the-broadcast-public-interest-standard-remains-ill-defined/.

[16] The goals have been reorganized to allow a better comparison between goals in each plan. The FCC's strategic plans are available at https://www.fcc.gov/about/strategic-plans-budget.

Table 1. FCC Strategic Goals Under Chairman Wheeler and Chairman Pai

Chairman Wheeler, 2015-2018	Chairman Pai, 2018-2022
1. Promoting Economic Growth and National Leadership Telecommunications networks are a vital component of technological innovation and economic growth, helping to ensure that our nation remains a leader in providing its citizens opportunities for economic and educational development. Competition drives these networks to develop improved transmission technologies and to offer new services at competitive prices, and consumers can benefit from these fruits of competition. The FCC has a responsibility to promote the expansion of these networks and to ensure they have the incentive and the ability to compete fairly with one another in providing broadband services.	**1. Promoting Innovation** A key priority for the FCC is to foster a competitive, dynamic, and innovative market for communications services through polices that promote the introduction of new technologies and services. We will ensure that the FCC's actions and regulations reflect the realities of the current marketplace, promote entrepreneurship, expand economic opportunity, and remove barriers to entry and investment.
2a. Protecting Public Interest Goals A change in technology may require us to review and revise our rules, but it does not change the rights of users or the responsibilities of network providers. This civil bond between network providers and users includes consumer protection, competition, universal service, public safety and national security. The FCC must protect and promote this Network Compact.	**2a. Protecting Consumers and Public Safety** The FCC's core mission has always been to serve the broader public interest, and that means protecting consumers and keeping the public safe. We will work to combat unwanted and unlawful robocalls, which intrude into consumers' lives, and to make communications accessible for people with disabilities. We will also protect public safety, and in particular, take steps to assist and safeguard the communications of our nation's law enforcement officers and first responders.
2b. Making Networks Work for Everyone Because broadband networks are essential to our national wellbeing, it is not enough for the FCC simply to promote their development. We must also ensure that all Americans can take advantage of the services they provide to enjoy 21st century educational systems, health care, communication capabilities for our first responders, and accessibility for Americans with disabilities, and to assure innovation without artificial impediments.	**2b. Closing the Digital Divide** High-speed Internet access, or broadband, is critical to economic opportunity. But there are too many parts of the country where broadband is unavailable or unaffordable. The FCC has tools it can use to help close this digital divide, bring down the cost of deploying broadband, and create incentives for providers to connect consumers in hard-to-serve areas.
3. Promoting Operational Excellence The FCC should be a model for excellence in government by effectively managing its resources and maintaining a commitment to transparent and responsive processes that encourage public involvement and decisionmaking that best serves the public interest.	**3. Reforming the FCC's Processes** As Chairman, I have made it a priority to implement process reforms to make the work of the FCC more transparent, open, and accountable to the American people. We will modernize and streamline the FCC's operations and programs to improve decision-making, build consensus, reduce regulatory burdens, and simplify the public's interactions with the Commission.

Note: Goals 2a and 2b are labeled as they are because their elements overlap.

Net Neutrality

Net neutrality[17] is arguably the highest profile issue illustrating the two regulatory philosophies described above. Chairman Pai had long maintained that the FCC under Chairman Wheeler had

[17] For a discussion of the net neutrality issue, please refer to CRS Report R40616, *The Net Neutrality Debate: Access to Broadband Networks*, by Angele A. Gilroy.

overstepped its bounds, expressing confidence that the 2015 Wheeler-era net neutrality rules would be undone, calling them "unnecessary regulations that hold back investment and innovation."[18]

Although the net neutrality debate originated in 2005, the 2015 Open Internet Order, implemented under the leadership of Chairman Wheeler, and the 2017 Order overturning those rules, promulgated under Chairman Pai, are the most recent. These two orders can be used to illustrate the contrast between the regulatory philosophies of the two chairmen:

> Some policymakers contend that more proscriptive regulations, such as those contained in the FCC's 2015 Open Internet Order (2015 Order), are necessary to protect the marketplace from potential abuses which could threaten the net neutrality concept. Others contend that existing laws and the current, less restrictive approach, contained in the FCC's 2017 Restoring Internet Freedom Order (2017 Order), provide a more suitable framework.[19]

Net neutrality continues to be a highly politicized issue, with most FCC action being approved along party lines.

FCC Structure

In January 2019, the FCC voted along party lines to eliminate the Office of Strategic Planning and Policy Analysis and replace it with a new Office of Economics and Analytics. The Office of Strategic Planning and Policy Analysis (OSP) was created in 2005, replacing the Office of Plans and Policy. OSP had been charged with "providing advice to the chairman, commissioners, bureaus, and offices; developing strategic plans; identifying the agency's policy objectives; and providing research, advice, and analysis of advanced, novel, and nontraditional communications issues." It had also been the home of the Chief Economist and Chief Technologist.

