because of the red tape, the bureaucracy, all by those people who may lose their jobs in those glass buildings right here in our Nation's Capital.

Again, I don't think it's fair. I'm disappointed. We tried to do a 90-day bill. The House and the Senate are going to be out for 2 weeks for Easter. Then they come back, and one body is out and the other body is out and nobody is here. They weren't happy with 90 days, and we tried to accommodate the 60 days.

This is a political game of ''gotcha,'' and it's unfortunate because there are many Americans who are counting on us for jobs and many people who have lost their home, particularly in the construction industry. They don't want rhetoric. They want action from this Congress. If we just had a cooperative effort on this, and true bipartisanship, we could get so much done for the American people.

I'm saddened in a way, but I tell you I've done everything I can to move this forward. For some of those people I've talked to that don't have a job, that have lost their homes and their life savings, we need to put a few of them to work. And we can if people would stop the nonsense and move forward in a responsible fashion.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and pass the bill, H.R. 4239, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. RAHALL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

□ 1530

FEDERAL COMMUNICATIONS COMMISSION PROCESS REFORM ACT OF 2012

GENERAL LEAVE

Mr. WALDEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the legislation and to insert extraneous materials on H.R. 3309.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 595 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 3309.

The Chair appoints the gentleman from Illinois (Mr. KINZINGER) to preside over the Committee of the Whole.

□ 1533

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 3309) to amend the Communications Act of 1934 to provide for greater transparency and efficiency in the procedures followed by the Federal Communications Commission, with Mr. KINZINGER in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Oregon (Mr. WALDEN) and the gentlewoman from California (Ms. ESHOO) each will control 30 minutes.

The Chair recognizes the gentleman from Oregon.

Mr. WALDEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, ladies and gentlemen of the Assembly, the communications and technology sector is one of the most competitive, innovative, and open sectors of our economy. From fiber optics to 4G wireless service, from the smartphone to the tablet, to the connected TV, this sector has been creating new services and new devices and high quality jobs that come with high-tech innovation and investment.

Now, despite a lackluster economy, wire line, wireless, and cable providers invested $66 billion in broadband infrastructure in 2010. The U.S. is now leading in the cutting-edge wireless technologies. If we want this to continue, though, we need to avoid needless bureaucratic red tape and fix broken processes at the FCC.

Communications and technology companies and the public deserve a more transparent and responsive government agency, and that's exactly what the legislation before us now would accomplish, bringing transparency, bringing accountability to the Federal Communications Commission.

The bill is the fruit of the Energy and Commerce's own open and transparent process. Last May we invited the commissioners of the FCC to testify about improving their processes, and we heard from them about the process problems that have occurred at the agency when it's been headed by chairs from both parties. This is not about this commission. It may be about a prior commission, but it's about a systemic problem.

In June, staff released a discussion draft, and we held a legislative hearing with a diverse panel of experts representing industry, think-tanks, consumer groups, academia, and the States. We listened to what they had to say about the various ideas that were on the table, and we began to work to modify those ideas into something that was workable.

In response to the views presented at the hearings, as well as additional input from stakeholders and colleagues on both sides of the aisle, we refined the draft legislation.

Then, in November, the Subcommittee on Communications and Technology held an open markup of the bill at the subcommittee level. The text is there. Everybody had a chance to see it, everybody had a chance to work on it and amend it.

Earlier this month, the committee marked up the bill, the full committee did, with several bipartisan amendments that continued to improve the FCC processes. So, in large part, the FCC Process Reform Act asked the FCC to go through a process similar to what we just went through in the committee, on the Energy and Commerce Committee, to actually craft this reform legislation. And then we asked the FCC to implement the kinds of reforms that we implemented in this very House to avoid abuses that had taken place in the past.

Now, the FCC regularly issues final decisions without giving the public an opportunity to even review the text that they're considering. I want you to think about that for a moment. They actually issue final decisions without giving the public an opportunity to review the text.

We don't operate that way in the House, at least not anymore. The transition team that Speaker BOEHNER asked me to chair after the last election adopted a requirement that people have time to read the bill. A 3-day layover provision's in place in this House now so that the public has a chance to read the bills, we have a chance to read the bills, the press corps in the gallery behind us has a chance to read the bills.

What's wrong with asking a Federal agency that writes regulations that affect one of the most dynamic industry in our Nation—what's wrong with asking them to make their text available? We do that in this legislation.

Let me tell you part of the problem here. Last October, the agency introduced more than 100 new documents into the record of its universal service proceeding in the last few days of public comment. Giving the public as few as 2 days to comment on thousands of pages of new data isn't right. These are some of the drafts of documents right here behind me in these binders. Can you imagine, in 2 days, you're supposed to evaluate everything there?

As the president and CEO of the Wireless Association said, there are other elements of H.R. 3309, such as the provision aimed at preventing data dumps—this we would call a data dump—right before an item goes on sunshine, that would represent significant improvement in the regulatory process. Sensible regulatory policies can contribute to the wireless industry's ability to continue serving as a catalyst for innovation, economic growth, and job creation.

So we're trying to get the commission not to do data dumps, to be more transparent. The bill would require the FCC to provide the public a minimum amount of time to review filings and

comment on proposed rules. It is your business, after all. The agency ought to let you have a chance to participate.

Now, unlike executive agencies, these are the ones under the direct command and control of the President of the United States. The FCC never assesses the costs and benefits of regulations. Not required to, so they don't do it always. They can, but they don't.

