

GAO

Report to the Chairman, Committee on
Government Reform, House of
Representatives

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FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory
Committees Follow
Requirements, but
FCC Should Improve
Its Process for
Appointing Committee
Members





Highlights of [GAO-05-36](#), a report to the Honorable Tom Davis, Chairman, Committee on Government Reform, House of Representatives

Why GAO Did This Study

FCC has regulatory authority over many complex telecommunications issues. To obtain expert advice on these issues, FCC often calls upon its federal advisory committees, comprised mostly of members from industry, private consulting, advocacy groups, and government. These committees must follow the Federal Advisory Committee Act (FACA), which sets requirements on the formation and operation of such committees. Because of your interest in how FCC receives advice from outside experts, this report provides information on (1) FCC's current advisory committees, (2) the extent to which the committees follow applicable laws, (3) how FCC makes use of the committees' advice, and (4) the non-FACA advisory groups that FCC has established.

What GAO Recommends

To better ensure that FCC's federal advisory committee members are fully informed about the type of advice they are being asked to provide, we recommend that FCC establish a process for determining and documenting the type of advice that members are expected to contribute. Committee members who are not representing a specific viewpoint may be more appropriately appointed as special government employees.

FCC noted that future appointment letters for representative members would make clear the underlying viewpoint the advisory committee member is expected to represent.

www.gao.gov/cgi-bin/getrpt?GAO-05-36.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Mark Goldstein at (202) 512-2834 or goldsteinm@gao.gov.

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committees Follow Requirements, but FCC Should Improve Its Process for Appointing Committee Members

What GAO Found

The Federal Communications Commission (FCC) has seven federal advisory committees established at its discretion that address various telecommunications issues. FCC officials, committee members, and other stakeholders we contacted generally believed FCC's advisory committees operated effectively.

In forming and operating advisory committees, FCC must follow FACA and related regulations, which require, among other things, that committee membership is balanced in terms of points of view represented and that committee activities are transparent to the public. While FCC follows applicable requirements, GAO found that committee members are not always clear about their expected role on the committees—that is, the type of advice that FCC expects them to provide. FCC designates all of its committee members as “representatives,” meaning they are appointed with an expectation that they will provide advice reflecting the views of a company, organization, or other group. However, approximately 22 percent of responding committee members did not say they provided representative advice. Further, some committee members are affiliated with universities or consulting firms that may not have an obvious telecommunications viewpoint. If committee members are expected to primarily provide their own expert opinion, they are expected to be impartial and may be more appropriately appointed as special government employees. Such members are subject to ethics rules administered by the Office of Government Ethics, including conflict-of-interest reviews.

While FCC is not required to implement the advice or recommendations of its advisory committees, FCC has taken actions based on these committees' recommendations. Overall, GAO found FCC officials tended to be more satisfied with how FCC implements the committees' recommendations than other stakeholders, including committee members themselves. For example, of the committee members who responded to a GAO survey, only 54 percent were satisfied with the extent to which FCC takes the committees' advice into account when developing policy. Further, three trade groups we contacted said that the advisory committees' advice and recommendations have little influence on FCC actions.

In addition to its seven federal advisory committees, FCC considers five advisory groups as exempt from FACA requirements, including two “joint boards,” two “joint conferences,” and the Intergovernmental Advisory Committee. FCC was mandated to establish the joint boards and created the joint conferences at its discretion. Since the joint boards and joint conferences are considered exempt from FACA, they function differently from FCC's federal advisory committees. FCC created the Intergovernmental Advisory Committee, which it also considers exempt from FACA, to address telecommunications issues affecting state, local, and tribal governments.

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Abbreviations

FACA	Federal Advisory Committee Act
FCC	Federal Communications Commission
GSA	General Services Administration
OMB	Office of Management and Budget

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United States Government Accountability Office
Washington, D.C. 20548

December 10, 2004

The Honorable Tom Davis
Chairman, Committee on Government Reform
House of Representatives

Dear Mr. Chairman:

The Federal Communications Commission (FCC) has regulatory and oversight authority over an array of issues and industries including telephone, broadcasting, wireless devices, and international telecommunication and satellite services. FCC deliberates most policy issues within the rulemaking process, but many of the issues before FCC involve complex technical issues or require compromise among varied industry segments—factors that can make resolution of issues difficult within the standard rulemaking process. To augment that process, the Commission often calls upon experts and stakeholders for advice through federal advisory committees. For example, FCC's federal advisory committees have provided advice and recommendations on emerging technologies, consumer interests, and other industry challenges.

The Federal Advisory Committee Act¹ (FACA) sets requirements regarding how agencies establish federal advisory committees and how the activities of the committees are conducted. Because of your interest in how FCC receives advice from experts and stakeholders, you asked us to provide information about FCC's current federal advisory committees and other FCC advisory groups that do not operate under FACA. Specifically, this report provides information on (1) FCC's current federal advisory committees and how they operate, (2) the extent to which FCC's federal advisory committees follow applicable laws and regulations, (3) how FCC uses federal advisory committee advice and recommendations, and (4) what advisory groups FCC has established that are not characterized as FACA committees and how such groups operate.

To address these objectives, we reviewed FACA and related regulations. We also interviewed federal officials from FCC, the General Services Administration (GSA), and the Office of Government Ethics. We obtained views on the operations and effectiveness of federal advisory committees from FCC officials, including all five commissioners, several bureau chiefs,

¹Pub. L. 92-463, codified at 5 U.S.C. app. 2.

the deputy committee management officer, the designated agency ethics official, and the designated federal officers for each of the federal advisory committees. To obtain the perspectives of stakeholders outside of federal government, we asked 12 trade and interest group representatives for their views about the quality and usefulness of the advisory committees' work. We also interviewed the committee chairmen for FCC's current seven advisory committees and collected information from current committee members in March through June 2004 using a Web-based survey. We designed the survey to obtain committee members' views on various aspects of committee operations and effectiveness. We obtained completed questionnaires from 200 committee members for a response rate of 71 percent.² To determine if committee operations had changed over time, we also interviewed a small sample of committee members who served on FCC advisory committees chartered in 1998 or 1999 and asked them questions very similar to those we asked in our survey of current members. Finally, we interviewed non-FACA advisory committee members and obtained documentation and legislation relating to the formation of FCC's joint boards, joint conferences, and the Intergovernmental Advisory Committee. We conducted our work between November 2003 and September 2004 in accordance with generally accepted government auditing standards. See appendix I for a more detailed discussion of our scope and methodology.

Results in Brief

FCC currently has seven federal advisory committees that address various technical, operational, and consumer telecommunications issues. For example, one advisory committee focuses on the reliability and interoperability of communications networks, while another committee strives to increase consumer participation in proceedings before the Commission. All of FCC's federal advisory committees are *discretionary*, meaning the committees were not required to be established by law but rather were established by FCC. In fiscal year 2004, FCC's advisory committees had a combined budget of \$1.2 million. FCC officials, committee members, and other stakeholders with whom we communicated generally believed FCC's advisory committees operated effectively. We also found that most advisory committees formed subcommittees to facilitate committee operations and that a substantial

²In reporting survey results in this report, we collapsed data together from some categories, such as "very satisfied" and "satisfied." The detailed survey questions and results can be found in appendix III.

amount of the advisory committees' work was completed at the subcommittee level. Often the subcommittees utilized telephone and videoconferencing, as well as e-mail exchanges, to conduct committee work.

Like other federal advisory committees, FCC's advisory committees must follow FACA and related regulations prescribed by GSA. Under FACA and GSA regulations, agency heads are responsible for many aspects of advisory committee management, such as ensuring that committee membership is *balanced* in terms of points of view and interests represented, and for ensuring that committee operations are transparent to the public. In general, we found that FCC follows the requirements prescribed by FACA and related regulations. However, we found that committee members are not always clear about their expected role on the committees—that is, the type of advice that FCC expects them to provide. In particular, FCC has designated all federal advisory committee members as *representative* members, meaning that FCC appointed them with the expectation that they would provide advice reflecting the views of the organization, company, or institution they represent. However, 22 percent of committee members who responded to our survey did not say they were providing representative advice; and, in the majority of these cases, members reported that they contribute their own expert opinion. Moreover, some members of FCC's federal advisory committees do not work for companies within the telecommunications sector, and thus may not have an obvious interest that they would be representing on FCC's advisory committees. The Office of Government Ethics distinguishes between "special government employees" and representative members of advisory committees: committee members designated as special government employees are expected to be impartial and are subject to ethics rules—including conflict-of-interest reviews—administered by the Office of Government Ethics, while committee members designated as representatives are viewed by the Office of Government Ethics as having been appointed to represent a particular and known viewpoint, and thus not subject to ethics review. It appears that certain members of FCC's advisory committees do not fully understand their roles. Some members who FCC has designated as representatives do not believe they are providing advice that represents the position of a particular group. If FCC intends for certain members to provide primarily their own expert advice, such members may be more appropriately appointed as special government employees rather than as representative committee members. If members are so designated, they would be subject to the Office of

Government Ethics rules that apply to special government employees, which would include conflict-of-interest reviews.

According to FCC officials, the Commission has taken action on its federal advisory committees' recommendations. FCC's Chairman stated that the advisory committee recommendations could be implemented in various ways, such as incorporating recommendations into regulations or less formally by publicizing committee work at trade shows or other public events. However, the stakeholders we contacted had varied views on FCC's efforts to implement recommendations. FCC officials, including the bureau chiefs and designated federal officers who have responsibility for the advisory committees, tended to be more satisfied with how FCC implements the committees' recommendations than committee members. In fact, only 54 percent of committee members who responded to our survey were satisfied with the extent to which FCC takes the committees' advice into account when developing policy. Another 27 percent were neither satisfied nor dissatisfied, and more than 8 percent were dissatisfied or very dissatisfied with the extent to which FCC takes committees' advice into account when developing policy. Further, representatives from three trade and interest groups we contacted said that the advisory committees' advice has little influence on FCC actions.

In addition to its seven federal advisory committees, FCC has five advisory groups that it considers exempt from FACA requirements. FCC was mandated to establish two of the advisory groups, known as "joint boards," as a result of the Communications Act of 1934 and Telecommunications Act of 1996, as amended. FCC also created two "joint conferences" at its discretion to advise the agency on issues over which FCC has regulatory jurisdiction. Both the joint boards and conferences function rather differently from FCC's federal advisory committees in part due to their exemption from FACA requirements—in particular, they do not have a charter guiding their operations, and their meetings are not open to the public. Additionally, FCC created the Intergovernmental Advisory Committee, which it also considers exempt from FACA, to address issues affecting state, local, and tribal governments that are within the jurisdiction of FCC. Unlike the joint boards and conferences, the Intergovernmental Advisory Committee functions similarly to federal advisory committees in some respects, although it does not hold open meetings.

To better ensure FCC's federal advisory committee members are fully informed about the advice they are being asked to provide, we recommend that FCC establish a process for determining and documenting the type of

advice federal advisory committee members are expected to contribute. FCC should appoint advisory committee members as representatives only after making a clear determination of what interests those members are expected to represent on the committee, and members without a clear representative role may be more appropriately appointed as special government employees. For representative members, FCC should specifically state what particular interest those members are appointed to represent.

We provided a draft of this report to FCC, GSA, and the Office of Government Ethics for review and comment. All of the agencies agreed with our recommendation. Written comments from FCC and the Office of Government Ethics are provided in appendixes IV and V, respectively.

Background

Enacted by Congress in 1972, FACA responded to concerns that federal advisory committees were proliferating without adequate review, oversight, or accountability. Congress included measures in FACA intended to ensure that advisory committees responded to valid needs, that the committees' proceedings were as open as feasible to the public, and that Congress was kept informed of the committees' activities. FACA articulates certain principles regarding advisory committees, including broad requirements for balance, transparency, and independence.³ For example, regarding the requirement for *balance*, FACA requires advisory committees to have membership fairly representing an array of viewpoints and interests. FACA also requires agencies to announce committee meetings in advance and in general, to hold open meetings.⁴ FACA also sets forth other requirements for advisory committee formation, their operations, and how they provide advice and recommendations to the federal government. For example, FACA stipulates that Congress, the President, or federal agencies

³We previously issued a report that examined the guidance provided by GSA and the Office of Government Ethics to all agencies that use federal advisory committees. The report includes a variety of recommendations regarding that guidance intended to help ensure that the committee member selection and designation process is fully transparent and appropriate. GAO, *Federal Advisory Committees: Additional Guidance Could Help Agencies Better Ensure Independence and Balance*, [GAO-04-328](#) (Washington, D.C.: April 16, 2004).

⁴The President or head of an agency may determine that a meeting be closed if, for example, the meeting will include discussions of classified information, reviews of proprietary data submitted in support of federal grant applications, or deliberations involving considerations of personal privacy.

are authorized to establish federal advisory committees. Some federal advisory committees are created by an agency at the direction of a statute, but all other agency-created advisory committees are commonly referred to as “discretionary” federal advisory committees. The Office of Management and Budget (OMB) has established a maximum number of discretionary federal advisory committees that each agency could establish, which varies by agency.⁵ Additionally, the subcommittees of a federal advisory committee are generally exempt from following FACA requirements if they report to a parent advisory committee. Alternatively, if a subcommittee provides advice and recommendations directly to a federal agency, it is required to comply with FACA requirements.

FACA does not require agencies to implement the advice or recommendations of their federal advisory committees; advisory committees are by design *advisory*. For regulatory agencies governed by the Administrative Procedures Act, such as FCC, the relationship between consideration and implementation of a federal advisory committee’s advice and recommendations is complicated because those agencies must follow certain rules and processes in their rulemaking efforts. Consequently, while an advisory committee’s advice and recommendations may form the basis for a regulatory agency’s notice of proposed rulemaking, factors beyond the advisory committee’s advice may play a role in determining what action an agency ultimately takes.

GSA, through its Committee Management Secretariat, is responsible for prescribing administrative guidelines and management controls applicable to federal advisory committees governmentwide. While GSA does not approve or deny agency decisions about creating or managing advisory committees, GSA has developed regulations, guidance, and training to help agencies implement FACA requirements. GSA also created and maintains an online FACA database (available to the public at www.fido.gov/facadatabase), which contains information about each federal advisory committee, including committee charters, membership rosters, budgets, and, in many cases, links to committee meeting schedules, minutes, and reports.

⁵OMB took this action in response to Executive Order 12838, issued by the President in February 1993. The order directed agencies to reduce by, at least, one-third the number of discretionary advisory committees by the end of fiscal year 1993.

