

**STATEMENT OF
CHAIRMAN AJIT PAI**

Re: *Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services*, WC Docket No. 19-308.

Some long-running disputes are legendary, such as the feud between the Hatfields and McCoys, the rivalry between Alabama and Auburn, and the divide between Coke and Pepsi.¹ Other disputes may lack notoriety but are nonetheless important. One of these is embedded in the Telecommunications Act of 1996. That landmark law marked a transition of our nation’s communications law from the regulation of monopolies to the encouragement of robust competition. And over the last 24 years, there has been an ongoing battle between well-established incumbent local exchange carriers (LECs) and newer competitive LECs over how the FCC should implement key provisions of the Act designed to facilitate that transition. That battle has been fought at the Commission, in the courts, and on Capitol Hill.

The key flashpoint has been the 1996 Act’s requirement that incumbent LECs make their networks available to new entrants at regulated, cost-based rates. These network elements were “unbundled”—meaning the competitive LEC could pick and choose the combination of elements it wanted to lease and pay the associated rate for each element. Competitive LECs could then provide service to customers using these leased elements.

Since the passage of the 1996 Act, incumbent LECs and competitive LECs have fiercely debated how broad these unbundling rules should be and their effectiveness in promoting competition. Incumbent LECs argue that requiring them to unbundle their networks and to lease capacity to their rivals undermines broadband competition in last-mile networks; requires maintenance of increasingly outdated technology; and discourages competitors from deploying their own networks. Competitive LECs, in contrast, argue that these rules lower barriers to entry—giving new entrants time to establish a customer base large enough to justify building a separate network—and thus facilitate competition.

Given this contentious history,² and the FCC’s interpolation between the warring parties, it is nothing short of remarkable that incumbent LECs and competitive LECs on their own reached a compromise this year on the way forward with respect to our unbundling rules. And the rules that the Commission adopts today largely reflect that compromise. I want to thank INCOMPAS and USTelecom—in particular, Chip Pickering and Angie Kronenberg at the former and Jonathan Spalter and Patrick Halley at the latter—for leading the charge to find consensus on these difficult issues. I know that it was no easy task. But the statesmanship they have shown and flexibility they have exhibited shows that even the most intractable disputes can be resolved.

Today’s changes to our unbundling rules strike the right balance. We eliminate outdated regulatory obligations that stifle the deployment of broadband and innovative new technologies, but maintain certain requirements in areas where competition hasn’t yet taken full root. And because we

¹ The astute observer may find curious the omission of any mention of the defending Super Bowl Champion Kansas City Chiefs and their longstanding hostile relationship with their AFC West competitors. That is because the Chiefs’ divisional record since the 2016 season against those competitors is 24-3, suggesting the absence of a true rivalry. See “Raiders’ Derek Carr on rival Chiefs: ‘To make it a rivalry, we have to win some games’” (Oct. 8, 2020), available at <https://www.nfl.com/news/raiders-derek-carr-on-rival-chiefs-to-make-it-a-rivalry-we-have-to-win-some-game> (Oakland Los Angeles Oakland again Las Vegas Raiders quarterback Derek Carr commenting that “If we’re being honest, to make it a rivalry, we have to win some games.”).

² See, e.g., *Verizon Communications Inc. v. FCC*, 535 U.S. 467 (2002) (upholding FCC’s method of determining cost of network elements based on “forward-looking economic” cost, in turn defined as sum of total element long-run incremental cost of the element (or “TELRIC”) and the reasonable allocation of forward-looking cost; the author of this statement had the “luck” of being in the audience for oral argument and can confirm that the issues were as accessible as they sound).

recognize that the marketplace will need time to adjust to these reforms, we provide for reasonable transition periods. The length of each transition period varies by element, from three years for loops used to provide legacy voice service to eight years for dark fiber. All in all, I am confident that our new rules will promote innovation, competition, and broadband deployment for years to come.

I'd also like to thank our sterling FCC staff for getting us to this point, including Pam Arluk, Michele Berlove, Elizabeth Cuttner, Megan Danner, Justin Faulb, Jesse Goodwin, Jaime McCoy, Kris Monteith, Ramesh Nagarajan, Terri Natoli, Morgan Reeds, and Joshua Yasmeh of the Wireline Competition Bureau; Giulia McHenry, Pam Megna, and Eric Ralph of the Office of Economics and Analytics; Maura McGowan and Sanford Williams of the Office of Communications Business Opportunities; and Malena Barzilai, Ashley Boizelle, Michael Carlson, Valerie Hill, Tom Johnson, Marcus Maher, Rick Mallen, Linda Oliver, and Bill Richardson of the Office of General Counsel.