Now, President Obama issued an Executive order that required executive agencies to actually assess costs and benefits of every single regulation they issue. That's from the President of the United States. And his Executive order requires a more stringent test for major rules. These are the ones affecting the economy in the area of, like, $100 million.

The FCC is not one of those executive agencies. It does not have to follow what the President of the United States tells the other agencies to do because it's an independent agency. So everything the President's asking all the other agencies to do, in this legislation we're saying, FCC, you should do it as well.

Now, President Obama appointed a jobs council. How do we make America more competitive? How do we improve the processes that really drive economic growth?

That jobs council called on this Congress last year to require independent agencies like the Federal Communications Commission to actually conduct a cost-benefit analysis before putting more red tape on industry. Go find out what it's going to cost to do what you propose to do.

Now, I want to make it clear. We didn't require the FCC to do the more onerous test that the President requires. The bill is less onerous than his own Executive order because it takes a lighter touch regulation applied to all regulations and applies it to the FCC's major rules. So we ratchet it down.

We're not trying to overburden this agency, but if every other agency of the government can do a cost-benefit analysis and even do a higher, more sophisticated level, what's wrong with asking the Federal Communications Commission to do a light-touch review of costs and benefits?

And you'll hear arguments that this is all brand new stuff, that it's never been done before, can't be done. By golly, we're going to litigate for 15 years. The whole world's going to end.

Look, this uses language right out of President Obama's order. The bill requires for major rules ''a reasoned determination that the benefits of the adopted rule, or the amendment of an existing rule, justify its costs, recognizing that some benefits and costs are difficult to quantify.'' That's in our language. It's also in the President's language, taking into account alternative forms of regulation and the need to tailor regulation to impose the least burden on society, consistent with obtaining regulatory objectives.

□ 1540

Virtually all of that language I just read to you is what the President of the United States has put as a requirement on the Agencies over which he has direct control. We're saying the FCC is under our control as an independent Agency. We're sort of the mother ship for the FCC as the Congress. It's up to us to carry out these provisions. They're good public-policy changes.

The FCC has a substantial backlog that affects small businesses and consumers—4,984 petitions, 3,950 applications that are more than 2 years old. All across the country people have been asking the FCC to take actions, to solve things, to come to decisions. They do it in a clouded, behind-the-curtain sort of way. And you sit on the outside as the public trying to grow jobs, invest and innovate, and you wait. You wait.

Two years is a lifetime for an entrepreneur in the communications marketplace. My wife and I were small business owners for 22 years. We were broadcasters. We've been before the FCC. We're not in that business anymore, been out of it since December of '07. So this isn't about me, except I've witnessed what you have to deal with so I'm trying to fix it here. 1,083 consumer complaints are more than 2 years old. The FCC has done nothing on them.

The bill requires the FCC, therefore, to set shot clocks for decisions so the public will know when to expect an answer. We don't tell them the length of those shot clocks or how they should be done. We're just saying look at your workload and give the public a gauge of when you will reach a decision. You decide the decision. You decide how long those shot clocks will be because you know better in terms of the management flow of your workload what's appropriate, but set some timelines.

In recent years, the FCC has leveraged its authority to review transactions to accomplish unrelated policy goals and insulate its rulemakings from judicial review. Now, what does that mean? It does so through last-minute side deals with applicants that are often not disclosed until just a few days or even hours before the FCC approves a deal. One problem with these voluntary commitments is they're not voluntary.

If you're trying to get the FCC to approve your transfer of license, the FCC, in recent years, has used that approval authority to go way beyond any statutory authority they have to issue rules in an area and they hold you hostage. Outside of the portals, we'd call it extortion, probably. Because what they do is say, look, we only have authority here to decide on transferring your license, that's true. Yeah, we're looking at that. But we want you to go off here and agree to do all these other things—over which we have no authority to mandate that you do them. We could not do a rulemaking if we wanted to because we don't have the authority under the statute to do it. But, by the way—wink, nod, twist your arm—if you don't, and you don't call it voluntary, then you can probably kiss this merger good-bye.

I don't think that's an appropriate role for the Federal Government. Nobody in this Chamber should support that kind of activity; and yet if you oppose this bill, in effect you're supporting that activity.

Now, I know there are some companies out there who aren't real wild about this because they see this as an ability to affect their competitors. Because they say, oh, that's great, we'll twist them at the FCC and we'll force them to do things the FCC couldn't force them to do on their own absent a merger or condition outside of their regulatory and legal authorities, and we'll get a little edge in the market, we'll put our finger on the scale. That's what happens. That should stop.

Some argue we should not treat the FCC differently from other Agencies. Well, in effect, that's what's happening today. Every other Agency is being directed by the President of the United States to do these things we're directing it to do through this legislation. But because it is different, it is an independent Agency, none of what the President is suggesting can be applied to the independent Agency.

Now, they say, well, we're going to do this on our own. Well, they may. And, frankly, the chairman of the FCC right now, Julius Genachowski—I've spent a lot of time talking to him—he has done some really excellent reforms. But the day he leaves and a new chairman comes in, all those could be wiped out. I think this needs to be in statute so we have good processes and procedures going forward, regardless of who controls what around the FCC in the future.

The FCC does act differently. Now, the Federal Energy Regulatory Commission, known as FERC, is a similar independent Agency, but it doesn't operate this way. It actually puts the text of its proposed rules out for the public to see before it votes on it. It actually builds its case before it makes its decision.

We have an issue going on right now where I've asked the FCC to give me the document they actually voted on as part of this effort on the Universal Service Fund rewrite versus what came out the back end when they were finished weeks later: 751 pages of regulations. They won't give me documents. You see, it changed behind the curtain. They circulate it around in private. They edit it. They've issued their press release and said, here's what we're doing, and then they change it. And then you wait. So the public doesn't have a chance to see what they're actually considering until it's too late and it's final. I think that's wrong.