Not every advisory committee or group that provides advice or recommendations to an agency is subject to the requirements prescribed in FACA. To be subject to FACA, a discretionary committee or group must have been created to provide advice or recommendations for the President or one or more agencies or officers of the federal government. Groups assembled only to exchange facts or information with federal officials are not federal advisory committees, nor are certain groups made up of only state or local officials. FACA explicitly exempts some committees from its requirements,⁶ and certain other groups are exempt under other statutes. For example, in some instances the Unfunded Mandates Reform Act of 1995⁷ exempts advisory committees that are composed wholly of federal, state, local, or tribal government officials. Groups that are exempt from FACA are not required to comply with the procedural and transparency provisions of the act.

FCC's Federal Advisory Committees Address a Variety of Technical and Operational Issues, and Stakeholders View the Committees as Functioning Effectively

FCC established seven discretionary federal advisory committees to examine a range of technical and operational telecommunications issues. The stakeholders we contacted—including committee members, FCC officials, and trade and interest group representatives—viewed the operations of the committees as effective. Almost all of the advisory committees established subcommittees to address specific topics, and we found that the majority of the advisory committees' work is completed at the subcommittee level.

FCC's Seven Current Discretionary Advisory Committees Examine Technical and Operational Telecommunications Issues

FCC currently has seven advisory committees that provide advice and recommendations to the agency on numerous technical and operational telecommunications issues. These issues range from interoperability and security of communications networks to consumer and diversity concerns regarding telecommunications markets. All of FCC's federal advisory committees are "discretionary"—that is, they were established by FCC under its own authority to create such committees. In fiscal year 2004,

⁶Excluded groups include groups consisting entirely of federal government employees as well as groups created by the National Academy of Sciences, National Academy of Public Administration, the Central Intelligence Agency, and the Federal Reserve System.

⁷Pub. L. 104-4, codified at 2 U.S.C. § 1534(b).

FCC's advisory committees had a combined budget of \$1.2 million. Following is a brief description of the objective of each of FCC's seven federal advisory committees. See appendix II for additional information on each of the advisory committees.

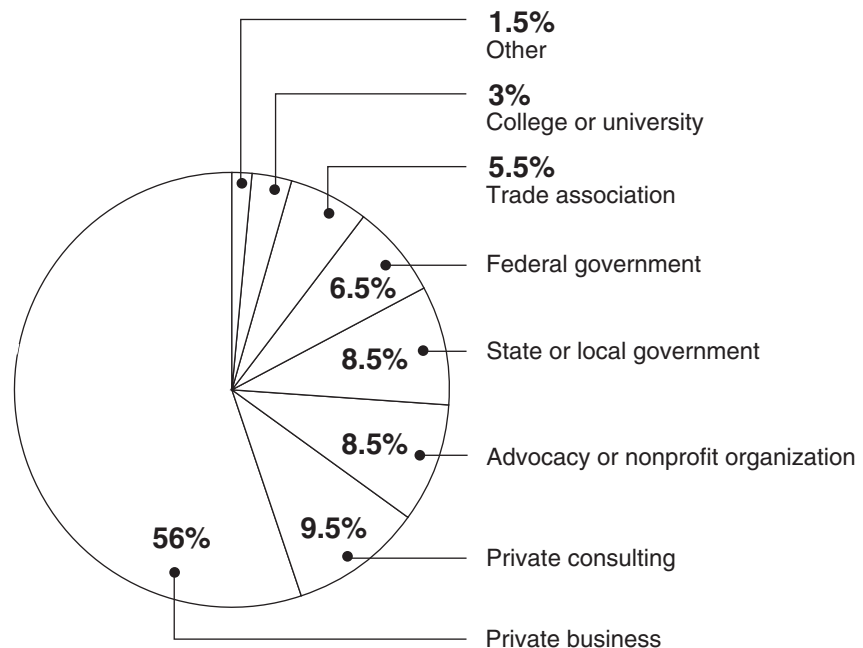
- **Advisory Committee for the 2007 World Radiocommunication Conference:** Provides advice and technical support to FCC, and recommends proposals for the 2007 World Radiocommunication Conference.
- **Advisory Committee on Diversity for Communications in the Digital Age:** Makes recommendations to FCC about policies and practices that will further enhance the ability of minorities and women to participate in telecommunications.
- **Consumer Advisory Committee:** Makes recommendations to FCC regarding consumer issues in telecommunications and strives to increase consumer participation in proceedings before FCC.
- **Media Security and Reliability Council:** Provides recommendations to FCC and industry on how to implement a comprehensive national strategy for broadcast and media sustainability in the event of terrorist attacks, natural disasters, and all other threats or attacks nationwide.
- **Network Reliability and Interoperability Council:** Provides recommendations to FCC and to the communications industry that will help to ensure the reliability and interoperability of wireless, wireline, satellite, cable, and public data networks, including emergency communications networks.
- **North American Numbering Council:** Provides advice and recommendations to FCC that foster efficient and impartial administration of the North American Numbering Plan.⁸

⁸AT&T developed the North American Numbering Plan in 1947 to simplify and facilitate direct dialing of long-distance calls. Implementation of the plan began in 1951 with the use of a 10-digit telephone number format, consisting of a 3-digit numbering plan area code, commonly called an area code, followed by a 7-digit local number.

- **Technological Advisory Council:** Provides technical advice to FCC and makes recommendations on technological and technical issues related to innovation in the communications industry.

At the time we conducted our study, FCC’s federal advisory committees had over 280 members. These members represent numerous sectors across telecommunications including industry, academia, advocacy groups, private consulting, and government. As shown in figure 1, our survey data indicate the majority of members come from private businesses.

Figure 1: FCC Federal Advisory Committee Survey Respondents’ Reported Employment Sectors



Source: GAO survey responses of FCC advisory committee members.

Note: Trade unions/labor organizations and “no response” accounted for 1 percent of survey responses.

According to FCC’s Chairman, the Commission creates federal advisory committees at its discretion to advise the agency on operational or technical issues associated with FCC’s statutory responsibilities. All of FCC’s advisory committees are chartered for a 2-year period. Recommendations for forming federal advisory committees at FCC can come from a variety of sources. For example, two designated federal

officers said that problems in the telecommunications industry, such as widespread telecommunications outages and telephone numbering shortages, were the impetus behind the creation of two committees. When considering which advisory committees to establish, FCC said that the Commission's committee management officer—the agency official responsible for managing and overseeing the advisory committees—evaluates the usefulness and mission of a potential committee to ensure the benefits of establishing the committee are clear. While the committee management officer determines which advisory committees are to be established, the opinions of FCC's Chairman are taken into consideration. As prescribed by OMB, FCC is limited to eight discretionary federal advisory committees, but FCC officials we interviewed said that this limit does not pose a problem, and there are no plans to create additional committees at this time.

Committee Members, FCC Officials, and Interest Group Representatives Generally Believe That Advisory Committees Function Effectively

Advisory committee members who responded to our survey, as well as the FCC officials and trade and interest groups we contacted, said the committees generally operate and function effectively. For example, 87 percent of responding committee members were satisfied with the clarity of their committees' operating rules and procedures. Regarding committee operations, 73 percent of the responding members said they were satisfied with how the committees use technology to facilitate meetings. Furthermore, an overwhelming majority of members agreed that fellow members represent parties that have an interest in the mission and agenda of the committee, and that committee members have sufficient knowledge and experience to provide input on the issues addressed by the committee. Overall, 82 percent of responding committee members were satisfied with their experience of serving on the committee, and almost 90 percent responded that they would be interested in serving on the committee again. Moreover, most of the advisory committee members who served previously also told us that they were satisfied with their committee experience.

Most of the committee chairmen we interviewed believed the advisory committee process works well. For example, one chairman said the process facilitates communication, input, and openness. Another committee chairman told us that the advisory committee process is an effective venue for both FCC and industry to participate in the agency's rulemaking process. He further stated that FCC receives a lot of talented advice at little cost, which is important because, in his view, FCC lacks adequate technical expertise. Another committee chairman said that FCC

staff do not have the level of expertise that exists on the advisory committee and could not afford to hire such experts.

FCC officials we contacted, including bureau chiefs and designated federal officers, also told us that the advisory committee process generally functions well. For example, one bureau chief told us that the advisory committee structure gives FCC access to industry expertise at a minimal cost to taxpayers. Further, he commented that FACA requirements help FCC ensure that committee operations remain transparent and accessible to the public. According to another bureau chief, advisory committees provide a unique opportunity for the top experts in important technical fields to provide FCC with the benefits of their knowledge in a nonadversarial context. One FCC designated federal officer said his committee works tremendously well, with a lot of talented people working to achieve the committee's objectives. FCC's Chairman and one commissioner, as well as all the bureau chiefs that we contacted, agreed that effective committee operations enhanced the ability of their advisory committees to reach consensus and subsequently produce useful recommendations for FCC.

Several of the trade and interest group representatives that we interviewed also told us that FCC advisory committees function effectively. For example, several representatives remarked that the advisory committee process is an effective forum for bringing people together from various industry sectors to collaborate on advisory committee issues. Further, the trade group representatives generally believe FCC's advisory committees address current and important telecommunication issues and that members have sufficient knowledge to address committee issues. However, three trade group representatives told us that the advisory committee process was ineffective because FCC does not always implement the committees' advice. To increase the effectiveness of advisory committee functions, several trade groups provided suggestions for possible improvements. For example, one representative said that FCC could increase the use of subcommittees while another told us that FCC should provide funding for travel and develop other methods to improve committee participation among underserved groups.

Subcommittees Perform the Majority of FCC's Federal Advisory Committees' Work

Most of FCC's federal advisory committees have subcommittees that collect information and develop draft recommendations for the full committee, with only one committee—the Technological Advisory Council—having no subcommittees. The committee chairmen and

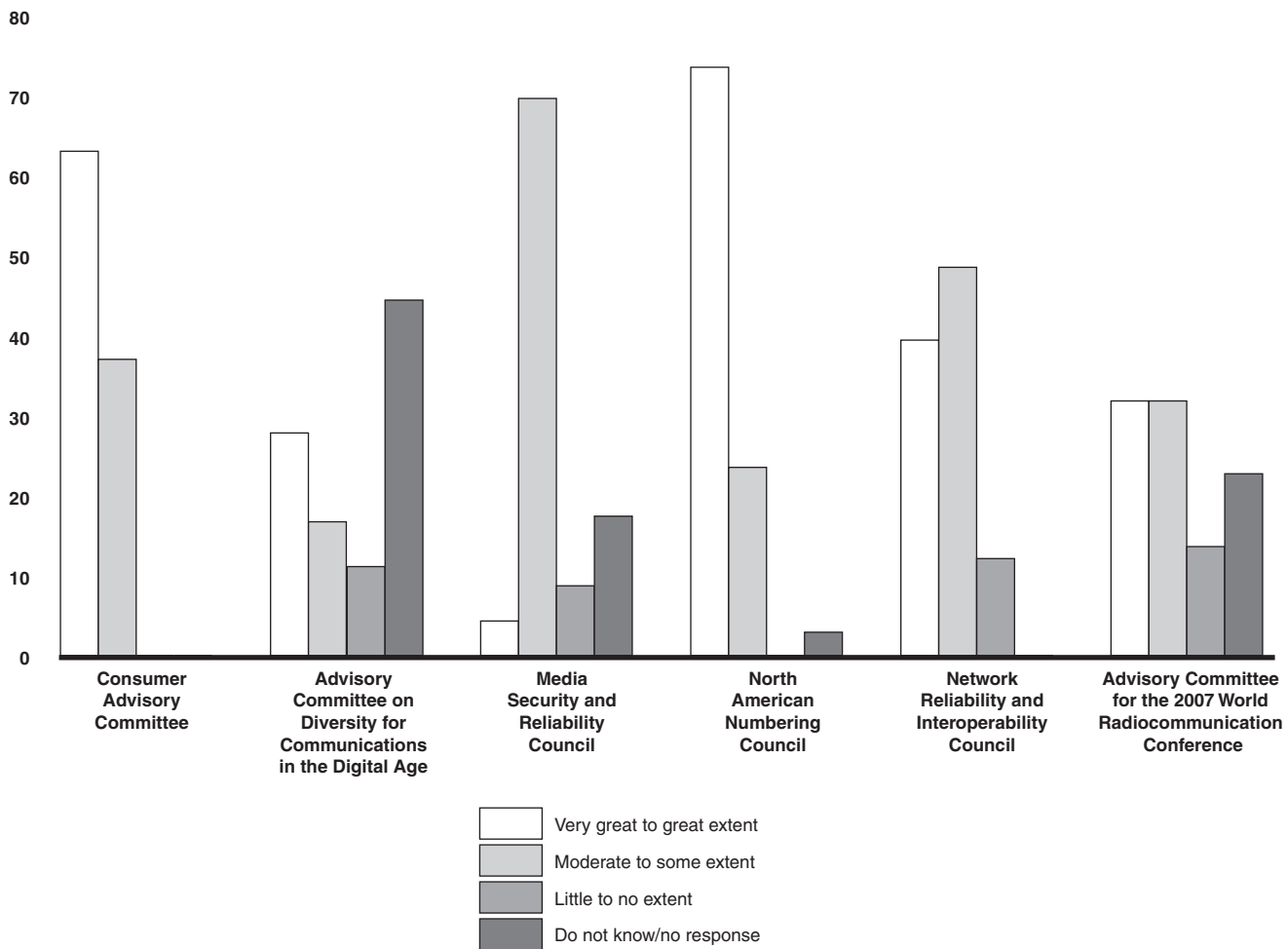
designated federal officers told us that a substantial amount of committee work is completed at the subcommittee level because, generally, the full committees meet less frequently than the subcommittees. In fact, subcommittees often conduct their work in informal ways, such as via telephone and videoconferencing, e-mail exchanges, and additional in-person meetings. The committee members who responded to our survey agreed, with 79 percent responding that more work is completed at the subcommittee level than at the full committee. About 76 percent of the survey respondents also reported that they have served as subcommittee members. Committee members generally volunteer to serve as subcommittee members, but they can also be selected for service by the committee or subcommittee chairman, an FCC official, or other committee members. Our survey results also showed that approximately 80 percent of responding members were satisfied with subcommittee operations. We heard from committee chairmen that most subcommittees set their own agenda and have strong participation by their members. Further, two committee chairmen said the meetings for their subcommittees are open to the public.⁹

An advisory committee's subcommittees are not subject to FACA requirements if they report to a parent advisory committee and the parent advisory committee deliberates the subcommittee's recommendations before adopting and passing them on to the agency. According to our survey, approximately 68 percent of the responding committee members said their committees deliberate the proposals of their subcommittees from a moderate to very great extent. As shown in figure 2, the extent to which full committees deliberated the proposals of their subcommittees varied by committee.

