

106TH CONGRESS
1ST SESSION

H. R. 1948

To amend the Communications Act of 1934 to prohibit the discrimination, in the purchase or placement of advertisements for wire or cable communications, against minority owned or formatted communications entities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 1999

Mr. RUSH (for himself, Mr. HILLIARD, and Mr. TOWNS) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend the Communications Act of 1934 to prohibit the discrimination, in the purchase or placement of advertisements for wire or cable communications, against minority owned or formatted communications entities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Broadcasters Fairness
5 in Advertising Act of 1999”.

1 **SEC. 2. PROHIBITION AGAINST DISCRIMINATION AGAINST**
2 **MINORITY OWNED OR FORMATTED COMMU-**
3 **NICATIONS ENTITIES IN PURCHASE OR**
4 **PLACEMENT OF ADVERTISEMENTS FOR WIRE**
5 **OR RADIO COMMUNICATIONS.**

6 Title VII of the Communications Act of 1934 (47
7 U.S.C. 601 et seq.) is amended by inserting after section
8 701 the following new section:

9 **“SEC. 702. PROHIBITION AGAINST DISCRIMINATION**
10 **AGAINST MINORITY OWNED OR FORMATTED**
11 **COMMUNICATIONS ENTITIES IN PURCHASE**
12 **OR PLACEMENT OF ADVERTISEMENTS FOR**
13 **WIRE OR RADIO COMMUNICATIONS.**

14 “(a) PROHIBITION.—It shall be unlawful for any per-
15 son to purchase or place any advertisement, by any per-
16 son, in a manner which discriminates against any commu-
17 nications entity by reason of the race, color, or ethnic
18 background of—

19 “(1) any owner of the entity, or

20 “(2) the group to which the communications
21 format of the entity is predominantly designed to
22 appeal.

23 “(b) DEFINITION OF COMMUNICATIONS.—The term
24 ‘communications entity’ means any person who engages
25 in—

26 “(1) wire communication; or

1 “(2) radio communication.

2 “(c) FCC ENFORCEMENT.—The Commission shall
3 adopt regulations to carry out the prohibition under sub-
4 section (a) and to prevent activity prohibited under such
5 subsection.

6 “(d) ENFORCEMENT BY PRIVATE RIGHT OF AC-
7 TION.—

8 “(1) CAUSE OF ACTION.—Any person aggrieved
9 by a violation of subsection (a) may bring a civil ac-
10 tion on behalf of the person and other persons simi-
11 larly situated in an appropriate United States dis-
12 trict court or in any other court of competent juris-
13 diction.

14 “(2) ALTERNATIVE REMEDIES.—A civil action
15 may be brought under this subsection for a violation
16 of subsection (a) without regard to the status of any
17 administrative proceeding or other action under this
18 Act by the Commission regarding the activity that is
19 the basis for the allegation of the violation.

20 “(3) ENTITLEMENT TO RELIEF.—In a civil ac-
21 tion under this subsection, if the court finds that a
22 violation of subsection (a) has occurred, the court
23 may award damages for the aggrieved person to re-
24 cover lost profits, consequential damages, and all
25 other appropriate relief to make the person whole,

1 including reasonable attorneys' fees. The court shall,
 2 in the case of any person aggrieved by a willful and
 3 wanton violation of subsection (a), treble the amount
 4 recovered under the preceding sentence.

5 “(d) APPLICABILITY.—The regulations issued under
 6 this section shall apply to conduct occurring after the date
 7 of the enactment of the Broadcasters Fairness in Adver-
 8 tising Act of 1999.”.

9 **SEC. 3. ENSURING FEDERAL CONTRACTS ARE NOT AWARD-**
 10 **ED TO ADVERTISERS WHO DISCRIMINATE**
 11 **AGAINST MINORITY OWNED OR FORMATTED**
 12 **COMMUNICATIONS ENTITIES IN PURCHASE**
 13 **OR PLACEMENT OF ADVERTISEMENTS FOR**
 14 **WIRE OR RADIO COMMUNICATIONS.**

15 (a) CERTIFICATION.—The head of an executive agen-
 16 cy may not solicit an offer from, award a contract to, ex-
 17 tend an existing contract with, or, when approval by the
 18 agency head of the award of a subcontract is required,
 19 approve the award of a subcontract to, an offeror or con-
 20 tractor, unless the offeror or contractor has certified in
 21 writing to the agency head that the offeror or contractor
 22 has not engaged, and will not during the period of the
 23 contract or subcontract engage, in any purchase or place-
 24 ment of any advertisement in a manner which discrimi-

1 nates against any communications entity by reason of the
2 race, color, or ethnic background of—

3 (1) any owner of the entity, or

4 (2) the group to which the communications for-
5 mat of the entity is predominantly designed to ap-
6 peal.

7 (b) DEFINITION.—For purposes of this section, the
8 following definitions shall apply:

9 (1) COMMUNICATIONS ENTITY.—The term
10 “communications entity” has the meaning given the
11 term in section 702(b) of the Communications Act
12 of 1934.

13 (2) EXECUTIVE AGENCY.—The term “executive
14 agency” has the meaning given such term in section
15 4 of the Office of Federal Procurement Policy Act
16 (41 U.S.C. 403).

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