

Calendar No. 779

106TH CONGRESS
2^D SESSION

H. R. 4201

IN THE SENATE OF THE UNITED STATES

JUNE 21, 2000

Received

JULY 27, 2000

Read the first time

SEPTEMBER 5, 2000

Read the second time and placed on the calendar

AN ACT

To amend the Communications Act of 1934 to clarify the service obligations of noncommercial educational broadcast stations.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Noncommercial Broad-
3 casting Freedom of Expression Act of 2000”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) In the additional guidance contained in the
7 Federal Communication Commission’s memorandum
8 opinion and order in WQED Pittsburgh (FCC 99–
9 393), adopted December 15, 1999, and released De-
10 cember 29, 1999, the Commission attempted to im-
11 pose content-based programming requirements on
12 noncommercial educational television broadcasters
13 without the benefit of notice and comment in a rule-
14 making proceeding.

15 (2) In doing so, the Commission did not ade-
16 quately consider the implications of its proposed
17 guidelines on the rights of such broadcasters under
18 First Amendment and the Religious Freedom Res-
19 toration Act.

20 (3) Noncommercial educational broadcasters
21 should be responsible for using the station to pri-
22 marily serve an educational, instructional, cultural,
23 or religious purpose in its community of license, and
24 for making judgments about the types of program-
25 ming that serve those purposes.

1 (4) Religious programming contributes to serv-
 2 ing the educational and cultural needs of the public,
 3 and should be treated by the Commission on a par
 4 with other educational and cultural programming.

5 (5) Because noncommercial broadcasters are
 6 not permitted to sell air time, they should not be re-
 7 quired to provide free air time to commercial entities
 8 or political candidates.

9 (6) The Commission should not engage in regu-
 10 lating the content of speech broadcast by non-
 11 commercial educational stations.

12 **SEC. 3. CLARIFICATION OF SERVICE OBLIGATIONS OF NON-**
 13 **COMMERCIAL EDUCATIONAL OR PUBLIC**
 14 **BROADCAST STATIONS.**

15 (a) SERVICE CONDITIONS.—Section 309 of the Com-
 16 munications Act of 1934 (47 U.S.C. 309) is amended by
 17 adding at the end the following new subsection:

18 “(m) SERVICE CONDITIONS ON NONCOMMERCIAL
 19 EDUCATIONAL AND PUBLIC BROADCAST STATIONS.—

20 “(1) IN GENERAL.—A nonprofit organization
 21 shall be eligible to hold a noncommercial educational
 22 radio or television license if the station is used pri-
 23 marily to broadcast material that the organization
 24 determines serves an educational, instructional, cul-
 25 tural, or religious purpose (or any combination of

1 such purposes) in the station’s community of license,
2 unless that determination is arbitrary or unreason-
3 able.

4 “(2) ADDITIONAL CONTENT-BASED REQUIRE-
5 MENTS PROHIBITED.—The Commission shall not—

6 “(A) impose or enforce any quantitative re-
7 quirement on noncommercial educational radio
8 or television licenses based on the number of
9 hours of programming that serve educational,
10 instructional, cultural, or religious purposes; or

11 “(B) impose or enforce any other require-
12 ment on the content of the programming broad-
13 cast by a licensee, permittee, or applicant for a
14 noncommercial educational radio or television li-
15 cense that is not imposed and enforced on a li-
16 censee, permittee, or applicant for a commercial
17 radio or television license, respectively.

18 “(3) RULES OF CONSTRUCTION.—Nothing in
19 this subsection shall be construed as affecting—

20 “(A) any obligation of noncommercial edu-
21 cational television broadcast stations under the
22 Children’s Television Act of 1990 (47 U.S.C.
23 303a, 303b); or

24 “(B) the requirements of section 396, 399,
25 399A, and 399B of this Act.”.

1 (b) POLITICAL BROADCASTING EXEMPTION.—Sec-
2 tion 312(a)(7) of the Communications Act of 1934 (47
3 U.S.C. 312(a)(7)) is amended by inserting “, other than
4 a noncommercial educational broadcast station,” after
5 “use of a broadcasting station”.

6 (c) AUDIT OF COMPLIANCE WITH DONOR PRIVACY
7 PROTECTION REQUIREMENTS.—Section 396(l)(3)(B)(ii)
8 of the Communications Act of 1934 (47 U.S.C.
9 396(l)(3)(B)(ii)) is amended—

10 (1) in subclause (I), by inserting before the
11 semicolon the following: “, and shall include a deter-
12 mination of the compliance of the entity with the re-
13 quirements of subsection (k)(12)”;

14 (2) in subclause (II), by inserting before the
15 semicolon the following: “, except that such state-
16 ment shall include a statement regarding the extent
17 of the compliance of the entity with the require-
18 ments of subsection (k)(12)”.

19 (d) IMPLEMENTATION.—Consistent with the require-
20 ments of section 4 of this Act, the Federal Communica-
21 tions Commission shall amend sections 73.1930 through
22 73.1944 of its rules (47 CFR 73.1930–73.1944) to pro-
23 vide that those sections do not apply to noncommercial
24 educational broadcast stations.

1 **SEC. 4. RULEMAKING.**

2 (a) LIMITATION.—After the date of the enactment of
3 this Act, the Federal Communications Commission shall
4 not establish, expand, or otherwise modify requirements
5 relating to the service obligations of noncommercial edu-
6 cational radio or television stations except by means of
7 agency rulemaking conducted in accordance with chapter
8 5 of title 5, United States Code, and other applicable law
9 (including the amendments made by section 3).

10 (b) RULEMAKING DEADLINE.—The Federal Commu-
11 nications Commission shall prescribe such revisions to its
12 regulations as may be necessary to comply with the
13 amendment made by section 3 within 270 days after the
14 date of the enactment of this Act.

Passed the House of Representatives June 20, 2000.

Attest:

JEFF TRANDAHL,

Clerk.

By MARTHA C. MORRISON,

Deputy Clerk.

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