⁹As mentioned previously, only subcommittees that make recommendations directly to a federal agency must have meetings conducted in accordance with FACA's openness requirements.

Figure 2: Committee Members' Views on the Extent to Which Full Committees Deliberate the Proposals of Their Subcommittees by Committee

Percentage of committee members



Source: GAO survey responses of FCC advisory committee members.

Note: The Technological Advisory Council does not have any subcommittees, so it is not included in this figure.

FCC and Its Advisory Committees Adhere to FACA and Related Regulations, but Committee Members Are Not Always Clear About the Role FCC Expects Them to Provide When They Are Appointed to Committees

FACA governs the establishment, operation, and termination of federal advisory committees. Under FACA and GSA regulations, agency heads are responsible for the administration of their advisory committees, including establishing key administrative functions for the advisory committees, forming the committees, ensuring committee operations are transparent, and ensuring that the products advisory committees produce are fully independent of the agency that established the committee.

Agencies Must Have Certain Organizational Procedures in Place to Support the Establishment of Federal Advisory Committees

To establish the framework in which the federal advisory committees can function, FACA requires that agencies, among other things, have (1) a “committee management officer,” (2) operating guidelines for the agency’s federal advisory committees, and (3) a process in place to report key data about each committee to GSA.

Committee management officer: Agencies must designate a committee management officer to assist with the management of their advisory committees and to oversee the agency’s compliance with FACA requirements. FCC has delegated this responsibility to the Managing Director of FCC. In addition to advisory committee oversight, the Office of the Managing Director is generally responsible for activities involving the administration and management of FCC, such as developing and managing the agency’s budget and financial programs, and overseeing the agency’s personnel management process and policy. We found that the committee management officer delegated many of his advisory committee oversight responsibilities to an advisory committee liaison.

Administrative guidelines: The act also requires agency heads to issue administrative guidelines and management controls applicable to their agency’s advisory committees. When we asked FCC if the Commission had administrative guidelines, as required by FACA, an FCC official provided us with guidelines that had expired in August 1998. In May 2004, the deputy committee management officer told us that FCC continued to use the

expired guidelines on an informal basis and that the Commission was planning to reinstate the guidance in the near future, as a result of our review. On September 9, 2004, FCC reinstated their administrative guidelines with no revisions.

Reporting committee information to GSA: Agencies are required to report information electronically on each advisory committee using a governmentwide shared Internet-based system that GSA maintains. The information contained in this Internet-based system (or database) can be used by the Congress to perform oversight of related executive branch programs and by the public, the media, and others, to stay abreast of important developments resulting from advisory committee activities. FCC has been submitting committee information to GSA as required.

FACA and Regulations Impose Several Requirements on the Formation of Federal Advisory Committees

The act has various requirements that relate to the formation of advisory committees. In particular, committees must (1) be in the public interest and related to the agency's area of responsibility, (2) have a charter, (3) have a designated federal officer, and (4) have balanced membership.

Public interest: FACA requires the agency establishing an advisory committee to find that the committee is in the public interest and related to the agency's area of responsibility. According to GSA, agencies must provide a statement that their advisory committees are in the public interest and essential to agency business in their justifications submitted to GSA for establishing an advisory committee. FCC provided such a statement to GSA for all of its advisory committees.

Charter: FACA requires all committees to have a charter that contains specific information, including the committee's scope and objectives, a description of duties, the period of time necessary to carry out its purposes, the estimated operating costs, and the number and frequency of meetings. All of FCC's advisory committees are operating under charters that met the specific requirements.

Designated federal officer: The act requires agency heads to appoint a designated federal officer for each committee to oversee the committee's activities, call the meetings of the committee, approve the agendas, and attend the meetings. Each of FCC's advisory committees has a designated federal officer who abides by these requirements.

Balanced membership: FACA also requires that the membership of committees be fairly balanced in terms of points of view represented. Our survey of committee members as well as discussions with FCC officials indicated that most stakeholders believed the committees had balanced membership. For example, all of the FCC bureau chiefs and designated federal officers we contacted, as well as the committee chairmen, said they believe committee membership is balanced. Further, 88 percent of the committee members who responded to our survey agreed that members represent divergent points of views. FCC commissioners were more split on this issue. FCC's Chairman and one commissioner stated that the committees are adequately balanced while two others stated the committees are not always inclusive of varied interests.¹⁰ Of the trade and interest groups we contacted, five said they believed the advisory committees had balanced membership. For example, one trade group representative said FCC tries to be very inclusive with the committees' membership, and another said FCC goes out of its way to ensure the committees are balanced. However, six of the trade group representatives we contacted did not believe the advisory committees were balanced. Of those with this view, four said that the committees had too many industry representatives, one said the committees did not have enough consumer representation, and one said the committees lacked geographical and ethnic diversity.

According to FCC's Chairman, the Commission has gone to great lengths to ensure advisory committee membership is fairly balanced regarding the points of view represented and the functions performed. He stated that the advisory committees' members represent a broad array of service and equipment providers of all sizes, as well as trade organizations and members of the academic community. Information regarding committee membership contained in the FACA database and that we collected from FCC's designated federal officers indicates that FCC attempted to draw committee membership from many facets of the telecommunications industry. For example, FCC reported that members for one advisory committee represent large and small telecommunications consumers, local and interstate carriers, state regulators, equipment and software manufacturers, satellite companies, cable companies, Internet service providers, wireless companies, and research organizations. According to FCC, members for another advisory committee were selected to represent a broad and balanced viewpoint, with members from nonprofit consumer

¹⁰One commissioner did not respond to us on the issue of balanced membership.

and disability advocacy organizations, industry, underserved populations, Native Americans, and private citizens. Membership for another advisory committee is completely open—meaning any interested party can participate in committee activities.¹¹

Membership designation: While membership must be balanced, federal agencies generally have a reasonable amount of discretion to appoint members to serve on committees. Agencies also have discretion to determine what type of advice the advisory committee members are to provide. Members of advisory committees may be appointed as “representatives,” which means they are providing “stakeholder advice” or advice reflecting the views of the entity or interest group they are representing (such as industry, labor, or consumers). Committee members may also be appointed as “special government employees,” which means the agency appoints them with the expectation that they will provide advice on the basis of their best judgment. The Office of Government Ethics distinguishes between special government employees and representative members. Committee members appointed as special government employees who are not representative members are expected to be impartial and are subject to conflict-of-interest rules administered by the Office of Government Ethics. Committee members designated merely as representative are viewed by the Office of Government Ethics as having been appointed to represent a particular and known viewpoint, and thus are not subject to the same ethics review. Consistent with guidance provided by the Office of Government Ethics,¹² GSA officials told us that GSA cannot control how agencies designate their members, but they generally said that if an agency is looking for a committee member to provide his or her expert advice, the member should be designated as a special government employee; if the member is to provide the views of an outside entity, the member should be designated as representative.

¹¹In our recent report on federal advisory committees, [GAO-04-328](#), p. 53, we recommended that GSA provide guidance to agencies regarding steps that could be taken that might help to ensure that advisory committees have balanced membership. Such guidance is intended to help promote a consistent process for ensuring that all federal agencies take steps to ensure balanced membership on their advisory committees. At this time, it appears that consideration of balance was a major factor in determining committee membership for FCC’s current federal advisory committees.

¹²Office of Government Ethics Memorandum to Heads of Departments and Agencies of the Executive Branch, July 9, 1982 (82 x 22), and Memorandum to Designated Agency Ethics Officials, General Counsels and Inspectors General, February 15, 2000 (00 x 1).

FCC has designated all current members of its federal advisory committees as representatives. The FCC official who is responsible for determining if proper designations are made—the designated agency ethics official—told us he discusses member designations with the committees’ designated federal officers, but he generally does not review any documents to determine what type of advice the member is expected to provide. The ethics official said that it is a long-standing tradition at the Commission to appoint all members as representative. The ethics official also told us there is an emphasis at FCC for members to provide the representative positions of groups, given the nature of the industry, which makes the representative designation more appropriate.

FCC’s designation of all committee members as representatives suggests an expectation that all of the members would contribute the opinion of the organization, company, or institution that they represent. However, we found that for some members it is unclear what interests they should be representing on the advisory committees because they do not directly work within the telecommunications industry. Rather these members—who comprised almost 13 percent of our survey respondents—are affiliated with universities or private consulting companies.¹³ Of the six survey respondents who work for universities, five reported that they *only* provide their own expert advice and not advice that represents the position of a particular group.¹⁴ Similarly, nearly half of those who work in private consulting reported that they only provide their own expert advice. Additionally, we found that—even for those members who do work for entities within the telecommunications industry—there might be confusion for some of them about the type of advice they were expected to provide to the committee. About 13 percent of the respondents who work for private businesses reported that they do not view themselves as providing representative advice, despite being designated by FCC as representative members. All told, only 78 percent of the survey respondents said they provide the opinion of the organization, company, or institution that they represent. A majority of the 22 percent of respondents who did not view their advice as representative said that they provided advice based on their own expert opinion.

¹³See appendix II for the employment sectors of committee members who responded to our survey for each of FCC’s advisory committees.

¹⁴Survey respondents were allowed to check that they provide either or both types of advice.

These results suggest two points regarding the designation of members and their understanding of their advisory roles. First, if certain members—such as those affiliated with universities or who work in private consulting—were appointed to provide their best professional judgment rather than the representative position of a particular group, they might be more appropriately appointed as special government employees. If members are so designated, they would be subject to the Office of Government Ethics rules for special government employees. Second, some members who FCC has designated as representatives do not believe they are contributing the advice of the organization, company, or institution that they were selected to represent. As such, these members may not fully understand what role they were appointed to play on the advisory committee.

In our recent report on federal advisory committees,¹⁵ we recommended that GSA issue guidance stating that agencies should specify in the appointment letters to committee members whether they are appointed as special government employees or as representatives. We further recommended that for those appointed as representative members, the entity or group that they are to represent should be noted in the letter. GSA and the Office of Government Ethics provided formal statements to us that outline actions they have taken and plans they are developing to address our report recommendations. For example, the Office of Government Ethics issued additional guidance, dated July 19, 2004, which discusses the distinction between representative committee members and special government employees.¹⁶ GSA officials told us that they consulted with the Office of Government Ethics and modified their training on the matter of representative versus special government employee designations.

We found that for its advisory committees, FCC was already generally telling members that they were to provide representative advice on behalf of their employer in their appointment letters. However, for those members affiliated with universities, law firms, or consulting firms who are told to provide advice on behalf of such entities, the underlying viewpoint on telecommunications issues that the member is expected to represent is not clear because such institutions generally do not have an obvious viewpoint

¹⁵GAO-04-328, p. 54.

¹⁶Office of Government Ethics Memorandum to Designated Agency Ethics Officials, July 19, 2004 (DO-04-022).

on telecommunications issues.¹⁷ While FCC may have selected these individuals to represent particular telecommunications viewpoints, those viewpoints are not specifically stated in the appointment letter. That is, naming the institution to be represented might not always make clear the *viewpoint* to be represented.

Requirements Guide Many Aspects of Advisory Committee Operations

Regarding advisory committee operations, FACA generally requires committee meetings to be open to the public. Also, GSA regulations provide principles that agencies should apply to their management of advisory committees, including (1) supplying support services for their committees, (2) seeking feedback from advisory committee members on the effectiveness of committee activities, and (3) communicating to the committee members how their advice has affected agency programs and decision making.

Openness: FACA requires agencies to announce committee meetings ahead of time and give notice to interested parties about such meetings. With some exceptions, the meetings are to be open to the public, and agencies are to prepare meeting minutes and make them available to interested parties. During our review, we found that FCC provided adequate notice of meetings, held open meetings and prepared minutes in accordance with the act for all of its advisory committees.

Support services: FACA and GSA regulations specify that agencies should provide support services for their committees. According to the designated federal officers, FCC typically provides meeting facilities and administrative and logistical support for the committees. At the time of our review, most of the designated federal officers, as well as the deputy committee management officer, said the committees had sufficient resources to effectively conduct committee operations. While each advisory committee has a budget, we found the funds were allocated for FCC staff, both professional and administrative. FCC does not pay any travel-related costs for committee members to attend meetings. As shown

¹⁷For example, in reviewing the appointment letter for a committee member who is employed by a law firm, we found FCC only stated that the member is expected to represent the law firm—without saying what telecommunications viewpoints would be represented. Further, when we asked what specific telecommunications interest this member was representing, she said the clients of her law firm, but noted that at present time the firm was not representing any clients that were involved with the issues of her advisory committee.

in table 1, the majority of committee members surveyed were satisfied with the support provided by FCC.

Communications: GSA regulations also state that agencies should (1) seek feedback from advisory committee members on the effectiveness of committee activities and (2) communicate to committee members on a regular basis how their advice has affected agency programs. We found FCC does not have a formal process whereby it requests feedback from committee members about the committees' activities, nor does FCC formally track how the committees' advice and recommendations have been considered and provide this information to committee members. However, most of the designated federal officers said they periodically discuss committee issues with members. One designated federal officer told us he believes the communication with his committee members is sufficient because the members are willing to serve on the committee again. Nonetheless, according to our survey, adequate communications between FCC and committee members was one of the few areas related to the operations of FCC's committees that committee members expressed some concern. As shown in table 1, less than 47 percent of survey respondents were satisfied with how FCC communicated to members how the Commission would use their advice. In response to our survey of committee members, we received 10 comments indicating there is limited communication between FCC and the advisory committees. For example, one committee member said FCC should provide a clear disposition for each recommendation presented to it. Another member said he presumes his respective committee's advice is helpful to the Commission, but would like more feedback on whether the advice is actually used.

Table 1: Committee Members' Satisfaction with Aspects of FCC's Management of Advisory Committees

	Percent satisfied	Percent neither satisfied nor dissatisfied	Percent dissatisfied	Percent do not know or no response
Amount and quality of support provided by FCC	78	11.5	4.5	6
Amount of feedback FCC officials seek from committee members	56.5	23.5	11.5	8.5
Communication from FCC officials regarding how committee's advice has affected FCC programs or decision making	46.5	24	19	10.5

Source: GAO survey responses of FCC federal advisory committee members.