Both sides of the aisle are for institutional reform at the FCC. Former White House adviser Philip Weiser said

that the agency ''is in dire need of institutional reform.'' State commissioners have been calling for the reform of the FCC rulemaking process for years. In fact, the National Association of Regulatory Utility Commissioners—these are the people who are looking out for the ratepayers and the consumers; that is their job—endorses several provisions of this bill, including the actual language of the proposed rule be published for comment; specify a 60-day comment cycle; mandate that all commissioners have adequate time to review any draft decision before voting on it; and on and on. This is good, solid government reform legislation.

It does not protect the status quo. It does not say to the FCC, keep doing what you're doing, you're doing it great. Because some of us came here to change how the Federal Government operates in Washington to open up the process and make it more accountable and transparent. That's what this legislation does.

With that, I reserve the balance of my time.

Ms. ESHOO. Mr. Chairman, I rise in opposition to H.R. 3309.

Essentially, this bill guts the Federal Communications Commission, the FCC, by requiring new onerous process requirements which will result in an Agency that's less effective, less agile, and less transparent, the opposite direction, I think, of where we all want to go.

As ranking member of the Subcommittee on Communications and Technology, I want to thank the chairman for the work that he has done with us. He has always been very respectful, and the process I think has been a good one.

Democrats support modernizing the FCC because we want to enable the Agency to operate with increased openness and transparency, as I said. But, unfortunately, the bill doesn't accomplish these goals. Over the past year, our subcommittee has heard from countless industry representatives, administrative law experts, and public interest advocates; but there aren't any public interest advocates that support this bill, which I think in and of itself is instructive.

□ 1550

Amongst those experts the chairman mentioned is Phil Weiser, dean of the University of Colorado Law School, who is often cited and who has implied that adopting some of his proposed reforms is the way to go; but Dean Weiser tells us ''passing this law would be a grave mistake.''

Yet, despite the feedback of a bipartisan group of administrative law experts who suggested that this legislation could tie up the FCC in 15 years of litigation—that's a real job creator for lawyers—the House is going to vote today on this, on a bill which requires unique statutory mandates that apply only to the FCC, thus altering the way in which the FCC reviews transactions and exposing the Agency to new litigation risks.

H.R. 3309 mandates that the FCC undertake a cost-benefit analysis of any rule with ''economically significant impact.'' This requirement ignores the fact that the FCC already takes into account the impact of its rules on small businesses. Then to add insult to injury, the CBO estimates that, if enacted, H.R. 3309 would cost $26 million and require the agency to hire an additional 20 employees to handle the new rulemaking, reporting, and analysis activities required under the bill.

The chairman has said, well, it's a fee-driven agency. Fees from businesses? Fees from anywhere. It's still going to cost $26 million more and will add more to the bureaucracy that I think the majority really doesn't have much affection for. For nearly 80 years, the FCC has operated as an independent agency, responsible for regulating interstate and international communications by radio, television, wire, satellite, and cable. By most accounts, the FCC continues to innovate and implement reforms. The chairman was very gracious to outline what Chairman Genachowski has done under his leadership, including removing 120 obsolete regulations, drastically reducing the number of pending applications, and taking steps to increase transparency and stakeholder participation.

So, for all of these reasons, Mr. Chairman, I don't believe that H.R. 3309 is the solution, and that's why I am urging my colleagues to oppose this legislation even though there are some parts of it that I support. We need to ensure that the FCC's ability remains to protect consumers and to ensure a competitive marketplace in the years to come.

With that, I reserve the balance of my time.

Mr. WALDEN. Mr. Chairman, I now yield 2 minutes to the gentleman from Illinois, the original cosponsor of this legislation, Mr. KINZINGER.

Mr. KINZINGER of Illinois. Thank you, Mr. Chairman, and thank you for the time to speak on this very important piece of legislation.

Having the opportunity to help lead the effort in committee and now on the House floor to get FCC process reform passed is something I am passionate about because I feel that this legislation will make great strides towards improving the predictability, efficiency, and transparency of the FCC and its operations.

A common theme I've witnessed throughout my time here in Congress is that of bureaucrats coming up with solutions in search of problems. In terms of the FCC in particular, I feel that they sometimes do so without following a standard set of procedures, statutory law, or regulatory guidelines. I believe this can be seen in some of the recent mergers in which certain concessions have been extracted from the concerned parties in order to push the wills of those at the Commission. This is not the way to run what should be an open and transparent rulemaking process.

Government transparency is a major key to gaining the trust of the public, and this legislation will put into place some really commonsense reforms. Key among those is telling the FCC that they must publish the specific text of the proposed rules for all to see before the adoption of those rules. They must also allow enough time for the public to comment on those proposed rules so that their voices can also be heard.

I have seen that Chairman Genachowski has made some very good progress in implementing much of what is in this legislation, but the fact of the matter is that many of those efforts are done at his discretion and are no longer in place when he leaves. Statutory and regulatory authority should be what moves the decision-making process of the FCC, and I believe the efforts of this bill will put the FCC in line with the intent of Congress.

Ms. ESHOO. At this time, I yield 5 minutes to the ranking member of the full committee, the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman and my colleagues, today the House is taking up H.R. 3309, which the Republicans say is a modest proposal to make the Agency operate more efficiently. I could not disagree more strongly. This bill would not reform the FCC. It would disable it.

