

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Establishment of the Office of) MD Docket No. 18-3
Economics and Analytics)

ORDER

Adopted: January 30, 2018

Released: January 31, 2018

By the Commission: Chairman Pai, and Commissioners O’Rielly and Carr issuing separate statements;
Commissioner Clyburn and Rosenworcel dissenting and issuing separate statements.

I. INTRODUCTION

1. To enhance the role of economic analysis, the design and implementation of auctions, and the use and management of data at the Federal Communications Commission (the Commission or FCC), we conclude that the proper dispatch of our business and the public interest will be served by creating an Office of Economics and Analytics (the Office or OEA). In this Order, we amend the Commission’s Rules to reflect the new organizational structure, describe the Office’s functions and delegated authority, and make other conforming changes. We find it appropriate to make these organizational changes to integrate the use of economics and data analysis into the Commission’s various rulemakings and other actions in a more comprehensive and thorough manner.

II. DISCUSSION

2. The key objectives of this organizational change are to expand and deepen the use of economic analysis into Commission policy making, to enhance the development and use of auctions, and to implement consistent and effective agency-wide data practices and policies.

3. The Office will be charged with ensuring that economic analysis is deeply and consistently incorporated into the agency’s regular operations, and will support work across the FCC and throughout the decision-making process. Specifically, it will: (A) provide economic analysis, including cost-benefit analysis, for rulemakings, transactions, adjudications, and other Commission actions; (B) manage the FCC’s auctions in support of and in coordination with FCC Bureaus and Offices; (C) develop policies and strategies to help manage the FCC’s data resources and establish best practices for data use throughout the FCC in coordination with FCC Bureaus and Offices; and (D) conduct long-term research on ways to improve the Commission’s policies and processes in each of these areas.

4. To accomplish these objectives and functions, the Office of Economics and Analytics will combine economists, attorneys, and data professionals¹ from across the Commission. In particular, we intend for the majority of the Commission’s economists currently in multiple Bureaus and Offices to staff the Office of Economics and Analytics.

5. To accomplish this organizational change, the following actions are taken.

- The Commission will eliminate the Office of Strategic Planning and Policy (OSP) and generally shift OSP authorities and functions to the Office of Economics and Analytics.

¹ The Office may also include other staff members not specifically described by these categories but which nonetheless will assist the Office in carrying out its duties.

- The Commission will create an Economic Analysis Division within the Office of Economics and Analytics. The Economic Analysis Division will provide analytical and quantitative support as needed to Bureaus and Offices engaged in rulemakings, transactions, auctions, adjudications, and other matters.
- The Commission will create an Industry Analysis Division within the Office of Economics and Analytics. To accomplish this, the Commission will generally shift the functions of the Industry Analysis and Technology Division of WCB to OEA. Through its Industry Analysis Division, OEA will serve as the Commission's principal resource with regard to designing and administering significant, economically-relevant data collections used by a variety of Bureaus and Offices, providing support to Bureaus and Offices with respect to these data collections as well as support using the data for Continuity of Operations (COOP)/Emergency Response Group (ERG)/Incident Management Team (IMT), and performing analyses and studies.
- The Commission will create an Auctions Division within the Office of Economics and Analytics. To accomplish this, the Commission will generally shift the functions of the Auctions and Spectrum Access Division in the Wireless Telecommunications Bureau (WTB) to OEA. Through its Auctions Division and in consultation with WTB and the Wireline Competition Bureau (WCB), OEA will serve as the Commission's principal resource with regard to all auction design and implementation issues. OEA will collaborate with other Bureaus involved in establishing and conducting auctions, such as spectrum or universal service auctions.
- The Commission will create a Data Division within the Office of Economics and Analytics. The Data Division help develop and implement best practices, processes, and standards for data management in order to meet the needs of Commission staff who rely on data to inform policymaking and other core activities of the Commission.²

6. The amendments adopted herein pertain to agency organization, procedure, and practice. Consequently, the notice and comment and effective date provisions of the Administrative Procedure Act contained in 5 U.S.C. §§ 553(b) and (d) do not apply.