Federal Advisory Committees Are Required to Produce Independent Advice to Federal Agencies

The advice and recommendations of federal advisory committees must be independent of influence by the entity that created the advisory committee, or in this case, FCC. We found that the advice and recommendations provided by FCC's committees are generally considered by stakeholders to reflect the independent judgment of committee members. The majority of FCC's commissioners believe that the federal advisory committees provide independent advice and recommendations. However, one commissioner suggested that committee independence could be improved while another stated that independence varies by committee. In addition, all of the designated federal officers and bureau chiefs who have responsibility for FCC's federal advisory committees agree that the advisory committees provide advice and recommendations that are independent of agency influence. Among committee members who responded to our survey, 89 percent stated that they believed their committee is at least moderately independent of FCC, while approximately 7 percent stated that they believed their committee is only a little or not at all independent of FCC. Of the trade and interest groups we contacted, six believed that committees' advice and recommendations are independent of FCC, and four others stated that independence varies based on the committee or the issues being addressed. Only 1 of the 12 trade groups responded that the committees' advice or recommendations are not independent.

FCC Has Taken Action on Advisory Committee Recommendations, but Stakeholders' Views on FCC's Use of Committee Work Varied

While most of the stakeholders we contacted agreed that the advisory committees produce quality work, views on FCC's implementation of the committees' advice and recommendations varied. While FCC is not required to implement the advice and recommendations of its advisory committees, in general, the FCC bureau chiefs and designated federal officers were more satisfied with how FCC uses the committees' work than other stakeholders. FCC's Chairman stated that the Commission implements the advisory committees' recommendations in various ways, such as incorporating recommendations into regulations or less formally by publicizing committee work at trade shows or other public events. One commissioner agreed with this view, further stating that FCC always takes the committees' advice and recommendations seriously. However, another commissioner said FCC should establish a more formal process for the entire Commission to consider committee recommendations; and still another commissioner said FCC should give "due attention" to each committee submission, regardless of the subject matter. We found FCC does not have a formal process for tracking advisory committee recommendations. While the deputy committee management officer told us

that as a result of our review, FCC plans to improve the accountability of the advisory committee process by requiring that committee recommendations be tracked; as of September 2004, FCC had not taken any action on developing such a tracking system.

In our survey, 83 percent of respondents believed FCC was receptive to their advice from a moderate to very great extent. However, only 54 percent of responding members were satisfied with the extent to which FCC takes the committees' advice into account when developing policy. Another 27 percent were neither satisfied nor dissatisfied, and more than 8 percent were dissatisfied or very dissatisfied with the extent to which FCC takes the committees' advice into account when developing policy. As part of our survey, we received comments from 19 out of 200 survey respondents who were dissatisfied with FCC's use of their committees' advice. In general, the members who provided comments were dissatisfied because they believed that FCC (1) does not provide feedback about how the committee's recommendations are used, (2) does not take action on the committee's recommendations, (3) has a predetermined agenda, or (4) uses the advisory committees as "window dressing." Further, only 5 of the 12 trade and interest groups we contacted believed FCC actually uses the committees' advice and recommendations. Three others stated that the committees' advice and recommendations have little influence on FCC actions.

The FCC bureau chiefs and designated federal officers we contacted were more satisfied than were committee members with how FCC uses the committees' advice. For example, one bureau chief said FCC always considers the recommendations received from his advisory committee, and the designated federal officers for five of the advisory committees said they believe FCC would implement their committees' recommendations. To demonstrate how the Commission implements the advice and recommendations of the advisory committees, FCC officials provided the following examples:

- An FCC bureau chief said that FCC adopted, as rules, many of the recommendations made by the North American Numbering Council. For example, the committee provided advice and recommendations on implementation issues associated with local number portability, which allows consumers to keep their telephone numbers when switching from one telecommunications carrier to another. This process has been in place for wireline consumers since 1997, and it is now available for wireless consumers. An FCC commissioner agreed, stating the North American Numbering Council has provided invaluable expertise in

support of FCC's policies relating to telephone numbering, including local number portability.

- The designated federal officer for the Advisory Committee for the 2003 World Radiocommunication Conference said the committee recommended a total of 41 draft preliminary views, of which 35 became U.S. preliminary views, and a total of 41 draft proposals of which 28 became U.S. proposals.
- The designated federal officer for the Media Security and Reliability Council said the committee produced over 100 best practices recommendations oriented toward the media industries. To support industry adoption of those best practices recommendations aimed at media, FCC said it developed an outreach brochure describing the best practices and arranged for 13,000 copies to be distributed directly by FCC field offices and at conventions held by the National Association of Broadcasters and the National Cable and Telecommunications Association. Also as a result of the Media Security and Reliability Council's work, the deputy designated federal officer told us FCC issued a notice of proposed rulemaking regarding the Emergency Alert System.
- According to an office chief, the Technological Advisory Council generated several of the ideas that led to the Spectrum Policy Task Force Report, which formed the basis for several of the Commission's most important forward-looking initiatives.¹⁸

¹⁸In June 2002, FCC's Chairman announced the formation of the Spectrum Policy Task Force to assist FCC in identifying and evaluating changes in spectrum policy to increase the public benefits derived from the use of radio spectrum.

FCC Has Five Advisory Groups That It Considers Exempt from FACA; These Groups Function Differently from Federal Advisory Committees

FCC has five advisory groups that it considers exempt from FACA. Two of these advisory groups are “joint boards” that FCC is statutorily mandated to create. FCC also established two groups referred to as “joint conferences” that are designed to advise the agency on certain issues over which FCC has regulatory jurisdiction. Both the joint boards and conferences function differently from FCC’s federal advisory committees in large part because they are not considered to be subject to FACA requirements. FCC also created an additional committee, the Intergovernmental Advisory Committee, which, although exempt from FACA, functions similarly to federal advisory committees in some respects.¹⁹

FCC’s Mandated Joint Boards Are Exempt from FACA and Function Differently from Federal Advisory Committees

FCC is mandated to support two joint boards: one addresses “jurisdictional separations”²⁰ and the other examines “universal service requirements.”²¹ FCC told us it considers these joint boards to be exempt from FACA because the Unfunded Mandates Reform Act of 1995 exempts groups that are composed wholly of federal, state, local, or tribal government officials.²² FCC established one board, called the Joint Board on Jurisdictional Separations, in 1980 to make recommendations regarding cost allocations that are part of the determination of telephone rates. FCC created the other board, called the Joint Board on Universal Service, in 1996 to implement the Telecommunication Act’s universal service provisions. The joint boards convene three times per year at the National Association for Regulatory Utility Commissioners meetings, which are held in different locations across the country. Because the meetings of the

¹⁹We contacted 10 trade and interest groups to determine if they had any issues or concerns with the operations or effectiveness of FCC’s joint boards, joint conferences, and the Intergovernmental Advisory Committee. Only one of the trade group representatives expressed concern, stating that funding for one of the joint boards was inadequate.

²⁰47 U.S.C. § 0.91(g), 410(c).

²¹47 U.S.C. § 0.91(g), 254.

²²The Unfunded Mandates Reform Act of 1995 exempts such groups for the purpose of exchanging views, information, or advice relating to the management or implementation of federal programs. See guidelines issued by OMB on section 204(b) of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1534(b), OMB Memorandum M-95-20, dated September 21, 1995.

boards are held in varied locations and the members come from dispersed areas, each board receives a small budget from FCC to cover travel costs.²³

The establishment and operations of the joint boards differ greatly from federal advisory committees that are subject to FACA requirements. Some of these differences are driven by requirements in the statute for the joint boards, and some of the differences are due to the fact that the joint boards are not subject to FACA requirements. For example:

- The type of membership for the joint boards is specified in statute. Section 410(c) of the Communications Act requires the boards to have three FCC commissioners and four state commissioners serve as members. The Joint Board on Universal Service is also required to have one state consumer public advocate member. FCC nominates the FCC commissioners. The National Association for Regulatory Utility Commissioners nominates the state officials and the National Association of State Utility Consumer Advocates nominates the state consumer public advocate. FCC makes the final selections of joint board members. Conversely, federal advisory committees following the requirements of FACA must have balanced membership but the mission of each committee determines who will be selected to serve as members.
- The meetings of the joint boards are closed to the public. However, the boards also hold public hearings once or twice per year to collect information. In contrast, as we noted earlier, meetings of federal advisory committees must generally be open to the public.
- The joint boards have no charter or bylaws guiding their operations. Federal advisory committees, on the other hand, operate with a charter for a 2-year term, and must operate according to a set of specific procedural requirements.
- FCC must respond to the recommendations of the Joint Board on Universal Service. In contrast, FCC is not required to respond to the advice or recommendations of a federal advisory committee. The

²³Two state public service commissioners' staff and a representative from the National Association of Regulatory Utility Commissioners told us that travel funds are not always sufficient and have expressed concern that board activities are compromised from lack of funding.

Commission can implement a recommendation of a federal advisory committee or reject it without comment.

FCC's Joint Conferences Are Exempt from FACA and Function Differently from Federal Advisory Committees

FCC also established two joint conferences that it considers exempt from FACA. Under the Communications Act,²⁴ FCC is authorized to confer with state regulatory commissions on telecommunications accounting issues, as well as other issues, over which it has regulatory jurisdiction. As a result, FCC established the Joint Conference on Accounting Issues in 2002 to review the possible need for changes to FCC's regulatory accounting rules. The Joint Conference on Advanced Telecommunications Services, created in 1999 was established to assist in the deployment of advanced telecommunications capability, such as high-speed Internet, to all Americans. Similar to the joint boards, the joint conferences convene in different locations across the country at the National Association for Regulatory Utility Commissioners meetings, and the Joint Conference on Accounting Issues receives a small budget from FCC to cover travel costs.

As with the joint boards, the establishment and operations of the joint conferences are different from federal advisory committees that operate under FACA requirements. However, many of the operations of the joint conferences are similar to those of the joint boards. For example, as with joint boards, the meetings of the joint conferences are closed to the public, and there is no charter or bylaws guiding their operations.

Several aspects distinguish the joint conferences from the joint boards. For example:

- FCC said that unlike the joint boards, there are no statutory guidelines determining nominations for joint conferences: FCC entirely chooses the membership. At this time, the Joint Conference on Accounting Issues has two federal regulatory commissioners and five state regulatory commissioners who serve as members. For the Joint Conference on Advanced Telecommunications Services, membership currently includes all five FCC commissioners and six state commissioners.

²⁴Pub. L. 34-416, codified at 47 U.S.C. § 410(b).

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- FCC does not believe it is required to respond to or implement the recommendations of the joint conferences; rather it can implement the recommendation or reject without comment. This is similar to FCC's use of federal advisory committee advice or recommendations, but contrasts FCC's responsibilities regarding the advice and recommendations of the Joint Board on Universal Service.

FCC's Intergovernmental Advisory Committee Is Exempt from FACA, but It Has Some Similarities in Function to Federal Advisory Committees

FCC formed the Intergovernmental Advisory Committee in 1997 to advise the agency on issues of concern to state, local, and tribal governments.²⁵ This committee provides ongoing advice and information to FCC on a broad range of telecommunications issues including, but not limited to, rural issues, homeland security, facilities siting, broadband access, barriers to competitive entry, and public safety communications for which FCC explicitly or inherently shares responsibility or administration with local, county, state, or tribal governments. The Intergovernmental Advisory Committee holds meetings in Washington, D.C., four times per year; but unlike the federal advisory committees, its meetings are closed to the public. In addition, FCC allocates no funds to the Intergovernmental Advisory Committee in support of its activities. Despite these differences in the Intergovernmental Advisory Committee's operations relative to federal advisory committees, other aspects of its establishment and operations closely mirror those of federal advisory committees, even though it is not considered to be subject to FACA requirements. For example:

- The committee has a charter guiding its objectives and operations for each 2-year term.
- Its membership is determined at the discretion of FCC. FCC solicits members through a public notice for nominations and then selects members. As specified in its charter, the committee has 15 members: 5 state government representatives, 7 local representatives, and 3 representatives from tribal governments.

²⁵The Intergovernmental Advisory Committee changed its name from the Local and State Government Advisory Committee in 2003 when FCC fine-tuned the committee's membership to include more state and tribal government representation, fewer local government representatives, and more geographic diversity.

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- FCC is not required to respond to or implement the advice or recommendations of the committee. FCC can implement the recommendation or reject without comment.

Conclusions

FCC's federal advisory committees address important telecommunications issues, and stakeholders generally view the committees' work as beneficial and useful to the Commission. The advisory committees generally follow the rules and requirements prescribed by FACA, which ensures the committees' activities are transparent and accessible to the public. However, because FCC does not have a formal process for determining and documenting committee member designations, it appears that some of FCC's advisory committee members are not clear about the type of advice the Commission expects them to contribute to their committees. Despite being designated as representatives, some members responded to our survey that they do not contribute the opinions of the organization, company, or institution they represent, but rather contribute their own expert advice—a role that appears closer to that which the Office of Government Ethics and GSA describe as the role of a member who would typically be appointed as a special government employee. The confusion about the role of committee members may be particularly at issue for members who do not directly work within the telecommunications industry, such as those affiliated with a university, a law firm, or in private consulting. When members are designated as special government employees, they are subject to the Office of Government Ethics rules that apply to special government employees, which include conflict-of-interest reviews.

Recommendation for Executive Action

To better ensure that FCC's federal advisory committee members are fully informed about the advice they are being asked to provide, we recommend that FCC establish a process for determining and documenting the type of

advice federal advisory committee members are expected to contribute.²⁶ FCC should appoint advisory committee members to serve as representatives only after making a clear determination of what interests those members are expected to represent on the committee. Committee members who are not representing a specific interest or viewpoint may be more appropriately appointed as special government employees. For representative members, FCC should specifically state in their appointment letters what particular interest those members are appointed to represent. This statement will be especially important for the committee members affiliated with universities, law firms, or private consulting firms, since it is not always clear or transparent what interests FCC would like them to represent.

Agency Comments

We provided a draft of this report to FCC, GSA, and the Office of Government Ethics for their review and comment. In its response, FCC agreed with our recommendation and noted that future appointment letters for representative committee members would make clear the specific underlying viewpoint, interest group, or segment of the community that the member is expected to represent. FCC also provided technical comments that we incorporated into the report as appropriate. GSA did not provide written comments but agency officials told us they agree with our recommendation, saying it would be helpful to the federal advisory committee designation process for agencies to clearly identify for representative members who, organizationally for example, they are expected to represent on the committee. In its comments to us, the Office of Government Ethics agreed with our findings and recommendation. Written comments from FCC and the Office of Government Ethics are provided in appendixes IV and V, respectively.

