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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.

President Obama signed H.R. 3547, the Consolidated Appropriations Act, 2014, into law (P.L. 113-76) on January 17, 2014. The law provides the FCC with an FY2014 budget of $339,844,000. As in recent previous years, the FCC's FY2014 budget is to be derived from regulatory fees collected by the agency rather than through a direct appropriation. The fees, often referred to as "Section (9) fees," are collected from license holders and certain other entities (e.g., cable television systems) and deposited into an FCC account. The law gives the FCC authority to review the regulatory fees and to adjust the fees to reflect changes in its appropriation from year to year. It may also add, delete, or reclassify services under certain circumstances. Of note, the FY2014 budget—

- requires "not less than $300,000 shall be available for consultation with federally recognized Indian tribes, Alaska Native villages, and entities related to Hawaiian Home Lands";
- extends the Universal Service Antideficiency Temporary Suspension Act until December 31, 2015 (Sec. 510); and
- prohibits the FCC from implementing the February 27, 2004, recommendations of the Federal-State Joint Board on Universal Service regarding single connection or primary line restrictions on universal service support payments (Sec. 511).

The FCC had requested a budget of $359,299,000.

There are seven bills in the 113th Congress that would have an impact on the way in which the FCC conducts its business and four hearings related to FCC operations.

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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.

[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.

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- 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. 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, and sworn in on November 4, 2013);
- Michael O'Rielly (confirmed by the Senate on October 29, 2013, and sworn in on November 4, 2013);
- Jessica Rosenworcel (confirmed by the Senate on May 7, 2012, and sworn in on May 11, 2012);
- Ajit Pai (confirmed by the Senate on May 7, 2012, and sworn in on May 12, 2012, for a term ending on June 30, 2016); and
- Mignon Clyburn (sworn in for a second term on February 19, 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.

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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 FY2012–FY2016. The plan outlines eight goals:

- Connect America: Maximize Americans' access to—and the adoption of—affordable fixed and mobile broadband where they live, work, and travel.
- Maximize Benefits of Spectrum: Maximize the overall benefits of spectrum for the United States.
- Protect and Empower Consumers: Empower consumers by ensuring that they have the tools and information they need to make informed choices; protect consumers from harm in the communications market.

[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.

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- Promote Innovation, Investment, and America's Global Competitiveness: Promote innovation in a manner that improves the nation's ability to compete in the global economy, creating a virtuous circle that results in more investment and in turn enables additional innovation.
- Promote Competition: Ensure a competitive market for communications and media services to foster innovation, investment, and job creation and to ensure consumers have meaningful choice in affordable services.
- Public Safety and Homeland Security: Promote the availability of reliable, interoperable, redundant, rapidly restorable critical communications infrastructures that are supportive of all required services.
- Advance Key National Purposes: Through international and national interagency efforts, advance the use of broadband for key national purposes.
- Operational Excellence: Make the FCC a model for excellence in government by effectively managing the Commission's human, information, and financial resources; by making decisions based on sound data and analyses; and by maintaining a commitment to transparent and responsive processes that encourage public involvement and best serve 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 Financial Services (House) and Financial Services and General Government (Senate) appropriations process 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.

Most or all of the FCC's budget is derived from regulatory fees collected by the agency rather than through a direct appropriation.[7] 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 law gives the FCC authority to review the regulatory fees and to adjust the fees 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

[7] 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.

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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.

FCC FY2014 Budget

President Obama signed H.R. 3547, the Consolidated Appropriations Act, 2014, into law (P.L. 113-76) on January 17, 2014. The law provides the FCC with an FY2014 budget of $339,844,000. As in recent previous years, the FCC's FY2014 budget is to be derived from regulatory fees collected by the agency rather than through a direct appropriation. The fees, often referred to as "Section (9) fees," are collected from license holders and certain other entities (e.g., cable television systems) and deposited into an FCC account. The law gives the FCC authority to review the regulatory fees and to adjust the fees to reflect changes in its appropriation from year to year. It may also add, delete, or reclassify services under certain circumstances. Of note, the FY2014 budget—

- requires "not less than $300,000 shall be available for consultation with federally recognized Indian tribes, Alaska Native villages, and entities related to Hawaiian Home Lands";
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- prohibits the FCC from implementing the February 27, 2004, recommendations of the Federal-State Joint Board on Universal Service regarding single connection or primary line restrictions on universal service support payments (Sec. 511).

