

106TH CONGRESS  
1ST SESSION

# H. R. 2533

To amend the Clayton Act and the Administrative Procedures Act.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 15, 1999

Mr. HYDE (for himself, Mr. GEKAS, and Mr. GOODLATTE) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Clayton Act and the Administrative  
Procedures Act.

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 “Fairness in Tele-  
5       communications License Transfers Act of 1999”.

6       **SEC. 2. REPEAL OF CLAYTON ACT PROVISION.**

7       Section 11(a) of the Clayton Act (15 U.S.C. 21(a))  
8       is amended by striking “in the Federal Communications  
9       Commission where applicable to common carriers engaged

1 in wire or radio communication or radio transmission of  
 2 energy;”.

3 **SEC. 3. PROCEDURAL DEADLINES FOR INDEPENDENT REG-**  
 4 **ULATORY COMMISSIONS.**

5 (a) AMENDMENT.—Section 558 of title 5, United  
 6 States Code, is amended by adding at the end the fol-  
 7 lowing new subsection:

8 “(d)(1) Each independent regulatory commission  
 9 shall promulgate rules of administrative practice and pro-  
 10 cedure for consideration in a reasonable time, as required  
 11 by subsection (c), of all applications for the transfer of  
 12 licenses, or the acquisition and operation of lines for which  
 13 the commission grants authority. Such rules shall  
 14 specify—

15 “(A) procedures for submitting to the party or  
 16 parties covered by the application requests for docu-  
 17 ments and information necessary for consideration  
 18 of the transfer of licenses or acquisition and oper-  
 19 ation of lines, addressed in the application;

20 “(B) the period of time following an application  
 21 for transfer of licenses or acquisition and operation  
 22 of lines during which the commission may submit  
 23 such requests;

24 “(C) the period of time following an application  
 25 for transfer of licenses or acquisition and operation

1 of lines during which the commission shall approve  
2 or deny the application;

3 “(D) procedures limiting ex parte communica-  
4 tions pertaining to the application for transfer of li-  
5 censes or the acquisition and operation of lines and  
6 requiring all ex parte communications pertaining to  
7 the application for transfer of licenses or the acquisi-  
8 tion and operation of lines to be placed in a public  
9 record; and

10 “(E) such other procedures as will ensure that  
11 the commission’s processes for consideration of all  
12 applications for transfer of licenses or the acquisi-  
13 tion and operation of lines are fair, predictable,  
14 timely, open to public scrutiny, and subject to judi-  
15 cial review.

16 “(2) Each independent regulatory commission shall  
17 promulgate rules defining the terms ‘public interest’, ‘pub-  
18 lic convenience and necessity’ and ‘public interest, conven-  
19 ience, and necessity’ as used in the statutes governing the  
20 proceedings described in paragraph (1).

21 “(3) If, in considering an application for transfer of  
22 license or acquisition and operation of lines, an inde-  
23 pendent regulatory commission does not comply with the  
24 rules such commission has promulgated under paragraph

1 (2), the application shall be deemed approved, without  
2 conditions, by such commission.

3 “(4) If an independent regulatory commission has not  
4 promulgated rules as required by paragraph (2), or has  
5 not followed such rules, any person that has applied for  
6 transfer of licenses or acquisition and operation of lines  
7 affected by such failure may bring an action in the United  
8 States District Court for the District of Columbia seeking  
9 a declaration that the application is deemed approved,  
10 without conditions, by the commission.

11 “(5) For purposes of this subsection, the term ‘inde-  
12 pendent regulatory commission’ means an ‘agency’ within  
13 the meaning of section 552b of this title, but unless other-  
14 wise expressly provided by amendment to this subsection  
15 includes only the Federal Communications Commission.”.

16 (b) EFFECTIVE DATE.—The amendment made by  
17 subsection (a) shall be effective upon enactment, except  
18 that the actions authorized by paragraph (4) of section  
19 558(d) of title 5, United States Code, as added by such  
20 amendment, may not be brought with respect to any fail-  
21 ure by an independent regulatory commission to prescribe  
22 rules as required by such section unless such failure con-  
23 tinues after one year after the date of enactment of this  
24 Act.

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