



Insight

Technology Regulations Stuck in 20th Century

SAM BATKINS | MAY 1, 2013

Regulatory agencies generally implement policies they publicly endorse. The Federal Communications Commission (FCC) promoted a “retrospective review” plan under Executive Order 13579 but dozens of outstanding proposals remain on the shelf.

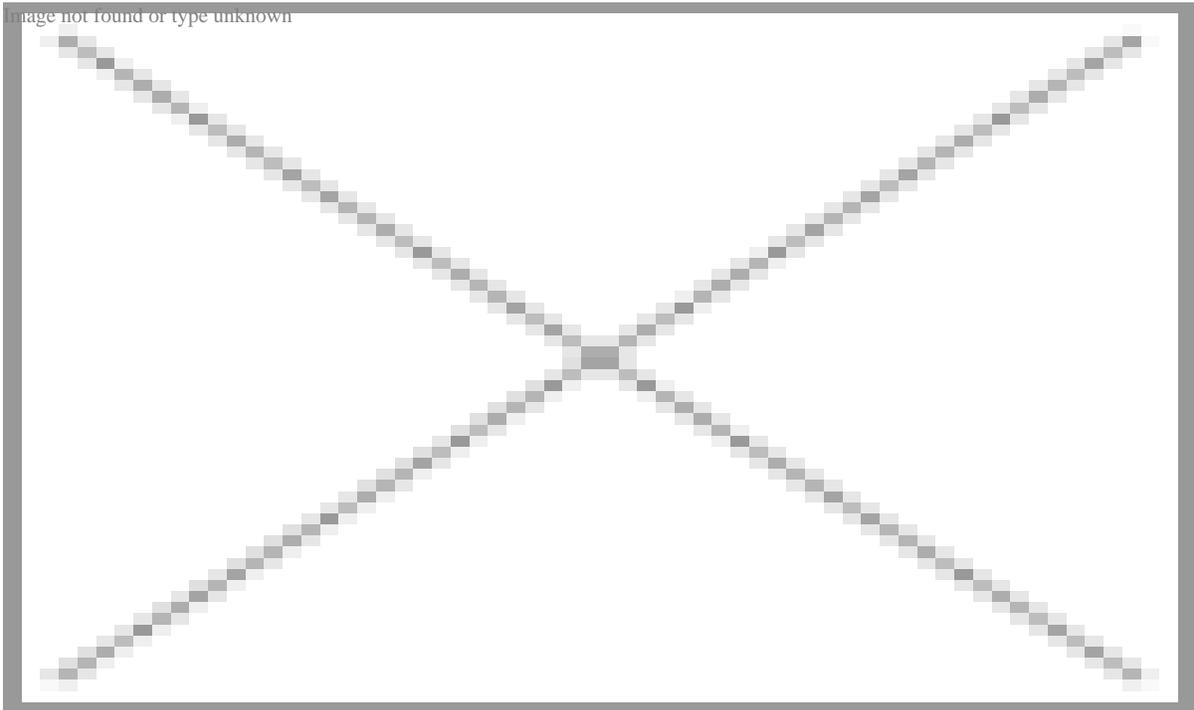
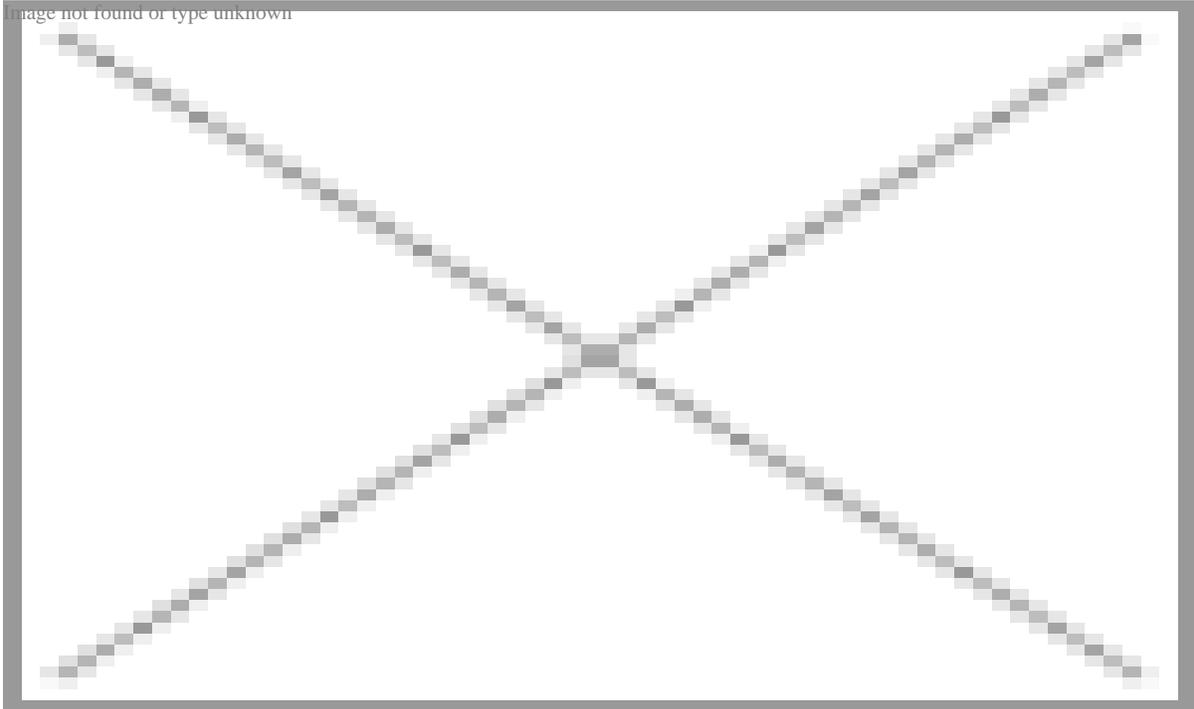
The FCC has finalized only one rule to [remove](#) “outmoded, ineffective, insufficient, or excessively burdensome” regulations since 13579. As a result, FCC has left its current regulatory architecture, all 253 forms and 81 million hours of paperwork, in place.