The FCC had requested a budget of $359,299,000[8] to (1) support Commission-wide information technology needs through extending the enterprise storage; (2) support for reform of the Universal Service Fund Support Program; (3) space consolidation and facilities improvement that will reduce lease arrangements that are not cost effective and improve efficiencies; (4) create a Do-Not-Call registry for telephone numbers used by Public Safety Answering Points; (5) provide resources for mission-critical systems to ensure that they are operational during a Continuity of Operations event; and (6) provide contract funding to support mandatory audits for the Office of the Inspector General. The budget submission also includes a request to decrease the spending of Auctions funding from $98.7 million to $89.4 million to support the timely implementation of the Auctions Incentive program.

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;[9]

[8] http://www.fcc.gov/document/fcc-fy-2014-budget.

[9] For more information, see S.Rept. 108-140, at http://www.gpo.gov/fdsys/pkg/CRPT-108srpt140/pdf/CRPT-
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- 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 is to submit its next four-year Strategic Plan by 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.[10]

All of these reports are available on the FCC website.[11]

FCC-Related Congressional Action—113th Congress

There are seven bills in the 113th Congress that would have an impact on the way in which the FCC conducts its business and four hearings related to FCC operations.

(...continued)

108srpt140.pdf.

[10] 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.

[11] http://www.fcc.gov/encyclopedia/fcc-strategic-plan.

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Legislation

Federal Communications Commission Collaboration Act (H.R. 539, S. 245)

- **Status.** H.R. 539 was introduced by Representative Anna Eshoo in the House Committee on Energy and Commerce on February 6, 2013. The bill was referred to the Subcommittee on Communications and Technology on February 8, 2013. S. 245 was introduced by Senator Amy Klobuchar in the Senate Committee on Commerce, Science, and Transportation on February 7, 2013.
- **Summary.** These bills would amend the Communications Act of 1934 to allow, notwithstanding a specified open meeting provision, three or more commissioners of the Federal Communications Commission (FCC) to hold a meeting that is closed to the public to discuss official business if (1) no agency action is taken; (2) each person present is an FCC commissioner or employee; (3) for each political party of which any commissioner is a member, at least one commissioner who is a member of the respective party is present, and, if any commissioner has no party affiliation, at least one unaffiliated commissioner is present; and (4) an attorney from the FCC's Office of General Counsel is present. It would require public disclosure of the meeting, attendees, and matters discussed.

FCC Analysis of Benefits and Costs ("ABCs") Act of 2013 (H.R. 2649)

- **Status.** H.R. 2649 was introduced by Representative Robert Latta in the House Committee on Energy and Commerce on July 10, 2013, and referred to the Subcommittee on Communications and Technology on July 12, 2013. This bill is also called the FCC Process Reform Act of 2013.
- **Summary.** This bill would amend the Communications Act of 1934 to reform the FCC by requiring an analysis of benefits and costs during the rulemaking process and creating certain presumptions regarding regulatory forbearance and biennial regulatory review determinations.

Federal Communications Commission Process Reform Act of 2013 (H.R. 3675)

- **Status.** H.R. 3675 was introduced by Representative Greg Walden in the House Committee on Energy and Commerce on December 9, 2013. It was considered and marked up on December 10, 2013.
- **Summary.** This bill would require the FCC to (1) survey the state of the marketplace through a notice of inquiry before initiating every new rulemaking; (2) identify a market failure, consumer harm, or regulatory barrier to investment before adopting "economically significant" rules, as well as demonstrate that the benefits of the regulation outweigh the costs; (3) make the full text of a rule available to the public for 30 days of comments and 30 days of reply comments prior to voting on the proposed rule, and issue a final rule within three years; and (4) set "shot clocks" for orders, decisions, reports, or actions.

Independent Agency Regulatory Analysis Act of 2013 (S. 1173)

- **Status.** S. 1173 was introduced by Senator Rob Portman in the Senate Committee on Homeland Security and Governmental Affairs on June 18, 2013.

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- **Summary.** This bill would authorize the President to require an independent regulatory agency to: (1) comply, to the extent permitted by law, with regulatory analysis requirements applicable to other federal agencies; (2) publish and provide the Administrator of the Office of Information and Regulatory Affairs with an assessment of the costs and benefits of a proposed or final economically significant rule (i.e., a rule that is likely to have an annual effect on the economy of $100 million or more and is likely to adversely affect sectors of the economy in a material way) and an assessment of costs and benefits of alternatives to the rule; and (3) submit to the Administrator for review any proposed or final economically significant rule. It would also prohibit judicial review of the compliance or noncompliance of an independent regulatory agency with the requirements of this act.

