

FEDERAL COMMUNICATIONS COMMISSION

Brendan Carr

MISSION STATEMENT

The FCC should promote freedom of speech, unleash economic opportunity, ensure that every American has a fair shot at next-generation connectivity, and enable the private sector to create good-paying jobs through pro-growth reforms that support a diversity of viewpoints, ensure secure and competitive communications networks, modernize outdated infrastructure rules, and represent good stewardship of taxpayer dollars.

OVERVIEW AND BACKGROUND

The FCC is an independent regulatory agency that has jurisdiction over interstate and international communications by radio, television, wire, satellite, and cable.¹ Five Commissioners are appointed by the President and confirmed by the Senate for fixed five-year terms.² The FCC does not have any other presidentially appointed, Senate-confirmed officials. Ordinarily, the five-member FCC is divided politically three to two with a majority of Commissioners from the same political party as the President. The Commissioners' terms are staggered so that every year at the end of June, one Commissioner's term expires.³ However, a Commissioner can continue to serve until the end of the next session of Congress (or up to 1.5 years beyond the expiration of the term) if no replacement is confirmed after his or her term ends.⁴

By law, only a bare majority of Commissioners can be from the same political party (no more than three when there are five members).⁵ By tradition, the Chairperson resigns when a new President of a different political party is sworn

Mandate for Leadership: The Conservative Promise

into office—though this is not required by law. By resigning, the exiting Commissioner enables the President to nominate someone from his own political party to the FCC, and this typically shifts the political balance on the FCC toward the President’s political party. The President generally designates one of the existing Commissioners of the President’s same political party as Chairperson—either on an acting or a permanent basis—on or shortly after Inauguration Day.

Under a tradition that dates back a few decades, when a relevant vacancy arises, the President allows the leader of the opposite political party in the Senate to select the person who will serve in the minority Commissioner role. The President then formally nominates the person identified by Senate leadership. This also is not required by law.

As specified in the Communications Act of 1934, the FCC’s Chairperson serves as the agency’s CEO and is empowered with significant authority that is not shared with other Commissioners.⁶ For instance, the Chairperson sets the FCC’s agenda, decides what matters the agency will vote on and when, and has authority to organize and coordinate the FCC’s work.⁷ There is no separate Senate confirmation process for the position of FCC Chairperson; the President designates one of the Commissioners to serve as Chairperson through a short one-sentence or two-sentence letter.⁸ There are no limits on the number of terms that a person can serve as an FCC Commissioner, though Commissioners need to be nominated and confirmed for each five-year term.

FCC Budget and Structure. In recent years, the FCC has employed between 1,300 and 1,500 people.⁹ The FCC’s fiscal year 2023 budget request is for approximately \$390.2 million.¹⁰ While Congress appropriates funds for the FCC, the agency’s budget is offset by what are known as regulatory fees—fees the FCC collects from the licensees and other entities that it regulates and uses to offset its budget request. The FCC also raises revenue for the government by auctioning spectrum licenses. In fact, the FCC has generated more than \$200 billion for the U.S. Treasury through spectrum auctions.¹¹

The FCC is organized into a series of bureaus and offices based on function. These include an Office of General Counsel, Office of Inspector General, Office of Legislative Affairs, Media Bureau, Wireless Telecommunications Bureau, Wireline Competition Bureau, Enforcement Bureau, and more.¹²

High-Profile FCC Matters. The FCC addresses a number of important matters. For instance, Section 230 is codified in the Communications Act,¹³ and the FCC has authority to interpret that law and thus provide courts with guidance about the proper application of the statutory language.¹⁴ The FCC has addressed “net neutrality” rules and the regulatory framework that should apply to broadband offerings. Any merger that involves a wireless company, broadcaster, or similar entity that holds an FCC license must obtain FCC approval (assuming that the merger will involve the transfer of the FCC license).

Federal Communications Commission

The FCC has facilitated the transition from 3G to 4G and now 5G offerings in two ways. First, it has freed spectrum—the airwaves needed to deliver wireless services. Second, it has preempted state and local siting and permitting laws that could otherwise slow down the buildout of next-generation infrastructure. One of the FCC’s great success stories from 2017 to 2020 was securing U.S. leadership in 5G.