The bill erects procedural hurdles that make it more difficult for the FCC to protect consumers. It strips the FCC of its power to ensure that mergers between telecommunications companies are in the public interest. If this bill is enacted, it would stymie the ability of the Agency to do much of anything except to produce reports for Congress. Although I have many problems with the bill, I have three major concerns I want to highlight.

First, it creates a new set of procedures for the FCC. For more than 65 years, the Administrative Procedure Act has governed administrative agencies across the Federal Government. This bill creates a special procedural set of rules for the FCC alone. Let me give you an example.

The bill requires the FCC to include in every notice of proposed rulemaking the specific language of the proposed rule. Although this should be a best practice—and the Genachowski FCC does it 86 percent of the time—it makes no sense to strip the Agency of flexibility and require it to do it in every instance.

Just last week, the FCC adopted unanimously a notice of proposed rulemaking on interoperability requirements in the 700 megahertz spectrum. It did this without including the specific language of proposed rules. As Republican Commissioner Robert McDowell stated, it made sense to refrain from including draft rules because ''putting forth proposed rules at

this delicate stage may only distort the private sector's creative process.'' He added that the open-ended nature of the notice allows the Commission to ''elicit greater insight regarding the costs and technical feasibility of potential implementation.''

Administrative law experts have ridiculed the provisions of this bill. One said: ''Why would anyone want to tie the Agency up in knots like this and subject it to endless challenges?'' Another told us that industry lawyers would have a ''field day'' in challenging and in delaying FCC actions. Other experts told us it could take 15 years of litigation for the courts to clarify the meaning of the new requirements in the bill.

Even the Congressional Budget Office agrees that this bill would wrap the FCC up in red tape. According to CBO, the Agency ''would require 20 additional staff positions to handle the new rulemaking, reporting, and analysis activities required under the bill.''

Secondly, this legislation alters fundamentally the way in which the FCC reviews transactions to ensure that they are in the public interest. Under current law, the FCC is directed to protect the public interest when reviewing proposed mergers. This bill would curtail this authority significantly. The bill strips the FCC of its authority to require merger conditions that promote broadband adoption, require minimum broadband speeds, require the repatriation of jobs from overseas, or ensure broadband coverage in rural or low-income areas. Conditions to protect smaller companies from harm could also fall by the wayside.

This is not process reform but is a fundamental assault on the FCC's authority to protect the public interest.

Finally, H.R. 3309 gives telephone, cable, or wireless companies vast new tools to tie the Agency up in litigation for years if they don't like what the Agency is doing. It does this by making all the regulatory analyses that accompany a regulation subject to judicial review.

□ 1600

Well, if it's AT&T or Verizon or some other company that's subject to a regulation, they could sue the Agency on the grounds that the cost-benefit analysis was deficient or the analysis of the market failure was inadequate or the Agency failed to consider alternatives to regulation. These lawsuits, which no other Agency in government would face, could effectively paralyze the FCC.

The Acting CHAIR (Mr. SCHOCK). The time of the gentleman has expired.

Ms. ESHOO. I yield the gentleman an additional 15 seconds.

Mr. WAXMAN. Democrats want to work with House Republicans to develop bipartisan Federal communications policies to help our economy and the American public and to make sure the FCC is doing its job. But we can't do this when the only proposals that are brought to the House floor would turn the FCC watchdog into a lapdog for industry. We should stop wasting time on ideological fights and start cooperating together. Otherwise, this will be another House-passed bill that will not go anywhere in the other body, will not become law; and it is for good reason that it shouldn't.

Mr. WALDEN. Before I yield to the vice chairman of the subcommittee, I just want to make a couple of corrections here to at least explain things.

The Federal Communications Commission would still have the public interest standard that it has today to deny a transfer if it's not in the public interest. We don't take that away. We don't take that away.

And on interoperability, the ranking member talked about this interoperability standard the Commission is now taking up. Ironically, that actually was first raised as part of a request by some to include in the AT&T-Qualcomm merger. Instead, the Commission actually did the right thing. It, in effect, is doing a notice of inquiry. It says, Before we do draft rules, let's go out and survey the marketplace and find out what the issues are. Then the next logical step is to come back with a notice of proposed rulemaking, i.e., the draft rules. This is what we are suggesting occur as regular practice as a result of this legislation.

Now I would yield 2 minutes to the gentleman from Nebraska (Mr. TERRY), the distinguished vice chair of the subcommittee.

Mr. TERRY. I thank the chairman.

Mr. Chairman, may I submit that my friend, who just spoke on the other side, maybe was a victim of some poor staff work that took some liberties to revise and extend the real bill that we are debating here today because, frankly, the reforms here are fairly practical and necessary.

What this really does is puts into the process of developing rules some simple changes that we think are reasonably necessary, keeping in mind that transparency is the key. So, for example, let's take the recent USF reform rule that came out. I have been active in USF, Mr. Chairman, for several years trying to get some of these reforms done through Congress. It was taken up through the FCC process. I was anxious to see the proposed rule and was very disappointed when it was basically a rough outline of what turned out to be then passed. Then several days later, or weeks later, the full order came out, 750 pages.

Now, don't you think that if you are going to vote on a proposed rule that you would know what the rule says before you vote on it? It seems rather simple, and I would expect that people that are watching this debate would think that a bureaucracy issuing a proposed rule, that there would actually be a transcript of the rule. So we're just asking for simple things like that.

And last, during this proposed rule, there's a time for comment. And at the end of the comment period this last time—and this is why a shot clock is really necessary—the FCC then dumped volumes of documents that it said it was going to use as evidence in this process, giving people 48 hours.

