

**REMARKS OF COMMISSIONER AJIT PAI  
BEFORE THE FEDERAL COMMUNICATIONS BAR ASSOCIATION**

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I was a little surprised when I received the invitation to address this year's FCBA Annual Meeting and Luncheon. Last February, you might recall, I droned on at length to all of you about the scintillating issue of FCC process reform. To this organization's credit, many in the audience actually managed to stay awake during my remarks. Unfortunately, some did not. In fact, I have here in my hand a list of FCBA members who are known to the FCC to have slept through the speech and who nevertheless are still appearing before the agency.

Anyway, after my choice of topic, I wasn't expecting to be asked back. But flash forward sixteen months, and here I am again. I can only conclude one of two things. Either John Oliver was unavailable, or you must be gluttons for punishment.

In any event, I'm going to be candid with you. There's not much to talk about today. It's been pretty quiet of late at the Commission. Friends outside of the communications milieu are asking me again whether I work at the FEC, FTC, or SEC. Sometimes, I wonder if the outside world even knows we exist.

No, as you know, we've been at the center of controversy. Protestors have camped outside of our building. Songs serenading the Commissioners have been uploaded to YouTube! We've received some public comments that are—how should I put it—more colorful than usual. And late-night comedy shows have taken their swipes, too. It all brings to mind the title of that 1976 hit by the Eagles: "Life in the Fast Lane."

And the discord has seeped into the Commission building, too. There have been complaints about process. There's been anonymous griping to the press. There have been tense, late-night negotiations between parties with seemingly intractable differences on the issues, waiting to see who will blink first. And that's just among the Democrats!

On a more serious note, the four highest-profile matters we have taken up over the last three months—the incentive auction, mobile spectrum holdings, media ownership, and "net neutrality"—have each come down to a straight party-line vote. That's not the way it should be.

It will never be possible for us to reach consensus on each and every issue. But we should always be willing to go the extra mile to forge a bipartisan agreement. It not only lends our decisions more legitimacy and increases public acceptance, it also improves our work product. No one Commissioner and no one party has a monopoly on wisdom. And our policies are better when they reflect give-and-take among all the Commissioners.

For example, this past January, the Commission was unanimous in establishing a framework for IP Transition trials. It wasn't easy. The negotiations were tough. All of us had to compromise. But in the end, it was worth it. Each Commissioner made suggestions that improved the final result. And we produced an order that received widespread public support and allowed the agency to stand unified on a critically important issue. I'd say the Rolling Stones captured well the lesson to be learned: "You can't always get what you want. But if you try sometime, you just might find you get what you need."

I'm disappointed that this spirit has been absent from many of our recent deliberations. But I'm hopeful that it will return. We have no shortage of work ahead of us. This gives us the chance to turn the page and leave any disagreements in the past, where they belong.

In particular, I believe that we have a real opportunity to work together this summer to reform the E-Rate program on a bipartisan basis. That's what I'd like to talk about this afternoon.

As you know, the E-Rate program is part of the Universal Service Fund. It provides about two billion dollars each year for schools and libraries to connect to the Internet. E-Rate has had its share of successes. But the program is seventeen years old and badly in need of an overhaul. Indeed, there's a broad consensus on the need to modernize the program.

I am a part of that consensus. Early last summer, I asked my staff for a top-to-bottom review of the E-Rate program. What parts of the program needed improvement? And how could we improve it? After many pages read, many long hours of discussion, and many charts and spreadsheets, I proposed a comprehensive plan for E-Rate reform. At the time, some people were surprised that I was getting involved in the issue. Why was a Republican Commissioner taking a leadership role on E-Rate? Well, my answer to the skeptics is twofold.

First, parents across this country understand that we can't prepare children for the world of tomorrow in a classroom of yesterday. All of us want our children to be able to take advantage of the most promising innovations in digital learning. Otherwise, we run a real risk of denying educational opportunity to rural Americans, to poor Americans, and to others yet to partake of the bounty of broadband. If universal service means anything, it means not leaving these Americans behind simply because of who they are and where they live.

Second, improving educational opportunities for our nation's kids shouldn't be a partisan or ideological issue. The program was created on a bipartisan basis by Senators Rockefeller and Snowe. The FCC's original E-Rate rules were passed in 1997 by a unanimous, bipartisan vote. At the time, my friend, Republican Commissioner Rachelle Chong, called it a "splendid new program" that would "help catapult our society further into the Information Age." All of this means something beyond the dry pages of the Code of Federal Regulations. And so, with the moment at hand to modernize the program, with a unique chance to meet the challenges of the 21<sup>st</sup> century, we should move forward again on a bipartisan basis.

Feel-good platitudes won't get the job done. That's why I've taken the time to put pen to paper. That's why I have been upfront from day one about what my plan is and why I believe in it. You can find a detailed summary of my vision for schools on the FCC's website, and I'm releasing today a detailed summary of my vision for libraries too.

My guiding principle is simple. We need a student-centered E-Rate program. A program mired in bureaucracy must become one focused on kids and digital learning.