The FCC also administers an approximately roughly \$9 billion-a-year program called the Universal Service Fund (USF), which has been funded by a line-item charge that traditional telephone companies add to consumers’ monthly bills. Expenditures from this fund subsidize rural broadband networks and low-income programs as well as connections for schools, libraries, and rural health care facilities. Through various COVID-era laws, Congress has also provided the FCC with a one-time \$24 billion appropriation for various low-income initiatives.

POLICY PRIORITIES

The FCC needs to change course and bring new urgency to achieving four main goals:

- Reining in Big Tech,
- Promoting national security,
- Unleashing economic prosperity, and
- Ensuring FCC accountability and good governance.¹⁵

Reining in Big Tech. The FCC has an important role to play in addressing the threats to individual liberty posed by corporations that are abusing dominant positions in the market. Nowhere is that clearer than when it comes to Big Tech and its attempts to drive diverse political viewpoints from the digital town square.

Today, a handful of corporations can shape everything from the information we consume to the places we shop. These corporate behemoths are not merely exercising market power; they are abusing dominant positions. They are not simply prevailing in the free market; they are taking advantage of a landscape that has been skewed—in many cases by the government—to favor their business models over those of their competitors. It is hard to imagine another industry in which a greater gap exists between power and accountability. That is why a new Administration should support FCC action on several fronts. Specifically, the FCC should:

- **Eliminate immunities that courts added to Section 230.** The FCC should issue an order that interprets Section 230 in a way that eliminates the expansive, non-textual immunities that courts have read into the statute.

Mandate for Leadership: The Conservative Promise

As one of the FCC's previous General Counsels noted, the FCC has authority to take this action because Section 230 is codified in the Communications Act.¹⁶ The FCC's Section 230 reforms should track the positions outlined in a July 2020 Petition for Rulemaking filed at the FCC near the end of the Trump Administration.¹⁷ Any new presidential Administration should consider filing a similar or new petition.

As Justice Clarence Thomas has made clear, courts have construed Section 230 broadly to confer on some of the world's largest companies a sweeping immunity that is found nowhere in the text of the statute.¹⁸ They have done so in a way that nullifies the limits Congress placed on the types of actions that Internet companies can take while continuing to benefit from Section 230. One way to start correcting this error is for the FCC to remind courts how the various portions of Section 230 operate.

At the outset, the FCC can clarify that Section 230(c)(1) does not apply broadly to every decision that a platform makes. Rather, its protections apply only when a platform does not remove information provided by someone else. In contrast, the FCC should clarify that the more limited Section 230(c)(2) protections apply to any covered platform's decision to restrict access to material provided by someone else. Combined, these actions will appropriately limit the number of cases in which a platform can censor with the benefit of Section 230's protections. Such clarifications might also include drawing out the traditional legal distinction between distributor and publisher liability; Section 230 did not do away with the former, nor does it collapse into the latter.

- **Impose transparency rules on Big Tech.** Today, Big Tech offers a black box. After Google manipulates search results, a small business can see its web traffic drop precipitously overnight for no apparent reason, potentially flipping its outlook from black to red. On Facebook, social media posts are left up or taken down, accounts suspended or permanently banned, without any apparent consistency. Out of the blue, YouTube can demonetize individuals who have risked their capital and invested their labor to build online businesses.

At present, the FCC requires broadband providers to comply with a transparency rule that can provide a good baseline for Big Tech. Under the FCC's rule, broadband providers must provide detailed disclosures about practices that would shape Internet traffic—from blocking to prioritizing or discriminating against content. The FCC could take a similar approach to

Federal Communications Commission

Big Tech, and it should look to Section 230 and the Consolidated Reporting Act as potential sources of authority.¹⁹ In acting, the FCC could require these platforms to provide greater specificity regarding their terms of service, and it could hold them accountable by prohibiting actions that are inconsistent with those plain and particular terms. Within this framework, Big Tech should be required to offer a transparent appeals process that allows for the challenging of pretextual takedowns or other actions that violate clear rules of the road.