Federal Communications Commission Consolidated Reporting Act of 2013 (H.R. 2844, S. 1379)

- **Status.** H.R. 2844 was introduced by Congressman Steve Scalise on July 26, 2013. It was reported by the Committee on Energy and Commerce on September 9, 2013 (H.Rept. 113-189), and referred to the Senate Committee on Commerce, Science, and Transportation on September 10, 2013. S. 1379 was introduced by Senator Dean Heller on July 29, 2013, and it was referred to the Committee on Commerce, Science, and Transportation.
- **Summary.** These bills would amend the Communications Act of 1934 to require the FCC to publish on its website and submit to Congress a biennial report on the state of the communications marketplace assessing competition, deployment of communications capabilities, and whether laws, regulations, or regulatory practices pose a barrier to competitive entry or expansion of existing providers of communications services. They would also require the FCC to compile a list of geographic areas that are not served by any provider of advanced telecommunications capability and consider market entry barriers in the communications marketplace. Finally, the bills would repeal and/or consolidate various FCC reports.

Hearings

FCC Oversight. On March 12, 2013, the Senate Committee on Commerce, Science, and Transportation held a hearing on issues related to FCC oversight.12 All five FCC commissioners testified.[13]

"**Improving the FCC Process.**" On July 11, 2013, the House Committee on Energy and Commerce Subcommittee on Communications and Technology held a hearing on "Improving the FCC Process." The hearing was held to review two draft bills based on two bills that were passed by the House of Representatives in the 112th Congress: **H.R. 3309**, the Federal Communications

[12] Information about this hearing, including a video of the hearing, is available at http://www.commerce.senate.gov/public/index.cfm?p=Hearings&ContentRecord_id=18f83ea5-3d7d-4ef9-92ad-30a3421c11d3&ContentType_id=14f995b9-dfa5-407a-9d35-56cc7152a7ed&Group_id=b06c39af-e033-4cba-9221-de668ca1978a.

[13] A number of organizations published summaries of the hearing, for example, Reuters, http://www.reuters.com/article/2013/03/12/us-usa-fcc-oversight-idUSBRE92B17420130312.

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Commission Process Reform Act, and **H.R. 3310**, the Federal Communications Commission Consolidated Reporting Act. The draft bills are intended to "minimize the potential for procedural failings and abuse, and to improve agency transparency, efficiency, and accountability." The committee heard from one panel: Stuart M. Benjamin, Douglas B. Maggs Chair in Law and Associate Dean for Research, Duke Law; Larry Downes, Internet industry analyst and author; Robert M. McDowell, former FCC Commissioner and Visiting Fellow, Hudson Institute; Randolph J. May, President, Free State Foundation; Richard J. Pierce Jr., Lyle T. Alverson Professor of Law, George Washington University Law School; and James Bradford Ramsay, General Counsel, National Association of Regulatory Utility Commissioners.

Nomination Hearing. The Senate Committee on Commerce, Science, and Transportation held a hearing on the nomination of Mr. Tom Wheeler on June 18, 2013.[14]

FCC Oversight. On December 12, 2013, the House Committee on Energy and Commerce's Subcommittee on Communications and Technology held a hearing on issues related to FCC oversight. All five FCC commissioners testified.[15]

[14] The hearing was held in two sessions, online at http://www.c-spanvideo.org/program/ChairNom and http://www.c-spanvideo.org/program/ChairNomi.

[15] http://energycommerce.house.gov/hearing/oversight-of-the-federal-communications-commission.

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Appendix A. FCC-Related Congressional Action—112th Congress

One hearing was held on FCC oversight and nine bills were introduced that would affect the manner in which the FCC conducts its business.

Hearings

On February 16, 2012, the House Committee on Energy and Commerce Subcommittee on Communications and Technology held a hearing on the budget and spending of the FCC.[16] FCC Chairman Julius Genachowski; Mr. David H. Hunt, FCC Inspector General; and Mr. Scott Barash, Chief Executive Officer of the Universal Service Administrative Company, testified.

Legislation

Cost-Benefit Analysis of Proposed Rulemaking

FCC Analysis of Benefits and Costs Act of 2011 (H.R. 2289)

H.R. 2289 Status. H.R. 2289, also called the "FCC ABCs Act," was introduced by Representative Robert Latta in the House Committee on Energy and Commerce on June 22, 2011. The bill was referred to the Subcommittee on Communications and Technology June 22, 2011.
H.R. 2289 Summary. This bill would require the FCC to include in each notice of proposed rule making and in each final rule issued by the FCC an analysis of the benefits and costs of such proposed rule or final rule. It would prohibit any appropriations for the express purpose of carrying out this act.