The Acting CHAIR. The time of the gentleman has expired.

Mr. WALDEN. I yield the gentleman an additional 15 seconds.

Mr. TERRY. The only ones that are least disadvantaged by that are the biggest entities that have a houseful of lawyers that could go over it and read it. Rural Nebraska doesn't have the opportunity to do that and reply. So giving them sufficient time to review that just makes common sense.

Ms. ESHOO. Mr. Chairman, earlier the chairman of the subcommittee said that the bill doesn't change the public interest standard for reviewing mergers. That simply is not the case. The bill does change it. It alters the ability of the FCC to impose conditions for the public interest, which is a very serious issue.

I would now like to yield 3 minutes to the gentleman from Michigan (Mr. DINGELL), the chairman emeritus of the Energy and Commerce Committee and dean of the House of Representatives.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, I will begin by praising my good friend, the chairman of the subcommittee. It is just that he has brought us a bad piece of legislation. It should be rejected instantly by the House of Representatives because it does nothing to help anything. I refer to the Federal Communications Commission Process Reform Act, which it is not.

Time and time again, we Democrats accuse our Republican colleagues of passing bills that are in search of problems. I would like to say that this is the same. But worse than that, I can say that we have before us a bill that is a prime example of trying to cure the disease and kill the patient at the same time.

In point of fact, H.R. 3309 would take the FCC entirely out of the Administrative Procedure Act and make it subject to a unique set of procedural requirements totally understood by no one. And there will have to be a bunch of lawyers hired, as the gentleman from Nebraska has pointed out, because they're sure going to need them to understand what has been done.

Everybody in this Chamber should have real fears about turning over 60 years of solid administrative jurisprudence and standing it on its head and how that will bring about disastrous results not only to the Commission but to all of the entities regulated by that body, because nobody is going to understand what this has done.

Mr. Chairman, Charles James Fox wrote something called the ''India Resolution'' in 1783. It goes as follows: ''Resolved, that we have seen your work, and it will not do.'' H.R. 3309 evokes the same sorry sentiment.

My friends on the other side of the aisle like reminding me that no Democrat has been a bigger critic of the FCC than I have. They're right. But that doesn't necessarily mean that I agree with what they've proposed to do in H.R. 3309. Instead of passing a bad bill which they don't understand, on which no adequate hearings have been held, and on which the industry is scared to death, we should get down to the business of having decent proceedings in which we would go into this matter thoroughly as a matter of oversight, to compel the Commission to come forward to address the question of their accountability, of their transparency, and of their regulatory consistency.

This Commerce Committee has skinned many cats in my days with that authority, and by the great horn spoon, we could do it again. But we shouldn't come on the floor waving a silly bill like this around which is going to do nothing to benefit society and which the committee doesn't understand and cannot explain.

Now, if I have got any time left, I will yield to my friend from Oregon.

The Acting CHAIR. The time of the gentleman has expired.

Mr. WALDEN. If the gentleman would yield, the only comment I would make is, we did have hearings on this legislation.

Mr. DINGELL. Of course, but they didn't relate to the matters that you have brought before the House at this time. You can't explain what's in this bill, and nobody here knows what it does.

□ 1610

Mr. WALDEN. We can easily explain the bill. We know what's in it. We've had a lot of work on it. We've done public hearings. We've listened to people. We've modified it to accommodate some of the great suggestions we have. We have bipartisan pieces in this bill. And the Commission still has the authority to deny transfers of broadcast license. They just can't go outside of their statutory authority to promulgate rules and kind of grab other issues and force people to do things that they couldn't do under their statutory authority.

I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY of Georgia. Mr. Chairman, I rise in strong support of H.R. 3309, the FCC Process Reform Act, and I would like to take a moment to commend Communications and Technology Subcommittee Chairman GREG WALDEN for his leadership on this legislation and his diligent work in moving it through regular order.

Among the many reasons that it is necessary to make statutory reforms at the FCC, I would like to speak to one particular aspect of this legislation that I think is critically important to improving the way in which the FCC operates.

H.R. 3309 will require the FCC to establish shot clocks to set timelines to compel the Commission to act. Under current law, where shot clocks are not compulsory, inconsistencies at the FCC continue to plague the telecommunications industry and have placed unnecessary burdens on our job creators. For example, there's an Atlanta-based company by the name of Cbeyond that specializes in providing IT and communications services to small businesses across the country. They employ, Mr. Chairman, approximately 1,600 people, and like many employers within the industry, they're forced to wait on the whims of the FCC. Unfortunately, many case proceedings linger for years with no resolution, and this stifles growth for companies within the telecommunications industry.

Just over 2 years ago, I, along with our former colleague and now Governor of Georgia, Nathan Deal, sent a letter to the FCC asking that they look closely at broadband infrastructure initiatives that would bolster one of our greatest assets for economic recovery—small businesses. In that letter we referenced a petition filed in November of 2009 that is now part of an FCC proceeding commonly referred to as the Business Broadband Docket, which is a proceeding focused on broadband infrastructure used to serve small businesses. Mr. Chairman, both the petition and the Business Broadband Docket remain pending at the FCC—not only with no resolution, but also no movement toward any conclusion.

This behavior by the FCC is unacceptable and has occurred under both Democrats and Republicans. This anecdote highlights the need for a shot clock placed on the FCC. Not only do these shot clocks need to be established, but they also need to be honored. This alone will make the FCC work in a more efficient manner by creating more regulatory certainty in the telecommunications industry.

I urge all of my colleagues to support establishing a shot clock at the FCC and support H.R. 3309.