My proposal has five main elements. First, we should streamline the program. Second, we should target next-generation technologies. Third, we should allocate E-Rate funds more fairly and predictably. Fourth, we should increase transparency and accountability. And fifth, we should be fiscally responsible. Let me take a few minutes to explore each plank of my plan.

*First*, simplicity. The current rules for E-Rate are so complex that many schools and libraries don't even bother applying. I've found that few things are more likely to generate an eyeroll than merely mentioning the application process to school or library officials. Those who do apply are often forced to divert money away from classrooms and reading rooms in order to hire E-Rate consultants to navigate the process.

Complexity also means delay. If all goes relatively well, it can still take years for applicants to receive funding. And if a school or library makes an inadvertent mistake, it may have to file an appeal, which can take even longer to resolve. Some appeals are still pending from 2003—when the biggest news in tech was Apple introducing the iTunes Store. None of this serves our nation's children well.

My plan would dramatically simplify E-Rate. The initial application form would be just a single page. No more need to hire outside consultants. No more long waits for E-Rate funds. And many fewer errors filling out complex paperwork would mean many fewer appeals.

*Second*, we must refocus the program on delivering next-generation technologies. Today, the E-Rate program prioritizes things like telephone service over connecting classrooms to the Internet, whether by wires or Wi-Fi. We spend about \$600 million dollars a year (over one quarter of the annual E-Rate budget) on voice telephony services.

Meanwhile, the vast majority of schools and libraries can't get any money for connections. Indeed, during the most recent application cycle, not one funding request for connecting classrooms—*not one*—has been approved. In 2014, when voice is quickly becoming just another application riding over a broadband network, this makes no sense.

My plan would redirect funding from stand-alone telephone service to broadband. It would also end the distinction between so-called priority one and priority two services and let local communities decide how funds could best be used to help local kids. Putting students first also means directing money only to instructional facilities. No more E-Rate funds for bus garages or football fields.

*Third*, we must allocate E-Rate money more fairly and more predictably. Right now, funds are distributed in a way that this audience might call arbitrary and capricious. Urban states can receive more money per student than rural states. States with a high poverty rate can receive less money per student than wealthier states. The E-Rate application process doesn't coincide with schools' normal budgeting cycle, which makes short-term planning difficult, if not impossible. And a school's funding can vary widely from one year to the next, which makes long-term planning difficult, if not impossible.

My plan would provide more equitable and stable funding. Schools would receive money annually on a per-student basis; libraries on a similarly objective basis. Schools in rural and low-income areas would get a bump, as would smaller schools. The funding stream would be steady. And each school would be given an E-Rate budget so school boards and parents would know how much funding is available at the beginning of the school year.

*Fourth*, we must increase transparency and accountability. Right now, if you want to find out how your local school or library is using its E-Rate funds, I wish you the best of luck. But under my plan, a central website would enable anyone—parents, journalists, FCBA members—to find out exactly how *any* school or library in the United States is spending its E-Rate money. By bringing this information into the sunlight, we will promote effective oversight and the wise expenditure of funds.

And *fifth*, we must be fiscally responsible. The E-Rate program currently encourages wasteful spending. There is no limit to what any single school or library can receive. And the more money it spends, the more money it gets from the program. Some schools receive nine dollars from the program for every dollar they spend. Examples of excess are legion.

My plan would end these skewed incentives. It would require schools and libraries to have more skin in the game. Schools and libraries would have to contribute at least one dollar for every three they get from E-Rate, just as a unanimous FCC required Rural Health Care Program participants to do in 2012. And, as explained earlier, each school and library would be given a fixed budget so the sky would no longer be the limit for funding requests.

Over the past year, I've seen firsthand the problems with today's E-Rate program. I visited Siouxland Libraries in Sioux Falls, South Dakota. Siouxland doesn't bother applying to participate in E-Rate. Why? The library's director, Mary Johns, told me that the program was just too complicated. They sure could've used the help, both at the main branch and at several remote locations that they can only afford to staff a few hours each week. My reforms would give Siouxland Libraries the help they need.

I've also seen firsthand the benefits that a student-centered E-Rate program like mine could bring. I spent an afternoon at a Los Angeles school where I learned what could be accomplished by connecting more classrooms. In Javier Peña's 7<sup>th</sup> grade class at the San Fernando Institute for Applied Media, each

student has an iPad and is connected to the Internet through Wi-Fi. The day I visited, Mr. Peña was teaching his students about tessellation, which is a shape repeated over and over again to cover a plane without any gaps or overlaps.

Back when I was a student, a teacher probably would have lectured about such a topic while the kids took notes with No. 2 pencils. But in Mr. Peña's class, the experience was far more interactive, and the children were much more engaged. They were using their iPads to find examples of tessellation and learn about its use in Islamic art and architecture.

Later in the day, I had the opportunity to speak with Ms. Robledo, the school's principal, as well as the school's teachers and several parents. They told me about how the school's embrace of technology was having a very positive impact on the students. By allowing children to become active participants in their own education instead of passive recipients of information, students were retaining more knowledge and becoming intellectually curious.

