

107TH CONGRESS
1ST SESSION

H. R. 1765

To increase penalties for common carrier violations of the Communications Act of 1934, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2001

Mr. UPTON (for himself, Mr. STEARNS, Mr. FOSSELLA, Mr. TERRY, Mr. SHIMKUS, Mr. GREEN of Texas, Mr. SAWYER, Mr. GORDON, Mr. RUSH, Mr. BOUCHER, Mr. EHRLICH, Mr. TOWNS, Mr. GILLMOR, and Mr. BILIRAKIS) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To increase penalties for common carrier violations of the Communications Act of 1934, 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. COMMON CARRIER ENFORCEMENT.**

4 (a) CEASE AND DESIST AUTHORITY.—Section 501 of
5 the Communications Act of 1934 (47 U.S.C. 501) is
6 amended—

7 (1) by striking “Any person” and inserting “(a)

8 FINES AND IMPRISONMENT.—Any person”;

1 (2) by adding at the end the following new sub-
2 section:

3 “(b) CEASE AND DESIST ORDERS.— If, after a hear-
4 ing, the Commission determines that any common carrier
5 is engaged in an act, matter, or thing prohibited by this
6 Act, or is failing to perform any act, matter, or thing re-
7 quired by this Act, the Commission may order such com-
8 mon carrier to cease or desist from such action or inac-
9 tion.”.

10 (b) FORFEITURE PENALTIES.—Section 503(b) of the
11 Communications Act of 1934 (47 U.S.C. 503(b)) is
12 amended—

13 (1) in paragraph (2)(B)—

14 (A) by striking “exceed \$100,000” and in-
15 serting “exceed \$1,000,000”; and

16 (B) by striking “of \$1,000,000” and in-
17 serting “of \$10,000,000”;

18 (2) in paragraph (2)(C), by striking “subpara-
19 graph (A) or (B)” and inserting “subparagraph (A),
20 (B), or (C)”;

21 (3) by redesignating subparagraphs (C) and
22 (D) of paragraph (2) as subparagraphs (D) and (E),
23 respectively;

24 (4) by inserting after subparagraph (B) of
25 paragraph (2) the following new subparagraph:

1 “(C) If a common carrier has violated a cease and
2 desist order or has previously been assessed a forfeiture
3 penalty for a violation of a provision of this Act or of any
4 rule, regulation, or order issued by the Commission, and
5 if the Commission or an administrative law judge deter-
6 mines that such common carrier has willfully violated the
7 same provision, rule, regulation, that this repeated viola-
8 tion has caused harm to competition, and that such com-
9 mon carrier has been assessed a forfeiture penalty under
10 this subsection for such previous violation, the Commis-
11 sion may assess a forfeiture penalty not to exceed
12 \$2,000,000 for each violation or each day of continuing
13 violation; except that the amount of such forfeiture pen-
14 alty shall not exceed \$20,000,000.”; and

15 (5) in paragraph (6)(B), by striking “1 year”
16 and inserting “2 years”.

17 (c) EVALUATION OF IMPACT.—

18 (1) EVALUATION REQUIRED.—Within 2 years
19 after the date of enactment of this Act, the Federal
20 Communications Commission shall conduct an eval-
21 uation of the impact of the increased remedies avail-
22 able under the amendments made by this section on
23 improving compliance with the requirements of the
24 Communications Act of 1934, and with the rules,

1 regulations, and orders of the Commission there-
2 under. Such evaluation shall include—

3 (A) an assessment of the number of en-
4 forcement proceedings commenced before and
5 after such date of enactment;

6 (B) an analysis of any changes in the num-
7 ber, type, seriousness, or repetition of viola-
8 tions; and

9 (C) an analysis of such other factors as the
10 Commission considers appropriate to evaluate
11 such impact.

12 (2) REPORT.—Within 30 months after such
13 date of enactment, the Commission shall submit a
14 report on the evaluation to the Committee on En-
15 ergy and Commerce of the House of Representatives
16 and the Committee on Commerce, Science, and
17 Transportation of the Senate.

18 **SEC. 2. DISPUTE RESOLUTION.**

19 Section 252 of the Communications Act of 1934 (47
20 U.S.C. 252) is amended—

21 (1) by redesignating subsection (j) as sub-
22 section (k); and

23 (2) by inserting after subsection (i) the fol-
24 lowing new subsection:

25 “(j) DISPUTE RESOLUTION.—

1 “(1) ARBITRATION.—At any time after any
2 interconnection agreement has been approved by the
3 State under subsection (e), any party to that inter-
4 connection agreement may petition a State commis-
5 sion to arbitrate any dispute concerning matters in-
6 cluded in an interconnection agreement.

7 “(2) OPPORTUNITY TO RESPOND.—The non-
8 petitioning party may respond to the other party’s
9 petition and provide such additional information as
10 the nonpetitioning party wishes.

11 “(3) ACTION BY STATE COMMISSION.—

12 “(A) The State Commission may require
13 either party to provide such information as may
14 be necessary to reach a decision. If any party
15 refuses or fails unreasonably to respond on a
16 timely basis to any reasonable request from the
17 State Commission; then the State Commission
18 may proceed on the basis of the best informa-
19 tion available to it from whatever source de-
20 rived.

21 “(B) The State Commission shall limit its
22 consideration of any petition to the matters in
23 dispute that are described in the petition.

1 “(C) The State Commission shall resolve
2 the disputed matter not later than 60 days
3 after receipt of the petition.

4 “(D) This subsection is the exclusive ad-
5 ministrative remedy for disputes concerning
6 matters included in an interconnection agree-
7 ment.”.

8 **SEC. 3. SERVICE QUALITY.**

9 Section 252(e)(3) of the Communications Act of
10 1934 (47 U.S.C. 252(e)(3)) is amended by adding at the
11 end the following new sentence: “Nothing in this section
12 limits or affects the authority of a State to prescribe meth-
13 ods to ensure timely and effective compliance with any
14 interconnection agreement, including the imposition of
15 service quality performance requirements.”.

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