CONGRESS OF THE UNITED STATES,
Washington, DC, February 16, 2010.

JULIUS GENACHOWSKI,
Federal Communications Commission, 12th Street, SW., Washington, DC.

DEAR CHAIRMAN GENACHOWSKI, As you know, the American Recovery and Reinvestment Act requires the FCC to develop a national plan to ensure that all Americans have access to broadband and the FCC must deliver its plan to Congress by March 17, 2010. The plan also must provide a strategy for achieving maximum utilization of broadband infrastructure and greater affordability of the service for all Americans.

As our country grapples with the worst unemployment numbers we have faced in decades, it is critical that we do all we can to assist small businesses, the driving force of our economy. Yet continuing to add to the deficit is not the solution. The proposal Mr. Geiger outlines in the attached Opinion Editorial would not require any additional federal spending, and incumbent local exchange carriers would be permitted to provide access to competitors at retail rate.

This proposal would allow telecom innovators to gain access to the bandwidth necessary to push efficiency-enhancing, cloud-based applications to small businesses, applications such as virtualized desktops, hosted digital image and file management, high-resolution video conferencing, broadcast/live video streaming, robust data protection, cloud-based backup, and sophisticated video security systems. These advanced applications would lower start-up costs for small businesses and enable them to implement their business plans, innovate and create jobs. At the same time, the incumbent local exchange carriers would sell more bandwidth at the same prices as they sell to any other customer.

The National Broadband Plan presents an opportunity for the FCC to bolster one of our nation's greatest assets for economic recovery—small business. As members of the House Energy and Commerce Committee which has jurisdiction over this issue, we are hopeful that the FCC's National Broadband Plan will include broadband initiatives which will specifically address the broadband needs of our small business community.

Sincerely,

NATHAN DEAL,
Member of Congress.
PHIL GINGREY,
Member of Congress.

[From the Atlanta Journal-Constitution, Dec. 20, 2009]

OPINION: A CASHLESS STIMULUS FOR SMALL BUSINESS

(By Jim Geiger)

With the unemployment rate hovering around 10 percent and our economy still mired in recession, we need our small business innovators and job creators now more than ever. Yet another round of fiscal stimulus shouldn't be the only option, particularly when recent polls indicate many Americans are growing increasingly wary of adding more to the deficit and our national debt.

So what else can the Obama administration do to help small businesses? Simple: the government can quickly adopt a few sensible rule changes that will unlock the job-creating potential of broadband businesses and drive market-based investment in innovative technology. Call it a ''cashless stimulus.''

The problem is that small businesses lack access to the most effective telecommunications applications—those used routinely used by larger firms. Why? The existing regulatory structure allows the big phone companies to preserve market share by denying competitors access to fairly priced bandwidth. The result is that the companies best able to build the innovative applications small businesses need to grow and compete are unable to access the bandwidth necessary to deliver those applications.

I should know: my company, Cbeyond, provides broadband applications exclusively to small businesses. Back in 1996, Congress enacted far-sighted legislation that promoted competition in the telecom markets, and that action drove years of investment, innovation and growth across our industry. New competitors introduced small businesses to innovative technologies that the Bell providers had deliberately delayed deploying for fear of undermining the monopoly profits they made from slower, older technologies.

But the age of innovation and investment in broadband technology ended several years ago. The Bush administration adopted rules that had the perverse effect of locking small businesses into the broadband status quo of six years ago, undercutting the normal business cycle of innovation and denying small businesses benefits they should have received as broadband technology improved. These rules leave the rollout of the best broadband technologies almost exclusively

to the large enterprise customers; telecom competitors—the companies that were once the catalysts of innovation—are left trying to serve small businesses, the jobs engine of our economy, with antiquated technology.

For example, because the Bells hoard the bandwidth they control, small businesses cannot hope to match large enterprises in the emerging field of cloud computing. Nor do current FCC rules allow small businesses the efficiencies and cost-savings of high-resolution video conferencing, highly secure data protection and sophisticated video security systems.

Broadband applications like these don't get delivered to small businesses because the most innovative competitors are denied access to the bandwidth necessary to support them. Small businesses have no choice but to try to use 20th century business tools to create new jobs in a 21st century global marketplace.

This is not a minor issue. Small businesses inject almost a trillion dollars into the economy each year. They have created more than 93 percent of all new jobs over the last twenty years and employ more than half of the U.S. workforce. They also employ 41 percent of the nation's high-tech workers who generate about thirteen times more patents per employee than do workers at large firms.

Hence the opportunity for the administration to adopt a ''cashless stimulus'': the FCC can fix this problem simply and almost without cost. The FCC should require the Bell monopolies to sell—at retail prices—the bandwidth necessary for competitors like Cbeyond to provide next generation broadband applications to small businesses.

With new broadband rules in place, services like cloud computing could replace high-end desktop computers. Small businesses could look to carriers for affordable, offsite data security instead of paying more for on-site services. Reliance on expensive and inefficient travel for in-person meetings would give way to high-resolution video conferencing. Start-up costs for small businesses would fall as the hardware necessary for running their operations moved off the business premise and into the cloud. The list goes on and on.

It's time we took advantage of the one approach to economic recovery that doesn't come with a long-term economic cost.

Ms. ESHOO. Mr. Chairman, I would like to inquire how much time we have remaining.

The Acting CHAIR (Mr. YODER). The gentlewoman from California has 17¼ minutes remaining. The gentleman from Oregon has 9¼ minutes remaining.

Ms. ESHOO. Thank you.