²⁶As we previously noted, our recent report, [GAO-04-328](#), recommended that GSA issue guidance stating that agencies should specify in the appointment letters to committee members whether they are appointed as special government employees or as representatives and, for those appointed as representative members, the entity or group that they are to represent should be noted in the letter. The recommendation we are making to FCC goes one step beyond that because we found that, despite FCC's statements in appointment letters that members are representing their employers, some of the stated entities did not have a clear telecommunications viewpoint. As such, the letter should make clear for these members what underlying viewpoint the member is expected to represent.

We will provide copies of this report to interested congressional committees; the Chairman, FCC; and other interested parties. We will also make copies available to others upon request. This report will be available at no charge on the GAO Web site at <http://www.gao.gov>. If you have any questions about this report, please contact me at (202) 512-2834 or goldsteinm@gao.gov or Amy Abramowitz at (202) 512-2834.

Major contributors to this report include Bert Japikse, Jean McSween, Erica Miles, Sally Moino, and Tina Sherman.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Mark L. Goldstein', with a long horizontal flourish extending to the right.

Mark L. Goldstein
Director, Physical Infrastructure Issues

Objectives, Scope, and Methodology

As requested by the House of Representatives Committee on Government Reform, the objectives of this report are to provide information on (1) the Federal Communications Commission's (FCC) current federal advisory committees and how they operate, (2) the extent to which FCC's advisory committees follow applicable laws and regulations, (3) how FCC makes use of the advisory committees' advice or recommendations, and (4) other advisory groups established at FCC that are not characterized as Federal Advisory Committee Act (FACA) committees and how they operate.

To respond to the first objective on FCC's current federal advisory committees and how they operate, we obtained the charters and other documents on FCC's active advisory committees to determine the committees' missions, charter dates, frequency of meetings and estimated operating costs. We gathered additional information from the FACA database maintained by the General Services Administration (GSA), such as committee member lists and FCC statements regarding how the committees achieved balance. Based on audit work completed for a prior GAO report, we determined that the data from the FACA database were sufficiently reliable for our purposes.¹ We reviewed information on FCC's Web site relating to the advisory committees, as well as the Web sites established by the advisory committees. We discussed committee operations with FCC officials, including the committees' designated federal officers and the advisory committee liaison, as well as with the current committee chairmen. To further document how advisory committees operate, we attended one committee meeting in person and viewed another meeting via the Internet.

To obtain committee members' perspectives regarding advisory committee operations and effectiveness, we developed and administered a Web-based survey. From January 20, 2004, through February 6, 2004, we conducted a series of pretests with FCC's advisory committee chairmen and members to help further refine our questions, clarify any ambiguous portions of the survey, and identify any potentially biased questions. Upon completion of the pretests and development of the final survey questions and format, we sent an announcement of the upcoming survey to 282 FCC advisory committee members, including the committee chairmen on March 17, 2004. They were notified that the survey was available online on March 24, 2004. We sent follow up e-mail messages to nonrespondents as of April 15, 2004, and then attempted to contact those who had not completed the survey.

¹[GAO-04-328](#).

The survey was available online until June 11, 2004. Of the population of 282 members who were asked to complete the survey, we received 200 completed surveys for an overall response rate of 71 percent. The practical difficulties of conducting surveys may introduce errors commonly referred to as “nonsampling error.” For example, questions may be misinterpreted and the respondents’ answers may differ from committee members who did not respond to the survey. To minimize nonsampling error, we pretested the survey and conducted numerous follow-up contacts with nonrespondents. In addition, steps were taken during data analysis to further minimize error, such as performing computer analyses to identify inconsistencies and completing a review of data analysis by an independent reviewer. The survey and its results can be found in appendix III.

In addition to the survey, we interviewed 13 members from FCC’s federal advisory committees that operated under the preceding presidential administration to obtain their perspectives on the advisory committee process and to determine if operations had changed over time. We asked them to respond to a set of questions very similar to those asked of current members on the Web-based survey. The members that we interviewed had participated on the following FCC advisory committees: two members from the National Advisory Committee; two members from the North American Numbering Council; two members from the Public Safety National Coordination Committee; four members from the Technological Advisory Council; one member from the Advisory Committee for the 1999/2000 World Radiocommunication Conference; and two members from the Network Reliability and Interoperability Council.

To respond to the second objective on whether FCC’s advisory committees are following applicable laws and regulations, we reviewed the FACA legislation as well as GSA’s regulations regarding federal advisory committee management and identified the key requirements that FCC must follow. To determine if FCC complied with these requirements, we reviewed relevant documentation relating to FCC’s efforts to meet the requirements, such as *Federal Register* notices announcing the committee meetings, information reported to GSA, and the committee charters. Through our survey, we also obtained committee member views on aspects of FCC’s implementation of FACA and GSA requirements. To determine what management controls FCC established over the advisory committee process, we interviewed the deputy committee management officer and obtained a copy of FCC’s advisory committee guidelines. We interviewed FCC’s designated agency ethics official to determine FCC’s process for designating its committee members as representatives. We also

interviewed officials with the Office of Government Ethics and GSA to understand their role in the oversight of advisory committees at FCC, especially regarding membership designation.

To respond to the third objective on how FCC makes use of the advisory committees' advice and recommendations, we analyzed survey responses from current committee members and responses from FCC officials to obtain their views on FCC's use of committees' advice and recommendations. We requested that FCC's designated federal officers verify information found on the FACA database relating to committee recommendations in fiscal year 2003. Specifically, we asked them to verify that the data found on the database were correct and to describe in general terms the reasons why the recommendations were or were not implemented by FCC. We asked FCC's five commissioners and the bureau and office chiefs who have responsibility over the advisory committees to comment in writing about (1) the quality and usefulness of advisory committee advice or recommendations, (2) the extent to which the committees' advice or recommendations are independent of FCC, and (3) their views on how FCC implements the advice or recommendations from the advisory committees. We received responses from the five FCC commissioners and the chiefs of the following FCC bureaus and office: Consumer and Governmental Affairs Bureau, which is responsible for the Consumer Advisory Committee; International Bureau, responsible for the Advisory Committee for the World Radiocommunication Conference; Wireline Competition Bureau, responsible for the North American Numbering Council; Media Bureau, responsible for the Media Security and Reliability Council; and Office of Engineering and Technology, responsible for the Network Reliability and Interoperability Council and the Technological Advisory Council.²

Also in response to the third objective, we interviewed 12 trade and interest group representatives to obtain the perspectives of stakeholders outside of federal government regarding the quality and usefulness of the advisory committees' work. The following groups responded to our questions about FCC's federal advisory committees: (1) the Cellular Telecommunications and Internet Association, (2) the National Association of Broadcasters, (3) Consumer Federation of America, (4) Consumers Union, (5) American

²FCC's Advisory Committee on Diversity for Communications in the Digital Age reports directly to the FCC chairman, and consequently does not come under the jurisdiction of a bureau or office.

Council for the Blind, (6) Media Access Project, (7) the National Association of Regulatory Utility Commissioners, (8) the National Association of Telecommunications Officers and Advisors, (9) the National Cable and Telecommunications Association, (10) the National Indian Telecommunications Institute, (11) the Satellite Broadcasting and Communications Association, and (12) the Telecommunications Industry Association.

To respond to the fourth objective on other advisory groups established by FCC that are exempt from FACA, we interviewed five FCC officials assigned to the non-FACA advisory groups as well as two state public service commissioners' staff that are affiliated with the joint boards. We obtained documentation from FCC's Office of General Counsel concerning the formation of the joint boards, joint conferences, and the Intergovernmental Advisory Committee, and for their exemption from FACA requirements. We also contacted the following 10 trade and interest group representatives to determine if they had any issues or concerns with the operations of FCC's non-FACA advisory groups: (1) the Cellular Telecommunications and Internet Association, (2) the National Association of Broadcasters, (3) Consumers Union, (4) Media Access Project, (5) the National Association of Regulatory Utility Commissioners, (6) the National Association of Telecommunications Officers and Advisors, (7) the National Cable and Telecommunications Association, (8) the National Indian Telecommunications Institute, (9) the Satellite Broadcasting and Communications Association, and (10) the Telecommunications Industry Association.

We conducted our review from November 2003 through September 2004 in accordance with generally accepted government auditing standards.

Information on FCC's Federal Advisory Committees and Advisory Groups Exempt from FACA

This appendix provides information on FCC's seven federal advisory committees and on FCC's five advisory groups that FCC considers exempt from FACA, including two joint boards, two joint conferences, and the Intergovernmental Advisory Committee.

Advisory Committee for the 2007 World Radiocommunication Conference

Purpose of the committee: To provide the FCC with advice, technical support, and recommended proposals for the 2007 World Radiocommunication Conference.

Effective date of charter: May 31, 2004 (2-year charter).

Committee meetings: Held in Washington D.C., at least 4 times per year, open to the public.

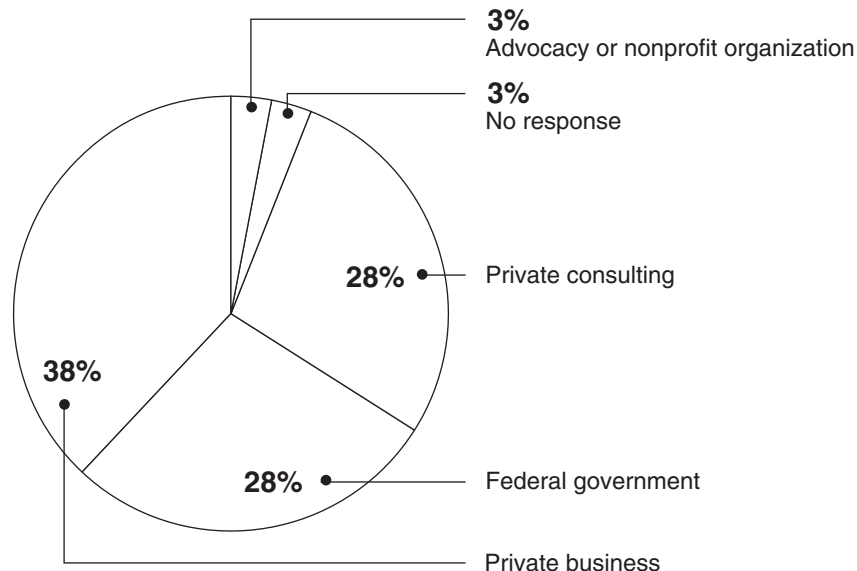
Number of members: 69 (all representing members).

Steps taken to select members for the committee: According to the committee's designated federal officer, membership is open on the committee, and FCC issues a public notice asking all interested parties to be a part of the committee. The designated federal officer also stated that FCC's Chairman makes the final determination on committee chairman and leadership of the subcommittees.

How the committee achieves balanced membership: According to FCC, the committee has an open membership and includes representatives of competing industry sectors as well as government agencies and scientific and technical organizations. See figure 3 for the primary employment sectors of committee members who responded to our survey.

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Information on FCC's Federal Advisory
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Figure 3: Survey Respondents' Representation by Employment Sector for the Advisory Committee for the 2007 World Radiocommunication Conference



Source: GAO survey responses of FCC advisory committee members.

Note: For this committee, we received 32 completed surveys out of 45 survey recipients. Percentages may not sum to 100 percent due to rounding.

Type of output: According to the designated federal officer, the committee develops preliminary views and proposals to assist in drafting the U.S. position for the World Radiocommunication Conference. The FCC bureaus review the preliminary views to determine if they agree or disagree with the position.

Fiscal year 2004 estimated annual operating costs for staff and overhead: \$105,500.

Current subcommittees: The committee has five informal working groups addressing (1) issues related the terrestrial and space science services; (2) issues involving the satellite services, including those related to high altitude platform stations; (3) international mobile telephone and 2.5 gigahertz sharing issues; (4) issues concerning the broadcasting and amateur services; and (5) regulatory issues.

Committee Web site: <http://www.fcc.gov/ib/wrc-07/>

Advisory Committee on Diversity for Communications in the Digital Age

Purpose of the committee: To make recommendations to FCC regarding policies and practices that will further enhance the ability of minorities and women to participate in the telecommunications and related industries.

Effective date of charter: September 2, 2003 (2-year charter).

Committee meetings: Held in Washington, D.C., a minimum of 2 times per year, open to the public.

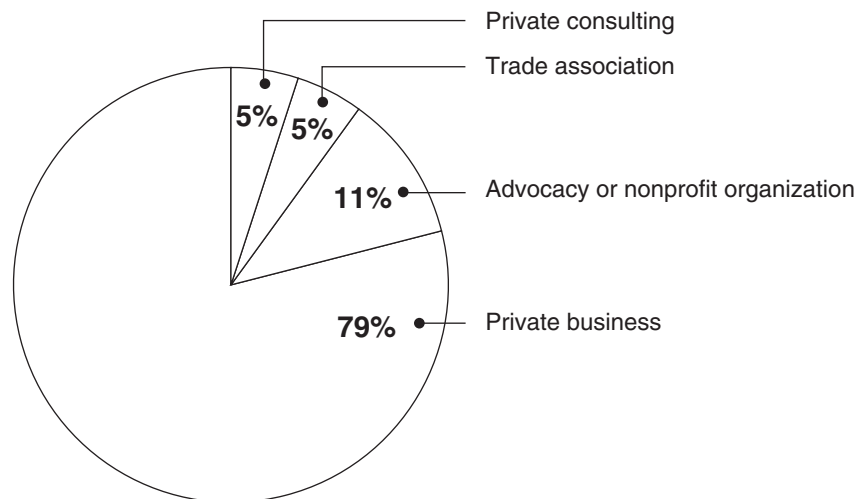
Number of members: 26 (all representing members).

Steps taken to select members for the committee: According to the designated federal officer, when FCC's Chairman announced the formation of the committee, interested individuals volunteered to serve on the committee. The designated federal officer said that FCC had an idea of people it wanted to serve on the committee and also contacted congressional staff to obtain their input on people who were qualified to serve. The designated federal officer said that FCC had a large list of potential members, but decided to limit the number of members to around 25.

How the committee achieves balanced membership: According to FCC, membership is solicited from all facets of the telecommunications industry, including representation from the industry's financial and technical sectors. See figure 4 for the primary employment sectors of committee members who responded to our survey.

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Information on FCC's Federal Advisory
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Figure 4: Survey Respondents' Representation by Employment Sector for the Advisory Committee on Diversity for Communications in the Digital Age



Source: GAO survey responses of FCC advisory committee members.

Note: For this committee, we received 19 completed surveys out of 26 survey recipients. Percentages may not sum to 100 percent due to rounding.

Type of output: The committee will make recommendations to the Commission. For example, on June 14, 2004, the committee made recommendations on the use of tax policy to promote opportunity and on the expansion of FCC's rule-based incentives to promote opportunity for socially disadvantaged persons.

