

**REMARKS OF FCC CHAIRMAN AJIT PAI AT
CATO INSTITUTE POLICY PERSPECTIVES 2017**

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It's great to be back in New York City. Just eight days ago, I was here for the Reason Media Awards. Now I'm back for the Cato Institute's policy luncheon. I must admit that I had no idea the Big Apple had become such a hotbed of libertarian activity. Has anyone notified the city government?

On a more serious note, your preceding session featured Chris Edwards talking about tax reform and how poor tax policy can hinder economic growth. That's certainly a timely topic. But I'd like to focus my remarks on an equal if not greater threat to entrepreneurship and economic dynamism: excessive regulation.

If you were to ask everyday Americans what country is the best place in the world to start a business, a healthy number would probably say the United States. After all, we are the land of opportunity—the place where everyone is free to go as far as their talents and work ethic can take them. That's the American Dream, and it's a beacon for the world. Just ask my parents, who came from halfway around the world to live out that dream.

But that dream is at risk. Every year, the World Bank puts out an annual report called *Doing Business*. Nearly 200 countries are assessed and ranked on how conducive the regulatory environment is for operating a local business. There's an overall ranking for "Ease of Doing Business," where the United States ranks sixth, buoyed by our easy access to credit. Now, I'd certainly like the United States to be ranked first, but being in the top ten is encouraging.

That's the good news. The bad news? One of the subcategories ranks countries by the ease of "Starting a Business." And do you want to know where the U.S. ranks? 49th! That puts us behind countries like Burundi and Uzbekistan.

I wish I could say that I was surprised when I read that. But sadly, I wasn't. Indeed, my thoughts immediately jumped to the story of Ash Patel.

Mr. Patel is an Indian-American entrepreneur who used to own salons in Texas that offered eyebrow threading. For those of you who aren't familiar with the activity, threading is an ancient grooming technique that uses cotton thread to shape and remove eyebrow hair. It's perfectly safe; no chemicals, dyes, or sharp objects are used. Threading is widely practiced in South Asia and the Middle East, where each generation passes the art form down to the next.

Unfortunately, the Texas Department of Regulation and Licensing decided a few years ago that eyebrow threaders first had to obtain a cosmetology license before being able to work. That requires up to 1,500 hours of instruction at a government-certified beauty school. And what will they learn? Not threading; these schools don't even teach it. Then, after taking these classes, they are required to pass a government-approved cosmetology exam. And does the exam test for threading? Again, the answer is no. So how does it make sense to require an eyebrow threader to spend a year of his life and over \$20,000 to obtain a cosmetology license? It doesn't. And these irrational regulations have devastating consequences. Following the state's crackdown on eyebrow threaders, Mr. Patel was forced to close his salons because he couldn't find threaders with cosmetology licenses.

Unfortunately, Mr. Patel isn't alone. You can find example after example of red tape at the local, state, and federal level—red tape that stifles the entrepreneurial spirit. Craft breweries in many states

must navigate a byzantine distribution system set up at the end of Prohibition. Under this system, a local brewer who wants to sell his product to a local restaurant has to go through a government-approved distributor, even if the nearest wholesaler is several towns away. In cities like Louisville and Baltimore, food truck operators have had to wage battle not just with competing restaurants but local authorities. In Wisconsin, aspiring bakers were required to first obtain a commercial grade kitchen separate from their home kitchen before they could sell their first cookies. Before discussing the beautiful sights in Charleston, South Carolina with tourists, guides first had to pass two examinations and, in some cases, get scripts approved in advance. If you want more tales, just check out The Institute for Justice's website. Its collection of regulatory horror stories is long and constantly growing. And it suggests something counterintuitive: America is often thought of as a purely free market economy, but barriers like these all too often makes ours one of the more regulated economies in the developed world.

Closer to home, I also see examples of red tape frustrating entrepreneurship and innovation in my job as FCC Chairman. Earlier this year, I met with the founders of Rocket Fiber, a start-up broadband provider in Detroit. Under any circumstance, launching such a business is a daunting undertaking. And as if it weren't tough enough going up against larger competitors, it wasn't long before Rocket Fiber also found itself at odds with City Hall. For one thing, almost everything this startup did required signoffs from multiple city agencies. More significantly, Rocket Fiber had major trouble getting access to city-owned utility poles—one of the biggest costs of building a broadband network. In some cases, the city was asking for rates that were simply prohibitive. If Rocket Fiber hadn't been able to negotiate more favorable rates, it never would have been able to build its network.

