

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 3309) TO AMEND THE COMMUNICATIONS ACT OF 1934 TO PROVIDE FOR GREATER TRANSPARENCY AND EFFICIENCY IN THE PROCEDURES FOLLOWED BY THE FEDERAL COMMUNICATIONS COMMISSION

MARCH 26, 2012.—Referred to the House Calendar and ordered to be printed

Mr. WEBSTER, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 595]

The Committee on Rules, having had under consideration House Resolution 595, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 3309, the Federal Communications Commission Process Reform Act of 2011, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. The resolution waives all points of order against consideration of the bill. The resolution provides that the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill shall be considered as original text for the purpose of amendment and shall be considered as read. The resolution waives all points of order against the amendment in the nature of a substitute. The resolution makes in order only those amendments printed in this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or the Committee of the Whole. The resolution waives all points of order against amendments printed in this report. The resolution provides one motion to recommit with or without instructions.

Section 2 of the resolution provides that the Speaker may appoint Members to perform the duties of the Chair for the duration

of the period from March 29, 2012, through April 16, 2012, as though under clause 8(a) of rule I.

EXPLANATION OF WAIVERS

Although the resolution waives all points of order against consideration of the bill, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the committee amendment in the nature of a substitute made in order as original text, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments printed in this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 204

Motion by Ms. Slaughter to report an open rule. Defeated: 3–6.

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx	Nay	Mr. McGovern	Yea
Mr. Woodall	Nay	Mr. Hastings of Florida	Yea
Mr. Scott of South Carolina	Nay		
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee record vote No. 205

Motion by Mr. McGovern to make in order and provide the appropriate waivers for the amendment offered by Rep. Waters (CA), #4, which would require the Federal Communications Commission to create and implement rules requiring public disclosure of contributions received by any party that submits to the Commission facts, arguments, offers of settlement, or proposals of adjustment (either electronically or in writing), whenever such contributions may constitute a potential conflict of interest. Defeated: 3–6.

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx	Nay	Mr. McGovern	Yea
Mr. Woodall	Nay	Mr. Hastings of Florida	Yea
Mr. Scott of South Carolina	Nay		
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

SUMMARY OF THE AMENDMENTS MADE IN ORDER

1. Crowley (NY): Would require, in the event that the FCC creates or amends a rule relating to baby monitors, the FCC to require the packaging of a new baby monitor to display a warning label so that families are informed that video and sounds captured

by an analog baby monitor may be easily viewed or heard by potential intruders outside a consumer's home. (10 minutes)

2. Stearns (FL): Would modify existing law so that each FCC Commissioner may hire an electrical engineer or computer scientist—to provide in-depth technical consultation as well as interface with the Office of Engineering and Technology (OET) and other Commission technical staff to help inform their decisions. (10 minutes)

3. Waters (CA): Would strike the portion of Section 3 that would diminish the Federal Communications Commission's (FCC's) capacity to impose or accept voluntary public interest conditions or commitments from applicants to a media merger. (10 minutes)

4. Waters (CA): Would prohibit FCC officials from accepting employment with a regulated entity within 1 year of the official's vote and/or action in a proceeding in which the employer was a party or applicant. (10 minutes)

5. Eshoo (CA): Would require entities sponsoring political programming to disclose the identity of any donor that has contributed \$10,000 or more to such entity in an election reporting cycle. (10 minutes)

6. Diaz-Balart, Mario (FL): Would make the FCC's handling of FOIA requests more open and transparent. (10 minutes)

7. Owens (NY): Would express that nothing in this Act shall impede the FCC from implementing rules to ensure broadband access in rural areas. (10 minutes)

8. Green, Al (TX): Would clarify that the Act would not impede the FCC's ability to provide in times of an emergency, for effective and efficient communication systems to alert the public of dangerous weather conditions. (10 minutes)

9. Speier (CA): Would prevent this Act from taking effect until the FCC provides a report on the impact of the changes of this Act on the FCC's mandate to promote competition and innovation. (10 minutes)

10. Clarke (NY): Would express that nothing in this Act shall impede the FCC from providing efficient and effective communication systems for state and local first responders. (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CROWLEY OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, line 5, strike "and".