Fiscal year 2004 estimated annual operating costs for staff and overhead: \$10,000; according to the designated federal officer, this amount does not cover FCC staff's cost and will be adjusted in the future to include those costs.

Current subcommittees: (1) Career Advancement, (2) Financial Issues, (3) New Technologies, and (4) Transactional Transparency and Related Outreach.

Committee Web site: <http://www.fcc.gov/DiversityFAC>

Consumer Advisory Committee

Purpose of the committee: To make recommendations to FCC regarding consumer issues within the jurisdiction of the Commission and to facilitate the participation of consumers (including people with disabilities and underserved populations, such as Native Americans and persons living in rural areas) in proceedings before the Commission. This committee was formerly called the Consumer/Disability Telecommunications Advisory Committee.

Effective date of charter: November 20, 2002 (2-year charter).

Committee meetings: Held in Washington, D.C., a minimum of 2 times per year, open to the public.

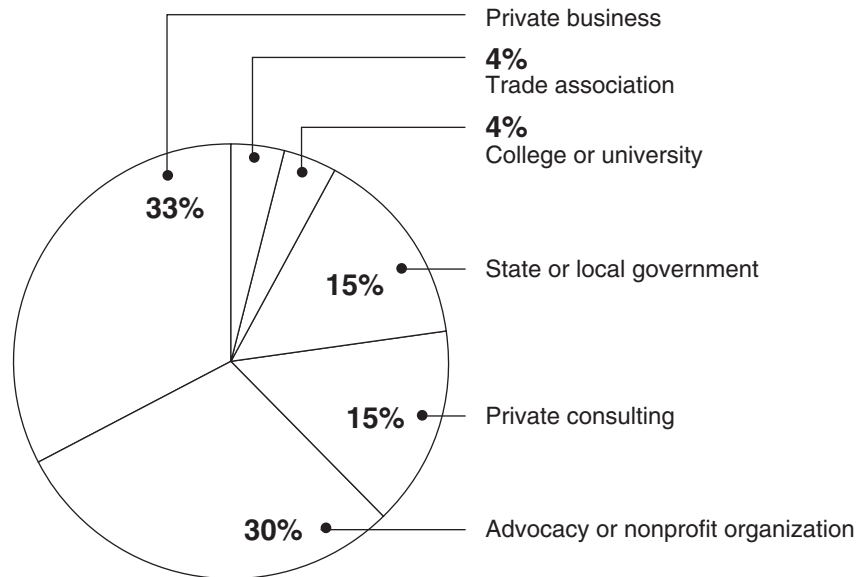
Number of members: 35 (all representing members).

Steps taken to select members for the committee: According to the committee's designated federal officer, FCC released a public notice soliciting nominations and received over 100 responses to the public notice. To determine the representation of the nominations received, the designated federal officer stated that FCC prepared a spreadsheet showing all nominations. Also, FCC legal staff, the chief of the Consumer and Governmental Affairs Bureau, the committee chairman, and the designated federal officer reviewed all the nominations and forwarded names to the FCC chairman, who made the final decisions about membership.

How the committee achieves balanced membership: According to FCC, the committee is comprised of members from both the private and public sectors, including nonprofit consumer and disability advocacy organizations, industry, underserved populations, Native Americans, and private citizens serving in a representative capacity. Members were selected to represent a broad and balanced viewpoint so that the many voices of the Commission's many constituencies can be heard. See figure 5 for the primary employment sectors of committee members who responded to our survey.

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Figure 5: Survey Respondents' Representation by Employment Sector for the Consumer Advisory Committee



Source: GAO survey responses of FCC advisory committee members.

Note: For this committee, we received 27 completed surveys out of 35 survey recipients. Percentages may not sum to 100 percent due to rounding.

Type of output: The committee will make recommendations to the Commission. For example, the Consumer Advisory Committee made recommendations in fiscal year 2003 (1) supporting the creation of a national “do not call” list, which is easily accessible to consumers; (2) urging the Commission to promote consistency and uniformity in federal and state regulations of telemarketing practices and; (3) urging the Commission to increase enforcement actions against deceptive practices in telemarketing.

Fiscal year 2004 estimated annual operating costs for staff and overhead: \$307,775.

Current subcommittees: (1) Consumer Education, Outreach, and Complaints; (2) Broadband; (3) Ancillary Services, and (4) Telecommunications Relay Services.

Committee Web site: <http://www.fcc.gov/cgb/cac>

Media Security and Reliability Council

Purpose of the committee: To provide members of the broadcast and multichannel video programming distribution industries the opportunity to make recommendations to FCC and their industries that, when implemented, will ensure optimal reliability, robustness and security of broadcast and multichannel video programming distribution industries facilities. These recommendations will be based on, among other things, homeland defense and security considerations and will take into account all reasonably foreseeable circumstances. This will encompass ensuring the security and sustainability of broadcast and multichannel video programming distributor facilities throughout the United States; ensuring the availability of adequate transmission capability during events or periods of exceptional stress due to natural disaster, man-made attacks or similar occurrences; and facilitating the rapid restoration of broadcast and multichannel video programming distributor services in the event of disruptions.

Effective date of charter: March 26, 2004 (2-year charter).

Committee meetings: Held in Washington, D.C., a minimum of 2 times per year (estimated total meetings - 4), open to the public.

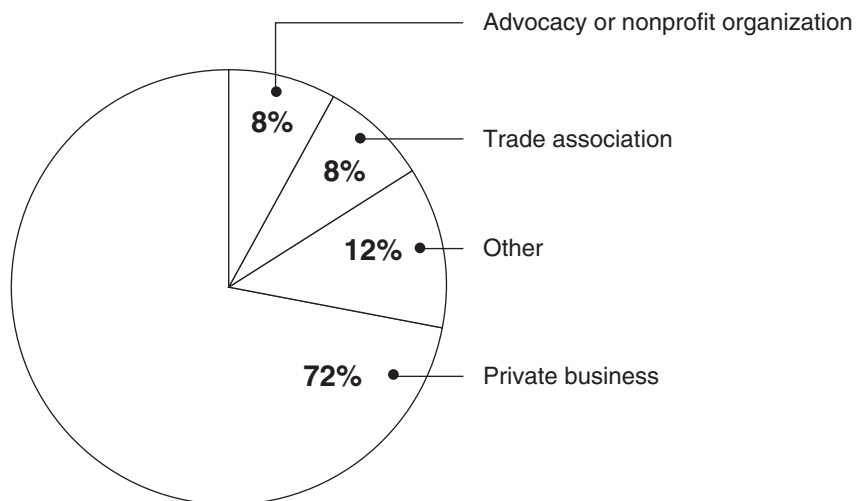
Number of members: 40 (all representing members).

Steps taken to select members for the committee: According to the committee's designated federal officer, FCC approached all major players of broad-based media, such as satellite providers, cable companies, and television networks, as well as smaller companies and public interest groups to serve as committee members. The designated federal officer told us that to be effective, the committee's membership needed to reflect a public-private partnership. This FCC official further stated that the FCC chairman's office and FCC's Media Bureau were part of the selection process.

How the committee achieves balanced membership: According to FCC, committee membership includes senior representatives from mass media companies, cable television and satellite service providers, trade associations, public safety representatives, manufacturers, and other related entities. The members were selected for their different areas of expertise and to represent a balanced viewpoint. See figure 6 for the primary employment sectors of committee members who responded to our survey.

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Figure 6: Survey Respondents' Representation by Employment Sector for the Media Security and Reliability Council



Source: GAO survey responses of FCC advisory committee members.

Note: For this committee, we received 25 completed surveys out of 40 survey recipients. Percentages may not sum to 100 percent due to rounding.

Type of output: The committee will have the opportunity to make recommendations to FCC and to the broadcast and multichannel video programming distribution industries. According to FCC, the committee developed best practices recommendations for media companies that help to ensure the continued operation of service in times of crisis and the effective communication of emergency information to the public.

Fiscal year 2004 estimated annual operating costs for staff and overhead: \$152,000.

Current subcommittees: (1) Communications Infrastructure Security, Access and Restoration; and (2) Public Communications and Safety.

Committee Web site: <http://www.mediasecurity.org/index.html>

Network Reliability and Interoperability Council

Purpose of the committee: To partner with FCC, the communications industry, and public safety to facilitate enhancement of emergency communications networks, homeland security, and best practices across the burgeoning telecommunications industry.

Effective date of charter: December 29, 2003 (2-year charter).

Committee meetings: Held in Washington, D.C., a minimum of 3 times per year, open to the public.

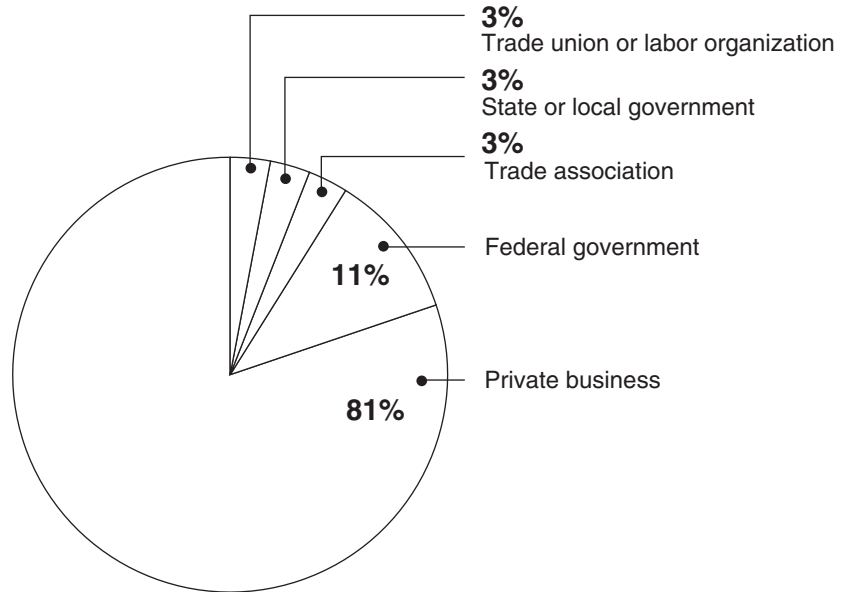
Number of members: 55 (all representing members).

Steps taken to select members for the committee: According to the designated federal officer, FCC solicited certain firms and wanted participation from chief executive officers. The designated federal officer stated that a list of potential members is sent to the FCC chairman for approval.

How the committee achieves balanced membership: According to FCC the committee includes representatives of all segments of the telecommunications industry. Its members represent large and small telecommunications consumers, local and interstate carriers, state regulators, equipment and software manufacturers, satellite companies, cable companies, Internet service providers, wireless companies and research organizations, among others. See figure 7 for the primary employment sectors of committee members who responded to our survey.

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Figure 7: Survey Respondents' Representation by Employment Sector for Network Reliability and Interoperability Council



Source: GAO survey responses of FCC advisory committee members.

Note: For this committee, we received 37 completed surveys out of 54 survey recipients. Percentages may not sum to 100 percent due to rounding.

Type of output: The committee will make recommendations to FCC and to the communications industry intended to improve telecommunications network robustness and reliability.

Fiscal year 2004 estimated annual operating costs for staff and overhead: \$202,000.

Current subcommittees: (1) Enhanced 911, (2) Homeland security, (3) Network best practices, and (4) Broadband.

Committee Web site: <http://www.nric.org>

North American Numbering Council

Purpose of the committee: To advise FCC and to make recommendations that foster efficient and impartial administration of the North American Numbering Plan. The Council advises the Commission on numbering policy and technical issues, initially resolve disputes as directed by the Commission, and provides guidance to the North American Numbering Plan Administrator, the Local Number Portability Administrator, the Pooling Administrator as directed by the Commission.

Effective date of charter: October 4, 2003 (2-year charter).

Committee meetings: Held in Washington D.C., approximately six meetings per year, open to the public.

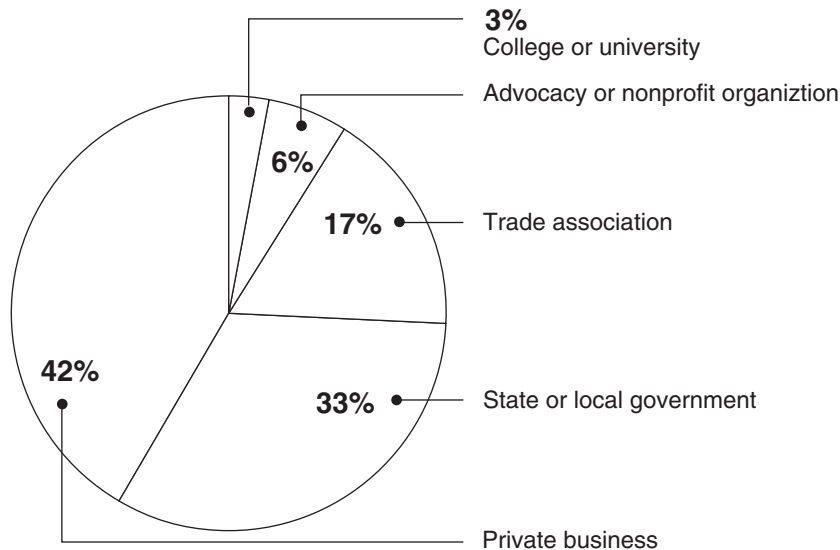
Number of members: 28 voting members, 27 alternate members (all representing).

Steps taken to select members for the committee: According to the designated federal officer, members are invited from each sector of the telecommunications market, including wireless, trade, state representatives, carriers, incumbent local exchange carriers and competitive local exchange carriers. The designated federal officer said that members are asked to respond regarding their expertise and experience in the telecommunications world. Also, according to the official, members serving on the council from the previous charter were asked if they wanted to continue serving.

How the committee achieves balanced membership: According to FCC, the committee balances membership by including representatives from every sector of the telecommunications industry, as well as members representing the North American Numbering Plan member countries, state regulators, and consumers. See figure 8 for the primary employment sectors of committee members who responded to our survey.

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Figure 8: Survey Respondents' Representation by Employment Sector for the North American Numbering Council



Source: GAO survey responses of FCC advisory committee members.

Note: For this committee, we received 36 completed surveys out of 49 survey recipients. Percentages may not sum to 100 percent due to rounding.

Type of output: The committee will make recommendations to FCC that foster efficient and impartial administration of the North American Numbering Plan, and advise FCC on numbering policy and technical issues.

Fiscal year 2004 estimated annual operating costs for staff and overhead: \$234,000.

