

**ALERT**

# "Delete, Delete, Delete": FCC Begins Deregulatory Review

March 12, 2025

On **March 12**, the Federal Communications Commission (FCC) issued a Public Notice titled "In Re: Delete, Delete, Delete," which seeks public comment on "identifying FCC rules for the purpose of alleviating unnecessary regulatory burdens." Touted by FCC Chairman Brendan Carr as a "sweeping deregulation initiative," the Public Notice follows President Trump's February 19 Executive Order (EO) titled "Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative." The Public Notice kicks off a broad proceeding pursuant to the EO that subjects all FCC regulations to potential elimination or change.

As we explained here, the EO calls on administrative agencies to pursue deregulatory reform by (1) identifying regulations that are unlawful or contradictory to the EO's policy objectives, (2) deprioritizing enforcement of those regulations, and (3) working with the Office of Information and Regulatory Affairs (OIRA) to modify or rescind those regulations. Consistent with these directives, the Public Notice requests comment on the FCC's deregulatory initiative and requests that submissions "identify with as much detail and specificity as possible" rules that should be repealed or modified, along with the rationale for each recommendation. The Public Notice outlines several policy factors the FCC will weigh in its analysis, including the following:

- **Cost-Benefit Considerations.** The FCC seeks comment on cost-benefit considerations relevant to its analysis, including whether there are existing rules for which the costs exceed benefits and whether there are rules that, if eliminated or modified, could result in greater benefits relative to the

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## Practice Areas

Telecom, Media & Technology

associated costs of the new regulatory framework.

- **Effectiveness of the Rule.** The FCC seeks comment on whether existing rules have produced the benefits that the Commission initially predicted that they would. Additionally, the FCC asks if existing rules have advanced FCC policy objectives in the manner or to the degree anticipated; whether there have been repeated waivers of any given rule; and whether any rule has led to any particular harms for certain entities, such as entrepreneurs or small businesses.
- **Continued Usefulness of the Rule.** The FCC seeks comment on whether existing rules or particular elements of rules are outdated due to technological and marketplace developments, or whether any rules give rise to harms in light of such developments.
- **Barriers to Entry.** The FCC seeks comment on whether certain regulations impose compliance costs unequally on large and small businesses or if they unfairly disadvantage American-owned businesses.
- **Changes in the Broader Regulatory Context.** The FCC seeks comment on whether any new rules have rendered a previous rule unnecessary or inappropriate, and whether the adoption of industry standards, best practices, or other self-regulatory efforts diminish the need for certain FCC rules.
- **Changes in the Governing Legal Framework.** The FCC seeks comment on whether there are any rules that should be revisited based on subsequent changes in relevant statutory provisions. Additionally, the FCC seeks input on whether any rules should be revisited in light of the Supreme Court's decision in *Loper Bright*, which, as we explained here, held that federal agencies are no longer entitled to deference when they interpret ambiguous statutes. The FCC further seeks comment on whether constitutional concerns provide a basis for repealing any FCC rules.
- **Other Relevant Considerations.** The FCC seeks comment on whether any rules or regulations are no longer operative; whether any rules had a sunset period and are awaiting further regulatory review; or situations where a case-by-case approach — rather than a bright-line rule — would be better suited to implement certain statutory mandates.

The Public Notice clarifies that this proceeding shall be treated as a "permit-but-disclose" proceeding subject to the Commission's ex parte rules and filing requirements.

As the nation's regulator of interstate communications and the commercial use of radio spectrum, the FCC has in place numerous regulations that span a wide range of issues. Companies regulated by the FCC should quickly take stock of the regulations that impact them and seek to identify those that hinder or help their operations. The EO and Public Notice present significant opportunities for regulatory reform but also risks, as the FCC may have obvious candidates for rescission, but there also may be rules meriting protection if stakeholders have come to rely on them to order their businesses or the rules otherwise serve to help the industry function. Wiley's interdisciplinary TMT team can assist stakeholders in assessing the regulatory landscape and navigating strategic considerations in responding to this inquiry. Comments are due **April 11, 2025**, and reply comments are due **April 28, 2025**.

For any questions or further information on the implications of this Public Notice, please contact the authors or your Wiley TMT attorney.