PUBLIC NOTICE

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IN RE: DELETE, DELETE, DELETE

GN Docket No. 25-133

Comments Due: Friday, April 11, 2025
Reply Comments Due: Monday, April 28, 2025

Through a series of Executive Orders, President Trump has called on administrative agencies to unleash prosperity through deregulation and ensure that they are efficiently delivering great results for the American people.[1]

By this Public Notice, the Federal Communications Commission (Commission or FCC) is taking action to promote the policies outlined by President Trump in those Executive Orders. Specifically, we are seeking public input on identifying FCC rules for the purpose of alleviating unnecessary regulatory burdens. We seek comment on deregulatory initiatives that would facilitate and encourage American firms' investment in modernizing their networks, developing infrastructure, and offering innovative and advanced capabilities. The Communications Act directs the FCC to regularly review its rules to identify and eliminate those that are unnecessary in light of current circumstances,[2] recognizing that in addition to imposing unnecessary burdens,[3] unnecessary rules may stand in the way of deployment, expansion, competition, and technological innovation

[1] *See, e.g.*, *Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation*, 24 Fed. Reg. 9065 (Feb. 6, 2025); *see also Executive Order 14219 of February 19, 2025, Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative*, 36 Fed. Reg. 10583 (Feb. 25, 2025).

[2] *See, e.g.*, 47 U.S.C. § 161 (directing the Commission periodically to review rules applicable to telecommunications carriers to "determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service," in which case it "shall repeal or modify" the regulation); Telecommunications Act of 1996, Pub. L. 104-104, § 202(h) (1996), as amended, (directing the Commission periodically to review its media ownership rules to "determine whether any of such rules are necessary in the public interest as the result of competition," and "repeal or modify any regulation it determines to be no longer in the public interest").

[3] *See, e.g.*, 47 U.S.C. § 163 (directing the Commission periodically to assess the state of the communications marketplace and, among other things, determine whether regulations or regulatory practices "pose a barrier to competitive entry into the communications marketplace or to the competitive expansion of existing providers of communications services," including particularly in the case of "entrepreneurs and other small businesses"); *see also id*., § 160(b) (as part of granting authority for Commission forbearance, recognizing the potential to "promote competition among providers of telecommunications services" through forbearance from applying rules); *id*., § 332(c)(1)(C) (similar, in the case of "providers of commercial mobile services"); *id*., § 1302(a) (recognizing the potential to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans" through deregulatory actions such as "regulatory forbearance").

in communications that the Commission is directed to advance.[4] Government-wide administrative law requires review of rules to ensure that unnecessary—or affirmatively detrimental—rules are not retained.[5]

We encourage commenters to consider certain policy factors, as described below and consistent with standards and objectives set forth in recent Presidential orders as well as statutory and regulatory retrospective review standards. We also invite more general comment on rules that should be considered for elimination on other grounds. Submissions should identify with as much detail and specificity as possible the rule or rules that the commenting party believes should be repealed (or modified) and the rationale for their recommended action. Commenters whose comments raise issues related to other open Commission dockets should file their comments in all relevant dockets.

Cost-benefit considerations. The Supreme Court has observed that "[a]gencies have long treated cost as a centrally relevant factor when deciding whether to regulate. Consideration of cost reflects the understanding that reasonable regulation ordinarily requires paying attention to the advantages and the disadvantages of agency decisions. It also reflects the reality that 'too much wasteful expenditure devoted to one problem may well mean considerably fewer resources available to deal effectively with other (perhaps more serious) problems.'"[6] The costs and benefits of a rule are relevant to retrospective review in multiple ways.[7]

For one, a cost-benefit analytical framework provides an important tool to enable the Commission to weigh the impact of developments—like technological or marketplace changes—or other specific considerations identified in the paragraphs below. In addition, cost-benefit considerations can be relevant

[4] *See, e.g.*, 47 U.S.C. § 151 (The FCC was established to help "make available, so far as possible, . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges."); *id*., § 157(a) ("It shall be the policy of the United States to encourage the provision of new technologies and services to the public."); *id*., § 303(g) (The Commission shall "[s]tudy new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest."); *id*., § 1302(a) (The Commission is exhorted to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans."); Telecommunications Act of 1996, Pub. L. 104-104, preamble (The Telecommunications Act of 1996 was enacted "[t]o promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.").

[5] *See, e.g.*, 5 U.S.C. § 610 (requiring agencies to engage in a periodic review of existing rules "which have or will have a significant economic impact upon a substantial number of small entities" in order "to minimize any significant economic impact of the rule on a substantial number of small entities in a manner consistent with the stated objectives of applicable statutes"); 5 CFR §§ 1320.1, 1320.5, 1320.10 (establishing a regulatory process for the periodic review and approval of government information collections in order to minimize the paperwork burden for the public, maximize the utility of the information collected and improve the quality and use of the information); *Revision of OMB Circular A-119, "Federal Participation In the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities",* 81 Fed. Reg. 4673 (Jan. 27, 2016) (*Revision of OMB Circular A-119*) *available at* https://www.nist.gov/standardsgov/what-we-do/federal-policy-standards/key-federal-directives (calling for periodic review of standards incorporated in agency rules, among other reasons, to account for technological changes). Indeed, the Administrative Procedure Act's legal framework for the adoption of rules inherently recognizes that the "amendment[] or repeal of a rule" could well become necessary. 5 U.S.C. § 553(e) (requiring agencies to "give an interested person the right to petition for the issuance, amendment, or repeal of a rule").