Current subcommittees: (1) steering group, (2) number oversight working group, (3) legal expertise working group, (4) local number portability working group, (5) cost recovery working group, (6) industry numbering committee, (7) North American Numbering Plan expansion/numbering optimization, (8) abbreviated dialing for one call notification issues management group, (9) North American Portability Management limited liability corporation, (10) intermediate numbering/soft dial tone issue management group, (11) contamination threshold issues management group, and (12) universal service fund issues management group.

Committee Web site: <http://www.fcc.gov/wcb/tapd/Nanc>

Technological Advisory Council

Purpose of the committee: To provide technical advice to FCC and address questions referred to it by the FCC chairman, the chief of the Office of Engineering and Technology or by the committee's designated federal officer.

Effective date of charter: November 25, 2002 (2-year charter).

Committee meetings: Held in Washington, D.C., 3 to 5 times per year, open to the public.

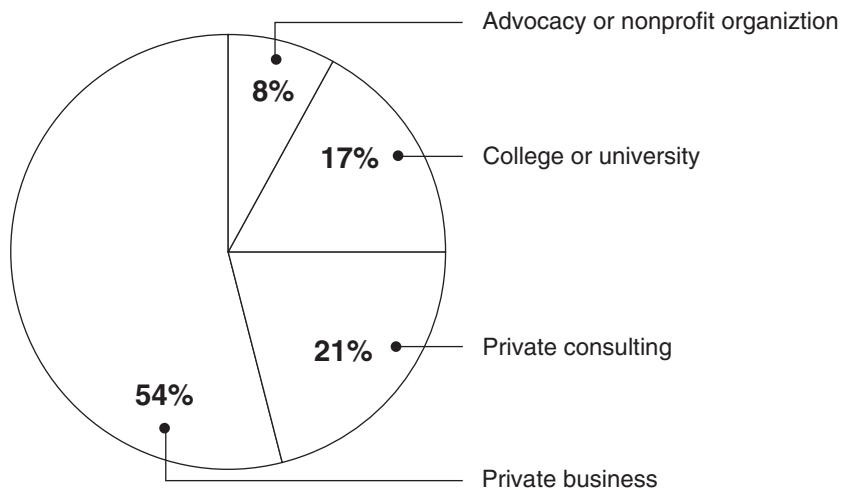
Number of members: 33 (all representing members).

Steps taken to select members for the committee: According to the committee's designated federal officer, FCC sought individuals with expertise but also accepted outside nominations. With the selection process narrowly focused, the designated federal officer and the committee chairman made the membership decisions.

How the committee achieves balanced membership: According to FCC, members have been selected to balance the expertise and viewpoints that are necessary to effectively address the new technology issues that will be directed to the committee. Members are recognized experts in their fields and, for private sector companies, individuals who hold technical executive positions such as Chief Technical Officer or Senior Technical Manager. See figure 9 for the primary employment sectors of committee members who responded to our survey.

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Figure 9: Survey Respondents' Representation by Employment Sector for the Technological Advisory Council



Source: GAO survey responses of FCC advisory committee members.

Note: For this committee, we received 24 completed surveys out of 33 survey recipients. Percentages may not sum to 100 percent due to rounding.

Type of output: According to the committee's designated federal officer, the committee does not make formal recommendations. Rather, their deliverables are in the form of presentations on emerging technologies that the chairman of FCC hears during the committee's meetings.

Fiscal year 2004 estimated annual operating costs for staff and overhead: \$201,000.

Current subcommittees: None.

Committee Web site: <http://www.fcc.gov/oet/tac>

Joint Board on Jurisdictional Separations

Purpose of the joint board: To make recommendations on apportioning regulated costs between the interstate and intrastate jurisdictions.

Year of establishment: 1980.

Meetings: Held at the National Association for Regulatory Utility Commissioners meetings in varying locations 3 times per year, closed to the public; occasional en banc meetings are held.

Number of members: 7 (three federal commissioners and four state commissioners).

Steps taken to select members for the joint board: FCC nominates the federal commissioners and the National Association for Regulatory Utility Commissioners nominates the state commissioners. FCC makes the final selections of joint board members.

Type of output: The joint board makes recommendations to the Commission. One recommendation resulted in FCC establishing an interim "freeze" on the jurisdictional separations process.

Budget for fiscal year 2003: FCC allocated \$25,000 that is applied towards travel and other meetings costs.

Joint board Web site: <http://www.fcc.gov/wcb/tapd/sep>

Joint Board on Universal Service

Purpose of the joint board: To make recommendations to implement the universal service provisions of the Telecommunications Act.

Year of establishment: 1996.

Meetings: Held at the National Association for Regulatory Utility Commissioners meetings in varying locations 3 times per year, closed to the public; occasional en banc meetings are held.

Number of members: 8 (three federal commissioners, four state commissioners, and one state consumer public advocate).

Steps taken to select members for the joint board: FCC nominates the federal commissioners, the National Association for Regulatory Utility

Commissioners nominates the state commissioners, and the National Association of State Utility Consumer Advocates nominates a state consumer public advocate. FCC makes the final selections of joint board members.

Type of output: The joint board makes recommendations to the Commission. For example, a recommendation to FCC proposed modifications to the Lifeline/Link-Up program.

Budget for fiscal year 2003: FCC allocated \$50,000 that is applied toward travel and other meetings costs.

Joint board Web site:

http://www.fcc.gov/wcb/universal_service/JointBoard/welcome.html

Joint Conference on Accounting Issues

Purpose of the joint conference: to review the possible need for changes to FCC's regulatory accounting rules.

Year of establishment: 2002.

Meetings: Held at the National Association for Regulatory Utility Commissioners meetings in varying locations 3 times per year, closed to the public.

Number of members: 7 (two federal commissioners and five state commissioners).

Steps taken to select members for the joint conference: FCC nominates the federal commissioners and the National Association for Regulatory Utility Commissioners nominates the state commissioners. FCC makes the final selections of joint board members.

Type of output: The joint conference makes recommendations to the Commission. For example, a recommendation to FCC proposed revisions to Part 32 rules to include the reinstatement of certain accounts and the addition of several new accounts.

Budget for fiscal year 2003: FCC allocated funds from joint board allocations for this conference. A total of \$4,881 applied toward travel and other meetings costs.

Joint conference Web site: <http://www.fcc.gov/FSJCRAI>

Joint Conference on Advanced Telecommunications Services

Purpose of the joint conference: To fulfill the promise of Section 706 of the Telecommunications Act of 1996. The joint conference shares ideas, gathers real-life stories from across the country, and assists the FCC in its reports to Congress on the deployment of advanced telecommunications services.

Year of establishment: 1999.

Meetings: Held at the National Association for Regulatory Utility Commissioners meetings in varying locations 3 times per year, closed to the public.

Number of members: 11 (five federal commissioners and six state commissioners).

Steps taken to select members for the joint conference: FCC nominates the federal commissioners and the National Association for Regulatory Utility Commissioners nominates the state commissioners. FCC makes the final selections of joint board members.

Type of output: The joint conference provides a forum for ongoing dialogue. The conference has held field hearings across the country to learn about the deployment of advanced telecommunications services. It also developed a report on broadband deployment in cooperation with the Florida Public Service Commission.

Budget for fiscal year 2003: No FCC funds were specifically allocated to this joint conference.

Joint conference Web site: <http://www.fcc.gov/jointconference>

Intergovernmental Advisory Committee

Purpose of the committee: To provide guidance to the Commission on issues of importance to state, local, and tribal governments, as well as to the Commission. The Committee provides ongoing advice and information to the Commission on a broad range of telecommunications issues of interest to state, local, and tribal governments, including cable and local franchising, public rights-of-way, facilities siting, universal service,

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broadband access, barriers to competitive entry, and public safety communications, for which the Commission explicitly or inherently shares responsibility or administration with local, county, state, or tribal governments.

Year of establishment: 1997 (the committee's original name was the Local State and Government Advisory Committee).

Meetings: Held in Washington, D.C., 4 times per year, closed to the public.

Number of members: 15 (five state government representatives, seven local representatives, and three representatives from tribal governments).

Steps taken to select members for the committee: FCC released a public notice soliciting nominations and selected committee members from among the nominations.

Type of Output: Recommendations to the Commission. Comments recently filed as part of an FCC proceeding on Voice Over Internet Protocol.

Budget for fiscal year 2003: No FCC funds were allocated.

Committee Web site: <http://www.fcc.gov/statelocal>

GAO Survey of FCC Federal Advisory Committee Members

Q1. How long have you been a member of the committee?

Less than 6 months (percent)	6 months to 1 year (percent)	1 year to 1 ¾ years (percent)	1 ¾ years to 2 years (percent)	2 years or more (percent)	No response (percent)	Number of respondents
13.0	21.0	15.5	11.0	38.5	1.0	200

Q2. To the best of your knowledge, did you attain membership to the committee through any of the following circumstances?

	Yes (percent)	No (percent)	Don't know (percent)	No response (percent)	Number of respondents
a. Personally contacted FCC about membership	20.0	40.0	1.5	38.5	200
b. My employer contacted FCC about membership	14.5	42.0	2.0	41.5	200
c. Solicited for membership by an FCC official	40.5	24.0	3.0	32.5	200
d. Recommended for membership by a colleague, company, or organization	42.5	18.5	9.5	29.5	200
e. Recommended for membership by a member of Congress or their staff	1.5	43.5	5.5	49.5	200
f. Other	8.0	14.5	1.0	76.5	200

Q3. In which of the following sectors do you primarily work?

	Percent	Number of respondents	Total number of respondents
a. Private business	56.0	112	200
b. A trade association	5.5	11	200
c. Federal government	6.5	13	200
d. State or local government	8.5	17	200
e. A college or university	3.0	6	200

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	Percent	Number of respondents	Total number of respondents
f. Trade union or labor organization	0.5	1	200
g. An advocacy or nonprofit organization	8.5	17	200
h. Private consulting	9.5	19	200
i. Other (Please specify below.)	1.5	3	200
j. No response	0.5	1	200

Q4. In which of the following industry sectors does your employer work or represent?

	Percent	Number of respondents	Total number of respondents
a. Wireline local telephone	39.8	49	123
b. Long distance telephone	33.3	41	123
c. Wireless telephone	34.1	42	123
d. Radio	15.4	19	123
e. Broadcast television	18.7	23	123
f. Cable or satellite television	26.0	32	123
g. Internet service	40.7	50	123
h. Satellite service	15.4	19	123
i. Equipment manufacturing	17.1	21	123
j. Computer/ software	7.3	9	123
k. Other (Please specify below.)	16.3	20	123

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Q5. Approximately how many people does your company employ?

	Mean	Median	Minimum	Maximum	Number of respondents
Q5. Approximately how many people does your company employ?	38,669	13,200	1	230,000	116

Q5no. Check below if you don't know

Percent	Number of respondents
4.1	123

Q6. Since your appointment, approximately how many committee meetings have you attended?

All meetings (percent)	Most meetings (percent)	About half the meetings (percent)	A few meetings (percent)	No meetings (percent)	No response (percent)	Number of respondents
43.0	43.0	7.0	5.5	1.0	0.5	200

Q7. How important are the following factors in your decision to attend or not attend your committee's meetings?

	Very important (percent)	Somewhat important (percent)	Not very important (percent)	Not applicable (percent)	No response (percent)	Number of respondents
a. Amount of notice provided for the meetings	42.1	37.1	17.3	1.0	2.5	197
b. Your interest in the agenda items	41.6	26.4	25.9	3.6	2.5	197
c. Your other commitments	46.2	40.6	8.6	1.0	3.6	197

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	Very important (percent)	Somewhat important (percent)	Not very important (percent)	Not applicable (percent)	No response (percent)	Number of respondents
d. Your costs of attending meetings	10.7	14.7	58.9	11.2	4.6	197
e. Your perception of the degree to which FCC considers your committee's advice	44.7	30.5	17.3	3.6	4.1	197
f. Other (Please specify below.)	5.6	1.0	0.5	2.0	90.9	197

Q8. How much time on a yearly basis do you devote to committee membership activities (including research and preparation for meetings, travel, and attending meetings)?

Less than 1 week (percent)	1 to 2 weeks (percent)	2 to 3 weeks (percent)	4 weeks or more (percent)	No response (percent)	Number of respondents
12.5	37.5	23.0	25.0	2.0	200

Q9. As a member, what type of advice do you contribute to the committee?

	Percent	Number of respondents	Total number of respondents
a. I contribute my own expert opinion	70.0	140	200
b. I contribute the opinion of the organization, company, or institution that I represent	77.5	155	200
c. Other (Please specify below.)	11.0	22	200

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Q10. Would you agree or disagree with the following statements as they apply to the composition of your committee?

	Strongly agree (percent)	Agree (percent)	Neither agree nor disagree (percent)	Disagree (percent)	Strongly disagree (percent)	No basis to judge (percent)	No response (percent)	Number of respondents
a. Members represent parties that have an interest in the mission and outcome of the committee.	60.5	35.0	1.5	1.0	0.5	1.0	0.5	200
b. Members represent divergent points of view on issues addressed by the committee.	53.5	34.0	6.5	4.5	0.0	1.0	0.5	200
c. Members have sufficient knowledge and experience to provide input on the issues addressed by the committee.	55.5	37.5	4.5	1.5	0.0	0.5	0.5	200

Q11. Who sets the agenda for your committee's meetings?

	Percent	Number of respondents	Total number of respondents
a. Committee chairperson	79.5	159	200
b. FCC official(s)	46.0	92	200
c. Committee as a whole	39.0	78	200
d. Don't know	6.0	12	200
e. Other (Please specify below.)	5.5	11	200

**Appendix III
GAO Survey of FCC Federal Advisory
Committee Members**

Q12. Do you believe the appropriate party or parties sets the committee's agenda?

Yes (percent)	No (percent)	Don't know (percent)	No response (percent)	Number of respondents
86.0	4.0	5.0	5.0	200

Q13. As a committee member, do you generally have access to the information you need to make an informed decision on an issue?

In all cases (percent)	In most cases (percent)	In some cases (percent)	In no cases (percent)	Don't know (percent)	No response (percent)	Number of respondents
29.0	60.5	7.0	0.0	1.5	2.0	200

Q14. Overall, how satisfied or dissatisfied are you with the following aspects of the operations and procedures of your committee?

