

108TH CONGRESS  
2D SESSION

# H. R. 4412

To amend the Clayton Act to clarify the application of the antitrust laws  
in the telecommunications industry.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2004

Mr. SENSENBRENNER (for himself and Mr. CONYERS) introduced the  
following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Clayton Act to clarify the application of the  
antitrust laws in the telecommunications industry.

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 “Clarification of Anti-  
5       trust Remedies in Telecommunications Act of 2004”.

6       **SEC. 2. AMENDMENT.**

7       The Clayton Act (15 U.S.C. 12 et seq.) is amended  
8       by inserting after section 3 the following:

9       “SEC. 3A. (a) It shall be unlawful for an incumbent  
10      local exchange carrier or an affiliate to create or to pre-

1 serve (or to attempt to create or to preserve) a monopoly  
 2 in any part of commerce by using its network (or by pro-  
 3 viding a service over its network) to engage in an anti-  
 4 competitive practice (which may include a failure to com-  
 5 ply with either section 251(c) or 271 of the Communica-  
 6 tions Act of 1934 or with any agreement, rule, or order  
 7 in effect under such section).

8 “(b) For purposes of this section—

9 “(1) the term ‘affiliate’ has the meaning given  
 10 such term in section 274(i) of the Communications  
 11 Act of 1934; and

12 “(2) the term ‘incumbent local exchange car-  
 13 rier’ means a Bell operating company as defined in  
 14 section 274(i) of the Communications Act of 1934.

15 “(c) Whether any agency regulates or is authorized  
 16 to consider, review, or redress the conduct proscribed by  
 17 this section shall not affect the applicability of this section,  
 18 except that conduct required by an agency regulation or  
 19 rule shall not be construed to create liability under this  
 20 section.”.

21 **SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENT.**

22 (a) EFFECTIVE DATE.—Except as provided in sub-  
 23 section (b), this Act and the amendment made by this Act  
 24 shall take effect on the date of the enactment of this Act.

1       (b) APPLICATION OF AMENDMENT.—Subsection (a)  
2 of section 3A of the Clayton Act, as added by this Act,  
3 shall not apply with respect to a person’s conduct occur-  
4 ring before the effective date of this Act.