Commission Collaboration

Federal Communications Commission Process Reform Act (H.R. 3309)
Federal Communications Commission Process Reform Act (S. 1784)
Telecommunications Jobs Act (S. 1817)

H.R. 3309 and S. 1784 Status. H.R. 3309 was introduced by Representative Greg Walden in the House Committee on Energy and Commerce on November 2, 2011. It was reported (H.Rept. 112-414)[17] on March 19, 2012, and referred to the Senate the next day, where it was read and referred to the Committee on Commerce, Science, and Transportation. S. 1784 was introduced by Senator Dean Heller in the Senate Committee on Commerce, Science, and Transportation on November 2, 2011.
H.R. 3309 and S. 1784 Summary. This bill would require the FCC to (1) survey the state of the marketplace through a notice of inquiry before initiating every new rulemaking; (2) identify a market failure, consumer harm, or regulatory barrier to investment before adopting "economically

[16] Information about this hearing, including a video of the hearing, is available at http://energycommerce.house.gov/hearings/hearingdetail.aspx?NewsID=9278.

[17] http://www.gpo.gov/fdsys/pkg/CRPT-112hrpt414/pdf/CRPT-112hrpt414.pdf.

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significant" rules, as well as demonstrate that the benefits of the regulation outweigh the costs; (3) make the full text of a rule available to the public for 30 days of comments and 30 days of reply comments prior to voting on the proposed rule, and issue a final rule within three years; and (4) set "shot clocks" for orders, decisions, reports, or actions.

S. 1817 Status. S. 1817 was introduced by Senator Dean Heller in the Senate Committee on Commerce, Science, and Transportation on November 8, 2011.
S. 1817 Summary. This bill is substantially similar to S. 1784.

Federal Communications Commission Collaboration Act (H.R. 1009)

H.R. 1009 Status. H.R. 1009 was introduced by Representative Anna Eshoo in the House Committee on Energy and Commerce on March 10, 2011. The bill was referred to the Subcommittee on Communications and Technology on March 15, 2011.
H.R. 1009 Summary. This bill would amend the Communications Act of 1934 to allow, notwithstanding a specified open meeting provision, three or more commissioners of the Federal Communications Commission (FCC) to hold a meeting that is closed to the public to discuss official business if (1) no agency action is taken; (2) each person present is an FCC commissioner or employee; (3) for each political party of which any commissioner is a member, at least one commissioner who is a member of the respective party is present, and, if any commissioner has no party affiliation, at least one unaffiliated commissioner is present; and (4) an attorney from the FCC's Office of General Counsel is present. It would require public disclosure of the meeting, attendees, and matters discussed.

Report Consolidation and Paperwork Reduction

Federal Communications Commission Consolidated Reporting Act (H.R. 3310)
Federal Communications Commission Consolidated Reporting Act (S. 1780)

H.R. 3310 and S. 1780 Status. H.R. 3310 was introduced by Representative Steve Scalise in the House Committee on Energy and Finance on November 2, 2011, and was reported (H.Rept. 112-443[18]) on April 18, 2012. On May 30, 2012, the bill was passed by the House and it was referred to the Senate Committee on Science, Commerce, and Transportation, on June 4, 2012. **S. 1780** was introduced by Senator Dean Heller in the Senate Committee on Commerce, Science, and Transportation on November 2, 2011.
H.R. 3310 and S. 1780 Summary. This bill would amend the Communications Act of 1934 to consolidate the reporting obligations of the FCC to improve oversight and reduce reporting burdens.

Enhancing the Technical Expertise of the Commission

FCC Technical Expertise Capacity Heightening Act (S. 611)
FCC Commissioners' Technical Resource Enhancement Act (H.R. 2102)

S. 611 Status: S. 611 was introduced by Senator Olympia Snowe in the Senate Committee on Commerce, Science, and Transportation on March 17, 2011.
S. 611 Summary. This bill is substantially similar to its companion bill, H.R. 2102, but unlike

[18] http://www.gpo.gov/fdsys/pkg/CRPT-112hrpt443/pdf/CRPT-112hrpt443.pdf.

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that bill, S. 611 also includes a requirement that the FCC "enter into an arrangement with the National Academy of Sciences to complete a study of the technical policy decision making and the technical personnel at the Commission."

H.R. 2102 Status. H.R. 2102 was introduced by Representative Cliff Stearns in the House Committee on Energy and Commerce on June 2, 2011. The bill was referred to the Subcommittee on Communications and Technology on June 3, 2011.