7. Consistent with the Consolidated Appropriations Act, 2017,³ this reorganization will not become effective until the appropriate clearance has been obtained, and the Order has thereafter been published in the Federal Register.

III. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to sections 1, 4, 5(b), 5(c), 201(b), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 155(b), 155(c), 201(b), 303(r), this Order IS ADOPTED.

9. IT IS FURTHER ORDERED that Part 0 of the Commission rules IS AMENDED as set forth in the Appendix.

² The FCC's financial and investigative data management functions will continue to be managed separately.

³ See Pub. L. 115-31, at Division E, Title VI, § 608, 131 Stat. 371 (2017); see also Continuing Appropriations Act, 2018, Pub. L. 115-56 at § 101 (a), 131 Stat. 1139 (2017); Further Additional Continuing Appropriations Act, H.R. 1370, at § 1001 (2017).

10. IT IS FURTHER ORDERED that this Order WILL BECOME EFFECTIVE when the Commission publishes this Order in the Federal Register in accordance with paragraph 7.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX**Final Rules**

The Federal Communications Commission amends 47 CFR Part 0 as follows:

PART 0 – COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

AUTHORITY: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Amend section 0.5 to revise subsection (a) to replace paragraph (4) to read as follows:

§ 0.5 General description of Commission organization and operations.

(a) *Principal staff units.* The Commission is assisted in the performance of its responsibilities by its staff, which is divided into the following principal units:

* * * * *

(4) Office of Economics and Analytics.

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3. Amend section 0.21 to read as follows:

OFFICE OF ECONOMICS AND ANALYTICS**§ 0.21 Functions of the Office.**

The Office of Economics and Analytics advises and makes recommendations to the Commission in the areas of economic and data analysis and data management policy. The Office reviews all Commission actions involving significant economic or data analysis and provides expertise, guidance, and assistance to the Bureaus and other Offices in applying the principles of economic and data analysis. The Office coordinates the Commission's research and development activities relating to economic and data analysis and data management policy. In addition, the Office serves, in close coordination with other relevant Bureaus and Offices, as a principal resource for policy and administrative staff of the Commission with regard to the design, implementation, and administration of auctions. The Office also establishes and implements Commission data management policies in conjunction with the relevant Bureaus and Offices and with the Office of Managing Director and Office of General Counsel. The Office of Economics and Analytics has the following duties and responsibilities:

- (a) Identifies and evaluates significant communications policy issues, based on the principles and methods of economics and data analysis.
- (b) Collaborates with and advises other Bureaus and Offices in the areas of economic and data analysis and with respect to the analysis of benefits, costs, and regulatory impacts of Commission policies, rules, and proposals.

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- (c) Prepares a rigorous, economically-grounded cost-benefit analysis for every rulemaking deemed to have an annual effect on the economy of \$100 million or more.
 - (d) Confirms that the Office of Economics and Analytics has reviewed each Commission rulemaking to ensure it is complete before release to the public.
 - (e) Reviews and comments on all significant issues of economic and data analysis raised in connection with actions proposed to be taken by the Commission and advises the Commission regarding such issues.
 - (f) Develops, recommends, and implements data management policies in conjunction with the Office of Managing Director, the Office of General Counsel, and relevant Bureaus and Offices, and collaborates with and advises other Bureaus and Offices with respect to data management and data analysis.
 - (g) Manages the Commission's economic and data analysis research programs, recommends budget levels and priorities for these programs, and serves as central account manager for all contractual economic and data analysis research studies funded by the Commission.
 - (h) Conducts economic, statistical, cost-benefit, and other data analysis of the impact of existing and proposed communications policies and operations, including cooperative studies with other staff units and consultant and contract efforts as appropriate.
 - (i) Coordinates the Commission's evaluation of government (state and federal), academic, and industry-sponsored research affecting Commission policy.
 - (j) Coordinates with other Bureaus and Offices in making recommendations to the Commission on communications policy issues that involve economic and data analysis, cost-benefit analysis; represents the Commission at appropriate discussions and conferences.
 - (k) Develops and recommends procedures and plans for effective economic and data analysis, cost-benefit analysis, within the Commission.
 - (l) Seeks to ensure that FCC policy encourages and promotes competitive markets by providing Bureaus and Offices with the necessary support to identify, evaluate, and resolve competition issues.
 - (m) In conjunction with the relevant subject matter Bureau, serves as the Commission's principal policy and administrative staff resource with regard to the design, implementation, and administration of auctions and other types of competitive bidding.
 - (n) Administers Commission spectrum auctions for wireless telecommunications in conjunction with the Wireless Telecommunications Bureau. Administers Commission spectrum auctions for broadcasting in conjunction with the Media Bureau. Works with the Wireless Telecommunications Bureau to develop recommendations to the Commission on policies, programs and rules concerning auctions of spectrum for wireless telecommunications. In conjunction with the Wireless Telecommunications Bureau, Media Bureau, Wireline Competition Bureau, and other relevant Bureaus and Offices, advises the Commission on policy relating to auctions and competitive bidding to achieve other Commission policy objectives. Administers procurement of auction-related services from outside contractors. Provides policy, administrative and technical assistance to other Bureaus and Offices on auction issues.
 - (o) In conjunction with the Wireline Competition Bureau and Wireless Telecommunications Bureau,

