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## Trump's New FCC Chair Has a Plan to Target State and Local Authority

[Pai's Digital Empowerment Agenda is a free marketer's new age dream.](#)

BY [MITCH HERCKIS](#) | JANUARY 29, 2017

President Trump last week announced that he tapped Federal Communications Commissioner Ajit Pai to chair the agency. While Pai is a familiar face on the commission, confirmed by the Senate back in May 2012, his ascendency to the chairmanship likely marks a significant change in the way the commission will be run. For state and local governments, it could mean a significant change in their relationship with the FCC, which at times may become combative over state and local authority.

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Over the last year, Pai has been touting his “[Digital Empowerment Agenda](#)” as a blueprint for the nation. The agenda is an ambitious, free market brew of tax incentives and regulation elimination. As he [outlined in September](#), Pai believes his vision will bring “high-speed broadband to economically deprived areas,” “empower consumers throughout our nation with 21st century digital opportunities,” and “promote Internet-based entrepreneurship.”

A significant cornerstone of that vision will be using the FCC’s power and influence to preempt or eliminate state and local regulations, shorten deliberations and discussions at the local level, and minimize local taxes and fees. In November, Pai gave a [speech](#) to CTIA, an organization that represents the wireless communications industry.

He stated:

“First, the FCC must aggressively use its statutory authority to ensure that local governments don’t stand in the way of broadband deployment. In section 253 of the Communications Act, for example, Congress gave the Commission the express authority to preempt any state or local regulation that prohibits or has the effect of prohibiting the ability of any entity to provide wired or wireless service. We should use it.”

To that end, Pai’s Digital Empowerment Agenda focuses on pairing tax and wireless spectrum incentives with the elimination of regulation and fees at all levels of government. The goal is to make it easy and highly profitable for broadband companies to deploy cell towers and broadband cables.

The flip side of this proposal is greater restrictions on state and local governments will likely allow telecommunications providers to sidestep state and local authority and citizens’ concerns. State and local governments regulate when and how a company puts wires in the ground or on telephone poles, as well as how and where cell phone towers are placed. It allows them to ensure that cable and internet companies don’t just lay wires in rich neighborhoods, and cell towers are not placed in scenic town square vistas.

Pai’s plan sets the commission on a collision course with advocates of state and local government authority.

“Many cities are pursuing smart infrastructure and improved connectivity, but not at the cost of the safety or quality of life for their residents,” Angelina Panettieri, principal associate for technology and communications at the [National League of Cities](#), explained to *Route Fifty*. “Cities ensure that new structures are built in safe locations ... that proposed attachments can be supported safely by existing poles or streetlights that weren’t built with those uses in mind, and that antennas don’t interfere with fire or police communications. They also make sure that any equipment placed on the ground doesn’t obstruct sidewalks in a way that would violate accessibility requirements. Cities may also have environmental or aesthetic standards to maintain.”

The FCC is currently [seeking public comment](#) to “develop a factual record that will help us assess whether and to what extent the process of local land-use authorities’ review of siting applications is hindering, or is likely to hinder, the deployment of wireless infrastructure.” This is essentially an opportunity for the industry to ask the FCC to limit the costs cities and counties charge, as well as their authority to delay construction as they deliberate over how and where cell towers and other infrastructure is constructed.

Based on Pai’s past positions and Digital Empowerment Agenda, telecom industry requests for limits on state and local authority and fees are likely to receive a warm reception under the new chairman’s leadership.

Pai’s office did not respond to *Route Fifty*’s request for a comment. 🗨️

[Mitch Herckis](#) is Senior Program Director for [Government Executive's Route Fifty](#) and is based in Washington, D.C.



## SUMMARY OF FCC COMMISSIONER AJIT PAI'S DIGITAL EMPOWERMENT AGENDA

Today, high-speed Internet access, or broadband, is critical to economic opportunity, job creation, and civic engagement. But there are too many parts of this country where broadband is unavailable or unaffordable. We need to close this digital divide.

Commissioner Pai believes we must empower Americans living in every community in our nation—from our urban cores to rural towns—with online opportunities. On September 13, 2016, at Cincinnati-based startup accelerator The Brandery, Commissioner Pai proposed a Digital Empowerment Agenda. Here is a summary of his remarks.

1. **Gigabit Opportunity Zones**: To bring broadband and digital opportunity to our nation's most economically challenged areas, Commissioner Pai proposed the creation of Gigabit Opportunity Zones. This would incentivize broadband deployment, spur local governments to streamline regulations, help job creators, and ultimately revitalize neighborhoods. Here's how it would work:
  - a. Any area where the average household income falls below 75% of national median could qualify.
  - b. State and local lawmakers must adopt streamlined, broadband deployment-friendly policies.
  - c. Significant tax incentives would be provided to spur private-sector gigabit broadband deployment.
  - d. Entrepreneurs would be incentivized to create jobs in these zones through a tax credit that offsets the employer's share of payroll taxes.
2. **Mobile Broadband for Rural America**: To extend digital opportunity to rural America, where high costs and low population density make the private-sector case for deployment much more difficult, Commissioner Pai proposed a three-step plan:
  - a. Increase the build-out obligations of wireless carriers and incentivize rural broadband investment by extending license terms up to 15 years.
  - b. Move forward with a Mobility Fund Phase II that includes tech-neutral performance metrics, eliminates duplicative support, maintains support where it is needed, subsidizes the deployment of new networks, and sizes the Fund based on current needs.
  - c. Create a "rural dividend" to supplement existing funding sources by setting aside 10% of the money raised from spectrum auctions for the deployment of mobile broadband in rural America.
3. **Remove Regulatory Barriers to Broadband Deployment**: To ease the path for the private sector to deploy next-generation broadband networks in their communities, Commissioner Pai proposed concrete ways to streamline the nation's approach to siting and deployment.
  - a. The FCC should use its existing authority under sections 253 and 332 of the Communications Act and section 6409 of the Spectrum Act to remove state and local barriers to deployment, such as unfair and unreasonable fees.
  - b. The FCC should reform its pole attachment rules to reduce the costs of deployment, and Congress should give the agency additional authority over poles owned by governments and railroads.
  - c. The FCC should develop a model code for communities that want to encourage broadband deployment for their citizens and to attract new businesses and startups.
  - d. The federal government should speed the deployment of broadband on federal lands—which often impacts our most rural communities—by adopting shot clocks for action, minimizing fees, and mapping federal assets, among other steps.
  - e. Government officials should adopt "dig once" policies so that broadband conduit is deployed as part of every road and highway construction project.
4. **Promote Entrepreneurship and Innovation**: To foster innovative services and business models, Commissioner Pai called on governments at all levels not to impose old rules on new industries.
  - a. When it comes to regulation of new Internet-based services or products, government shouldn't aim to shoehorn them into old regulatory frameworks. Instead, the litmus test should be whether consumers are benefiting from these innovations. This test applies across the board, from ride-sharing to room-sharing companies, automobile entrants to genetic testing startups.
  - b. The government should seek to promote entrepreneurs' access to capital. It should increase the appeal and availability of investment through crowdfunding. And it should consider investment-related proposals from the bipartisan Startup Act, such as an R&D tax credit and long-term capital gains exemption.