- **Support legislation that scraps Section 230’s current approach.** The FCC should work with Congress on more fundamental Section 230 reforms that go beyond interpreting its current terms. Congress should do so by ensuring that Internet companies no longer have carte blanche to censor protected speech while maintaining their Section 230 protections. As part of those reforms, the FCC should work with Congress to ensure that antidiscrimination provisions are applied to Big Tech—including “back-end” companies that provide hosting services and DDoS protection. Reforms that prohibit discrimination against core political viewpoints are one way to do this and would track the approach taken in a social media law passed in Texas, which was upheld on appeal in late 2022 by the U.S. Court of Appeals for the Fifth Circuit.²⁰

In all of this, Congress can make certain points clear. It could focus legislation on dominant, general-use platforms rather than specialized ones. This could include excluding comment sections in online publications, specialized message boards, or communities within larger platforms that self-moderate. Similarly, Congress could legislate in a way that does not require any platform to host illegal content; child pornography; terrorist speech; and indecent, profane, or similar categories of speech that Congress has previously carved out.

- **Support efforts to empower consumers.** The FCC and Congress should work together to formulate rules that empower consumers. Section 230 itself codifies “user control” as an express policy goal and encourages Internet platforms to provide tools that will “empower” users to engage in their own content moderation. As Congress takes up reforms, it should therefore be mindful of how we can return to Internet users the power to control their online experiences. One idea is to empower consumers to choose their own content filters and fact checkers, if any. The FCC should also work with Congress to ensure stronger protections against young children accessing social media sites despite age restrictions that generally prohibit their use of these sites.

Mandate for Leadership: The Conservative Promise

It should be noted at this point that the views expressed here are not shared uniformly by all conservatives. There are some, including contributors to this chapter, who do not think that the FCC or Congress should act in a way that regulates the content-moderation decisions of private platforms. One of the main arguments that this group offers is that doing so would intrude—unlawfully in their view—on the First Amendment rights of corporations to exclude content from their private platforms.

- **Require that Big Tech begin to contribute a fair share.** Big Tech has avoided accountability in several additional ways as well. One of them concerns the FCC’s roughly \$9 billion Universal Service Fund. This initiative provides the support necessary to subsidize the agency’s affordable Internet and rural connectivity programs. The FCC obtains this funding through a line-item charge that carriers add to consumers’ monthly bills for traditional telecommunications service.

While Big Tech derives tremendous value from the federal government’s universal service investments—using those federally supported networks to deliver their products and realize significant profits—these large corporations have avoided paying a fair share into the program. On top of that, the FCC’s current funding mechanism has been on an unsustainable path.²¹ By requiring traditional telephone customers to contribute to a fund that is being used increasingly to support broadband networks, the FCC’s current approach is the regulatory equivalent of taxing horseshoes to pay for highways. To put the FCC’s universal service program on a stable footing, Congress should require Big Tech companies to start contributing an appropriate amount.

Conservatives are not unanimous in agreeing that the FCC should expand the USF contribution base. Instead, some argue that Congress should revisit the program’s entire funding structure and determine whether to continue subsidizing the provision of service. Future funding decisions, the argument goes, should be made by Congress through the normal appropriation process through which the USF program can compete for funding with other national initiatives. These decisions should be made with an eye to right-sizing the federal government’s existing broadband initiatives in light of both technological advances and the recent influx of billions of dollars in new appropriations that can be used to support efforts to end the digital divide.

Protecting America’s National Security. During the Trump Administration, the FCC ushered in a new and appropriately strong approach to the national

Federal Communications Commission

security threats posed by the Chinese Communist Party (CCP). During that time, the FCC eliminated federal subsidies for telecommunications equipment from Huawei and ZTE, thereby greatly reducing the chances of that equipment finding a way into our nation's communications networks. The FCC also stood up a program to rip and replace insecure network gear to ensure that it did not remain a threat lurking inside our systems. The FCC revoked or denied the licenses of carriers like China Mobile, China Telecom, and China Unicom, which presented unacceptable national security risks. There are, however, additional strong actions that the FCC can and should take to address the CCP's malign campaign. Specifically:

- **Address TikTok's threat to U.S. national security.** As law enforcement officials have made clear, TikTok poses a serious and unacceptable risk to America's national security.²² It also provides Beijing with an opportunity to run a foreign influence campaign by determining the news and information that the app feeds to millions of Americans. As of this writing, the Biden Administration's Treasury Department has not announced a final decision concerning its long-pending review of TikTok. If that inaction persists, or if the Administration allows TikTok to continue to operate in the U.S., a new Administration should ban the application on national security grounds.
- **Expand the FCC's Covered List.** The FCC maintains a list of communications equipment and services that pose an unacceptable risk to the national security of the United States. It is known as the Covered List.²³ Huawei is one of the companies on the Covered List, and its inclusion means that the FCC will no longer review or approve new applications from Huawei. Without FCC approval, new Huawei gear cannot be lawfully sold or used in the U.S. However, the FCC must do a better job of ensuring that its Covered List stays up to date and accounts for changes in corporate names and forms. Therefore, a new Administration should create a more regular and timely process for reviewing entities with ties to the CCP's surveillance state.
- **End the unregulated end run.** As noted above, China Telecom and similar entities have been banned from operating in the U.S. in a manner that would require an FCC license or authorization because of the national security risks that those entities pose. However, many of these same entities are still operating in the U.S. and offering services very similar to the ones that they are prohibited from providing. China Telecom, for instance, continues to provide services to data centers by offering the services on a private or "unregulated" basis. A new Administration should work with the FCC to close this loophole. One way to do so would be for the FCC to prohibit any regulated carrier from interconnecting with an insecure provider.

Mandate for Leadership: The Conservative Promise

- **Publish a foreign adversary transparency list.** As part of the FCC’s ongoing work to secure our networks from entities that would do the bidding of our foreign adversaries, the FCC should do more to shine the light of transparency on the scope of the problem. To this end, the FCC should compile and publish a list of all entities that hold FCC authorizations, licenses, or other grants of authority with more than 10 percent ownership by foreign adversarial governments, including the governments of China, Russia, Iran, Syria, or North Korea. A bipartisan bill that would require the FCC to publish this type of list has been introduced in the House of Representatives by Representatives Elise Stefanik (R–NY), Ro Khanna (D–CA), and Mike Gallagher (R–WI).²⁴
- **Fully fund the federal “rip and replace” program.** In 2019, Congress established a \$1.9 billion Secure and Trusted Communications Networks Reimbursement Program (known colloquially as the “rip and replace” program) to reimburse communications providers for the reasonable expenses they would incur to remove, replace, and dispose of insecure Huawei and ZTE gear. However, \$1.9 billion is about \$3 billion short of the total amount of funding needed to complete the rip and replace process. A new Administration should ensure that the program is fully funded and should look first at repurposing and applying unused COVID-era emergency funds for this purpose.
- **Launch a Clean Standards Initiative.** During the Trump Administration, the U.S. government launched a worldwide Clean Networks program.²⁵ As a result of this initiative, many of the U.S. government’s allies started the process of ending their relationships with Huawei. It is time for an Administration to build and expand on this groundbreaking work by taking a similar approach to the standard-setting process. Right now, the CCP is seeking to extend its influence by exerting control over the development of standards in a variety of areas, including technology and telecommunications. It is vital that the United States meet this threat with a comprehensive clean standards initiative.
- **Stop aiding the CCP’s authoritarian approach to artificial intelligence.** The CCP has set itself a goal of becoming the global leader in artificial intelligence (AI) by 2030. Beijing is bent on using this technology to exert authoritarian control domestically and export its authoritarian governance model overseas. U.S. businesses are aiding Beijing in this effort—often unwittingly—by feeding, training, and improving the AI datasets of companies that are beholden to the CCP. One way that U.S. companies

Federal Communications Commission

are doing this is by giving Beijing access to their high-powered cloud computing services. Therefore, it is time for an Administration to put in place a comprehensive plan that aims to stop U.S. entities from directly or indirectly contributing to China's malign AI goals.

