

**STATEMENT OF
CHAIRMAN AJIT PAI**

Re: *Regulation of Business Data Services for Rate-of-Return Local Exchange Carriers*, WC Docket No. 17-144.

One of my distinguished predecessors, Dennis Patrick, pioneered the idea of replacing rate-of-return regulation with price cap regulation three decades ago.¹ This was an uphill battle, to say the least. The then-Chairman of the House Energy and Commerce Telecommunications Subcommittee questioned what he called an “untested proposal,” saying that “jettisoning proven programs for untested concepts is not my idea of a forward-looking policy.”² And the then-Chairman of the Senate Commerce Committee, when asked how the price cap plan could be improved, responded curtly, “Forget it.”³ Yet decades of experience has proven Chairman Patrick so right that the intensity of this fight—if not the fight itself—has largely been forgotten. Through Republican and Democratic Administrations alike, the FCC has recognized the public benefits of price-cap regulation in non-competitive markets.

That brings us to today. In 2016, the FCC allowed rate-of-return carriers to elect model-based Universal Service Fund support. These carriers are known now as A-CAM carriers because their support is based on the Alternative-Connect America Cost Model. Although they received some regulatory relief for doing so, carriers choosing model-based support still must adhere to onerous rate-of-return regulation for their lower-speed business data services (BDS) offerings. This means that they must conduct annual cost studies to justify their BDS rates. These cost studies are expensive and pull resources away from more productive uses, such as building and maintaining networks.

So today, we propose to allow A-CAM carriers to choose price-cap regulation for their BDS offerings. This would enable them to take money and effort currently wasted on regulatory compliance and devote them to better networks and services, while also strengthening incentives for operational efficiencies and innovation. In addition, we seek comment on creating a competitive market test to evaluate areas in which competition rather than regulation can better guide prices in A-CAM carriers’ territories. I look forward to seeing the record on our proposal.

For their hard work on this *Notice*, I would like to thank Pamela Arluk, Justin Faulb, Lisa Hone, Christopher Koves, Richard Kwiatkowski, Kris Monteith, Belinda Nixon, Eric Ralph, Arielle Roth, Douglas Sloten, Shane Taylor, and David Zesiger from the Wireline Competition Bureau, and William Dever, Billy Layton, Richard Mallen, and Bill Richardson from the Office of the General Counsel.

¹ “FCC Chief May Get to Prove His Theory: Phone Rate-Cap Proposal Is Designed to Improve Efficiency,” *Associated Press* (Mar. 13, 1989), available at <https://lat.ms/2qDFk4k> (Chairman Patrick proposed to “use price caps to reward efficiency and create economic incentives to lower costs. Doing so, he argued, will not only reward shareholders but also save consumers a bundle.”). See also John Haring and Evan Kwerel, Competition Policy in the Post-Equal Access Market, Office of Policy and Plans, Federal Communications Commission (Feb. 11, 1987), available at <https://bit.ly/2HETWIK>.

² Hearing, Regulation of Telephone Rates, House Energy & Commerce Subcommittee on Telecommunications and Finance (Nov. 10, 1987), available at <https://cs.pn/2vLYRff>.

³ “Criticism of price caps continue despite revisions to FCC’s plan,” *Network World* (Mar. 6, 1989), available at <https://bit.ly/2HHh75i>.