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

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Summary

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) and is charged with regulating interstate and international communications by radio, television, wire, satellite, and cable. The mission of the FCC is to ensure that the American people have available—at reasonable cost and without discrimination—rapid, efficient, nation- and world-wide communication services, whether by radio, television, wire, satellite, or cable.

Although the FCC has restructured over the past few years to better reflect the industry, it is still required to adhere to the statutory requirements of its governing legislation, the Communications Act of 1934. The 1934 Act requires the FCC to regulate the various industry sectors differently. Some policymakers have been critical of the FCC and the manner in which it regulates various sectors of the telecommunications industry—telephone, cable television, radio and television broadcasting, and some aspects of the Internet. These policymakers, including some in Congress, have long called for varying degrees and types of reform to the FCC. Most proposals fall into two categories: (1) procedural changes made within the FCC or through congressional action that would affect the agency’s operations or (2) substantive policy changes requiring congressional action that would affect how the agency regulates different services and industry sectors.

For FY2017, the FCC has requested a budget of \$358,286,000, all derived from regulatory fees collected by the agency. This request is \$25,726,497 less than the FY2016 funding of \$384,012,497. Part of the FY2016 budget, \$44,168,497, was specifically made available for expenses associated with moving to a new facility or reconfiguring the existing facility space to reduce space consumption and associated budget costs. For FY2017, the FCC requested \$16,866,992 for that same purpose.

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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. No more than three commissioners may come from the political party of the President. Title I empowers the commission to create divisions or bureaus responsible for specific work assigned and to structure itself as it chooses.
- 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.

¹ The Communications Act of 1934, 47 U.S.C. §151 et seq., has been amended numerous times, most significantly in recent 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. A compendium of communications-related laws is available from the House Committee on Energy and Commerce at <http://energycommerce.house.gov/108/pubs/108-D.pdf>. It includes selected Acts within the jurisdiction of the committee, including the Communications Act of 1934, Telecommunications Act of 1996, Communications Satellite Act of 1962, National Telecommunications and Information Administration Organizations Act, Telephone Disclosure and Dispute Resolution Act, Communications Assistance for Law Enforcement Act, as well as additional communications statutes and selected provisions from the United States Code. The compendium was last amended on December 31, 2002.

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. See Analysis of the Federal Communications Commission, Fritz Messere, at <http://www.oswego.edu/~messere/FCC1.html> and the Museum of Broadcast Communications Archive at <http://www.museum.tv/archives/etv/F/htmlF/federalcommu/federalcommu.htm> for additional information on the history of the FCC.

Sections 303-307 define many of the powers given to the FCC with respect to broadcasting; other sections define limitations placed upon it. For example, Section 326 of Title III prevents the FCC from exercising censorship over broadcast stations. Also, parts of the U.S. code are linked to the Communications Act. For example, 18 U.S.C. 464 makes obscene or indecent language over a broadcast station illegal.

- 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.

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. Only three commissioners may be members of the same political party. None of them can have a financial interest in any commission-related business. The commissioners are

- Tom Wheeler, Chair (confirmed by the Senate on October 29, 2013, sworn in on November 4, 2013);
- Mignon Clyburn (sworn in for a second term on February 19, 2013);
- Jessica Rosenworcel (confirmed by the Senate on May 7, 2012, sworn in on May 11, 2012);
- Ajit Pai (confirmed by the Senate on May 7, 2012, sworn in on May 14, 2012, for a term ending on June 30, 2016); and
- Michael O’Rielly (confirmed by the Senate on October 29, 2013, sworn in on November 4, 2013).

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.