Unleashing Economic Prosperity. The FCC needs to advance a pro-growth agenda that gives every American a fair shot at next-generation connectivity. This is vital for economic opportunity and prosperous communities. The current Administration has appropriated a lot of money for broadband infrastructure projects, but it has failed to pair that spending with reforms that free more airwaves for wireless connectivity or streamline the permitting processes for broadband builds. That failure is holding back America's hardworking telecommunications crews and leaving Americans stuck waiting on the wrong side of the digital divide. It is time for a return to the successful spectrum and infrastructure policies that prevailed during the Trump Administration—policies that enabled the U.S. to lead the world in 5G.

- **Refill America's spectrum pipeline.** From 2017 through 2020, the FCC took unprecedented steps to free the airwaves needed to power 5G and other next-generation wireless services. This work not only helped to secure America's wireless leadership and bolster competition, but also enabled the private sector to create jobs and grow the economy. Recently, the FCC has failed to match the pace and cadence of those spectrum actions. Therefore, the FCC and a new Administration should work together to develop a national spectrum strategy that both identifies the specific airwaves that the FCC can free for commercial wireless services and sets an aggressive timeline for agency action.
- **Facilitate coordination on spectrum issues.** Wireless services now play a central role in advancing America's economic and national security interests. Over the past few years, this dynamic has led to an increasing number of headline-level disputes between the commercial wireless sector and federal agencies. These disputes are often framed in zero-sum terms as commercial wireless and federal agency stakeholders argue over the appropriate types and amount of airwaves that the government should allocate for various purposes. On the one hand, America's global economic leadership depends on its ability to free spectrum that will power the U.S. commercial wireless industry. On the other hand, we must ensure that America's national security and other federal agencies have access to the spectrum resources that they need to carry out their vital missions.

Mandate for Leadership: The Conservative Promise

It is clear that the current process is not delivering optimal outcomes. In December 2021 and January 2022, for instance, the lack of interagency coordination and communication about mid-band 5G spectrum allocation between the FCC and the Federal Aviation Authority led to significant challenges for the U.S. aviation industry. Over the past two years, the FCC has failed to move spectrum into the commercial marketplace at the same pace and cadence that it did in the recent past. Creating better mechanisms to improve communication and cooperation between different federal agencies could enable a more effective and coordinated U.S. government telecommunications strategy. The White House should work with Congress to establish a spectrum coordination process that will work for both commercial and federal users.

- **Modernize infrastructure rules.** By 2016, the construction of new cell sites—the building blocks for 5G—had essentially flatlined in America. Because of outdated permitting rules, it cost too much and took too long to build wireless infrastructure, so the FCC went to work. The agency updated the environmental and historic preservation rules that needlessly drove up the cost and slowed down the timeline for adding small cells. The FCC put in place guardrails to address outlier fees and delays imposed at the state and local levels on those same small-cell projects. It modernized the permitting process in several additional ways as well.

Those FCC reforms delivered results. They allowed America’s private sector to bring thousands of families across the digital divide and to keep Americans connected during the pandemic. In fact, infrastructure builds accelerated at a record pace after those reforms. In 2019, for instance, U.S. providers built over 46,000 new cell sites—a sixty-fivefold increase over 2016 levels.

The FCC has not engaged in any similar infrastructure reforms in recent years, and there is much more that needs to be done. For instance, the FCC’s prior reforms focused on streamlining the rules for small wireless facilities. The FCC should now explore similar action for the deployment of other wired infrastructure by imposing limits on the fees that local and state governments can charge for reviewing those wireline applications and time restrictions on the government’s decision-making process.

The next Administration should also work to address the delays that continue to persist when it comes to building Internet infrastructure on federal lands. This is an area where the FCC itself has very little jurisdiction,

Federal Communications Commission

so a new Administration should redouble efforts to require timely reviews and final actions by agencies with jurisdiction over federal lands, including the Bureau of Land Management and the U.S. Forest Service.

- **Advance America's space leadership.** One of the most significant technological developments of the past few years has been the emergence of a new generation of low-earth orbit satellites like StarLink and Kuiper. This technology can beam a reliable, high-speed Internet signal to nearly any part of the globe at a fraction of the cost of other technologies. This has the potential to significantly accelerate efforts to end the digital divide and disrupt the federal regulatory and subsidy regime that applies to communications networks. The FCC should expedite its work to support this new technology by acting more quickly in its review and approval of applications to launch new satellites. Otherwise, the U.S. risks ceding space leadership to entities based in countries with more friendly regulatory environments.

