

FACT SHEET*
Establishment of the Office of Economics and Analytics
Order – MD Docket No. 18-3

Background: To enhance the role of economic analysis, auctions design and implementation, and the management of data at the Federal Communications Commission, this *Order* would amend the Commission’s Rules to create an Office of Economics and Analytics (the Office or OEA). The proposed Office would be charged with ensuring that economic analysis is deeply and consistently incorporated as part of the agency’s regular operations.

Combining economists, attorneys, and data professionals from across the Commission, OEA would: a) provide economic analysis for rulemakings, transactions, adjudications, and other Commission actions; b) develop policies and strategies to manage the FCC’s data resources and establish best practices for use throughout the FCC in coordination with FCC Bureaus and Offices; c) manage the FCC’s auctions in support of and in coordination with other Bureaus and Offices; and d) conduct long-term research on ways to improve the Commission’s policies and processes.

What the Order Would Do:

- Create an Office of Economics and Analytics.
- The Office of Economics and Analytics would have four divisions: Economic Analysis, Industry Analysis, Auctions, and Data.

* Because the rule revisions adopted in the order pertain to agency organization, procedure, and practice, notice and comment procedures are not required. *See* 5 U.S.C. § 553(b)(3)(A). Consistent with the Chairman’s transparency policy, however, the Commission will voluntarily accept comments on the public draft, and the Commission will treat this proceeding as “permit-but-disclose.” *See* 47 CFR § 1.1206. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in MD Docket No. 18-3, which may be accessed via the Electronic Comment Filing System (<https://www.fcc.gov/ecfs>). Before filing, participants should familiarize themselves with the Commission’s *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week before the Commission’s meeting. *See* 47 C.F.R. § 1.1200 *et seq.* Commenters should limit their comments to the draft order and rules and the Report, and avoid discussion of personnel matters.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Establishment of the Office of) MD Docket No. 18-3
Economics and Analytics)

ORDER*

Adopted: []

Released: []

By the Commission:

I. INTRODUCTION

1. To enhance the role of economic analysis, the design and implementation of auctions, and the use and management of data at the Federal Communications Commission (the Commission or FCC), we conclude that the proper dispatch of our business and the public interest will be served by creating an Office of Economics and Analytics (the Office or OEA). In this Order, we amend the Commission’s Rules to reflect the new organizational structure, describe the Office’s functions and delegated authority, and make other conforming changes. We find it appropriate to make these organizational changes to integrate the use of economics and data analysis into the Commission’s various rulemakings and other actions in a more comprehensive and thorough manner.

II. DISCUSSION

2. The key objectives of this organizational change are to expand and deepen the use of economic analysis into Commission policy making, to enhance the development and use of auctions, and to implement consistent and effective agency-wide data practices and policies.

3. The Office will be charged with ensuring that economic analysis is deeply and consistently incorporated into the agency’s regular operations, and will support work across the FCC and throughout the decision-making process. Specifically, it will: (A) provide economic analysis for rulemakings, transactions, adjudications, and other Commission actions; (B) manage the FCC’s auctions in support of and in coordination with FCC Bureaus and Offices; (C) develop policies and strategies to

* This document has been circulated for tentative consideration by the Commission at its January 2018 open meeting. The issues referenced in this document and the Commission’s ultimate resolutions of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. Because the rule revisions addressed in the order pertain to agency organization, procedure, and practice, notice and comment procedures are not required. See 5 U.S.C. § 553(b)(3)(A). However, the Chairman has determined that, in the interest of promoting the public’s ability to understand the nature and scope of issues under consideration, the public interest would be served by making this document publicly available. The Commission will voluntarily accept comments on the public draft. The Commission’s ex parte rules apply and presentations are subject to “permit-but-disclose” ex parte rules. See, e.g., 47 CFR §§ 1.1206, 1.1200(a). Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in MD Docket No. 18-3, which may be accessed via the Electronic Comment Filing System (https://www.fcc.gov/ecfs). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. See 47 CFR §§ 1.1200(a), 1.1203. Commenters should limit their comments to the draft order and rules and the Report, and avoid discussion of personnel matters.

help manage the FCC's data resources and establish best practices for data use throughout the FCC in coordination with FCC Bureaus and Offices; and (D) conduct long-term research on ways to improve the Commission's policies and processes in each of these areas.

4. To accomplish these objectives and functions, the Office of Economics and Analytics will combine economists, attorneys, and data professionals¹ from across the Commission. In particular, we intend for the majority of the Commission's economists currently in multiple Bureaus and Offices to staff the Office of Economics and Analytics.

