

**STATEMENT OF  
COMMISSIONER AJIT PAI**

Re: *Commission Seeks Public Comment in 2016 Biennial Review of Telecommunication Regulations*, CG Docket No. 16-124, EB Docket No. 16-120, IB Docket No. 16-131, ET Docket No. 16-127, PS Docket No. 16-128, WT Docket No. 16-138, WC Docket No. 16-132

This is a time of widespread dissatisfaction with and distrust of government. Many Americans perceive that government agencies don't bother following the law or, at best, make a half-hearted attempt to comply. The Federal Communications Commission shares responsibility for this problem. For example, in its longstanding abdication of its legal responsibility to conduct a meaningful biennial review, the Commission unfortunately has treated the law in much the same way that The Dude handled bowling taunts in *The Big Lebowski*: "Yeah, well, you know, that's just, like, your opinion, man."<sup>1</sup>

Here's the background. Section 11 prescribes that every two years, the FCC "*shall* review all regulations . . . that apply to the operations or activities of any provider of telecommunications service" and "*shall* 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."<sup>2</sup> If the Commission finds that the public interest no longer demands any such regulation, it "*shall* repeal or modify" that regulation.<sup>3</sup>

Unlike most matters the FCC handles, conducting a biennial review is not a very complicated case, with a lot of ins, a lot of outs, a lot of what-have-yous. Indeed, Section 11 is a simple and powerful tool for scrubbing outdated regulations from our books and promoting private sector innovation and investment. In a sense, it ties the Communications Act together.

Or at least could be, if the FCC took this task seriously. In 2014, the agency simply ignored this duty entirely. This time around, it promises a few desultory efforts at paging through the Code of Federal Regulations—efforts certain to result in many staff hours being wasted and nothing meaningful being done. (Say what you will about the FCC's seemingly nihilistic view in 2014 that the law didn't exist—at least it was an ethos.)

We should be prompt and bold in conducting these biennial reviews, not tardy and timid. I hope the next Administration takes a more proactive, forward-thinking view of this task, for passivism is not something to hide behind. Am I wrong?

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<sup>1</sup> The Dude, *The Big Lebowski* (Polygram Filmed Entertainment 1998).

<sup>2</sup> 47 U.S.C. 161(a) (emphasis added).

<sup>3</sup> 47 U.S.C. 161(b) (emphasis added).