provides policy and administrative staff resources for the use of market-based mechanisms, including competitive bidding, to distribute universal service support.

- (p) With respect to applicable data and reporting duties assigned to the Office, coordinates with the Public Safety and Homeland Security Bureau and other relevant Bureaus and Offices on all matters affecting public safety, homeland security, national security, emergency management, disaster management, and related issues.
- (q) With respect to applicable data and reporting duties assigned to the Office, and in coordination with the Wireline Competition Bureau and the Wireless Telecommunications Bureau, provides federal staff support for the Federal-State Joint Board on Universal Service and the Federal-State Joint Board on Jurisdictional Separations.
- (r) In coordination with other relevant Bureaus and Offices, provides economic, financial, and technical analyses of communications markets and provider performance.
- (s) In coordination with the Wireline Competition Bureau, provides technical support for *de novo* review of decisions of the Administrative Council for Terminal Attachments regarding technical criteria pursuant to §68.614.
- (t) Prepares briefings, position papers, and proposed Commission actions, as appropriate.
- (u) In coordination with other relevant Bureaus and Offices, develops and recommends responses to legislative, regulatory or judicial inquiries and proposals concerning or affecting matters within the purview of its functions.

4. Amend section 0.31 to revise subsection (g) to read as follows:

OFFICE OF ENGINEERING AND TECHNOLOGY

§ 0.31 Functions of the Office.

* * * * *

- (g) In cooperation with the relevant Bureaus and Offices, including the Office of General Counsel and the Office of Economics and Analytics, to advise the Commission, participate in and coordinate staff work with respect to general frequency allocation proceedings and other proceedings not within the jurisdiction of any single bureau, and render service and advice with respect to rule making matters and proceedings affecting more than one Bureau.

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5. Amend section 0.91 to revise subsection (p) to read as follows:

WIRELINE COMPETITION BUREAU

§ 0.91 Functions of the Office.

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- (p) In coordination with the Office of Economics and Analytics and Wireless Telecommunications

Bureau, serves as the Commission's principal policy and administrative staff resource with respect to the use of market-based mechanisms, including competitive bidding, to distribute universal service support. Develops, recommends and administers policies, programs, rules and procedures concerning the use of market-based mechanisms, including competitive bidding, to distribute universal service support.