These conversations and others like them have only strengthened my belief in the need to move forward with a student-centered E-Rate program. And if press reports are to be believed, E-Rate soon will be on the Commission's agenda.

Now look, I'm realistic. I don't expect the Commission to adopt my plan lock, stock, and barrel. (Of course, if my colleagues are so inclined, I won't stand in their way.)

I do believe, however, that there is broad, bipartisan agreement on many of the principles that are critical to a student-centered E-Rate program, and that we have a real chance to make substantial progress towards achieving that goal.

When it comes to simplifying the program, Commissioner Rosenworcel has stated that we must "reduce the bureaucracy associated with E-Rate" because that bureaucracy "has become too much for too many of our schools to bear."

When it comes to focusing funds on next-generation technologies for kids, Commissioner Clyburn has said that we must "phase out funding for unnecessary services."

When it comes to distributing money more fairly, Chairman Wheeler has observed that it "is far from equitable" when "urban school districts receive over 80 percent of the funding for Wi-Fi."

When it comes to enhancing transparency, the Commission's unanimous Notice of Proposed Rulemaking endorsed "increas[ing] the transparency of E-Rate spending."

When it comes to promoting fiscal responsibility, Commissioner O'Rielly has stated that "[i]ncreasing matching requirements would help control costs."

Our record, too, reflects a sweeping consensus that the E-Rate program needs real reform. More of the same just won't work. Indeed, a bipartisan group of 46 Members of Congress recently sent a letter to the FCC endorsing many of these principles. Among other things, they asked the FCC to focus E-Rate on broadband, increase transparency and accountability, simplify the application process, and ensure stable funding for schools and libraries.

A bipartisan agreement on E-Rate reform is achievable, but it won't be easy. The road ahead has some pitfalls. Here are two of them.

First, we can't tinker around the edges and declare victory. We can't squander this chance to embrace fundamental change. For instance, we have to radically simplify the program. Cutting a page or two from a seven-step process with six different application forms isn't real reform. If some school administrators and librarians still have to hire consultants to navigate the E-Rate labyrinth after we adopt new rules, and if others still don't bother applying at all, then our efforts will have failed.

The second pitfall involves the E-Rate program's budget. Some have rejected creative reforms and essentially demanded that the Commission increase the budget. But these inside-the-Beltway advocates always think that "education reform" just means more money from Washington, DC. I'll concede: That solution would be quick. It would be easy. But when it comes to E-Rate—to borrow from Yoda in *The Empire Strikes Back*—if you choose the quick and easy path, you will become an agent of the status quo.

So let me make my position as clear as possible. In the months ahead, I will not support any reform plan that boosts E-Rate's budget. Since the beginning of 2009, the universal service contribution factor has increased from 9.5% to 16.6%—that's over an 80 percent increase. I will not ask Americans to pay even more in their monthly phone bills, especially when so many are struggling to find work and make ends meet.

Instead of throwing more money at the program, we need actual reform that will get us the most bang for our bucks. Along those lines, here's a convenient truth: We can free up billions of additional dollars for next-generation technologies without collecting an extra dime from the American people.

A student-centered approach would produce big results. For instance, ending subsidies for voice telephony and other legacy services would free up an extra \$600 million a year for broadband.

And simplifying the program would end what I've called the "red-tape funding gap" and produce another \$400 million a year. You see, on average, we've been collecting about \$400 million more for the E-Rate program each year than actually goes out the door. Why? Applicants make bureaucratic missteps or miss deadlines so disbursements are blocked. As a result, billions of dollars have accumulated in the E-Rate account. That's money from American consumers' pockets that is just sitting on the table. By simplifying the program, in part through a per-student model with its single-page application, we can close the red-tape funding gap and push hundreds of millions of additional dollars to schools and libraries each year.

With steps like these, my plan would increase funding for next-generation technologies for students and patrons by more than \$1 billion dollars in its first year.

And I'm not the only one who argues we can substantially increase funding for broadband without taking more money from the American people. Chairman Wheeler put it well earlier this year when he said that "the FCC has a fiduciary responsibility to both rate-payers who contribute to the program and to students who rely on it to first assure that every E-Rate dollar is finding its highest and best use. So here we must deal with a key reality. Simply sending more money to the E-Rate program to keep doing business as it has been for the last 18 years is not a sustainable strategy."

I agree. So let's work together across party lines. Let's modernize the E-Rate program so that each dollar finds its highest and best use. Let's simplify the program. Let's focus funding on broadband. Let's distribute money more fairly and predictably. Let's be more transparent so the American people can easily see whether we are meeting these goals and can hold us accountable if we are not. And let's end the incentives for wasteful spending.

You never know if and when we'll have another window of opportunity for reform. After all, E-Rate hasn't been substantially revised for almost two decades. So we should treat this as the FCC's chance to get this right. And by "we," I don't just mean the Beltway-bound. From Principal Robledo in Los Angeles to Library Director Johns in Sioux Falls, so many across the nation are counting on us to think and do big things.

I look forward to working with my colleagues in the weeks ahead and to meeting Americans' expectations by creating a student-centered E-Rate program.