The bureaus process applications for licenses and other filings, 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.⁵ The bureaus hold the following responsibilities:

- Consumer and Governmental Affairs Bureau—Addresses all types of consumer-related matters from answering questions and responding to consumer complaints to distributing consumer education materials.
- Enforcement Bureau—Enforces FCC rules, orders, and authorizations.
- International Bureau—Administers the FCC’s international telecommunications policies and obligations.
- Media Bureau—Develops, recommends, and administers the policy and licensing programs relating to electronic media, including cable television, broadcast television, and radio in the United States and its territories.
- Public Safety and Homeland Security Bureau—Addresses issues such as public safety communications, alert and warning of U.S. citizens, continuity of government operations and continuity of operations planning, and disaster management coordination and outreach.
- Wireless Telecommunications Bureau—Handles all FCC domestic wireless telecommunications programs and policies.⁶ Wireless communications services include cellular, paging, personal communications services, public safety, and other commercial and private radio services. This bureau also is responsible for implementing the competitive bidding authority for spectrum auctions.
- Wireline Competition Bureau—Administers the FCC’s policies concerning common carriers—the companies that provide long distance and local service to consumers and businesses. These companies provide services such as voice, data, and other telecommunication transmission services.

FCC Strategic Plan

The current FCC Strategic Plan covers the five-year period FY2015–FY2018.⁷ The plan outlines four goals:

- **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.
- **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

⁵ FCC Fact Sheet, <http://www.fcc.gov/cgb/consumerfacts/aboutfcc.html>.

⁶ Except those involving satellite communications broadcasting, including licensing, enforcement, and regulatory functions. These functions are handled by the International Bureau.

⁷ The plan originally covered FY2014–FY2018 and was revised in 2015.

and users includes consumer protection, competition, universal service, public safety and national security. The FCC must protect and promote this Network Compact.

- **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.
- **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.

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, 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.

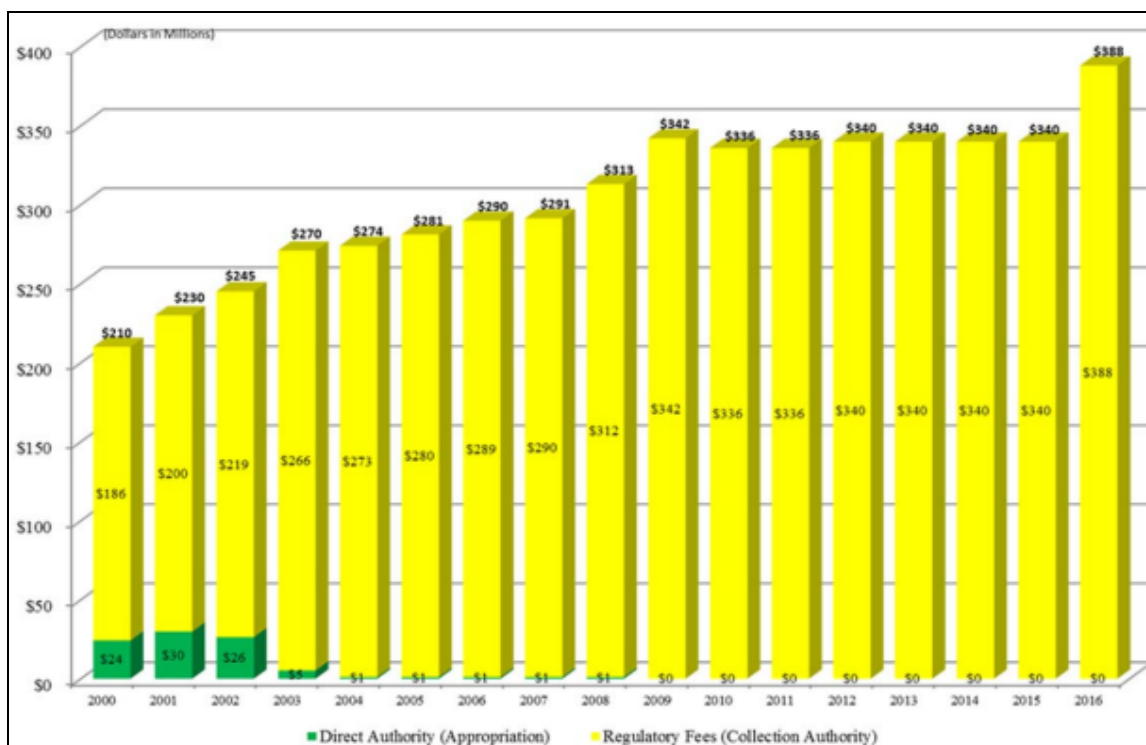
FCC Operations: Budget, Authorization, and Reporting to Congress