6. Amend section 0.131 by revising subsections (a), (c), and (r) to read as follows:

WIRELESS TELECOMMUNICATIONS BUREAU

§ 0.131 Functions of the Bureau

* * * * *

- (a) Advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in all matters pertaining to the licensing and regulation of wireless telecommunications, including ancillary operations related to the provision or use of such services; any matters concerning wireless carriers that also affect wireline carriers in cooperation with the Wireline Competition Bureau; and, in cooperation with the Office of Economics and Analytics, all matters regarding spectrum auctions and, in cooperation with the Wireline Competition Bureau, USF mechanisms affecting wireless carriers. These activities include: policy development and coordination; conducting rulemaking and adjudicatory proceedings, including licensing and complaint proceedings for matters not within the responsibility of the Enforcement Bureau; acting on waivers of rules; acting on applications for service and facility authorizations; compliance and enforcement activities for matters not within the responsibility of the Enforcement Bureau; determining resource impacts of existing, planned or recommended Commission activities concerning wireless telecommunications, and developing and recommending resource deployment priorities.

* * * * *

- (c) Serves as a staff resource, in coordination with the Office of Economics and Analytics, with regard to the development and implementation of spectrum policy through spectrum auctions. Develops, recommends and administers policies, programs and rules concerning licensing of spectrum for wireless telecommunications through auctions. Advises the Commission on policy, engineering and technical matters relating to auctions of spectrum used for other purposes.

* * * * *

- (r) In coordination with the Wireline Competition Bureau and the Office of Economics and Analytics, develops and recommends policies, programs, rules and procedures concerning the use of market-based mechanisms, including competitive bidding, to distribute universal service support.

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7. Amend section 0.271 by revising it to read as follows:

OFFICE OF ECONOMICS AND ANALYTICS

§ 0.271 Authority delegated.

- (a) Insofar as authority is not delegated to any other Bureau or Office, the Chief, Office of Economics and Analytics, is delegated authority to carry out the performance of functions and activities described in § 0.21, provided that the following matters shall be referred to the Commission en banc for disposition:
- (1) Notices of proposed rulemaking and of inquiry, final orders in rulemaking proceedings and inquiry proceedings and non-editorial orders making changes, and any reports arising from any of the foregoing;
 - (2) Any petition, pleading, request, or other matter presenting new or novel questions of fact, law, or policy that cannot be resolved under existing precedents and guidelines.
 - (3) Applications for review of actions taken to delegated authority, except that the Chief may dismiss any such application that does not comply with the filing requirements of §1.115 (d) and (f) of this chapter.
 - (4) Any applications that are in hearing status.
- (b) Insofar as authority is not delegated to any other Bureau or Office, and with respect only to matters that are not in hearing status, the Chief, Office of Economics and Analytics, is delegated authority to deny requests for extension of time or to extend the time within which comments may be filed in dockets over which the Office of Economics and Analytics has primary authority.
- (c) Insofar as authority is not delegated to any other Bureau or Office, the Chief, Office of Economics and Analytics, is authorized to dismiss or deny petitions for rulemaking that are repetitive or moot or that for other reasons plainly do not warrant consideration by the Commission.
- (d) The Chief, Office of Economics and Analytics, is authorized to dismiss or deny petitions for reconsideration to the extent permitted by §1.429(l) of this Chapter and, jointly with the Wireless Telecommunications Bureau, to the extent permitted by §1.106 of this Chapter.
- (e) The Chief, Office of Economics and Analytics, is delegated authority to make nonsubstantive, editorial revisions to the Commission's rules and regulations contained in part 1, subparts Q, V, W, and AA.

8. Add section 0.272 to read as follows:

§ 0.272 Record of actions taken.

The application and authorization files and other appropriate files of the Office of Economics and Analytics are designated as the Commission's official records of action of the Chief, Office of Economics and Analytics, pursuant to authority delegated to the Chief. The official records of action are maintained in the Reference Information Center in the Consumer and Governmental Affairs Bureau.

9. Add section 0.273 to read as follows:

§ 0.273 Actions taken under delegated authority.

In discharging the authority conferred by § 0.271, the Chief, Office of Economics and Analytics, shall establish working relationships with other bureaus and staff offices to assure the effective coordination of actions taken in the analysis of regulatory impacts, including assessments of paperwork burdens and initial and final regulatory flexibility assessments.

**STATEMENT OF
CHAIRMAN AJIT PAI**

Re: *Establishment of the Office of Economics and Analytics*, MD Docket No. 18-3.