[6] *Michigan v. EPA*, 576 U.S. 743, 752-53 (2015) (citation omitted).

[7] *See, e.g.*, *ACUS Recommendation 2014-5*, 79 Fed Reg. at 75116, para. 5(b), (c), (e) (identifying various ways that consideration of costs and benefits can be relevant to retrospective review of rules).

in their own right, such as where a rule when originally adopted was not grounded in a proper assessment of the relevant costs and benefits of the requirement, or where the initial cost-benefit evaluation was highly uncertain. We thus broadly seek comment on cost-benefit considerations relevant to our analysis. Are there existing Commission rules for which the costs exceed the benefits? Are there rules that, if eliminated or modified, could result in greater benefits relative to the associated costs of the new regulatory framework? Are there other ways that cost-benefit considerations should inform our retrospective review of FCC rules?

Experience gained from the implementation of the rule. Although the Commission has "wide latitude to make policy based upon predictive judgments," there is "a correlative duty to evaluate its policies over time to ascertain whether they work—that is, whether they actually produce the benefits the Commission originally predicted they would."[8] For one, we seek comment on whether experience gained in the implementation of a given rule provides reason to believe that the rule is unnecessary or inappropriate, whether in its current form or otherwise. Has the rule proven not to advance FCC policy objectives in the manner, or to the degree, originally anticipated? Has the rule's complexity or other compliance difficulties demonstrated that the rule is of limited usefulness and/or results in disproportionate burdens on regulated entities and the Commission's own resources?[9] Have there been repeated waivers of the rule, which could suggest that the rule is unnecessary, inappropriate, or at least ill-suited to its purpose? Have there been unexpected or anomalous outcomes or variations in the benefits and burdens of the rule as applied in otherwise similar circumstances?[10] Has the rule led to particular harms for certain categories of entities, such as entrepreneurs and other small businesses?[11] Conversely, does experience demonstrate that a given rule has fully achieved its objective such that it no longer is needed going forward?[12]

Marketplace and technological changes. The occurrence of marketplace and technological changes that render a rule unnecessary or inappropriate are among the most commonly-identified criteria in retrospective review standards and policies.[13] We therefore broadly seek comment on what existing FCC rules are unnecessary or inappropriate on that basis. Are there existing rules that have outlived their usefulness, for which there is no longer any (or only substantially diminished) need, or which otherwise give rise to harms in light of technological and marketplace developments? If so, what particular technological and marketplace developments have led to, or are leading to, such results, and what specific steps should the Commission take in response? Are there particular elements of broader rules that have become outdated in light of subsequent developments, such as aspects of rules requiring showings that no longer are relevant or necessary?

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[8] *Bechtel v. FCC*, 957 F.2d 873, 881 (D.C. Cir. 1992).

[9] *See, e.g.*, 5 U.S.C. § 610(b)(2), (3); *ACUS Recommendation 2014-5*, 79 Fed Reg. at 75116, para. 5(g), (h), (j).

[10] *See, e.g.*, *ACUS Recommendation 2014-5*, 79 Fed Reg. at 75116, para. 5(k).

[11] *See, e.g.*, 5 U.S.C. § 610; 47 U.S.C. § 163.

[12] *See, e.g.*, 5 U.S.C. § 610(b)(1).

[13] *See, e.g.*, 5 U.S.C. § 610(b)(5); 47 U.S.C. § 161; Telecommunications Act of 1996, Pub. L. 104-104, § 202(h); *Revision of OMB Circular A-119*; *ACUS Recommendation 2014-5*, 79 Fed Reg. at 75116, para. 5(f); *see also, e.g.*, *Bechtel v. FCC*, 957 F.2d at 881 (While "changes of policy require a rational explanation, it is also true that changes in factual and legal circumstances may impose upon the agency an obligation to reconsider a settled policy or explain its failure to do so."). We intend our reference to "marketplace" changes to sweep broadly, and encompass even things such as "evolving social norms" and changes in "public risk tolerance." *ACUS Recommendation 2014-5*, 79 Fed Reg. at 75116, para. 5(f).

Regulation as barrier to entry. It has been often claimed there are large economies of scale inherent in compliance with regulatory programs, with regulation resulting in different levels of compliance costs for different types and sizes of companies.[14] Following our obligation to "assess whether laws, regulations, regulatory practices . . . pose a barrier to competitive entry into the communications marketplace,"[15] we seek comment on whether certain regulations impose costs unequally on large and small businesses or if they unfairly disadvantage American-owned businesses.