What does this mean for a rational, 21st Century technology policy? The results, according to a study of more than 430 different paperwork requirements from four different government agencies, offer a regulatory apparatus that still operates as if “I Love Lucy” was airing on one of the three major broadcast networks.

For this study, the American Action Forum (AAF) reviewed technology-related information collection requests published by the Office of Information and Regulatory Affairs (OIRA). These requests contain the literal paperwork, “red tape,” associated with regulatory compliance. Combined, businesses and individuals in the technology field spend 97.5 million hours complying with 165 different federal forms. To put this red tape burden in context, it would take more than 48,000 employees working full-time to comply with a year of paperwork.

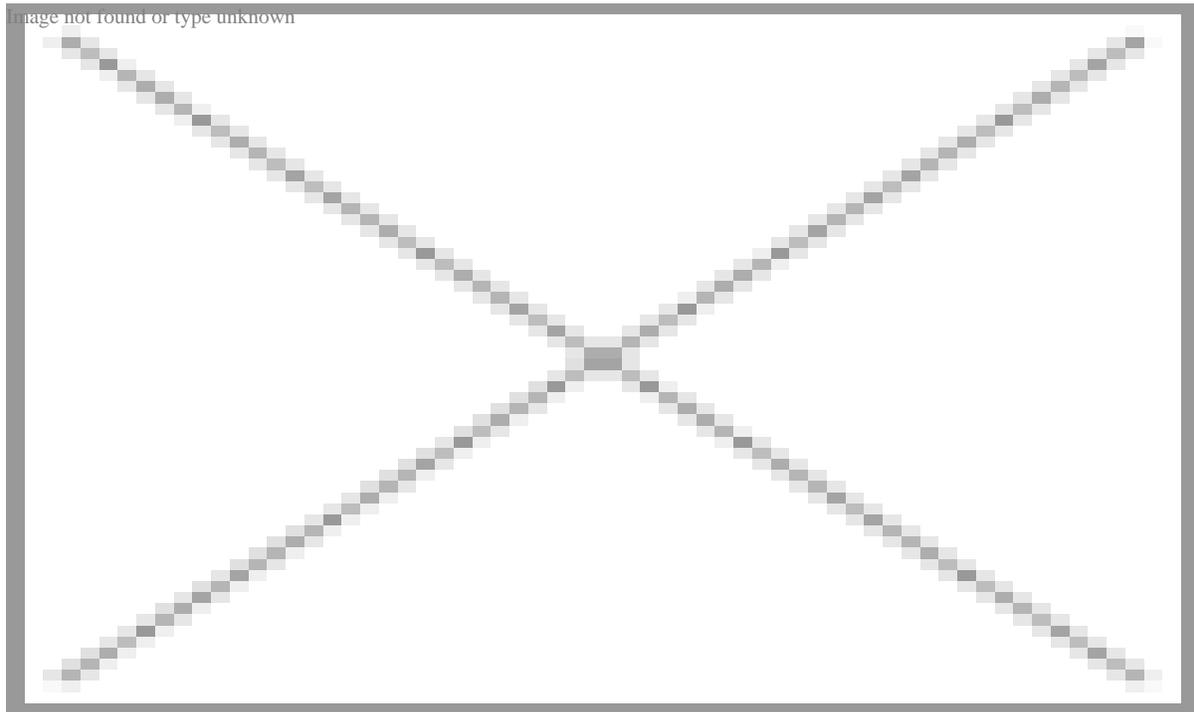
The average hourly cost of compliance for the collections with listed monetized burdens: \$449. When this figure is applied to all 431 paperwork requirements, it yields a total cost of \$23.1 billion to comply with technology-related regulations.