Since the 110th Congress, the FCC has been funded through the House and Senate Financial Services and General Government (FSGG) appropriations processes as a single line item. Previously, it was funded through what is now the Commerce, Justice, Science appropriations process, 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.⁸ The fees, often referred to as "Section (9) fees," are collected from license holders and certain other entities (e.g., cable television systems), and deposited into an FCC account. 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. These funds remain in the FCC account and are not made available to other agencies or agency programs nor redirected into the Treasury's general fund. The FCC's budgets from FY2000 to FY2016⁹ are in **Figure 1**.

⁸ The Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66, 47 U.S.C. §159) requires that the FCC annually collect fees and retain them for FCC use to offset certain costs incurred by the commission. The FCC implemented the regulatory fee collection program by rulemaking on July 18, 1994.

⁹ The figure for FY2016 is the FCC's requested budget.

Figure I. Historical FY2000-FY2016 Appropriated Budget Authority

Source: FCC.

FCC FY2017 Budget

For FY2017, the FCC has requested a budget of \$358,286,000, all derived from regulatory fees collected by the agency. This request is \$25,726,497 less than the FY2016 funding of 384,012,497. Part of the FY2016 budget, \$44,168,497, was specifically made available for expenses associated with moving to a new facility or reconfiguring the existing facility space to reduce space consumption and associated budget costs. For FY2017, the FCC has requested \$16,866,992 for that same purpose.

FCC Authorization

The FCC was last formally authorized in the FCC Authorization Act of 1990 (P.L. 101-396). Since that time, five bills have been introduced that would have reauthorized the FCC, but none were signed into law.

- 108th Congress, S. 1264, FCC Reauthorization Act of 2003, Senator John McCain;¹⁰
- 104th Congress, H.R. 1869, Federal Communications Commission Authorization Act, Representative Jack Fields;
- 103rd Congress, H.R. 4522, Federal Communications Commission Authorization Act, Representative Edward Markey, and

¹⁰ For more information, see S.Rept. 108-140, at <http://www.gpo.gov/fdsys/pkg/CRPT-108srpt140/pdf/CRPT-108srpt140.pdf>.

103rd Congress, S. 2336, Federal Communications Commission Authorization Act, Senator Daniel Inouye; and

- 102nd Congress, S. 1132, Federal Communications Commission Authorization Act, Senator Daniel Inouye.

In the 114th Congress, Representative Greg Walden released a discussion draft of the “FCC Reauthorization Act of 2015.”¹¹ The draft legislation was released in advance of the March 19 oversight hearing by the House Commerce Committee Subcommittee on Communications and Technology, but has not been formally introduced. The draft would

- authorize \$9 billion per year in appropriations, which would be offset by fund contributions for the preservation of universal service support mechanisms;
- authorize appropriations to the FCC for spectrum auction expenses at current levels through 2022, the last year of the existing auction authority; and
- provide for an independent inspector general for the agency.

FCC Reporting to Congress

The FCC publishes four 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 in February 2014, 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.¹²

All of these reports are available on the FCC website, <http://www.fcc.gov/encyclopedia>.

¹¹ The draft is available at <http://energycommerce.house.gov/sites/republicans.energycommerce.house.gov/files/114/BILLS-114hr-PIH-FCCReauthorization.pdf>. The draft has not been introduced.

¹² 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.

FCC-Related Congressional Activity—114th Congress

Congressional action in the 114th Congress is detailed in **Table 1** and **Table 2**.

