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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 FY2018, the commission is requesting a budget of \$322,035,000, all collected through regulatory fees. This request represents a decrease of \$17,809,000 or 5.2% from the FY2017 level of \$339,844,000. Specifically, the FCC requests \$111,150,000 in budget authority for the spectrum auctions program, a decrease of \$5,850,000 or 5% from the FY2017 level of \$117,000,000.

Contents

Overview of the Federal Communications Commission.....	1
FCC Leadership	2
FCC Structure.....	2
FCC Strategic Plan.....	3
FCC Operations: Budget, Authorization, and Reporting to Congress.....	4
FCC FY2018 Budget.....	5
FCC Authorization	5
FCC Reporting to Congress	6
FCC-Related Congressional Activity—115 th Congress.....	6

Figures

Figure 1. Historical FY2000-FY2018 Appropriated Budget Authority.....	5
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Tables

Table 1. House and Senate Legislation—115 th Congress	7
Table 2. Senate Hearings—115 th Congress.....	8
Table A-1. House and Senate Legislation—114 th Congress	10
Table A-2. House Hearings—114 th Congress	14
Table A-3. Senate Hearings—114 th Congress.....	15

Appendixes

Appendix. FCC-Related Congressional Activity—114 th Congress.....	9
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Contacts

Author Contact Information	16
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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 U.S. 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. Currently, there are three commissioners:

- Ajit Pai, Chair (confirmed by the Senate on May 7, 2012, sworn in on May 14, 2012, for a term ending on June 30, 2017);
- Mignon Clyburn (sworn in for a second term on February 19, 2013); and
- Michael O’Rielly (sworn in for a second term on January 29, 2016, designated as chairman January 24, 2017).

The Senate must reconfirm Mr. Pai by the end of 2017.

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:

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

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

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.

- **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

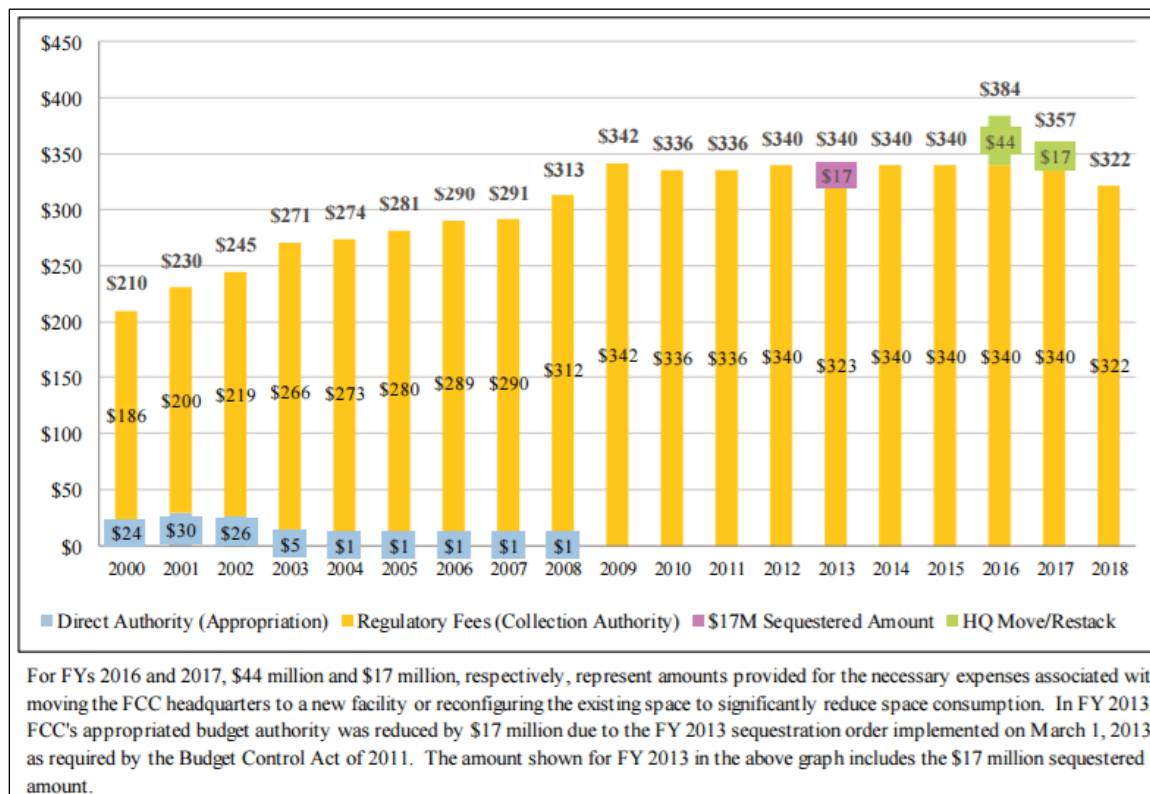
Since the 110th Congress, the FCC has been funded through the House and Senate Financial Services and General Government (FSGG) appropriations processes as a single line item. Previously, it was funded through what is now the Commerce, Justice, Science appropriations process, also as a single line item.

