

DAY ONE PROJECT

Increasing Public Engagement and
Transparency at the Federal
Communications Commission by
Holding a Second Monthly Meeting

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Summary

How can public engagement and transparency at the Federal Communications Commission (FCC) be improved? Congress has wrestled with this question repeatedly over the last several years. But while FCC process-reform bills have recently emerged and advanced, sometimes with bipartisan and even unanimous support, legislation has yet to pass both houses of Congress.¹

That's unfortunate. Process-reform bills that have been put forth to date contain many common-sense improvements, including establishing minimum comment periods and reining in the unhelpful practice of dumping thousands of pages into the public record just before a vote.

While Congress should continue to pursue legislative reform, the next FCC Chair can immediately improve transparency and public debate on pending agency actions by simply adding a second monthly meeting of the FCC Commissioners.

During this additional meeting, FCC staff would present on major items that might be brought before the Commission for a vote in the next several months. This forward-looking monthly meeting would give the public information needed to provide meaningful input to the Commission prior to its decision-making. The meeting would also improve the Commissioners' own ability to respond to policy recommendations.

Challenge and Opportunity

Today, the only formal public discussion of issues before the Commission is backwards looking. The Commission holds a single monthly public meeting, at which Commissioners hear short staff presentations on each item scheduled for a vote and then give speeches on why they are or are not voting for it. Commissioners further explain their reasoning to the public during competing press conferences after the meeting. But by then, it is too late for the public to do anything about it.

These existing meetings help the public understand what happened. But the meetings do not facilitate meaningful public discussion of what *should* happen. Moreover, the meetings reinforce the problematic pattern of our government institutions moving from "formative institutions" to "performative institutions". While formative institutions carry out important public purposes such as rigorously considering policy options, performative institutions merely provide a platform for public displays.² The current FCC meeting structure is all performative, frequently devolving into dueling sound bites.

¹ Eggerton, J. (2016). House Passes FCC Process Reform Bills...Again. Broadcasting & Cable. <https://www.nexttv.com/news/house-passes-fcc-process-reform-bills-again-159995>.

² This concept is further detailed in conservative political thinker Yuval Levin's book *A Time to Build*.

Plan of Action

At the proposed second monthly meeting, FCC staff would brief Commissioners on items at least 60 days before any vote. The briefings would not include staff recommendations but would instead offer a statement of the problem at hand, the factual environment in which the Commissioners will deliberate, and various high-level alternatives the Commission could pursue. Commissioners would be free to ask the staff questions, but would not be allowed to make speeches.

The FCC's National Broadband Plan project team used this approach to great effect. The team gave public presentations every month leading up to delivery of the Plan to keep the public informed of what the team was thinking and planning. Commissioners and the public hence had plenty of time to correct misunderstanding of the facts, assumptions, and options.

In September 2009, for example, the project team delivered a four-hour public presentation on the state of broadband in America.³ The presentation, which challenged multiple assertions that Commissioners on both sides of the aisle had been making, opened the door for significant public and industry input that improved the Plan considerably.

Regularly holding similar fact-based, pre-decisional public meetings would force the FCC Chair to be more transparent both about what proceedings are likely to be brought up in the near future and about the direction of those proceedings. This practice would also make the Commission's concerns and objections generally be more transparent to Commission staff and the public. But the most important transparency improved by a second monthly meeting would be transparency about facts. Greater clarity at the beginning of a decision-making process about the problem statement and the relevant facts would make it much easier for a reasoned, workable solution to emerge.

The FCC Chairman already has the authority to call such a meeting and compel staff to attend. Other Commissioners arguably would not be required to participate under current law but would have significant incentives to do so, as it offers Commissioners an opportunity to both demonstrate to the public their interest in the topic and their ability to shape the direction through their questions.

The current Chairman, Ajit Pai, did institute a transparency reform of making the drafts of proposed orders public at the same time those drafts are sent to the other Commissioners (three weeks before a vote). But this reform has made no practical difference. Three weeks is enough for skilled lawyers working for interested enterprises to make technical corrections, but not enough for the public to digest dense documents and suggest changes. Moreover, drafts of

³ FCC. National Broadband Plan September Commission Meeting. https://apps.fcc.gov/edocs_public/attachmatch/DOC-293742A1.pdf.

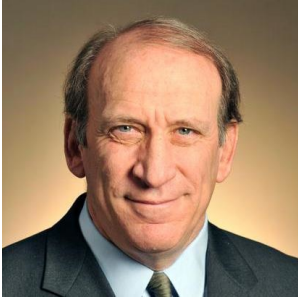
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proposed FCC orders are typically *faits accomplis*. There is presently little room for thoughtful, public debates that actually affect outcomes.

More substantive and specific reforms to FCC processes may yet come from Congress. But simply adding a second monthly public meeting would do much to reduce the controversy and rancor that has increasingly characterized FCC proceedings, and helping to restore the FCC's once prized and formerly well-earned reputation as a thoughtful, responsive agency.

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About the Author



Blair Levin has worked at a high level at the intersection of broadband policy and capital markets for the past 25 years. From 1993–1997, Levin served as Chief of Staff to FCC Chairman Reed Hundt. In 2009, Levin co-led the technology transition team for President-elect Obama. He returned to government service from 2009–2010 to oversee the development of the National Broadband Plan for the United States. Levin is currently an equity analyst at New Street Research and a non-resident Senior Fellow of the Metropolitan Policy Project of the Brookings Institution.



About the Day One Project

The Day One Project is dedicated to democratizing the policymaking process by working with new and expert voices across the science and technology community, helping to develop actionable policies that can improve the lives of all Americans, and readying them for Day One of a future presidential term. For more about the Day One Project, visit dayoneproject.org.