When I announced plans to strengthen the role of economics at the FCC, I identified several problems I thought it was important to address. First, staff economists weren't guaranteed a seat at the policy-making table. Second, notwithstanding a rapidly converging marketplace, economists worked in policy silos. Third, cost-benefit analysis was too often ignored. And fourth, data was not particularly well collected or managed across the agency.

Today, we create the Office of Economics and Analytics (OEA). I look forward to this change, which is the first official step toward remedying each of these problems I mentioned. Notably, this reform has a bipartisan roster of support from people who care about incorporating economic analysis into policymaking. For example, the former head of President Obama's Office of Information and Regulatory Affairs (and my former professor), Cass Sunstein, has cited our plan to create the Office, calling it a "[p]romising idea from [the] FCC."¹ And his predecessor in the Bush Administration, Susan Dudley, has called the OEA's creation "an important first step . . . [toward] improving the basis on which the FCC makes its decisions."²

But the plan for achieving our goals goes beyond a mere organizational change. As explained in the Working Group report released three weeks ago, we also will adopt new operational practices to make sure economics does in fact play a larger role at the FCC. For instance, much like at the Federal Trade Commission, the OEA will provide Commissioners with a memorandum discussing economic issues implicated by all circulated items. And we'll now conduct a rigorous cost-benefit analysis for rulemakings estimated to have over \$100 million of economic impact. Behind the scenes, we'll also be working hard to integrate OEA staff into the day-to-day policy work of the Bureaus.

I also look forward to reigniting the culture of big-picture policy thinking that used to be so common among economists at the FCC. With most economists working closely together in the same office, I expect there will be unique opportunities for intellectual exchanges. In that environment, I want the Commission's economists to be able to ponder the next set of difficult issues and consider how economic insights might help address them. White papers represent one way they could do that. Traditionally, our economists have drafted white papers that have been significant drivers of major policy innovations, like the incentive auction and price cap regulation. Since 1980, FCC experts have submitted nearly 90 papers. Since 2012, that number is zero. Our aim is for the new Office to have a culture of inquiry in which long-range policy research is valued as much as bread-and-butter analysis of current proposals and orders.

Now, some argue that our commitment to conducting cost-benefit analysis is somehow an attack on the public interest standard set forth in the Communications Act. But thoughtful cost-benefit analysis has historically been a bipartisan tradition. Both the Clinton and Obama Administrations issued guidelines on this topic—guidelines which the Trump Administration's Executive Order 13771 directs agencies to follow.³ And in 2011, President Obama's Jobs Council called for separation of economists

¹ Cass Sunstein (@CassSunstein), TWITTER (Jan. 17, 2018, 2:22 AM), <https://twitter.com/CassSunstein/status/953573300210405376>.

² Susan E. Dudley, FCC Votes To Elevate Economic Analysis, *Forbes* (Jan. 26, 2018), <https://www.forbes.com/sites/susandudley/2018/01/26/fcc-votes-to-elevates-economic-analysis/>.

³ Exec. Order 13771, Presidential Executive Order on Reducing Regulation and Controlling Regulatory Costs (Jan. 30, 2017), <https://www.whitehouse.gov/presidential-actions/presidential-executive-order-reducing-regulation-controlling-regulatory-costs/>.

from program offices (as we are doing today) so that functions like cost-benefit analysis could be carried out with integrity.⁴

Additionally, some may say that if certain costs or benefits are hard to quantify, we shouldn't even try. But that view deeply misunderstands cost-benefit analysis. Far from rejecting the public interest standard, cost-benefit analysis allows us to intelligibly apply it. And the alternative to trying to quantify costs and benefits is far worse: It's essentially putting your finger in the wind and making it up as you go along. I can see the appeal of this approach for those who might see principles of economics, like provisions of law, as little more than an inconvenient speed bump that one would rather navigate around. But it is no basis for reasoned, evidence-based decision-making by an expert agency.