Table I. Legislation—114th Congress

Introduced	Bill #	Bill Title	Sponsor	Brief Summary	Committee	Bill Status
1/12/15	H.R. 279	No title	Rep. Robert Latta	Amend the Communications Act of 1934 to limit the authority of the FCC over providers of broadband Internet access service	House Energy and Commerce	1/16/15: Referred to the Subcommittee on Communications and Technology.
1/26/15	S. 253 S.Rept. 114-58	Federal Communications Commission Consolidated Reporting Act of 2015	Sen. Dean Heller	Amend the Communications Act of 1934 to replace various reporting requirements with a bi-annual communications marketplace report that the FCC would be required to publish on its website and submit to Congress.	Senate Commerce, Science, and Transportation	6/10/15: Passed the Senate. 6/11/15: Received in the House and held at the desk.
2/02/15	H.R. 655	FCC ‘ABCs’ Act of 2015	Rep. Robert Latta	Amend the Communications Act of 1934 to direct the FCC, in the case of a proposed or final rule (including a proposed or final amendment to an existing rule) that may have an economically significant impact, to include in the notice a cost-benefit analysis demonstrating that the benefits outweigh the costs.	House Energy and Commerce	2/25/15: Received in the Senate and referred to the Committee on Commerce, Science, and Transportation.
2/04/15	H.R. 734 H.Rept. 114-27	Federal Communications Commission Consolidated Reporting Act of 2015	Rep. Steve Scalise	See summary of S. 253	House Energy and Commerce	2/25/15: Received in the Senate and referred to the Committee on Commerce, Science, and Transportation.
2/10/15	S. 421	Federal Communications Commission Process Reform Act of 2015	Sen. Dean Heller	Amend the Communications Act of 1934 to provide for greater transparency and efficiency in the procedures followed by the FCC, and for other purposes.	Senate Commerce, Science, and Transportation	2/10/15: Referred to the Committee on Commerce, Science, and Transportation.
2/26/15	H.R. 1106	States’ Rights Municipal Broadband Act of 2015	Rep. Marsha Blackburn	Amend Section 706 of the Telecommunications Act of 1996 to provide that such section does not authorize the FCC to preempt the laws of certain States relating to the regulation of municipal broadband, and for other purposes.	House Energy and Commerce	2/27/15: Referred to the House Subcommittee on Communications and Technology.
2/26/15	S. 597	States’ Rights Municipal Broadband Act of 2015	Sen. Thom Tillis	See summary of H.R. 1106	Senate Commerce, Science, and Transportation	2/26/15: Referred to the Committee on Commerce, Science, and Transportation.

Introduced	Bill #	Bill Title	Sponsor	Brief Summary	Committee	Bill Status
3/3/15	H.R. 1212	Internet Freedom Act	Rep. Marsha Blackburn	Prohibit the FCC from reclassifying broadband Internet access service as a telecommunications service and from imposing certain regulations on providers of such service.	House Energy and Commerce	3/6/15: Referred to the House Subcommittee on Communications and Technology.
3/17/15	H.R. 1396	Federal Communications Commission Collaboration Act of 2015	Rep. Anna Eshoo	Amend the Communications Act of 1934 to authorize a bipartisan majority of Commissioners of the FCC to hold nonpublic collaborative discussions.	House Energy and Commerce	3/20/15: Referred to the Subcommittee on Communications and Technology.
6/18/15	S. 1607	Independent Agency Regulatory Analysis Act of 2015	Sen. Rob Portman	Authorizes the President to require an independent regulatory agency to (1) comply with regulatory analysis requirements applicable to other federal agencies; (2) provide the Office of Information and Regulatory Affairs with the costs and benefits of a proposed or final economically significant rule and an assessment of alternatives to the rule; and (3) submit for review any proposed or final economically significant rule. Prohibits judicial review of the compliance or noncompliance of an independent regulatory agency with the requirements of this act.	Senate Homeland Security and Governmental Affairs	10/7/2015: Ordered to be reported with an amendment in the nature of a substitute favorably.
3/17/15	S. 760	Federal Communications Commission Collaboration Act of 2015	Sen. Dean Heller	Amend the Communications Act of 1934 to authorize a bipartisan majority of Commissioners of the FCC to hold nonpublic collaborative discussions.	Senate Commerce, Science, and Transportation	3/17/15: Referred to the Committee on Commerce, Science, and Transportation.
5/29/15	H.R. 2583	Federal Communications Commission Process Reform Act of 2015	Rep. Greg Walden	Amend the Communications Act of 1934 to provide for greater transparency and efficiency in the procedures followed by the FCC.	House Energy and Commerce	6/3/15: Ordered to be reported (amended) by voice vote.
6/1/15	H.R. 2589	No title	Rep. Renee L. Ellmers	Amend the Communications Act of 1934 to require the FCC to publish on its Internet website changes to the rules of the commission not later than 24 hours after adoption.	House Energy and Commerce	6/5/15: Referred to the Subcommittee on Communications and Technology