Changes in the broader regulatory context. Rules do not exist in isolation, but operate against a backdrop of other FCC rules, other federal rules and requirements, relevant state and local laws, and industry self-regulatory efforts including the adoption of technical standards or best practices.[16] We seek comment on whether changes in the broader regulatory context demonstrate that particular Commission rules are unnecessary or inappropriate. For example, have the imposition of new rules or other regulatory requirements rendered a given Commission rule no longer necessary? Does the aggregate cost of a set of FCC rules and other regulatory requirements outweigh the benefits of a Commission rule or rules? Has the adoption of industry standards, best practices, or other self-regulatory efforts sufficiently diminished any need for, or benefits of, particular rules to warrant their repeal? Are there other circumstances where changes in the broader regulatory context render existing FCC rules unnecessary or inappropriate?

Changes in, or other implications of, the governing legal framework. Where the statutory provision that a given rule implements has been changed since the adoption of that rule, it is appropriate for the agency to revisit the rule to determine if its repeal (or modification) would better effectuate the newly-governing statutory scheme.[17] We seek comment on any examples of Commission rules that should be revisited on that basis. Moreover, we observe that the Supreme Court's *Loper Bright* decision overruled the *Chevron* framework that in years past had provided a relevant backdrop for many agency interpretations of statutes.[18] Under *Loper Bright*, "[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority, as the APA requires. Careful attention to the judgment of the Executive Branch may help inform that inquiry. And when a particular statute delegates authority to an agency consistent with constitutional limits, courts must respect the delegation, while ensuring that the agency acts within it. But courts need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous."[19] Are there rules that were based on a past FCC interpretation of statutory language that should be revisited in light of *Loper Bright*? We ask any commenters identifying such rules to also identify and explain what they believe is

[14] Francesco Trebbi & Miao Ben Zhang, *The Cost of Regulatory Compliance in the United States*, NBER Working Paper 30691 (Nov. 2022).

[15] 47 U.S.C.A. § 163.

[16] *See, e.g.*, 5 U.S.C. § 610(b)(4); *ACUS Recommendation 2014-5*, 79 Fed Reg. at 75116, para. 5(e).

[17] *See, e.g.*, *ACUS Recommendation 2014-5*, 79 Fed Reg. at 75116, para. 5(d).

[18] *Loper Bright Ent. v. Raimondo*, 144 S. Ct. 2244, 2273 (2024) ("*Chevron* is overruled."). In *Chevron U.S.A. Inc. v. Nat. Res. Def. Council*, 467 U.S. 837 (1984), the Supreme Court articulated a two-part test for judicial review of an agency's interpretation of the statute it is entrusted to administer. "First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress." *Id*. at 842-43. On the other hand, "if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute." *Id*. at 843

[19] *Loper Bright*, 144 S. Ct. at 2273.

the best reading of the relevant statutory language at issue. Finally, we observe that on occasion provisions of the Communications Act and/or Commission rules have been found to be unconstitutional.[20] We therefore also seek comment on whether constitutional concerns provide a basis for repealing any existing FCC rules or should inform the Commission's approach to implementing or enforcing particular statutory provisions.

Other considerations relevant to the retrospective review of Commission rules. We seek comment on any other considerations relevant to our identification of existing rules that are unnecessary or inappropriate. For example, are there rules that remain in the Code of Federal Regulations that no longer have any operative effect—whether because their self-described effectiveness has passed, or otherwise? Are there rules with a sunset period or for which the Commission committed on its own to undertake further regulatory review, but where that regulatory review has not yet occurred? Are there situations where a case-by-case approach is better suited to the implementation of particular statutory mandates as compared to bright-line rules? Are there existing rules that could give rise to a risk of regulatory capture? Are there other problems that could arise from existing rules that render them unnecessary or inappropriate?

Interested parties may file comments on or before the dates indicated on the first page of this document. Parties should file all comments and reply comments in **GN Docket No. 25-133**.

Ex Parte Rules. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules.[21] Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Filing Requirements. Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

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[20] *See, e.g.*, *Greater New Orleans Broad. Ass'n, Inc. v. FCC*, 527 U.S. 173, 190-95 (1999) (statutory and associated regulatory prohibition on broadcasting advertisements for lawful casino gambling could not withstanding First Amendment scrutiny as applied in Louisiana where such gambling is legal); *Lutheran Church – Missouri Synod v. FCC*, 141 F.3d 344, 354-56 (D.C. Cir. 1998) (finding the Commission's EEO regulations unconstitutional on Equal Protection grounds).

[21] 47 C.F.R. §§ 1.1200 *et seq.*

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: https://www.fcc.gov/ecfs/.

- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.

    - Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. **All filings must be addressed to the Secretary, Federal Communications Commission.**

    - Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

    - Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

    - Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice).

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