H.R. 2102 Summary. This bill would amend the Communications Act of 1934 to permit each commissioner of the FCC to appoint an electrical engineer or computer scientist to provide technical consultation and to interface with the Office of Engineering and Technology and other FCC bureaus and technical staff. It would require such engineer or scientist to hold an undergraduate or graduate degree in his or her field of expertise.

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Appendix B. FCC-Related Government Accountability Office Studies

The Government Accountability Office (GAO) has conducted two studies since 2008 related to the operation of the FCC.

FCC: Regulatory Fee Process Needs to Be Updated (August 2012)[19]

The FCC must, by law, assess annual regulatory fees on telecommunications entities to recover most or all of its appropriations—about $336 million in fiscal year (FY) 2011. Recently, the agency stated that it was planning to consider reforms to its regulatory fee process. GAO was asked to assess the FCC's:

- process for assessing regulatory fees among industry sectors; and
- regulatory fee collections over the past 10 years, and alternative approaches to assessing regulatory fees.

For this assessment, GAO:

- reviewed FCC data and documents;
- interviewed officials from the FCC and the telecommunications industry;
- identified alternative approaches to assessing regulatory fees; and
- met with five fee-funded U.S. and Canadian regulatory agencies.

GAO found that the FCC is currently assessing regulatory fees based on obsolete data, with limited transparency. The Communications Act requires fees to be based on the number of full-time equivalents (FTE) that perform regulatory tasks in certain bureaus, among other things. The FCC based its FY2011 regulatory fee assessments on its FY1998 FTE data. It has not updated the assessment on updated FTE data in part to avoid fluctuations in fees from year to year. FCC officials stated that the agency has complied with its statutory authority since the statute does not prescribe a specific time to update its FTE analysis. As a result, after 13 years, FCC has not validated the extent to which its fees correlate to its workload.

The GAO recommended that:

- Congress consider whether FCC's excess fees should be appropriated for FCC's use or, if not, what their disposition should be; and
- the FCC should:
  a. perform an updated FTE analysis and require at least biennial updates going forward;
  b. determine whether and how to revise the current fee schedule, including the number and type of fee categories;

[19] GAO, Report to the Ranking Member, Committee on Energy and Commerce, and Ranking Member, Subcommittee on Telecommunications and the Internet, Committee on Energy and Commerce, House of Representatives, "FCC: Regulatory Fee Process Needs to be Updated," August 10, 2012, http://www.gao.gov/assets/600/593506.pdf.

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c. increase the transparency of its regulatory fee process; and
d. consider the approaches of other fee-funded regulatory agencies.

The FCC agreed with GAO's recommendations.

Enforcement Program Management (February 2008)[20]

According to the GAO analysis of FCC data, between 2003 and 2006, the number of complaints received by the FCC totaled about 454,000 and grew from almost 86,000 in 2003 to a high of about 132,000 in 2005. The largest number of complaints related to violations of the do-not-call list and telemarketing during prohibited hours. The FCC processed about 95% of the complaints it received. It also opened about 46,000 investigations and closed about 39,000; approximately 9% of these investigations were closed with an enforcement action and about 83% were closed with no enforcement action. The GAO was unable to determine why these investigations were closed with no enforcement action because the FCC does not systematically collect these data. The FCC told GAO that some investigations were closed with no enforcement action because no violation occurred or the data were insufficient.

The GAO noted that the FCC assesses the impact of its enforcement program by periodically reviewing certain program outputs, such as the amount of time it takes to close an investigation, but it lacks management tools to fully measure its outcomes. Specifically, FCC has not set measurable enforcement goals, developed a well-defined enforcement strategy, or established performance measures that are linked to the enforcement goals. The GAO stated in its report that without key management tools, FCC may have difficulty assuring Congress and other stakeholders that it is meeting its enforcement mission.

The GAO found that limitations in FCC's current approach for collecting and analyzing enforcement data constitute the principal challenge the agency faces in providing complete and accurate information on its enforcement program. These limitations, according to the GAO, make it difficult to analyze trends; determine program effectiveness; allocate Commission resources; or accurately track and monitor key aspects of all complaints received, investigations conducted, and enforcement actions taken.

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[20] GAO, Report to the Chairman, Subcommittee on Telecommunications and the Internet, Committee on Energy and Commerce, House of Representatives, "FCC Has Made Some Progress in the Management of Its Enforcement Program but Faces Limitations, and Additional Actions Are Needed," February 15, 2008, http://www.gao.gov/new.items/d08125.pdf.

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