

**STATEMENT OF
CHAIRMAN AJIT PAI**

Re: *Revision of the Commission’s Part 76 Review Procedures*, MB Docket No. 20-70; *Modernization of Media Regulation Initiative*, MB Docket No. 17-105; *Revision of the Commission’s Program Carriage Rules*, MB Docket No. 11-131.

When Shakespeare wrote, “the first thing we do, let’s kill all the lawyers,”¹ he was tapping into a feeling familiar to many—that the rules too often seem designed to primarily benefit attorneys. The full Code of Federal Regulations is enough to crush all but the sturdiest bookshelves, and it’s become filled with legal nooks and crannies that can trap the unwary. This erodes the fundamental sense of fairness that results from having clear laws with predictable outcomes. If an entity regulated by the Commission doesn’t know what it can expect from the law, it is subject to unexpected surprises that can be disruptive to business and only redound to the benefit of its outside counsel.

Thankfully, the Commission has been working to make our media rules more friendly for non-lawyers with our long-running *Modernization of Media Regulation Initiative*. In today’s Order, we pave over cracks that only a lawyer could love in our rules governing program carriage disputes between video program distributors and multichannel video programing distributors (MVPDs).

A clear and meaningful statute of limitations is critical to ensuring that program carriage complaints are filed in a timely manner, not years after relevant events have taken place. However, as a result of a complicated regulatory history that we need not review here, our rules currently allow potential complainants to essentially set their own statute of limitations. This is because one prong of our current statute of limitations allows them to file a complaint within one year of providing notice to an MVPD that they intend to file a complaint, regardless of when the alleged violation of our rules took place. Needless to say, this undermines the fundamental purpose of a statute of limitations. Today, we fix this problem by modifying this prong so that the one-year statute of limitations begins to run when a defendant MVPD has denied or failed to acknowledge either a request for program carriage or a request to negotiate for program carriage. And for the sake of consistency, we do the same for the parallel prongs in the statutes of limitations for program access, open video systems, and good-faith retransmission consent complaints.

Our rules also currently provide that Administrative Law Judge (ALJ) initial decisions resolving program carriage complaints go into effect immediately, while other ALJ decisions only go into effect 50 days after the release of the decision. So today, we bring the program carriage rules in line with the ALJ’s general rules, meaning that these program carriage decisions will not take effect for at least 50 days following release and will be stayed automatically upon the filing of exceptions with the Commission. The current inconsistent deadlines have created confusion for parties to program carriage disputes in the past, and this harmonization will provide needed clarity. In order to resolve any exceptions filed to an ALJ’s program carriage decision in a timely manner, we are also establishing a goal of circulating to the Commission a draft ruling on review of an initial ALJ program carriage decision no later than 180 days from the date an appeal is filed. Lastly, we delete from the Commission’s rules the program carriage standstill provision, which was vacated by the U.S. Court of Appeals for the Second Circuit in 2013.

For all their help in cleaning up our program carriage dispute rules, I’d like to thank (even though many of them are lawyers): from the Media Bureau, Michelle Carey, John Cobb, Maria Mullarkey, Raelynn Remy, and Holly Saurer; from the Office of Economics and Analytics, Eugene Kiselev, Emily Talaga, and Andrew Wise; from the Office of Communications Business Opportunities, Belford Lawson;

¹ *Henry VI, Part 2, Act IV, Scene 2.*

and from the Office of General Counsel, Susan Aaron and Dave Konczal. Simplifying these rules may not have come easy, but as Shakespeare famously wrote, “all’s well that ends well.”²

² *All’s Well That Ends Well*, Act IV, Scene 4.