	Very satisfied (percent)	Satisfied (percent)	Neither satisfied nor dissatisfied (percent)	Dissatisfied (percent)	Strongly dissatisfied (percent)	Don't know (percent)	No response (percent)	Number of respondents
a. The clarity of your committee's mission	44.5	41.5	6.5	5.5	0.5	0.5	1.0	200
b. The clarity of your committee's operating rules and procedures	38.0	49.0	7.5	4.0	0.5	0.0	1.0	200
c. The opportunity for all members to provide input throughout the committee process	52.5	35.5	7.0	3.5	0.5	0.0	1.0	200
d. The use of technology to facilitate meeting participation	26.5	46.0	17.5	7.5	0.5	1.0	1.0	200
e. The topics on which your committee is briefed by FCC officials	24.0	43.0	19.0	6.0	1.0	2.5	4.5	200

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Committee Members**

	Very satisfied (percent)	Satisfied (percent)	Neither satisfied nor dissatisfied (percent)	Dissatisfied (percent)	Strongly dissatisfied (percent)	Don't know (percent)	No response (percent)	Number of respondents
f. The knowledge of FCC officials who brief and support your committee	38.5	41.0	13.5	3.5	0.5	0.5	2.5	200
g. The amount and quality of support provided by FCC (such as staff support, space, supplies, and equipment)	39.5	38.5	11.5	4.0	0.5	2.5	3.5	200
h. The amount of feedback FCC officials seek from committee members regarding the effectiveness of the committee's activities	20.5	36.0	23.5	10.5	1.0	6.0	2.5	200
i. The communication from FCC officials regarding how your committee's advice has affected FCC programs or decision making	17.0	29.5	24.0	16.5	2.5	6.5	4.0	200
j. The extent to which your committee fairly considers both majority and minority opinions	31.0	44.0	15.5	5.5	0.5	2.0	1.5	200

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Q15. In terms of formulating committee advice or recommendations, how independent do you believe the committee is of FCC?

Very independent (percent)	Moderately independent (percent)	A little or not at all independent (percent)	Don't know (percent)	No response (percent)	Number of respondents
47.0	42.0	6.5	2.0	2.5	200

Q16. In terms of formulating committee advice or recommendations, to what extent do you believe the committee maintains a balance of influence among various interest groups (such as industry, trade or consumer groups)?

Very great extent (percent)	Great extent (percent)	Moderate extent (percent)	Some extent (percent)	Little or no extent (percent)	Don't know (percent)	No response (percent)	Number of respondents
16.5	43.5	21.5	8.5	4.0	3.0	3.0	200

Q17. Which of the following methods does your committee use to convey its advice or recommendations to FCC?

	Yes (percent)	No (percent)	Don't know (percent)	No response (percent)	Number of respondents
a. Written reports	87.0	5.0	4.0	4.0	200
b. Memorandums or letters	54.5	13.5	9.5	22.5	200
c. Oral briefings, presentations, or testimonies	74.0	7.0	10.0	9.0	200
d. Other (Please specify below.)	8.0	2.0	3.0	87.0	200

Q18. In your opinion, to what extent is the public provided opportunity to express its views to your committee?

Very great extent (percent)	Great extent (percent)	Moderate extent (percent)	Some extent (percent)	Little or no extent (percent)	Don't know (percent)	No response (percent)	Number of respondents
20.5	32.0	15.5	10.5	12.0	7.0	2.5	200

Q19. To your knowledge, have members of the public (excluding FCC staff) ever expressed their views to the committee?

Yes (percent)	No (percent)	Don't know (percent)	No response (percent)	Number of respondents
56.5	19.0	22.0	2.5	200

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Q20. Does your committee have any subcommittees?

Yes (percent)	No (percent)	Don't know (percent)	No response (percent)	Number of respondents
78.5	15.5	3.5	2.5	200

Q21. Were members selected to serve on your committee's subcommittees through any of the following methods?

	Yes (percent)	No (percent)	Don't know (percent)	No Response (percent)	Number of respondents
a. Self-selected (i.e., volunteered)	87.3	2.5	4.5	5.7	157
b. Committee or subcommittee chairman	53.5	14.0	12.1	20.4	157
c. FCC official(s)	19.1	29.9	22.3	28.7	157
d. Full committee	15.9	36.3	14.6	33.1	157
e. Other (Please specify below.)	3.8	7.0	1.9	87.3	157

Q22. What was the basis for selecting members to serve on subcommittees?

	Percent	Number of respondents	Total number of respondents
a. Technical expertise	74.5	117	157
b. Industry representation	66.9	105	157
c. Creating fair balance of points of views	55.4	87	157
d. Don't know	9.6	15	157
e. Other (Please specify below.)	14.6	23	157

Q23. Have you been a member of any subcommittees?

Yes (percent)	No (percent)	No response (percent)	Number of respondents
75.8	22.9	1.3	157

**Appendix III
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Q24. How is the work of the subcommittees completed?

	Percent	Number of respondents	Total number of respondents
a. In-person meetings	80.7	96	119
b. Video or audio conferences	86.6	103	119
c. E-mail exchanges	92.4	110	119
d. Other (Please specify below.)	0.0	0	119

Q25. In your opinion, to what extent is the public provided an opportunity to express its views to your subcommittees?

Very great extent (percent)	Great extent (percent)	Moderate extent (percent)	Some extent (percent)	Little or no extent (percent)	Don't know (percent)	No response (percent)	Number of respondents
9.2	17.6	18.5	11.8	33.6	7.6	1.7	119

Q26. To your knowledge, have members of the public ever expressed their views to the subcommittees?

Yes (percent)	No (percent)	Don't know (percent)	No response (percent)	Number of respondents
39.5	37.8	17.6	5.0	119

Q27. Overall, how satisfied or dissatisfied have you been with the operation of your subcommittees?

Very satisfied (percent)	Satisfied (percent)	Neither satisfied nor dissatisfied (percent)	Dissatisfied (percent)	Very dissatisfied (percent)	No response (percent)	Number of respondents
37.0	42.9	14.3	2.5	0.8	2.5	119

Q28. In your experience—given the understanding that the full committee approves all subcommittee advice and recommendations—what is the balance of work between the full committee and subcommittees with regard to output?

Entirely work of full committee (percent)	More work by the full committee than subcommittees (percent)	Equal balance between full committee and subcommittees (percent)	More work by the subcommittees than full committee (percent)	Entirely work of subcommittees with approval from the full committee (percent)	Don't know (percent)	No response (percent)	Number of respondents
0.6	3.2	10.8	46.5	32.5	3.2	3.2	157

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GAO Survey of FCC Federal Advisory
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Q29. To what extent does the committee deliberate the proposals of the subcommittees before they are voted upon?

Very great extent (percent)	Great extent (percent)	Moderate extent (percent)	Some extent (percent)	Little or no extent (percent)	Don't know (percent)	No response (percent)	Number of respondents
11.5	31.8	24.8	13.4	7.0	8.3	3.2	157

Q30. Does your committee's work influence FCC policy or operations through any of the following mechanisms?

	Yes (percent)	No (percent)	Don't know (percent)	No response (percent)	Number of respondents
a. Committee briefs FCC commissioners	41.0	28.0	24.0	7.0	200
b. Committee briefs FCC senior staff	64.5	11.5	17.5	6.5	200
c. Committee testifies before the FCC at hearings	7.5	47.5	31.0	14.0	200
d. Committee work results in an issuance of a Notice of Inquiry	22.0	29.0	30.0	19.0	200
e. Committee work results in an issuance of a Notice of Proposed Rulemaking	24.5	29.0	29.5	17.0	200
f. Committee submits comments in an ongoing FCC proceeding	26.5	31.0	25.5	17.0	200
g. Other (Please specify below.)	13.0	1.5	1.5	84.0	200

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Q31. How satisfied or dissatisfied are you with the extent to which FCC takes your committee's advice and recommendations into account when developing policy or making changes in operations?

Very satisfied (percent)	Satisfied (percent)	Neither satisfied nor dissatisfied (percent)	Dissatisfied (percent)	Very dissatisfied (percent)	Don't know (percent)	No response (percent)	Number of respondents
12.5	41.5	27.0	6.5	2.0	8.0	2.5	200

Q33. Are setting or changing voluntary industry standards an output of your committee? (Voluntary industry standards are those not mandated by FCC.)

Yes (percent)	No (percent)	Don't know (percent)	No response (percent)	Number of respondents
54.0	35.0	7.0	4.0	200

Q34. How satisfied or dissatisfied are you with the effectiveness and impact of your committee to set or change voluntary industry standards?

Very satisfied (percent)	Satisfied (percent)	Neither satisfied nor dissatisfied (percent)	Dissatisfied (percent)	Very dissatisfied (percent)	Don't know (percent)	No response (percent)	Number of respondents
15.7	45.4	22.2	9.3	0.9	3.7	2.8	108

Q36. Thinking over your entire tenure on the committee, to what extent would you characterize FCC as receptive to the advice and recommendations of your committee?

Very great extent (percent)	Great extent (percent)	Moderate extent (percent)	Some extent (percent)	Little or no extent (percent)	Don't know (percent)	No response (percent)	Number of respondents
18.5	43.0	21.0	8.0	2.0	6.0	1.5	200

Q37. Thinking over your entire tenure on the committee, to what extent would you characterize industry as receptive to the advice and recommendations of your committee?

Very great extent (percent)	Great extent (percent)	Moderate extent (percent)	Some extent (percent)	Little or no extent (percent)	Don't know (percent)	No response (percent)	Number of respondents
11.0	35.5	27.5	10.5	2.5	10.0	3.0	200

Q38. Overall, how satisfied or dissatisfied are you with your experience serving on the committee?

Very satisfied (percent)	Satisfied (percent)	Neither satisfied nor dissatisfied (percent)	Dissatisfied (percent)	Very dissatisfied (percent)	Don't know (percent)	No response (percent)	Number of respondents
32.5	49.5	10.5	6.5	0.0	0.5	0.5	200

Appendix III
GAO Survey of FCC Federal Advisory
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Q39. If invited, would you be interested in serving on this committee again?

Yes (percent)	No (percent)	Don't know (percent)	No response (percent)	Number of respondents
89.5	2.0	8.5	0.0	200

Note: Questions 32, 35, and 40 of the survey were comment boxes for written narrative so the results are not displayed.

Comments from the Federal Communications Commission



Federal Communications Commission
Washington, D.C. 20554

November 9, 2004

Mr. Mark L. Goldstein, Director
Physical Infrastructure Issues
U.S. Government Accountability Office
Washington, DC 20548

Dear Mr. Goldstein:

Thank you for the opportunity to comment on the GAO's draft report *Federal Communications Commission: Federal Advisory Committees Follow Requirements, But FCC Should Improve Its Process for Appointing Committee Members*. We appreciated the opportunity to work with your staff in the development of this helpful report on advisory groups at the Commission. We are pleased to learn that in the area of federal advisory committee management you find that the Commission follows applicable requirements.

Commission staff will provide a few minor points of technical clarification under separate cover. My comments will focus on the draft report's recommendation that the FCC could better ensure advisory committee members' understanding of the type of advice they are to provide.

As noted in the report, the FCC currently informs FACA committee members in writing whether they will be serving in a representative capacity or as an individual expert and, therefore, a special government employee. Currently, this information is provided either in the members' appointing letters or in separate letters from a representative of the designated agency ethics official.

As suggested, in the future where the telecommunications interest of the entity or group that a member will be representing is unclear (such as where the represented entity is a university, law firm or consulting firm) the letters notifying such committee members of their service status will also make clear the specific underlying viewpoint, interest group, or segment of the community that the member is expected to represent.


In addition, in the future the FCC's designated agency ethics official or his designee will begin participating at the early stages of the selection process for prospective FACA committee members. This will better ensure that committee members planning to serve as representatives understand from the outset the specific entities or groups and underlying viewpoints or interests that they are expected to represent. It will also ensure

Appendix IV
Comments from the Federal Communications
Commission

that those planning to serve as special government employees are aware of the legal requirements associated with their service on the committee.

If we can assist in any further way in the completion of this report, please let me know.

Sincerely,


for Andrew S. Fishel
Managing Director

Comments from the Office of Government Ethics



November 1, 2004

Mark L. Goldstein
Director, Physical Infrastructure Issues
United States General Accountability
Office
Washington, DC 20548

Dear Mr. Goldstein:

Thank you for giving us the opportunity to comment on the draft report of the General Accountability Office (GAO), entitled Federal Advisory Committees Follow Requirements, But FCC Should Improve Its Process for Appointing Committee Members, (GAO-05-36). The Office of Government Ethics (OGE) has reviewed the draft report and shares GAO's concerns about the appointment of certain members serving on advisory committees at the Federal Communications Commission (FCC). Moreover, we agree with the recommendations made in the report that the FCC should appoint advisory committee members as non-employee representatives only if the FCC can properly determine the outside group, entity, or other recognizable group of persons whose point of view those members are expected to represent on the committee.

As was mentioned in the draft report, OGE has taken actions and is currently addressing recommendations that were raised in an earlier GAO report (GAO-04-328) concerning the Government's management of Federal advisory committees. OGE recently issued some additional guidance to Government agencies concerning ethics issues involving the designation of advisory committee members. As you stated in your report, this guidance provides additional information to agencies about the distinction between special Government employees (SGEs) and representatives. In addition, this guidance includes a number of specific recommendations to agencies on how to improve their program management of ethics issues involving the designation of committee members.

Among the recommendations in that guidance, OGE advised agency ethics officials of the need to:

- (1) ensure, if appropriate, that appointment letters or other committee documentation of appointment state clearly whether members are serving as SGEs or representative and that committee members are properly

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Appendix V
Comments from the Office of Government
Ethics

Mr. Mark L. Goldstein
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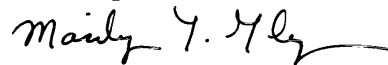
informed of their member status and of the application of ethics rules to them if they serve as SGEs; and

(2) in cases where members are serving as representatives, recommend to committee management officials that committee members are informed about the group of persons that the respective member is expected to represent on the committee.

As GAO states in the draft report, the mere naming of an institution to be represented in a member's appointment letter does not always make clear the viewpoint that is to be represented by a particular committee member. This is especially true when the committee's member's employer is not part of the industry that is the subject matter of the committee's work.

OGE has and will continue to find ways of improving our guidance to our community of ethics officials who provide ethics support to advisory committees. We are paying particular attention to ethics issues involving the appointment of Federal advisory committee members in our ethics program reviews. In this way, we can make sure that ethics officials are appropriately engaged in determining the status of advisory committee members. Accordingly, we welcome the contributions GAO's draft report would make to improving the practices of advisory committees. The draft report underscores how important it is for agencies to have a process for determining and documenting member designations, and for informing representative members about the type of advice they are expected to be providing during advisory committee proceedings.

Sincerely,



Marilyn L. Glynn
Acting Director

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