5. To accomplish this organizational change, the following actions are taken.

- The Commission will eliminate the Office of Strategic Planning and Policy (OSP) and generally shift OSP authorities and functions to the Office of Economics and Analytics.
- The Commission will create an Economic Analysis Division within the Office of Economics and Analytics. The Economic Analysis Division will provide analytical and quantitative support as needed to Bureaus and Offices engaged in rulemakings, transactions, auctions, adjudications, and other matters.
- The Commission will create an Industry Analysis Division within the Office of Economics and Analytics. To accomplish this, the Commission will generally shift the functions of the Industry Analysis and Technology Division of WCB to OEA. Through its Industry Analysis Division, OEA will serve as the Commission's principal resource with regard to designing and administering significant, economically-relevant data collections used by a variety of Bureaus and Offices, providing support to Bureaus and Offices with respect to these data collections as well as support using the data for Continuity of Operations (COOP)/Emergency Response Group (ERG)/Incident Management Team (IMT), and performing analyses and studies.
- The Commission will create an Auctions Division within the Office of Economics and Analytics. To accomplish this, the Commission will generally shift the functions of the Auctions and Spectrum Access Division in the Wireless Telecommunications Bureau (WTB) to OEA. Through its Auctions Division and in consultation with WTB and the Wireline Competition Bureau (WCB), OEA will serve as the Commission's principal resource with regard to all auction design and implementation issues. OEA will collaborate with other Bureaus involved in establishing and conducting auctions, such as spectrum or universal service auctions.
- The Commission will create a Data Division within the Office of Economics and Analytics. The Data Division help develop and implement best practices, processes, and standards for data management in order to meet the needs of Commission staff who rely on data to inform policymaking and other core activities of the Commission.²

6. The amendments adopted herein pertain to agency organization, procedure, and practice. Consequently, the notice and comment and effective date provisions of the Administrative Procedure Act contained in 5 U.S.C. §§ 553(b) and (d) do not apply.

7. Consistent with the Consolidated Appropriations Act, 2017,³ this reorganization will not become effective until the appropriate clearance has been obtained, and the Order has thereafter been

¹ The Office may also include other staff members not specifically described by these categories but which nonetheless will assist the Office in carrying out its duties.

² The FCC's financial and investigative data management functions will continue to be managed separately.

³ See Pub. L. 115-31, at Division E, Title VI, § 608, 131 Stat. 371 (2017); see also Continuing Appropriations Act, 2018, Pub. L. 115-56 at § 101 (a), 131 Stat. 1139 (2017); Further Additional Continuing Appropriations Act, H.R. 1370, at § 1001 (2017).

published in the Federal Register.

III. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to sections 1, 4, 5(b), 5(c), 201(b), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 155(b), 155(c), 201(b), 303(r), this Order IS ADOPTED.

9. IT IS FURTHER ORDERED that Part 0 of the Commission rules IS AMENDED as set forth in the Appendix.

10. IT IS FURTHER ORDERED that this Order WILL BECOME EFFECTIVE when the Commission publishes this Order in the Federal Register in accordance with paragraph 7.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX

Final Rules

The Federal Communications Commission amends 47 CFR Part 0 as follows:

PART 0 – COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

AUTHORITY: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Amend section 0.5 to revise subsection (a) to replace paragraph (4) to read as follows:

§ 0.5 General description of Commission organization and operations.

- (a) *Principal staff units.* The Commission is assisted in the performance of its responsibilities by its staff, which is divided into the following principal units:

* * * * *

(4) Office of Economics and Analytics.

* * * * *

3. Amend section 0.21 to read as follows:

OFFICE OF ECONOMICS AND ANALYTICS

§ 0.21 Functions of the Office.

The Office of Economics and Analytics advises and makes recommendations to the Commission in the areas of economic and data analysis and data management policy. The Office reviews all Commission actions involving significant economic or data analysis and provides expertise, guidance, and assistance to the Bureaus and other Offices in applying the principles of economic and data analysis. The Office coordinates the Commission's research and development activities relating to economic and data analysis and data management policy. In addition, the Office serves, in close coordination with other relevant Bureaus and Offices, as a principal resource for policy and administrative staff of the Commission with regard to the design, implementation, and administration of auctions. The Office also establishes and implements Commission data management policies in conjunction with the relevant Bureaus and Offices and with the Office of Managing Director and Office of General Counsel. The Office of Economics and Analytics has the following duties and responsibilities:

- (a) Identifies and evaluates significant communications policy issues, based on the principles and methods of economics and data analysis.
- (b) Collaborates with and advises other Bureaus and Offices in the areas of economic and data analysis and with respect to the analysis of costs, benefits, and regulatory impacts of Commission policies, rules, and proposals.