Page 7, line 15, strike the period and insert "; and".

Page 7, after line 15, insert the following:

"(F) in the case of the adoption of a rule or the amendment of an existing rule relating to baby monitors, such rule as adopted or amended requires the packaging of an analog baby monitor to display a warning label stating that sounds or images captured by the baby monitor may be easily viewed or heard by potential intruders outside a consumer's home.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE STEARNS OF FLORIDA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, line 10, strike “and”.

Page 8, after line 10, insert the following (and redesignate the subsequent paragraph sequentially):

“(3) ensuring that each Commissioner has an adequate opportunity, prior to being required to decide a petition, complaint, application, rulemaking, or other proceeding (including at a meeting held pursuant to section 5(d)), to consult with a professional engineer, hired by the Commissioner, that holds an undergraduate or graduate degree from an institution of higher education in the field of electrical engineering or computer science; and

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WATERS OF CALIFORNIA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 15, strike line 17 and all that follows through line 15 on page 16 (and redesignate subsequent provisions accordingly).

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WATERS OF CALIFORNIA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 18, after line 21, insert the following (and redesignate subsequent provisions accordingly):

“(n) PROHIBITION ON ACCEPTANCE OF CERTAIN OFFERS OF EMPLOYMENT BY COMMISSIONERS AND EMPLOYEES.—

“(1) IN GENERAL.—A Commissioner or employee of the Commission may not accept an offer of employment from any person as an employee, officer, or director of such person during the 1-year period following the conclusion of a proceeding—

“(A) over which such Commissioner or employee presided and that involved the transfer of licenses to or from the person making the offer of employment;

“(B) over which such Commissioner or employee presided, to which the person making the offer of employment was a party, and that involved a merger, combination, or other adjudication; or

“(C) in which such Commissioner or employee issued a decision under authority delegated by the Commission under section 5(c)(1)—

“(i) if such proceeding involved a transfer of licenses to or from the person making the offer of employment; or

“(ii) if such proceeding involved a merger, combination, or other adjudication and the person making the offer of employment was a party to such proceeding.

“(2) PENALTIES.—A Commissioner or employee who knowingly accepts an offer of employment in violation of paragraph (1), and a person who knowingly offers employment to a Commissioner or employee under circumstances in which acceptance would constitute a violation of such paragraph, shall be subject to the penalties provided in this Act.

“(3) REGULATIONS.—The Commission shall by rule establish procedures for a Commissioner or employee to request advice from an appropriate Commission ethics official regarding whether acceptance of a particular offer of employment would constitute a violation of paragraph (1).

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ESHOO OF CALIFORNIA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 18, after line 21, insert the following (and redesignate subsequent provisions accordingly):

“(n) CERTIFICATIONS REGARDING IDENTITY OF DONORS FOR PUBLIC INSPECTION FILES.—

“(1) IN GENERAL.—The Commission shall revise its rules to require the public inspection file of a broadcast licensee, cable operator, or provider of direct broadcast satellite service to include, from each entity sponsoring political programming, a certification that identifies any donors that have contributed a total of \$10,000 or more to such entity in an election reporting cycle.

“(2) ACCURACY OF INFORMATION.—A broadcast licensee, cable operator, or provider of direct broadcast satellite service may not be held responsible for an inaccuracy in a certification filed under this subsection, unless such licensee, operator, or provider had actual knowledge, at the time such certification was filed, that such certification was false or fraudulent.

“(3) DEFINITIONS.—In this subsection:

“(A) CABLE OPERATOR.—The term ‘cable operator’ has the meaning given such term in section 602.

“(B) DBS ORIGINATION PROGRAMMING.—The term ‘DBS origination programming’ has the meaning given such term in section 25.701 of title 47, Code of Federal Regulations.