At this time, I yield 4 minutes to a very distinguished and valued member of the subcommittee, Mr. DOYLE of Pennsylvania.

Mr. DOYLE. Thank you to my colleague and friend, ANNA ESHOO, the ranking member of the Communications and Technology Subcommittee, for yielding.

Mr. Chairman, I rise today in opposition to H.R. 3309, the FCC Process Reform Act. This legislation would place severe procedural burdens on the FCC at a time when telecommunications is such a major part of the lives of my constituents and the American public. H.R. 3309 would create harmful restrictions on the FCC's ability to enact consumer protections, and it could also limit the Agency's ability to respond to communications-related emergencies and cybersecurity threats.

One of the restrictions imposed by H.R. 3309 is a requirement that the FCC issue a Notice of Inquiry before the Agency begins work on an actual rulemaking unless the FCC can demonstrate that a Notice of Inquiry is not necessary. A Notice of Inquiry, Mr. Chairman, is basically an information-gathering exercise that lets the public know about the FCC's intention to examine an issue and collects initial comments from stakeholders. While in many cases a Notice of Inquiry is a very important part of the FCC's rulemaking process, a congressional mandate to conduct a Notice of Inquiry in every FCC proceeding would be an enormous procedural burden for the Agency.

Mr. Chairman, I'm concerned that the potential impacts of this legislation have not been fully considered.

If I could, I would like to share just one example of the harmful potential consequences this legislation would have, even for bipartisan goals.

Last year, Congress enacted a bill that I authored to create more community-run radio stations around the country. This bill was broadly supported by both sides of the aisle because so many of our constituents will benefit from more news reporting on local issues and emergency responses. The FCC is currently implementing that law and expects to open a window for radio station licensing sometime next year. But provisions in H.R. 3309, such as the requirement for a Notice of Inquiry, could slow down the implementation of this law and many other rulemakings by several years by adding procedural hurdles for the Agency to jump through before it can implement rules.

In the case of my legislation, the FCC would have to delay its licensing window because of an unnecessary Notice of Inquiry, forcing communities to wait longer to get their new radio stations. I think most people would find this kind of delay very frustrating. And this is just one example, Mr. Chairman. In the case of more contentious policy issues, this bill would create years, maybe decades of deadlock at the FCC.

Mr. Chairman, we don't have to look very far this week to witness that our Nation's laws and regulations are already been extensively litigated in the court. This legislation would open up the FCC's process to even further litigation, and it would severely limit the FCC's ability to protect consumers and create new rules.

I urge my colleagues to oppose this bill.

Mr. WALDEN. Mr. Chairman, before I yield to my colleague from New Hampshire, I just want to point out that we're not quite understanding the bill here on the other side because we do allow the FCC to maintain flexibility where necessary. The bill only requires the Notice of Inquiry on new rulemakings. The requirement does not apply to deregulatory rulemakings. And the FCC may waive the Notice of Inquiry in emergencies or where conducting both a Notice of Inquiry and a Notice of Proposed Rulemaking would be unfeasible.

So we tried to put some balance in here. But what's wrong with having the FCC, even in that case as raised by Mr. DOYLE, take 60 days? They can decide how long this is and go out survey the market and say what effect and what are the issues and then come back and then they write their rules. It's like us having a hearing. This isn't a burdensome requirement.

I yield 1 minute to the gentleman from New Hampshire (Mr. BASS).

Mr. BASS of New Hampshire. Mr. Chairman, I thank the gentleman from Oregon for yielding to me. He's a cosponsor of this legislation. I'm pleased that the House is considering it. It's important to reform procedures at the FCC.

H.R. 3309 will improve the transparency, fairness, and consistency of this regulatory agency with oversight over telecommunications and technology and will provide certainty to these markets that are so critical to our Nation's economic recovery and growth. Indeed, over the past 8 years, landline, wireless, and cable providers have vested more than half a trillion dollars in broadband infrastructure. This investment has created countless jobs for our Nation and has positively affected our economy many times over.

H.R. 3309 contains the commonsense and nonpartisan thrust of ensuring transparency and accountability of unelected bureaucrats by applying the regulatory reform principles endorsed by the President's own January, 2011 Executive order.

Establishing clear timeframes for requiring the FCC to perform a cost benefit analysis before implementing new regulations will provide our Nation's small businesses and innovators with the regulatory certainty necessary to invest and create new jobs.

I urge passage of this important legislation.

Ms. ESHOO. At this time, I yield 3 minutes to the man that I call Mr. Telecommunications, the real expert in the House of Representatives, the gentleman from Massachusetts (Mr. MARKEY).

□ 1620

Mr. MARKEY. I thank the gentlelady so much.

I think all of us on the Democratic side would agree that if there were a way to streamline and strengthen the FCC's procedures, and if we could find a way to improve the way in which it carries out its duties, well, we would support that. However, the aim of the Republican legislation is not to streamline the Federal Communications Commission; it is to straitjacket the Federal Communications Commission. This is a bill which would severely restrict the Commission's ability to operate effectively.

If this bill becomes law, then the ''FCC'' would stand for ''Fully Constrained Commission''; and that, ladies and gentlemen, is the goal of the Republicans in this legislation. It would establish a separate administrative process to govern the FCC's internal operations that would be different from and more cumbersome than any other Agency's in the entire Federal Government, without producing any policy benefits.

Now, we know who supports the bill. AT&T, big companies, they support this legislation. We also know who opposes this legislation. Every consumer group and every public interest group in the country says this is a particularly bad bill from a public interest perspective. But if you're AT&T, if you're a big company, you'll love this. This is going to tie the Commission in knots. You can continue to do whatever you feel like doing indefinitely because the Republicans have decided to create the most cumbersome—the most cumbersome—regulatory process of any Agency in this country.