Holding Government Accountable. Federal technology and telecommunications programs have been plagued by a troubling lack of accountability and good governance. They would benefit from stronger oversight and a fresh look at eliminating outdated regulations that are doing more harm than good.

- **End wasteful broadband spending policies.** Many of the broadband spending policies being pursued by the current Administration are poised to waste taxpayer money while leaving rural communities and unconnected Americans behind. At the same time, the dramatic recent increases in funding through the American Rescue Plan Act (ARPA) and the Infrastructure Investment and Jobs Act mean that the federal government has more than enough resources to meet its broadband connectivity goals. Congress should therefore hold the agencies accountable so that taxpayer money is used effectively to promote broadband connectivity across the nation.

To that end, the next Administration should instruct the various departments and agencies that are administering broadband infrastructure funds to direct those resources to communities without adequate Internet infrastructure instead of to places that already enjoy broadband connectivity. Take, for example, the final rules that the Treasury Department adopted in 2022 that govern the expenditure of \$350 billion in ARPA funds. Rather than directing those dollars to the rural and other communities that have no Internet infrastructure, the current

Mandate for Leadership: The Conservative Promise

Administration gave the green light for recipients to spend those funds to overbuild existing high-speed networks in communities that already have multiple broadband providers. A new Administration should eliminate government-funded overbuilding of existing networks.

- **Adopt a national coordinating strategy.** Hundreds of billions of infrastructure dollars have been appropriated by Congress or budgeted by agencies over the past couple of years that can be used to end the digital divide. Yet, according to the U.S. Government Accountability Office, “U.S. broadband efforts are not guided by a national strategy”; instead, “[f]ederal broadband efforts are fragmented and overlapping, with more than 100 programs administered by 15 agencies,” risking overbuilding as well as wasteful duplication.²⁶ Many of these programs remain plagued by inefficiency, further contributing to waste of limited taxpayer dollars.

Moreover, the federal government is failing to put appropriate guardrails in place to govern the expenditure of billions in broadband funds. This is the regulatory equivalent of turning the spigot on full blast and then walking away from the hose. There is a worrisome lack of adequate tracking, measurement, and accountability standards governing all of this broadband spending. As a result, we are likely to see headline levels of waste, fraud, and abuse.

A new Administration needs to bring fresh oversight to this spending and put a national strategy in place to ensure that the federal government adopts a coordinated approach to its various broadband initiatives. Similarly, the next Administration should ask the FCC to launch a review of its existing broadband programs, including the different components of the USF, with the goal of avoiding duplication, improving efficiency of existing programs, and saving taxpayer money.

- **Correct the FCC’s regulatory trajectory and encourage competition to improve connectivity.** The FCC is a New Deal-era agency. Its history of regulation tends to reflect the view that the federal government should impose heavy-handed regulation rather than relying on competition and market forces to produce optimal outcomes. President Franklin D. Roosevelt recommended that Congress create the FCC in February 1934 for the purposes of establishing “a single Government agency charged with broad authority” over the field of communications.²⁷ Congress subsequently established the FCC through the Communications Act of 1934. Congress has passed a number of additional statutes—some broad, some

Federal Communications Commission

narrow—that pertain to the FCC’s authority, including most significantly the Telecommunications Act of 1996,²⁸ which opened up markets for greater competition and largely deregulated industry segments.

Technological change in the connectivity sector is occurring rapidly. We are now seeing an unprecedented level of convergence, innovation, and competition in the market for connectivity. On the one hand, traditional cable providers like Charter are now offering mobile wireless services to consumers in direct competition with traditional wireless companies like Verizon. On the other hand, a new generation of low-earth orbit satellite services like StarLink and Amazon’s Project Kuiper stand to offer high-speed home broadband in competition with legacy providers. Furthermore, broadcasters are offering high-speed downloads directly to consumers over spectrum that previously provided only TV service.

