

# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

News Media Information 202 / 418-0500  
Internet: <https://www.fcc.gov>  
TTY: 1-888-835-5322

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## NOTICE CONCERNING *EX PARTE* STATUS OF PRESENTATIONS OF THE INTERGOVERNMENTAL ADVISORY COMMITTEE

The Federal Communications Commission (FCC or Commission) publicly announced the expanded membership of the Intergovernmental Advisory Committee (Committee or IAC).<sup>1</sup> The IAC is not a federal advisory committee subject to the procedures set forth in the Federal Advisory Committee Act (FACA)<sup>2</sup> because of an exemption provided under the Unfunded Mandates Reform Act (UMRA).<sup>3</sup> The UMRA exemption is intended to promote the free exchange of ideas between officials of the federal government and state, local and tribal governments (or their designated employees) on matters of common interest while meeting in closed sessions.<sup>4</sup> The IAC provides guidance, expertise and recommendations to specific requests from the Commission on a range of issues that are within the Commission's jurisdiction.

Because the UMRA exemption provides for conversations among the IAC members and Commission staff or Commissioners, we are announcing that, pursuant to section 1.1200(a) of the Commission's rules, 47 CFR § 1.1200(a), presentations to the IAC, including to any subcommittees and working groups and at any roundtable discussions sponsored by the IAC, and presentations between IAC members and FCC staff or Commissioners, will be treated as exempt presentations for *ex parte* purposes. This treatment is appropriate since such presentations, like comments on a Notice of Inquiry, will not directly result in the promulgation of new rules.<sup>5</sup>

We recognize, however, that in the course of its work the IAC may address issues that are subject to pending rulemaking proceedings. The Commission will not rely in these proceedings on any information submitted to the IAC, or to any of its subcommittees, working groups, or sponsored roundtables, or information conveyed by IAC members to FCC staff or Commissioners unless that information is first placed in the record of the relevant proceeding.

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<sup>1</sup> *Chairman Pai Announces New Appointments to the Intergovernmental Advisory Committee*, Public Notice, DA 18-792 (August 1, 2018).

<sup>2</sup> See 5 U.S.C. App.2.

<sup>3</sup> See 2 U.S.C. §1534(b).

<sup>4</sup> UMRA permits federal officials or their designated employees to speak with their state, local, and tribal counterparts without implicating the FACA as long as a two-part test set forth in 2 U.S.C. §1534(b) is satisfied: “(1) meetings are held exclusively between federal officials and elected officers of state, local, and tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities”; and (2) “such meetings are solely for the purpose of exchanging views, information, or advice relating to the management or implementation of federal programs established pursuant to statute, that explicitly or inherently share intergovernmental responsibilities or administration.”

<sup>5</sup> See 47 CFR § 1.1204(b)(1)(exempt treatment of presentations regarding a Notice of Inquiry).

Additional information regarding the IAC can be found at:<https://www.fcc.gov/about-fcc/advisory-committees/general/intergovernmental-advisory-committee>. You may also contact Carmen Scanlon at (202) 418-0544 or [carmen.scanlon@fcc.gov](mailto:carmen.scanlon@fcc.gov) or Barbara Britt at (202) 418-0323 or [barbara.britt@fcc.gov](mailto:barbara.britt@fcc.gov) or Emmitt Carlton at (202) 418-7321 or [emmitt.carlton@fcc.gov](mailto:emmitt.carlton@fcc.gov).

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