Introduced	Bill #	Bill Title	Sponsor	Brief Summary	Committee	Bill Status
06/1/15	H.R. 2592	No title	Rep. Adam Kinzinger	Amend the Communications Act of 1934 to require the FCC to publish on the website of the commission documents to be voted on by the commission.	House Energy and Commerce	6/5/15: Referred to the Subcommittee on Communications and Technology
6/1/15	H.R. 2593	No title	Rep. Robert E. Latta	Amend the Communications Act of 1934 to require identification and description on the website of the FCC of items to be decided on authority delegated by the commission.	House Energy and Commerce	6/5/15: Referred to the Subcommittee on Communications and Technology
3/7/16	S. 2644	FCC Reauthorization Act of 2016	Sen. John Thune	To reauthorize the FCC for FY2017 and 2018, and for other purposes.	Senate Commerce, Science, and Transportation	3/7/16: Introduced

Source: CRS.

Table 2. Hearings—114th Congress

House of Representatives

Energy and Commerce		Oversight and Government Reform		Judiciary	
Date	Title	Date	Title	Date	Title
2/25/15	The Uncertain Future of the Internet	2/25/15	FCC Process: Examining the Relationship Between the FCC and the White House (POSTPONED)	3/2/15	Discussion of H.R. 1155, the Searching for and Cutting Regulations that are Unnecessarily Burdensome (“SCRUB”) Act of 2015 ¹³
3/04/15	Reauthorization of the Federal Communications Commission: The FCC’s FY2016 Budget Request	3/17/15	FCC: Process and Transparency	3/25/15	Wrecking the Internet to Save It? The FCC’s Open Internet Rule
3/19/15	FCC Reauthorization: Oversight of the Commission				
4/30/15	FCC Reauthorization: Improving Commission Transparency				
5/15/15	FCC Reauthorization: Improving Commission Transparency—Part II				
7/28/15	Continued Oversight of the Federal Communications Commission				
Appropriations					
11/17/15	Oversight of the Federal Communications Commission	3/24/15	FCC Budget Hearing		
1/12/16	A Legislative Hearing on Four Communications Bills	3/15/16	FCC Budget Hearing (scheduled)		

Senate

Commerce		Homeland Security and Government Affairs		Judiciary	
Date	Title	Date	Title		
3/18/15	Oversight of the Federal Communications Commission	2/25/15	Toward a 21 st -Century Regulatory System	No hearings.	
3/16/16	Hearing to consider S. 2644, the FCC Reauthorization Act of 2016, to reauthorize the FCC for FY2017 and 2018 (scheduled)				
Appropriations					
		5/12/15	FCC Budget Hearing		

Source: CRS.

¹³ This hearing also included discussion of two bills not related to FCC procedure: H.R. 348, the “RAPID Act” and H.R. 712, the “Sunshine for Regulatory Decrees and Settlements Act of 2015.”

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