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## FCC Proposes Rule Changes to Improve Decision-Making and Promote Participation in FCC Proceedings

by Paul A. Cicelski and Scott R. Flick

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*The Federal Communications Commission recently proposed revisions to its rules as part of its stated goal to “reform and transform the agency into a model of excellence in government.” As part of its goal, the FCC has released a Second Notice of Proposed Rulemaking (“NPRM”) proposing to modify its ex parte communications rules, which govern the disclosure of communications with the commissioners and FCC staff when all parties to a proceeding are not present.*

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The NPRM’s proposed rule changes include the following:

- requiring that a summary of **every** oral *ex parte* presentation be filed with the FCC, as opposed to just those presentations involving new information or arguments;
- requiring that the filing summarize all data and arguments presented;
- establishing a preference for electronic filing of notices of *ex parte* presentations; and
- requiring faster electronic filing (within four hours) of notices of permitted *ex parte* presentations made during the “Sunshine Period” (the period, which typically begins a week before a public FCC meeting, during which outside communications are limited regarding items on the meeting agenda).

In addition, the NPRM seeks comment on:

- whether current exceptions to the Sunshine Period’s prohibition on *ex parte* presentations should be narrowed or modified to prevent abuse and promote fairness;
- whether to start the Sunshine Period prohibition at midnight after a Sunshine notice has been issued;

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- whether to require disclosure of ownership or other information in filings at the Commission, including adopting various disclosure requirements currently used by federal courts, and the extent to which ownership information already available to the FCC is sufficient;
  - whether sanctions and enforcement concerning violations of the *ex parte* rules should be modified; and
  - whether the *ex parte* rules should apply in the context of new media, such as Internet blog postings.

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Should you have any questions regarding this matter, please contact us.

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