“(C) ELECTION REPORTING CYCLE.—The term ‘election reporting cycle’ means, with respect to a request to purchase time by an entity sponsoring political programming, the 2-year period that begins on the date of the most recent general election for Federal office preceding such request.

“(D) GENERAL ELECTION.—The term ‘general election’ means an election occurring on the first Tuesday after the first Monday in November of an even-numbered year.

“(E) ORIGINATION CABLECASTING.—The term ‘origination cablecasting’ has the meaning given such term in section 76.5 of title 47, Code of Federal Regulations.

“(F) POLITICAL PROGRAMMING.—The term ‘political programming’ means programming that communicates a message relating to any political matter of national importance, including a legally qualified candidate for public office, any election to Federal office, or a national legislative issue of public importance.

“(G) PROGRAMMING.—The term ‘programming’ means—

“(I) with respect to a broadcast licensee, broadcast programming;

“(ii) with respect to a cable operator, origination cablecasting; and

“(iii) with respect to a provider of direct broadcast satellite service, DBS origination programming.

“(H) PROVIDER OF DIRECT BROADCAST SATELLITE SERVICE.—The term ‘provider of direct broadcast satellite service’ has the meaning given such term in section 335.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DIAZ-BALART OF FLORIDA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 19, after line 13, insert the following (and redesignate subsequent provisions accordingly):

“(o) TRANSPARENCY RELATING TO PERFORMANCE IN MEETING FOIA REQUIREMENTS.—The Commission shall take additional steps to inform the public about its performance and efficiency in meeting the disclosure and other requirements of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), including by doing the following:

“(1) Publishing on the Commission’s website the Commission’s logs for tracking, responding to, and managing requests submitted under such section, including the Commission’s fee estimates, fee categories, and fee request determinations.

“(2) Releasing to the public all decisions made by the Commission (including decisions made by the Commission’s Bureaus and Offices) granting or denying requests filed under such section, including any such decisions pertaining to the estimate and application of fees assessed under such section.

“(3) Publishing on the Commission’s website electronic copies of documents released under such section.

“(4) Presenting information about the Commission’s handling of requests under such section in the Commission’s annual budget estimates submitted to Congress and the Commission’s annual performance and financial reports. Such information shall include the number of requests under such section the Commission received in the most recent fiscal year, the number of such requests granted and denied, a comparison of the Commission’s processing of such requests over at least the previous 3 fiscal years, and a comparison of the Commission’s results with the most recent average for the United States Government as published on www.foia.gov.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE OWENS OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 22, after line 24, insert the following (and redesignate the subsequent section accordingly):

SEC. 4. BROADBAND ACCESS IN RURAL AREAS.

Nothing in this Act (including the amendment made by section 2 of this Act) shall impede the Federal Communications Commission from implementing rules to ensure broadband access in rural areas.

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE AL GREEN OF TEXAS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 22, after line 24, insert the following (and redesignate the subsequent section accordingly):

SEC. 4. PROVISION OF EMERGENCY WEATHER INFORMATION.

Nothing in subsection (a) of section 13 of the Communications Act of 1934, as added by section 2 of this Act, shall be construed to impede the Federal Communications Commission from acting in times of emergency to ensure the availability of efficient and effective communications systems to alert the public to imminent dangerous weather conditions.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SPEIER OF CALIFORNIA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 22, after line 24, insert the following (and redesignate the subsequent section accordingly):

SEC. 4. IMPACT ON COMPETITION AND INNOVATION.

This Act (including the amendment made by section 2 of this Act) shall not take effect until the Federal Communications Commission submits to Congress a report on the impact of this Act (and amendment) on the mandate of the Commission to promote competition and innovation.

10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CLARKE OF NEW YORK OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 22, after line 24, insert the following (and redesignate the subsequent section accordingly):

SEC. 4. COMMUNICATIONS OF FIRST RESPONDERS.

Nothing in this Act (including the amendment made by section 2 of this Act) shall impede the Federal Communications Commission from ensuring the availability of efficient and effective communications systems for State and local first responders.