The fact that the examples I've been highlighting in my remarks involve small players is telling. Large firms certainly have their qualms about overregulation. But they are much better positioned to navigate the bureaucratic landscape than an upstart. They can hire the high-priced lawyers necessary to comply with a complex set of regulations or well-connected lobbyists who can grease the wheel for a needed permit to be approved or accountants to manage financial issues. The more rules and regulations apply, the more the playing field is skewed in favor of large incumbents, and the less likely you are to have a robustly competitive market with upstart competitors offering consumers new choices.

And the sad fact is that the pervasive decline in the start of new businesses is a significant threat to our economic prospects. A February 2017 report by the Economic Innovation Group found that business creation has slowed dramatically in recent decades. From 1983 to 1987, the United States added almost half-a-million new businesses. That was the robust Reagan recovery. And what about the most recent figures? From 2010 to 2014, our economy barely added 100,000 new firms. That's a drop of over 75% from the 1980s. Another way of looking at it: between 1977 and 2014, the number of startups per \$1 billion of GDP dropped from 95 to 25.

And when you look behind the overall numbers, the picture is even worse. In almost two-thirds of our nation's metropolitan areas, more businesses died than were born in 2014. And then consider the fact that from 1977 to 2007, there wasn't a single year where that was true in more than one-quarter of our metropolitan areas.

Now, don't get me wrong; I'm not saying that this disturbing trend is solely the result of excessive regulation. What I *am* saying is that the dramatic slowdown in new business formation is a serious concern. If we want to reverse this trend, we need rules that encourage entrepreneurship, rather than holding it back.

That's exactly the approach we've been taking at the FCC for the past ten months under my leadership. Across the board, we are reviewing our regulations to make sure that they reflect current market conditions; that they are applied evenly and fairly; and that they are consistent with the law and sound principles of economics. In some cases, that means streamlining rules to reflect current technological and marketplace realities. In other cases, that means eliminating them altogether. In all

cases, it means getting government out of the way as much as possible in order to encourage private initiative.

Beyond that, we have adopted a posture of regulatory humility. Government is not particularly well-suited to predict with certainty what the future will look like. That wisdom certainly doesn't reside in Washington, DC. So, we aren't seeking to manipulate regulatory levers to create a particular market structure. And we aren't picking winners and losers. The history of such explicit or implicit centralized economic planning has been nothing short of a disaster.

Moreover, we're rejecting the convention of pitting the market against the consumer, a convention as lazy as it is inaccurate. At last week's Reason Media Awards, Flying Dog Brewery CEO Jim Caruso was honored for championing libertarian causes. I like the way he puts lie to the false dichotomy of markets versus consumers. Jim describes himself as, "Not pro-business. [But] Pro-free enterprise, pro-consumer choice."

That's the way we see it as well. Our role at the FCC isn't to support any particular company or industry. Instead, we seek to foster a light-touch regulatory framework that permits all types of companies to compete in the communications marketplace. And then we'll let American consumers choose who succeeds and who doesn't. After all, competition is a far better guarantor of consumer welfare than preemptive regulation.

What do these principles look like in practice? To make it easier for the Rocket Fibers of the world to get off the ground and promote competition in the broadband market, we're removing barriers to infrastructure deployment. On the wireless side, for example, historic preservation and environmental regulations that were designed to address 200-foot cell towers are a mismatch for the small cells that will make up the wireless networks of tomorrow. So, we're busy making it faster and cheaper to install that infrastructure. We're also acting to bring some good old-fashioned common sense to these rules. Just yesterday, for example, we took a simple but powerful step with respect to utility poles. If you're replacing an old pole with a newer one that's substantially identical—one that can support antennas or other wireless equipment—you shouldn't have to endure extensive historic preservation review. (That this is even a debate is likely to perplex many of you. Welcome to our world.)

