



Post-Election Outlook | Questions for the FCC: A Shift Toward Deregulation

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President-elect Donald Trump indicates that he would like to exercise more control over the Federal Communications Commission (FCC) and questions the constitutionality of independent agencies, generally. He has expressed a desire to end the independence of agencies such as the FCC and Federal Trade Commission (FTC). This could be accomplished by making their regulations subject to White House review, perhaps by updating Executive Order 12866 to remove the exemption for independent agencies as suggested in the Project 2025 report.

At the FCC, Commissioner Brendan Carr has indicated that he plans to undertake a complete regulatory overhaul of the agency by conducting a “serious top-to-bottom” review of the FCC’s regulations and taking steps to “rescind any that are overly cumbersome or outdated.” Commissioner Carr has suggested that “rapidly evolving market conditions” in the connectivity sector “counsel in favor of eliminating many of the heavy-handed FCC regulations that were adopted in an era when every technology operated in a silo,” such as the FCC’s media ownership rules and universal service requirements. Going forward, Commissioner Carr has stated that that the FCC “should focus its efforts on creating a market-friendly regulatory environment that fosters innovation and competition from a wide range of actors, including cable-based, broadband-based, and satellite-based Internet providers.”

Commissioner Carr’s statements suggest a potential move toward a “layered” communications public policy model that recognizes convergence and seeks to provide parity in how communications carriers are regulated. This approach could be similar to the

one proposed by Richard Whitt in 2004. Mr. Whitt’s proposed model would move the FCC away from its current “siloeed” approach—in which each communications medium (satellite, cable, telephone service) is treated as its own market, governed by separate rules and regulated by a separate bureau within the Commission—to a more comprehensive regulatory framework founded on horizontal network layers. It is unclear whether Commissioner Carr will go in this direction as Chairman, but his statements echo a similar approach in terms of leveling the playing field for different types of communications providers.

Categories

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