

114TH CONGRESS  
1ST SESSION

# H. R. 1396

To amend the Communications Act of 1934 to authorize a bipartisan majority of Commissioners of the Federal Communications Commission to hold nonpublic collaborative discussions.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2015

Ms. ESHOO (for herself, Mr. SHIMKUS, and Mr. MICHAEL F. DOYLE of Pennsylvania) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Communications Act of 1934 to authorize a bipartisan majority of Commissioners of the Federal Communications Commission to hold nonpublic collaborative discussions.

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 “Federal Communica-  
5 tions Commission Collaboration Act of 2015”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1           (1) Commissioners of the Federal Communica-  
2           tions Commission (in this section referred to as the  
3           “Commission”), past and present, have stated that,  
4           while they support the intent of section 552b of title  
5           5, United States Code, the implementation of that  
6           section has hindered the ability of the Commission  
7           to have a substantive exchange of ideas and hold col-  
8           lective deliberations on issues pending before the  
9           Commission.

10           (2) The principal purpose of Congress in cre-  
11           ating a multimember agency is to obtain the benefits  
12           of collegial decisionmaking by the members of the  
13           agency, who bring to the decisionmaking process dif-  
14           ferent philosophical perspectives, experiences, and  
15           areas of expertise.

16           (3) Commissioners have relied primarily on an  
17           inefficient combination of written messages, commu-  
18           nications among staff, and a series of meetings re-  
19           stricted to 2 Commissioners at each such meeting to  
20           discuss complex telecommunications matters pending  
21           before the Commission.

22           (4) Extensive use of such methods of commu-  
23           nication has harmed collegiality and cooperation at  
24           the Commission.

1           (5) Numerous regulatory matters have been  
2 pending before the Commission for years, and con-  
3 tinued inaction on these issues has the potential to  
4 hinder innovation and private investment in the do-  
5 mestic communications industry.

6           (6) The Commission must be able to work more  
7 collaboratively and efficiently than in the past to  
8 meet the current challenge of expanding broadband  
9 Internet access to the extent necessary to serve the  
10 business, educational, health, and cultural needs of  
11 all people in the United States.

12 **SEC. 3. NONPUBLIC COLLABORATIVE DISCUSSIONS OF THE**  
13 **FEDERAL COMMUNICATIONS COMMISSION.**

14       Section 4 of the Communications Act of 1934 (47  
15 U.S.C. 154) is amended by adding at the end the fol-  
16 lowing:

17       “(p) NONPUBLIC COLLABORATIVE DISCUSSIONS.—

18           “(1) IN GENERAL.—Notwithstanding section  
19 552b of title 5, United States Code, a bipartisan  
20 majority of Commissioners may hold a meeting that  
21 is closed to the public to discuss official business  
22 if—

23           “(A) a vote or any other agency action is  
24 not taken at such meeting;

1           “(B) each person present at such meeting  
2           is a Commissioner, an employee of the Commis-  
3           sion, a member of a joint board or conference  
4           established under section 410, or a person on  
5           the staff of such a joint board or conference or  
6           of a member of such a joint board or con-  
7           ference; and

8           “(C) an attorney from the Office of Gen-  
9           eral Counsel of the Commission is present at  
10          such meeting.

11          “(2) DISCLOSURE OF NONPUBLIC COLLABO-  
12          RATIVE DISCUSSIONS.—Not later than 2 business  
13          days after the conclusion of a meeting held under  
14          paragraph (1), the Commission shall publish a dis-  
15          closure of such meeting, including—

16                 “(A) a list of the persons who attended  
17                 such meeting; and

18                 “(B) a summary of the matters discussed  
19                 at such meeting, except for such matters as the  
20                 Commission determines may be withheld under  
21                 section 552b(e) of title 5, United States Code.

22          “(3) PRESERVATION OF OPEN MEETINGS RE-  
23          QUIREMENTS FOR AGENCY ACTION.—Nothing in this  
24          subsection shall limit the applicability of section  
25          552b of title 5, United States Code, with respect to

1 a meeting of Commissioners other than that de-  
2 scribed in paragraph (1).

3 “(4) DEFINITIONS.—In this subsection:

4 “(A) AGENCY ACTION.—The term ‘agency  
5 action’ has the meaning given such term in sec-  
6 tion 551 of title 5, United States Code.

7 “(B) BIPARTISAN MAJORITY.—The term  
8 ‘bipartisan majority’ means, when used with re-  
9 spect to a group of Commissioners, that such  
10 group—

11 “(i) is a group of 3 or more Commis-  
12 sioners; and

13 “(ii) includes, for each political party  
14 of which any Commissioner is a member,  
15 at least 1 Commissioner who is a member  
16 of such political party, and, if any Com-  
17 missioner has no political party affiliation,  
18 at least one unaffiliated Commissioner.”.

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