On the wired infrastructure side, we're making it easier for companies to transition from the fading copper networks of yesterday to the robust fiber networks of tomorrow. By definition, every dollar that a company spends maintaining copper is a dollar that can't be spent on fiber. But because of our rules, some U.S. broadband providers are spending billions of dollars every year on propping up the networks of the past. That's the kind of red tape that needs to be cut. And yesterday, we did. We voted to streamline our rules so that carriers can efficiently upgrade to newer technologies that better serve consumers and enhance competition. (Notably, this will particularly improve the business case for deploying broadband in rural areas. One study found that a package of reforms—including those we adopted yesterday—would make it economically viable for the private sector to deploy fiber to the premises in millions of additional rural locations.)

Turning to the media space, we're in the middle of a comprehensive effort to modernize our media regulations. In May, the FCC did something somewhat unusual for a regulatory agency. We asked for ideas on which media regulations we should eliminate or streamline. With about one thousand pages of media rules on the books, I suspected that we'd get a bunch of good suggestions. And we did. So, we have gotten started with the process of eliminating or updating many of these rules.

The first rule that we teed up for elimination was a minor one. But I think that it's worth mentioning because it typifies how the Code of Federal Regulations ends up littered with outdated rules. In the 1970s, the Commission began requiring certain broadcasters and cable operators to maintain paper copies of the Commission's rules in their stations and offices. So, we have a rule on the books that is

literally about books of rules. Now at one point, this might have made sense. But today, when the Commission's rules are available over the Internet to anyone with a smartphone, there's no reason to force businesses to buy and maintain hard copies of FCC rules.

Of course, we've also focused on more important regulations. For instance, yesterday, I'm proud that the FCC voted to eliminate the ban on newspaper-broadcast cross-ownership. This ban was adopted back in 1975, when the media world was defined entirely by pulp, rabbit ears, and transistor radios, and there were no cable channels or that little thing called the Internet. That ban will now end. For, these days, the notion that common ownership of a radio or television station and a newspaper poses a threat of monopolizing the media market is utterly absurd.

Until now, I've largely discussed how the FCC is paring back outdated rules that are stifling entrepreneurs. On top of that, we've made it a priority to unleash innovation. If you're a startup and you want to offer a new service or technology in the marketplace, I don't want the FCC to stand in your way. And if you are an existing company and want to innovate, I don't want the FCC to be a roadblock.

That's why we've approved market access for the next generation of satellite constellations, which promises a new option for high-speed Internet access for hard-to-serve rural areas.

That's why we've made wide swaths of spectrum available for wireless innovation, whether for cellular service or the next generation of Wi-Fi.

And that's why the Commission voted yesterday to authorize the next-generation television standard, allowing television broadcasters to fully enter the digital era by offering advanced services like robust mobile reception and immersive audio.

But these individual actions, and others like it, aren't enough. As I've often said, one of the most powerful forces in government is inertia. To ensure that innovators don't get sandbagged, we're implementing a new process. If someone seeks approval of a new technology or service that falls within our jurisdiction, we'll make a decision within one year. No more waiting indefinitely for an answer. This process is what's called for in a provision of the Communications Act—Section 7. You've probably never heard of it, and for good reason. It's been on the books for decades, but it's never been enforced. At long last, it will be. I realize that one year probably sounds like a long time to you, but it can be the equivalent of light speed in Washington's regulatory world.

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I'd like to close by shifting from threading the FCC's regulatory needle back to eyebrow threading. When I left off the story of Mr. Patel, he had to shut down his business. Well, like most entrepreneurs, he's not one to give up lightly. Instead, he and others challenged the constitutionality of the licensing scheme. And the Texas Supreme Court ruled 6 to 3 in his favor. Mr. Patel said, "I am only asking for a fair chance to pursue my American Dream free from needless government regulation." Now, he gets that chance. Remember the entrepreneurs in Wisconsin who were banned from selling home-baked goods? They got that rule overturned, too. I hope other cases will meet a similar fate.

The point is that there are plenty of overly burdensome regulations out there that are holding back U.S. entrepreneurship and ingenuity. But if people call them out and fight back, change is possible. That's why the work of groups like the Cato Institute is so valuable. And that's why I look forward to working with you in the months and years ahead to reduce unnecessary regulation and unleash more economic opportunity for the American people.