Getting to this point required extraordinary effort by our staff, because we truly started from scratch. Thank you to those who have worked so hard planning for this Office, particularly those on the Working Group: team leader Wayne Leighton, Mindy Ginsburg, Sasha Javid, Jay Schwarz, Royce Sherlock, Walt Strack, and Rodger Woock. The Working Group met frequently during 2017, conducting dozens of internal meetings with staff and nearly 50 meetings with outside parties to gather information about how to best design this Office.

I'd also like to thank Rosemary Harold from the Enforcement Bureau; David Krech and Jim Schlichting from the International Bureau; Brendan Holland, Andrew Wise, Mary Beth Murphy, and Michelle Carey from the Media Bureau; Ashley Boizelle, Linda Oliver, Bill Richardson, and Ryan Yates from the Office of General Counsel; Dan Daly, Marlene Dortch, Holly Finney Tom Green, Katura Jackson, Jason Lewis, MaryKay Mitchell, Lori Senft, Deena Shetler, Larry Shields, and Ellen Standiford from the Office of the Managing Director; Jerry Ellig, Amaryllis Flores, and Sean Sullivan from the Office of Strategic Planning and Policy Analysis; Lisa Fowlkes, David Furth, Debra Jordan, Lauren Kravetz, and Erika Olsen from the Public Safety and Homeland Security Bureau; Kris Monteith, Kirk Burgee, Joseph Calascione, Madeleine Findley, Trent Harkrader, Lisa Hone, Sue McNeil, Thomas Parisi, Eric Ralph, Steve Rosenberg, and D'wana Terry from the Wireline Competition Bureau; and Paul D'Ari, Aalok Mehta, Dana Shaffer, Don Stockdale, Suzanne Tetreault, and Margie Wiener from the Wireless Telecommunications Bureau. The benefits of your labors have far exceeded the costs.

⁴ President's Council on Jobs & Competitiveness, *Road Map to Renewal* 45 (2011), http://files.jobs-council.com/files/2012/01/Jobscouncil_2011YearEndReport1.pdf.

**DISSENTING STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN**

Re: *Establishment of the Office of Economics and Analytics*, MD Docket No. 18-3.

By establishing an Office of Economics and Analytics within the FCC, one might conclude that the Commission is laser-focused on integrating neutral economic analysis into the work of this agency. But what the current Administration is actually doing, is putting in place a mechanism to justify its own interests, while disregarding any analysis that runs counter to their views.

For example, where was the balanced, detailed economic analysis on the impact to edge providers, small businesses, and consumers when the FCC majority gutted net neutrality protections last month? What about the analysis the FCC majority relied on, when they deregulated the \$45 billion business data services market? And the recently adopted order authorizing use of the Next Gen TV standard? Where was the enhanced, deep analysis there? These orders represent three colossal market changing shifts, that were devoid of any cost-benefit analysis, weighing the costs to consumers – both in the loss of services and access costs – against their flimsily philosophical, touted benefits. And where, pray tell, in this three-page Order, is the detailed economic cost/benefit analysis that justifies reshuffling economists from their current positions within the various Bureaus and Offices to this new Office of Economics and Analytics?

Will the creation of an office dedicated to economics lead us to look more closely at the economic impact of our actions on consumers and small businesses? We are only left to guess due to... the lack of analysis in the draft. As the late Carlos Diaz-Alejandro, the most prominent Latin American economist of his generation, once said: “any [economics] graduate student can come up with any policy conclusion he desires, by building appropriate assumptions into his model.” My sense, is the majority will continue to mix and bake this deregulatory feeding frenzy, with the new Office serving as icing on the cake. All the while, disrupting existing staff relationships, pulling employees from their current bureaus where they have established subject matter specific expertise, and plunking them down in a newly created bureaucratic structure.

A long time has passed since my days in Dr. Ferri’s Economics class, but what I learned then is light years away from what is being applied now, when it comes to critical rulemakings, transactions, auctions, adjudications and other relevant matters. If past is prologue, the next 12 months of this Administration – even with new offices, reconstituted titles and reshuffled staff – will be just like the last. New design. Self-serving results. I dissent.

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *Establishing of the Office of Economics and Analytics*, MD Docket No. 18-3.