The new Office of Economics and Analytics is "responsible for expanding and deepening the use of economic analysis into FCC policy making, for enhancing the development and use of auctions, and for implementing consistent and effective agency-wide data practices and policies." This new office reflects the goals in the current strategic plan:

> We will modernize and streamline the FCC's operations and programs to … reduce regulatory burdens…. A key priority [is to] … ensure that the FCC's actions and regulations reflect the realities of the current marketplace … and remove barriers to entry and investment.

Concluding Observations

As the FCC continues to conduct its business into the future, the changing regulatory philosophies of the FCC chairmen may continue to drive how the FCC defines its long-term, strategic goals. This, in turn, may affect how the agency structures (and restructures) itself and how it decides regulatory questions, including a continued review of net neutrality. Congress may determine that the public interest standard should remain more static, rather than fluctuating dramatically depending on the regulatory philosophy of the chairman. No legislation on this topic has been introduced in Congress, signaling to some observers that it intends to continue allowing the FCC to define it.

[18] "Trump Picks Net Neutrality Critic Ajit Pai to Be Next FCC Chairman," Associated Press, January 24, 2017, https://www.inc.com/associated-press/trump-picks-net-neutrality-critic-ajit-pai-fcc-chairman.html.

[19] CRS In Focus IF10955, *Access to Broadband Networks: Net Neutrality*, by Angele A. Gilroy.

Appendix. FCC-Related Congressional Activity—115th Congress

Table A-1. Senate and House hearings in the 115th Congress regarding the operation of the FCC are detailed in **Table A-2** and **Table A-3**, respectively. Links to individual hearing pages are included in these tables.

Table A-1. House and Senate Legislation—115th Congress

Introduced	Bill #	Bill Short Title	Sponsor	Brief Summary	Committee	Bill Status
1/17/17	S. 174	FCC Commission Consolidated Reporting Act	Sens. Dean Heller and Brian Schatz	Amend the Communications Act of 1934 to consolidate the reporting obligations of the FCC to improve congressional oversight and reduce reporting burdens.	S. Commerce, Science, and Transportation	8/3/17: Passed Senate; 8/4/17: Received in the House and held at the desk.
1/17/17	H.R. 583	No short title	Rep. Marsha Blackburn	Direct the FCC to revoke certain changes to the ownership reporting requirements for noncommercial educational broadcast stations.	H. Energy and Commerce	1/17/17: Referred to committee.
1/4/17	H.R. 290	FCC Process Reform Act	Rep. Greg Walden	Amend the Communications Act of 1934 to provide for greater transparency and efficiency in the procedures followed by the FCC.	H. Energy and Commerce	1/23/17: Passed House; 1/24/17: Referred to Senate committee.
1/23/17	H.R. 599	FCC Consolidated Reporting Act	Rep. Steve Scalise	Combine eight congressionally mandated previous reports on the communications industry into one biennial report, while eliminating four other reports.	H. Energy and Commerce	1/23/17: Passed House; 1/24/17: Referred to Senate committee.
1/13/17	H.R. 557	FCC "ABCs" Act of 2017	Rep. Robert Latta	Amend the Communications Act of 1934 to reform the FCC by requiring an analysis of benefits and costs during the rulemaking process, among other goals.	H. Energy and Commerce	1/13/17: Referred to committee.
5/18/17	H.R. 2546	FCC CIO Parity Act	Rep. Mimi Walters	Require FCC to ensure that its Chief Information Officer has a significant role in information technology responsibilities.	H. Energy and Commerce	5/19/17: Referred to the Subcommittee on Communications and Technology.

Introduced	Bill #	Bill Short Title	Sponsor	Brief Summary	Committee	Bill Status
5/24/17	H.R. 2636	No short title	Rep. Bill Johnson	To establish an independent inspector general for the FCC.	H. Committee on Oversight and Government Reform	5/24/17: Referred to committee.
2/8/18	H.R. 4986	Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018 (RAY BAUM'S Act)	Rep. Marsha Blackburn	Among other purposes, authorized the FCC for FY2019 and FY2020, and consolidated reporting to Congress	H. Energy and Commerce	3/23/18: Became P.L. 115-141 as part of H.R. 1625, Consolidated Appropriations Act, 2018.

Source: CRS.

Table A-2. Senate Hearings—115th Congress

Commerce, Science, and Transportation	
Date	**Title**
7/19/17	**FCC Nominations Hearing** https://www.commerce.senate.gov/public/index.cfm/2017/7/nomination-hearing-fcc
3/8/17	**Oversight of the Federal Communications Commission** https://www.commerce.senate.gov/public/index.cfm/2017/3/oversight-of-the-federal-communications-commission

Source: CRS.

Table A-3. House Hearings—115th Congress

Energy and Commerce	
Date	**Title**
7/25/18	**Oversight of the Federal Communications Commission** https://energycommerce.house.gov/hearings/oversight-of-the-federal-communications-commission/
7/25/17	**Oversight and Reauthorization of the Federal Communications Commission** https://energycommerce.house.gov/hearings/oversight-reauthorization-federal-communications-commission/ Draft legislation released: http://docs.house.gov/meetings/IF/IF16/20170725/106312/BILLS-115pih-FCCReauthorization.pdf

Source: CRS.

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