- (c) Reviews and comments on all significant issues of economic and data analysis raised in connection with actions proposed to be taken by the Commission and advises the Commission regarding such issues.
- (d) Develops, recommends, and implements data management policies in conjunction with the Office of Managing Director, the Office of General Counsel, and relevant Bureaus and Offices, and collaborates with and advises other Bureaus and Offices with respect to data management and data analysis.
- (e) Manages the Commission's economic and data analysis research programs, recommends budget levels and priorities for these programs, and serves as central account manager for all contractual economic and data analysis research studies funded by the Commission.
- (f) Conducts economic, statistical, and other data analysis of the impact of existing and proposed communications policies and operations, including cooperative studies with other staff units and consultant and contract efforts as appropriate.
- (g) Coordinates the Commission's evaluation of government (state and federal), academic, and industry-sponsored research affecting Commission policy.
- (h) Coordinates with other Bureaus and Offices in making recommendations to the Commission on communications policy issues that involve economic and data analysis; represents the Commission at appropriate discussions and conferences.
- (i) Develops and recommends procedures and plans for effective economic and data analysis within the Commission.
- (j) Seeks to ensure that FCC policy encourages and promotes competitive markets by providing Bureaus and Offices with the necessary support to identify, evaluate, and resolve competition issues.
- (k) In conjunction with the relevant subject matter Bureau, serves as the Commission's principal policy and administrative staff resource with regard to the design, implementation, and administration of auctions and other types of competitive bidding.
- (l) Administers Commission spectrum auctions for wireless telecommunications in conjunction with the Wireless Telecommunications Bureau. Administers Commission spectrum auctions for broadcasting in conjunction with the Media Bureau. Works with the Wireless Telecommunications Bureau to develop recommendations to the Commission on policies, programs and rules concerning auctions of spectrum for wireless telecommunications. In conjunction with the Wireless Telecommunications Bureau, Media Bureau, Wireline Competition Bureau, and other relevant Bureaus and Offices, advises the Commission on policy relating to auctions and competitive bidding to achieve other Commission policy objectives. Administers procurement of auction-related services from outside contractors. Provides policy, administrative and technical assistance to other Bureaus and Offices on auction issues.
- (m) In conjunction with the Wireline Competition Bureau and Wireless Telecommunications Bureau, provides policy and administrative staff resources for the use of market-based mechanisms, including competitive bidding, to distribute universal service support.
- (n) With respect to applicable data and reporting duties assigned to the Office, coordinates with the

Public Safety and Homeland Security Bureau and other relevant Bureaus and Offices on all matters affecting public safety, homeland security, national security, emergency management, disaster management, and related issues.

- (o) With respect to applicable data and reporting duties assigned to the Office, and in coordination with the Wireline Competition Bureau and the Wireless Telecommunications Bureau, provides federal staff support for the Federal-State Joint Board on Universal Service and the Federal-State Joint Board on Jurisdictional Separations.
- (p) In coordination with other relevant Bureaus and Offices, provides economic, financial, and technical analyses of telecommunications markets and carrier performance.
- (q) In coordination with the Wireline Competition Bureau, provides technical support for *de novo* review of decisions of the Administrative Council for Terminal Attachments regarding technical criteria pursuant to §68.614.
- (r) Prepares briefings, position papers, and proposed Commission actions, as appropriate.
- (s) In coordination with other relevant Bureaus and Offices, develops and recommends responses to legislative, regulatory or judicial inquiries and proposals concerning or affecting matters within the purview of its functions.

4. Amend section 0.31 to revise subsection (g) to read as follows:

OFFICE OF ENGINEERING AND TECHNOLOGY

§ 0.31 Functions of the Office.

* * * * *

- (g) In cooperation with the relevant Bureaus and Offices, including the Office of General Counsel and the Office of Economics and Analytics, to advise the Commission, participate in and coordinate staff work with respect to general frequency allocation proceedings and other proceedings not within the jurisdiction of any single bureau, and render service and advice with respect to rule making matters and proceedings affecting more than one Bureau.

* * * * *

5. Amend section 0.91 to revise subsection (p) to read as follows:

WIRELINE COMPETITION BUREAU

§ 0.91 Functions of the Office.

* * * * *

- (p) In coordination with the Office of Economics and Analytics and Wireless Telecommunications Bureau, serves as the Commission’s principal policy and administrative staff resource with respect to the use of market-based mechanisms, including competitive bidding, to distribute universal service support. Develops, recommends and administers policies, programs, rules and

procedures concerning the use of market-based mechanisms, including competitive bidding, to distribute universal service support.