I am exceptionally pleased to support today's item, which adopts a key process reform idea I have long advocated: creating an office within the agency focused on economics and analytics. Since receiving the Chairman's draft item, I have worked with two goals in mind. First, guaranteeing that this office has enough weight and authority to ensure that it is successful from the outset. Second, ingraining it into the agency procedures to ensure that it outlasts the current Commission and remains effective for years to come.

In 2011, President Obama issued an Executive Order requiring all executive agencies to conduct a cost-benefit analysis before proposing or adopting regulations. But, the FCC, as an independent agency, was excluded from this mandate and promises made by a long-gone chairman to abide by the directive never materialized. Unfortunately, the practical implication of this failure was a litany of shoddy decisions devoid of economic analysis adopted under previous Commissions. For this reason, Chairman Pai proposed the creation of a new Office of Economics and Analytics ("OEA" or "Office") to better align our work with concrete data and facts.

When the draft item was circulated, I made several proposals, which Chairman Pai graciously accepted, to add additional responsibilities for the new Office. Paramount to my changes is requiring OEA to prepare and review a rigorous, economically-grounded cost-benefit analysis for all rulemakings deemed to have an annual effect on the economy of \$100 million or more.

But, ensuring that a cost-benefit analysis is conducted is only a partial victory. We must also ensure that such an analysis is credible and accurate. To achieve this, I advocated requiring OEA to follow the guidelines of OMB Circular A-4, which standardizes the way benefits and costs are measured and reported across executive agencies. However, due to the Commission resources this may involve, I understand that it may be more prudent to get the Office established before taking this important step. To that end, I look forward to continuing to work with the Chairman's office and Commission staff to get the Office up and running and well positioned for us to incorporate Circular A-4 into our rules down the road.

Another edit I proposed and the Chairman accepted was to add a requirement that, like the Office of General Counsel, OEA must confirm that it has reviewed each Commission rulemaking to ensure it is complete before it is released to the public. Doing so will ensure that its work is not ignored or sidestepped on the way to Commission consideration. As a practical effect, this can be accomplished through the Commission's eBARF signature process.

Together, these reforms will give the new Office greater involvement in the drafting, editing, and finalizing of the Commission's rules. OEA will play a role on the front end in the original drafting of all cost-benefit analysis and play a role on the back end by signing off on each item. I believe that this heightened level of participation will help ensure that OEA gets quickly integrated into the Commission's processes and that future Chairmen less interested in economics and analytics will be unable to turn a blind eye to the real burdens that many of our rules impose.

I am also confident that OEA will not create additional bureaucracy within the agency. When this item was originally circulated it was unclear to me what the budgetary impacts of such an office would be. In speaking with the Chairman's team, I have been assured that the FCC will not increase its FY19 budget request as a result of establishing this Office, and that new hires made pursuant to this Office, if any, will be offset by departures in other places. This will ensure that OEA will utilize our current resources at the Commission, rather than generate an enlarged Commission.

Overall, today is an important day. We are establishing an office that has the potential to take this Commission in a more solid and defensible direction. I support this item and applaud the Chairman and Commission staff for all the good work that went into both the final rules and the report.

**STATEMENT OF
COMMISSIONER BRENDAN CARR**

Re: *Establishment of the Office of Economics and Analytics*, MD Docket No. 18-3.

Today's *Order* might be the most important two and a half page decision the FCC has issued. Last year, FCC leadership announced a renewed commitment to the role that economic analysis should play in our decision-making. We are now codifying that commitment by establishing an Office of Economics and Analytics ("OEA") here at the Commission.

This decision follows the recommendations outlined by a staff working group, which first convened nine months ago. That group conducted at least 80 interviews with a broad range of stakeholders—both within and outside the FCC—and held meetings with every FCC bureau and office that has an economist. Their research found that FCC economists are not uniformly incorporated into our decision-making, do not have regular opportunities to offer their opinions on policy matters, and have limited opportunities to collaborate with their peers. These structural failings only make it more difficult for us to reach decisions that further the public interest.

