



441 G St. N.W.  
Washington, DC 20548

B-336011

February 27, 2024

The Honorable Maria Cantwell  
Chair  
The Honorable Ted Cruz  
Ranking Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Cathy McMorris Rodgers  
Chair  
The Honorable Frank Pallone, Jr.  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives

Subject: *Federal Communications Commission: Video Relay Service Compensation Formula*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (FCC) entitled “Video Relay Service Compensation Formula” (FCC 23-78). We received the rule on September 28, 2023.<sup>1</sup> It was published in the *Federal Register* as a final rule on October 19, 2023. 88 Fed. Reg. 71994. The effective date is December 18, 2023.

According to FCC, to ensure that the providers of Telecommunications Relay Services (TRS) are compensated for the provision of Video Relay Service, this final rule adopts a formula to compensate such providers from the Interstate TRS Fund (TRS Fund) for the provision of service for the next five-year compensation period.

Enclosed is our assessment of FCC’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

Shirley A. Jones  
Managing Associate General Counsel

<sup>1</sup> The rule was published in the *Federal Register* under a different title than the title used in the agency’s submission to us. The different title created a processing error on our end which delayed issuance of this major rule report.

Enclosure

cc: Cathy Williams  
Program Analyst, PPM/OMD  
Federal Communications Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
FEDERAL COMMUNICATIONS COMMISSION  
ENTITLED  
“VIDEO RELAY SERVICE COMPENSATION FORMULA”  
(FCC 23-78)

(i) Cost-benefit analysis

In its submission to us, the Federal Communications Commission (FCC or the Commission) indicated that it considered preparation of an analysis of the costs and benefits of the final rule to be not applicable.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

FCC prepared a Final Regulatory Flexibility Analysis. The analysis included (1) a statement of the need for and objectives of the rule, (2) a description and estimate of the number of small entities to which the rule will apply, (3) a description of projected reporting, recordkeeping, and other compliance requirements, and (4) a description of agency actions to minimize the significant economic impact on small entities as well as significant alternatives considered by the Commission. FCC stated that no comments were received in response to its Initial Regulatory Flexibility Analysis.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

As an independent regulatory agency, FCC is not subject to the requirements of the Act.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act’s exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act’s requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act” in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory

Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

As an independent regulatory agency, FCC is not subject to the Act.

(v) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

FCC published a notice of proposed rulemaking on June 4, 2021, 86 Fed. Reg. 29969, with a correction published on July 15, 2021, 86 Fed. Reg. 31668. FCC responded to comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

FCC stated that this final rule does not contain new or modified information collection requirements subject to the Act.

Statutory authorization for the rule

FCC promulgated this final rule pursuant to various sections of title 47, United States Code, as well as pursuant to Public Law 115-141. Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, div. P, § 503, 132 Stat. 348, 1091 (Mar. 23, 2018).

Executive Order No. 12866 (Regulatory Planning and Review)

As an independent regulatory agency, FCC is not subject to the Order.

Executive Order No. 13132 (Federalism)

As an independent regulatory agency, FCC is not subject to the Order.