6. Amend section 0.131 by revising subsections (a), (c), and (r) to read as follows:

WIRELESS TELECOMMUNICATIONS BUREAU

§ 0.131 Functions of the Bureau

* * * * *

- (a) Advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in all matters pertaining to the licensing and regulation of wireless telecommunications, including ancillary operations related to the provision or use of such services; any matters concerning wireless carriers that also affect wireline carriers in cooperation with the Wireline Competition Bureau; and, in cooperation with the Office of Economics and Analytics, all matters regarding spectrum auctions and, in cooperation with the Wireline Competition Bureau, USF mechanisms affecting wireless carriers. These activities include: policy development and coordination; conducting rulemaking and adjudicatory proceedings, including licensing and complaint proceedings for matters not within the responsibility of the Enforcement Bureau; acting on waivers of rules; acting on applications for service and facility authorizations; compliance and enforcement activities for matters not within the responsibility of the Enforcement Bureau; determining resource impacts of existing, planned or recommended Commission activities concerning wireless telecommunications, and developing and recommending resource deployment priorities.

* * * * *

- (c) Serves as a staff resource, in coordination with the Office of Economics and Analytics, with regard to the development and implementation of spectrum policy through spectrum auctions. Develops, recommends and administers policies, programs and rules concerning licensing of spectrum for wireless telecommunications through auctions. Advises the Commission on policy, engineering and technical matters relating to auctions of spectrum used for other purposes.

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- (r) In coordination with the Wireline Competition Bureau and the Office of Economics and Analytics, develops and recommends policies, programs, rules and procedures concerning the use of market-based mechanisms, including competitive bidding, to distribute universal service support.

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7. Amend section 0.271 by revising it to read as follows:

OFFICE OF ECONOMICS AND ANALYTICS

§ 0.271 Authority delegated.

- (a) Insofar as authority is not delegated to any other Bureau or Office and except as provided in

subsection (b), the Chief, Office of Economics and Analytics, is delegated authority to carry out the performance of functions and activities described in § 0.21, provided that the following matters shall be referred to the Commission en banc for disposition:

- (1) Notices of proposed rulemaking and of inquiry, final orders in rulemaking proceedings and inquiry proceedings and non-editorial orders making changes, and any reports arising from any of the foregoing;
 - (2) Any petition, pleading, request, or other matter presenting new or novel questions of fact, law, or policy that cannot be resolved under existing precedents and guidelines.
 - (3) Applications for review of actions taken to delegated authority, except that the Chief may dismiss any such application that does not comply with the filing requirements of §1.115 (d) and (f) of this chapter.
 - (4) Any applications that are in hearing status.
- (b) In carrying out the auctions-related functions set forth at §0.21 (k)-(m), the Chief, the Office of Economics and Analytics, is delegated authority to act only in conjunction with the relevant Bureaus or Offices as specified in that rule.
- (c) Insofar as authority is not delegated to any other Bureau or Office, and with respect only to matters that are not in hearing status, the Chief, Office of Economics and Analytics, is delegated authority to deny requests for extension of time or to extend the time within which comments may be filed in dockets over which the Office of Economics and Analytics has primary authority.
- (d) Insofar as authority is not delegated to any other Bureau or Office, the Chief, Office of Economics and Analytics, is authorized to dismiss or deny petitions for rulemaking that are repetitive or moot or that for other reasons plainly do not warrant consideration by the Commission.
- (e) The Chief, Office of Economics and Analytics, is authorized to dismiss or deny petitions for reconsideration to the extent permitted by §1.429(l) of this Chapter and, jointly with the Wireless Telecommunications Bureau, to the extent permitted by §1.106 of this Chapter.
- (f) The Chief, Office of Economics and Analytics, is delegated authority to make nonsubstantive, editorial revisions to the Commission's rules and regulations contained in part 1, subparts Q, V, W, and AA.

8. Add section 0.272 to read as follows:

§ 0.272 Record of actions taken.

The application and authorization files and other appropriate files of the Office of Economics and Analytics are designated as the Commission's official records of action of the Chief, Office of Economics and Analytics, pursuant to authority delegated to the Chief. The official records of action are maintained in the Reference Information Center in the Consumer and Governmental Affairs Bureau.

9. Add section 0.273 to read as follows:

§ 0.273 Actions taken under delegated authority.

In discharging the authority conferred by § 0.271, the Chief, Office of Economics and Analytics, shall establish working relationships with other bureaus and staff offices to assure the effective coordination of actions taken in the analysis of regulatory impacts, including assessments of paperwork burdens and initial and final regulatory flexibility assessments.