Establishing OEA will help correct these shortcomings. It will ensure that the agency's first-rate economists have a seat at the table and a voice that will be heard. In fact, my vision is that OEA will play a role similar to the agency's Office of General Counsel ("OGC"). While the agency's operating bureaus may be driving towards particular policy outcomes, OGC functions as the legal conscience of the agency. As a separate office, it enjoys independence from the Commission's policy shops, the chance to develop a specialized body of expertise, and a clearly defined role in our decision-making process. There is no doubt that OGC's feedback ultimately improves and strengthens every agency decision. OEA will soon be empowered to play a similar role, serving as the FCC's economic gut check.

In addition to enhancing the role that economics will play, I also support the decision to move the Auctions Divisions from the Wireless Telecommunications Bureau ("WTB") into OEA. While it used to make sense to house the auctions team in WTB, given the important role that spectrum auctions play at the agency, we are now increasing our reliance on auctions outside the traditional context of spectrum, including in the upcoming CAF II proceeding. So it only make sense to incorporate this group of talented professionals into the new office.

The decision to bring even greater economic rigor to agency decision-making is one that draws on a long, bipartisan tradition. From President Clinton to President Trump, Administrations have consistently called for enhancing the role that economic analysis plays in regulatory proceedings. Indeed, former FCC Chairman Genachowski called on the FCC to increase its reliance on economics seven years ago. So I am pleased that we are moving forward with this idea today.

I want to thank Wayne Leighton, who served as the Team Leader of the agency's working group, as well as Mindy Ginsburg, Sasha Javid, Jay Schwarz, Royce Sherlock, Walt Strack, and Rodger Woock for their service and contribution to that body. This item has my full support.

**DISSENTING STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL**

Re: *Establishment of the Office of Economics and Analytics*, MD Docket No. 18-3.

With this decision the FCC embarks on a big reorganization. Improving the day-to-day function of the agency is a laudable goal. I am hopeful that the new Office of Economics and Analytics will positively contribute to the work of the agency. But I am dismayed that my most basic questions about what this office will entail have not been answered.

How many people will the agency have in this office? Are we talking about 50 or 100 or 150? No one will answer. What does it mean to “generally shift the functions” of certain divisions? Does it mean disbanding some we have today? No one will answer. Will we be hiring new experts for this office or simply relying on moving around those we have? No one will answer.

This is striking. When I last voted on big institutional changes—the reorganization of our field offices—we had exacting numbers. We knew precisely what these changes would mean for the agency, its staff, and its workload.

I think it’s irresponsible to vote on a conceptual reorganization—which is what we have here—without frank information about how we will populate this effort. I think this lack of transparency is problematic—for the staff of this agency and the work it does. Having been refused this basic information, I dissent.

That does not mean I lack thoughts for what values should guide this office as this agency moves ahead. In fact, I have three.

First, economic analysis plays an important role in all of our work. But we need to be mindful that we have legal duties that can be at odds with simple cost-benefit analysis. The charge to ensure universal service in our most rural communities—where populations are sparse and the cost of infrastructure is high—do not easily fit through this prism. Likewise, we have duties to ensure broader access to modern communications through the Americans with Disabilities Act and the 21st Century Communications and Video Accessibility Act. How we navigate these efforts in light of this office deserves continued attention and vigilance.

Second, we need to put a premium on peer review. Rigorous peer review of scientific and economic work has been encouraged and even required since President George W. Bush was in the White House. The FCC should not be relying on studies that do not feature peer review. We need to commit to this course right here and right now because it is unacceptable that so much of the economic work of this agency during the past year was not subject to any standard of peer review.

Third, we need more transparency. We need to be honest about how much of the economic data presented to the FCC is advocacy. We want to avoid the risk of relying on numbers masquerading as fact when they simply add up to an effort to champion a desired outcome. There’s a simple remedy. Anyone who appears before our oversight committee in the United States House of Representatives must file a Truth in Testimony disclosure. That disclosure asks something simple—who are you representing? We should ask the same of those who put forward economic studies that are filed in our proceedings.