These rapidly evolving market conditions counsel in favor of eliminating many of the heavy-handed FCC regulations that were adopted in an era when every technology operated in a silo. These include many of the FCC’s media ownership rules, which can have the effect of restricting investment and competition because those regulations assume a far more limited set of competitors for advertising dollars than exist today, as well as its universal service requirements.

Ultimately, FCC reliance on competition and innovation is vital if the agency is to deliver optimal outcomes for the American public. The FCC should engage in a serious top-to-bottom review of its regulations and take steps to rescind any that are overly cumbersome or outdated. The Commission should focus its efforts on creating a market-friendly regulatory environment that fosters innovation and competition from a wide range of actors, including cable-based, broadband-based, and satellite-based Internet providers.

AUTHOR’S NOTE: The preparation of this chapter was a collective enterprise of individuals involved in the 2025 Presidential Transition Project. All contributors to this chapter are listed at the front of this volume. While this chapter identifies certain issues on which the contributors did not all agree, the author alone assumes responsibility for the content of this chapter, and no views expressed herein should be attributed to any other individual.

Mandate for Leadership: The Conservative Promise

ENDNOTES

1. 47 U.S.C. § 151, <https://www.law.cornell.edu/uscode/text/47/151> (accessed January 23, 2023).
2. 47 U.S.C. § 154, <https://www.law.cornell.edu/uscode/text/47/154> (accessed January 23, 2023).
3. *Ibid.*
4. 47 U.S.C. § 154(c).
5. 47 U.S.C. § 154(b)(5).
6. 47 U.S.C. § 155(a), <https://www.law.cornell.edu/uscode/text/47/155> (accessed January 23, 2023).
7. *Ibid.*
8. *Ibid.* There are no limits on the President’s authority to designate a different Chairperson from among the existing Commissioners. Further, though it is an open question, it is generally believed that the judiciary would impose limits on the power of the President to remove a Commissioner during his or her five-year term. The question is not settled because Congress did not include an express “for cause” or similar protection against removal in the Communications Act itself. Scholars assume this is because Congress passed the Communications Act in the years between the Supreme Court’s decision in *Myers v. United States*, 272 U.S. 52 (1926) and *Humphrey’s Executor v. United States*, 295 U.S. 602 (1935), when it was not entirely clear that Congress could impose a limit on the President’s removal power. However, the Communications Act was significantly amended in 1996, and Congress did not add “just cause” or other protections from removal at that time. Considering the high-profile contemporary debates about the appointment and removal of independent counsels under the Independent Counsel Act, one could reasonably assume that Congress was aware of removal powers and protections for presidentially appointed and Senate-confirmed officials.
9. Chart, “FTEs—Historical and Estimated, Fiscal Years 1986–2023,” in U.S. Federal Communications Commission, *2023 Budget Estimates to Congress*, March 2022, p. 17, <https://docs.fcc.gov/public/attachments/DOC-381693A1.pdf> (accessed January 23, 2023).
10. U.S. Federal Communications Commission, *2023 Budget Estimates to Congress*, p. 7.
11. Roslyn Layton, “Spectrum Auctions Have Raised \$230 Billion; The FCC’s Authority to Conduct Them Will Lapse Soon If Congress Doesn’t Act,” *Forbes*, April 29, 2022, <https://www.forbes.com/sites/roslynlayton/2022/04/29/spectrum-auctions-have-raised-230-billion-the-fccs-authority-to-conduct-them-will-lapse-soon-if-congress-doesnt-act/?sh=4d32066908eb> (accessed January 23, 2023).
12. For a full listing of the FCC’s Bureaus and Offices, along with their functions and an organization chart, see U.S. Federal Communications Commission, “Organizational Charts of the FCC,” <https://www.fcc.gov/about-fcc/organizational-charts-fcc> (accessed January 23, 2023).
13. 47 U.S.C. § 230, <https://www.law.cornell.edu/uscode/text/47/230> (accessed January 23, 2023).
14. Thomas M. Johnson Jr., “The FCC’s Authority to Interpret Section 230 of the Communications Act,” October 21, 2020, <https://www.fcc.gov/news-events/blog/2020/10/21/fccs-authority-interpret-section-230-communications-act> (accessed January 23, 2023).
15. This chapter does not purport to set forth a comprehensive agenda for the FCC. Rather, it focuses on a selected handful of issue areas that may quickly rise to the attention of a new Administration. Similarly, not every contributor to this chapter agrees with every policy idea included here; this document attempts to reflect a range of views and perspectives.
16. Johnson, “The FCC’s Authority to Interpret Section 230 of the Communications Act.”
17. U.S. Department of Commerce, National Telecommunications and Information Administration, “NTIA Petition for Rulemaking to Clarify Provisions of Section 230 of the Communications Act,” July 27, 2020, <https://ntia.gov/fcc-filing/ntia-petition-rulemaking-clarify-provisions-section-230-communications-act> (accessed January 23, 2023).
18. *Malwarebytes, Inc. v. Enigma Software*, 592 U.S. ____ (2020) (Thomas, J., statement respecting the denial of certiorari), https://www.supremecourt.gov/opinions/20pdf/19-1284_869d.pdf (accessed January 23, 2023).
19. See 47 U.S.C. § 230; see also Ray Baum’s Act of 2018, Division P, Title IV, § 401 (codifying the Consolidated Reporting Act), in H.R. 1625, Consolidated Appropriations Act, 2018, Public Law No. 115-141, 115th Congress, March 23, 2018, <https://www.congress.gov/115/plaws/publ141/PLAW-115publ141.pdf> (accessed January 23, 2023).
20. *NetChoice, L.L.C. v. Paxton*, 49 F.4th 439 (5th Cir. 2022), <https://fingfx.thomsonreuters.com/gfx/legaldocs/gdpzqyobyvw/alisonn%201.pdf> (accessed January 23, 2023).