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 FY2018⁹ 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 FY2018 is the FCC's requested budget.

Figure I. Historical FY2000-FY2018 Appropriated Budget Authority
(Dollars in Millions)



Source: FCC.

FCC FY2018 Budget

For FY2018, the commission is requesting a budget of \$322,035,000, all collected through regulatory fees. This request represents a decrease of \$17,809,000 or 5.2% from the FY2017 level of \$339,844,000. For the spectrum auctions program, the FCC requests \$111,150,000, a decrease of \$5,850,000 or 5% from the FY2017 level of \$117,000,000.

FCC Authorization

The FCC has not been formally authorized since the FCC Authorization Act of 1990 (P.L. 101-396) became law. Numerous bills have been introduced since that time, but none has become law.¹⁰ In the 114th Congress, Senator John Thune introduced the FCC Reauthorization Act of 2016 (S. 2644). The bill was approved by the Senate Committee on Commerce, Science, and Transportation on April 27, 2016.

¹⁰ 108th Congress, S. 1264, FCC Reauthorization Act of 2003, Senator John McCain; 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 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.

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.¹¹

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

FCC-Related Congressional Activity— 115th Congress

Legislation introduced in the 115th Congress that would affect the operation of the FCC is detailed in **Table A-1**. Hearings in the 115th Congress regarding the operation of the FCC are detailed in **Table 2**. Thus far, the Senate has held one hearing and the House has not held any.

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

Table I. House and Senate Legislation—115th Congress

Introduced	Bill #	Bill 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	1/24/2017 Ordered to be reported without amendment favorably.
1/17/17	H.R. 583	No 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	1/17/2017 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	1/24/17 Received in the Senate and referred to the Committee on Commerce, Science, and Transportation.
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	1/24/17 Received in the Senate and referred to the Committee on Commerce, Science, and Transportation.
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 rule making process, among other goals.	H. Energy and Commerce	1/13/17 Referred to the House Committee on Energy and Commerce.

Source: CRS.

Table 2. Senate Hearings—115th Congress

Commerce

Date	Title
3/8/17	Oversight of the Federal Communications Commission

Appendix. FCC-Related Congressional Activity— 114th Congress

Congressional action in the 114th Congress is detailed in **Table A-1**, **Table A-2**, and **Table A-3**.

Table A-1. House and Senate 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	4/27/16: Approved by 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	4/27/16: Approved by the Committee on Commerce, Science, and Transportation.

Introduced	Bill #	Bill Title	Sponsor	Brief Summary	Committee	Bill Status
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.
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.

Introduced	Bill #	Bill Title	Sponsor	Brief Summary	Committee	Bill Status
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 Govern. tal 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 A-2. House Hearings—114th Congress

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 ^a
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	Legislative Hearing on Four Communications Bills	3/15/16	FCC Budget Hearing		
4/13/16	Legislative Hearing on Seven Communications Bills				

Source: CRS.

- a. 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.”

Table A-3. Senate Hearings—114th Congress

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.
4/27/16	Hearing to consider S. 2644, the FCC Reauthorization Act of 2016, to reauthorize the FCC for FY2017 and 2018, and other purposes.			
			Appropriations	
9/16/16	Oversight of the Federal Communications Commission	5/12/15	FCC Budget Hearing	

Source: CRS.

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