

FCC Plans to Finalize Internet Reform, 5G Fund, and TV White Spaces at October Open Meeting

October 22, 2020

The FCC announced the [agenda](#) for its last Open Meeting before the upcoming 2020 general election, scheduled for October 27, 2020. The FCC first plans to respond to the remand from the U.S. Court of Appeals for the D.C. Circuit on its *Restoring Internet Freedom Order*. The Commission will address three issues sent back to the agency for further consideration and largely reiterate its original conclusions regarding the impact of its reforms on public safety, pole attachments, and the Lifeline program. The Commission also plans to finalize its proposed 5G Fund with a two-phase reverse auction to target support for the deployment of 5G networks in rural areas, establishing a ten-year support term and a \$9 billion overall budget. The October meeting will also consider allowing unlicensed white space devices to operate on broadcast television channels, as well as streamlining the state and local approval processes for wireless tower modifications. Lastly, the FCC plans to eliminate certain unbundling and resale requirements for incumbent local exchange carriers.

Unlike most monthly Commission meetings, none of the items on the October agenda initiate new proceedings or propose new rules. Instead, the items focus on implementation of a number of policies prioritized under Chairman Pai. FCC regulatory activity will likely slow in the aftermath of the election. As a result, the October agenda may represent the FCC's final push for any major reforms in the near-term. However, on October 15, Chairman Pai did [announce](#) his intention to move forward with a rulemaking to interpret the meaning of Section 230 of the Communications Decency Act. You will find more details on the significant October meeting items after the break:

Restoring Internet Freedom Order Remand: The draft [Order on Remand](#) would respond to the remand from the D.C. Circuit in *Mozilla Corp v. FCC*, which upheld a majority of the FCC's decisions on broadband Internet access service regulation and classification in the 2017 *Restoring Internet Freedom Order*, but remanded three issues back to the agency for further consideration. The FCC would address each issue and find that its initial conclusions in the 2017 order promote public safety communications, facilitate broadband infrastructure deployment through pole attachment rights, and allow the Commission to continue to provide Lifeline support conditioned on providing broadband internet access service. The agency would find there is no basis for departing from these original conclusions and that any negative effects on these sectors resulting from its classification of broadband Internet access service in the 2017 order would be limited or otherwise outweighed by the benefits of the "light-touch" regulatory framework for broadband.

Establishing a 5G Fund for Rural America: The draft [Report and Order](#) would adopt the 5G Fund using a two-phase reverse auction targeting support for deploying 5G networks in areas without an unsubsidized provider of either 4G LTE or 5G mobile broadband. Proposed in an [April 2020 Notice of](#)

Proposed Rulemaking (“NPRM”), the draft Order would adopt a 10-year term of support and an overall budget of \$9 billion for the 5G Fund. Phase I of the auction would make available up to \$8 billion, with \$680 million set aside for bidders offering to serve Tribal lands, and Phase II would make at least \$1 billion available to target deployment facilitating adoption of precision agriculture technologies. The FCC would adopt its proposal to determine which areas would be eligible for 5G Fund support from data collected through the upcoming [Digital Opportunity Data Collection](#), and would impose performance requirements on carriers continuing to receive legacy mobile high-cost support.

Unlicensed Wireless Opportunities in TV White Spaces: The draft [Report and Order](#) would adopt changes to the Part 15 unlicensed device rules, as proposed in the Commission’s [February 2020 NPRM](#), to expand the ability of white spaces devices to deliver wireless broadband services in rural areas. The Order would increase the maximum permissible power for fixed white space devices operating on TV channels 2-35 in “less congested areas” and allow higher-power mobile operations within defined geographic areas. The FCC would also adopt rule changes to facilitate the development of narrowband Internet of Things devices and services in the TV bands.

Streamlining Approval of Wireless Infrastructure Modifications: The draft [Report and Order](#) would revise the Commission’s section 6409(a) rules to provide for streamlined state and local review of tower modifications that involve limited ground excavation or deployment beyond site boundaries. The rule revision would establish that, for towers not located in the public rights-of-way, a modification of an existing site needing ground excavation or deployment of up to 30 feet will not be disqualified from streamlined processing on that basis. The draft Order would also promote accelerated deployment of 5G and other advanced wireless services by facilitating the collocation of antennas and associated equipment on existing infrastructure, while preserving the ability of state and local governments to manage and protect local land-use interests.

Modernizing Unbundling and Resale Requirements: The draft [Report and Order](#) would eliminate and modernize unbundling and resale requirements for incumbent local exchange carriers (“LECs”). The FCC would eliminate certain unbundling requirements for specific broadband-capable loops, subject to reasonable transition periods, in more densely populated areas, but preserve unbundling requirements in less densely populated areas without sufficient evidence of competition. The draft Order would also forbear from the avoided-cost resale obligation for non-price cap carrier incumbent LECs, subject to a three-year transition period.