Federal Communications Commission

21. Hal J. Singer and Ted Tatos, *Subsidizing Universal Broadband Through a Digital Advertising Services Fee: An Alignment of Incentives*, Econ One, September 2021, p. 1 (“[T]he current USF mechanism is unsustainable and will fail to meet the needs of its target consumer base within the next five years.”), <https://www.econone.com/wp-content/uploads/2021/09/Digital-Divide-HSinger-TTatos-2.pdf> (accessed January 23, 2023).
22. FBI Director Christopher Wray, testimony in video of hearing, *Worldwide Threats to the Homeland*, Committee on Homeland Security, U.S. House of Representatives, November 15, 2022, at 02:27, <https://democrats-homeland.house.gov/activities/hearings/11/04/2022/worldwide-threats-to-the-homeland> (accessed January 23, 2023); John D. McKinnon, Arunav Viswanatha, and Stu Woo, “TikTok National-Security Deal Faces More Delays as Worry Grows Over Risks,” *The Wall Street Journal*, updated December 6, 2022, <https://www.wsj.com/articles/tiktok-national-security-deal-faces-more-delays-as-worry-grows-over-risks-11670342800> (accessed January 23, 2023).
23. U.S. Federal Communications Commission, “List of Equipment and Services Covered by Section 2 of the Secure Networks Act,” updated September 20, 2022, <https://www.fcc.gov/supplychain/coveredlist> (accessed January 23, 2023).
24. H.R. 820, Foreign Adversary Communications Transparency Act, 118th Congress, introduced February 2, 2023, <https://www.congress.gov/118/bills/hr820/BILLS-118hr820ih.pdf> (accessed March 6, 2023).
25. U.S. Department of State, “The Clean Network,” <https://2017-2021.state.gov/the-clean-network/index.html> (accessed January 23, 2023).
26. U.S. Government Accountability Office, *Broadband: National Strategy Needed to Guide Federal Efforts to Reduce Digital Divide*, GAO-22-104611, May 2022, <https://www.gao.gov/assets/gao-22-104611.pdf> (accessed January 23, 2023).
27. Document No. 144, “Federal Communications Commission: Message from the President of the United States Recommending that Congress Create a New Agency to be Known as the Federal Communications Commission,” U.S. Senate, 73rd Cong., 2nd Sess., February 26, 1934, <https://docs.fcc.gov/public/attachments/DOC-298207A1.pdf> (accessed January 23, 2023).
28. 47 U.S.C., Chapter 5, §§ 151 et seq., (accessed March 6, 2023).