What generates all of this red tape? A reliance on 20th Century, broadcast, radio, and landline regulations that slow the U.S. transition toward an all-digital world. For example, there are roughly 130 broadcast-related rules, 88 radio collections, and 81 landlines requirements. The paperwork burdens total roughly 30 million hours, and some have been in effect since 1981.



By contrast, there are 44 paperwork collections associated with modern technology, such as the Internet and mobile broadband, totaling 50 million paperwork hours. This is not to argue that the FCC and other regulatory agencies need to drastically increase their regulatory portfolio. On the contrary, FCC has released a plan designed to reduce regulatory burdens. However, that plan's main components remain in limbo, and the

Commission's total red tape has only increased during the past four years.



A MODERN REGULATORY STRUCTURE?

When President Obama signed Executive Order 13579 requesting that independent agencies remove outdated rules, observers might have assumed regulators would eliminate or streamline antiquated landline and broadcast rules to make it easier for companies to navigate the regulatory world.

To its credit, the FCC did release an initial and [final](#) "Plan for Retrospective Analysis of Existing Rules." The 49-page document detailed dozens of previous retrospective reviews and 11 areas "currently under consideration for retrospective analysis." To date, FCC has finalized just one: Program Access Rules, with just three other pending proposals from 2012. It is troubling that FCC's retrospective plan also lauded the Commission's Chief Economist, promoting "best practices in conducting cost-benefit analyses." However, there are no comprehensive cost-benefit analyses contained in any of FCC's four published deregulatory measures.

The Program Access [reform](#) rule did not eliminate or consolidate existing paperwork collections and failed to monetize any potential cost savings. FCC merely listed four factors that could result in reduced costs. Concurrently, the Commission acknowledged its new approach would “result in certain costs by requiring affected parties and the Commission to expend time and resources litigating and resolving complaints.” This debut retrospective review attempt hardly demonstrates that FCC understands its 81 million hour regulatory burden.

The other three proposals also lack comprehensive cost-benefit analyses and fail to monetize cost savings. The [oldest proposal](#), “Revision of the Commission’s Program Access Rules,” actually contains new paperwork requirements but does not quantify the new burdens. The Commission also pointed out that some provisions “will result in certain costs,” without quantifying these burdens. Instead, FCC asked “commenters to quantify the costs and benefits” of the retrospective plan. Although this does foster public engagement and promote transparency, the role of the Commission’s Chief Economist appears diminished.

Another retrospective [proposal](#), “NCE Station Fundraising,” was also short on specifics on how it would reduce regulatory burdens. Like other measures, the NCE proposal also added new paperwork requirements without quantifying or monetizing the burdens.

Finally, the most recent retrospective proposal, “Cable Television Technical and Operational Requirements,” repeated many of Commission’s previous analytical shortcomings. It also listed few reasons why it would reduce or streamline regulatory requirements and conceded that it would “impose additional reporting, recordkeeping, and compliance requirements on cable operators.” Furthermore, the proposed rule purported to address Executive Order 13579, even though it adds new requirements and “maintains the existing recordkeeping requirements.” The actual cost-benefit analysis contained only a few disparate sentences on possible impacts. For comparison, EPA’s regulatory impact analysis for its recent Tier 3 proposed rule was 532 pages.

CONCLUSION

With more than 97 million hours of red tape and \$23 billion in costs, there are plenty of opportunities for agencies to reduce and streamline existing requirements. However, the pace of retrospective review, especially for FCC, is far too slow. A 21st Century regulatory environment should foster and promote economic growth, but our current system contains a web of requirements that make innovation and job creation more difficult.