They're a model. They're pioneers here, the Republicans out here on the floor. They want to create the most modern ''redtape, tie them in knots'' agency possible with the hopes that other Federal Agencies would wind up emulating them. And it's going to be the first jobs bill that the Republicans have passed so far in this Congress because this bill is going to create so many jobs for lobbyists, so many jobs for lawyers, and so many jobs for all of the people who are now going to be put to work trying to untangle and untie this mess of a bill of a regulatory Agency that is going to be created by this process.

So, ladies and gentlemen, this bill takes the public interest standard, the public benefits that have always been the test of whether or not the Agency can, in fact, make a decision that ensures that the interests of all Americans are being protected, and turns it into something which is going to wind up with a harmful, drastic departure from current law.

This bill is a wolf in sheep's clothing. Vote ''no.''

Mr. WALDEN. Mr. Chairman, I've never heard a finer defense of a broken bureaucratic process than I've just heard.

Let me point out that the National Association of Regulatory Utility Commissioners—now, these are the folks who stand up for consumers and ratepayers—again, support many of the proposals in this bill. Specifically, they point out that the minimum 60-day comment cycle is good, the mandate that all commissioners have adequate time to review any draft decision before voting on it is good, and to require the actual language of a proposed rule to be published for comment is a good idea.

Again, the President's own Executive orders ask for these things in many cases to be done to the other Agencies, but he can't do it to this one. It's our job to do it here and to fix, reform, and drive for accountability and transparency against those who defend the bureaucracy as broken as it is.

I now yield 3 minutes to the gentlewoman from Tennessee, an extraordinary member of our subcommittee, Mrs. BLACKBURN.

Mrs. BLACKBURN. I thank the gentleman for yielding.

I find it so interesting, as we are here debating this bill, that this is only a 21-page bill. And I don't find, Mr. Chairman, in this bill, I don't find the words ''constrained'' and ''straitjacket'' anywhere. It does not exist in this bill. And as I've heard my colleagues talk about this bill, I think that they have not read the bill. So, unlike the 2,300-page bill that is being debated at the Supreme Court across the street, I would encourage them to pick up this little 21-page bill and give it a read.

I've also found it very interesting: the White House and this administration like to say transparency is the cornerstone of their administration, but I have seen them going to just extreme lengths, it seems, the White House and the Senate, to block bringing this process reform bill forward.

Yesterday, the White House released its Statement of Administration Policy, saying, and I'm quoting: ''It is generally recognized that the FCC has improved its practices and procedures to make it more effective.''

But the truth is, in the last 50 years, what we have seen is that their rules and regulations, their impact, their footprint, has grown 800 percent—not doubled, not a little bit a year, 800 percent. That is why we need this bill, and I commend the chairman for bringing the bill forward.

Let me tell you a few things that this bill does. I think that they are common sense. It would do a few things like allowing more time for public comments.

Well, my constituents want more time to weigh in on these issues. As they find out about these issues, more time is a very good thing. Measuring the Agency's performance with scorecards, our children have report cards. Knowing where you are and what you're doing and what kind of goal you're trying to reach, that is very healthy. That is a good thing.

Making sure the Agency doesn't attach extraneous regulations and conditions on business transactions, we're talking about jobs and the effect of regulation on jobs. It is such a positive thing to pull back regulation and free up free enterprise. That is what we should be about is making certain that we can move forward on these issues.

Requiring the Agency to do cost-benefit analysis for rules that cost more than $100 million, well, how about that? Cost-benefit analysis. Is a rule going to be worth the cost? Is it going to be worth the effort, or is it going to be too expensive to afford?

My goodness, we've had all sorts of things that they're too big to fail and too expensive to afford, so let's certainly make sure that we are evaluating these rules before they get put onto the books and before they have force of law. Let's make certain that we pass this reform bill.

Ms. ESHOO. At this time, Mr. Chairman, I would like to yield 2 minutes to the gentleman from Vermont (Mr. WELCH).

Mr. WELCH. This is a bad bill. H.R. 3309 would create a special set of very vague and unique procedural hurdles for the FCC that apply to no other Agency. It will result in decades of litigation.

We have to have simplicity, and we have to have clarity. This legislation will open up the floodgates of confusion.

It significantly reduces the FCC's ability to take the public into account, and that is the fundamental interest that should be on the minds of this Congress.

It provides endless routes for potentially misguided litigation making every single one of the FCC's regulatory analyses in support of a new rule, not just the rule itself, subject to judicial review. There's going to be regulation or not regulation. This legislation means there's endless litigation.

These requirements would also amend the Communications Act to mandate how the Agency should operate internally, with detailed requirements for the most basic regulatory actions such as specific timelines associated with notice-and-comment rulemaking procedures. This is Congress micromanaging.

Mr. Chairman, I urge the Congress to defeat this legislation.

Mr. WALDEN. May I inquire as to the time remaining on each side?

The Acting CHAIR. The gentleman from Oregon has 3¾ minutes remaining, and the gentlewoman from California has 9½ minutes remaining.

Mr. WALDEN. I yield 2 minutes to the gentleman from Texas, the distinguished former chairman of the committee, my friend, Mr. BARTON.

(Mr. BARTON asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. I thank the distinguished subcommittee chairman.

Texas Congressmen don't often quote Shakespeare, but I'm going to attempt it. There's a line in Hamlet that goes something to the effect: Methinks the lady doth protest too much.

□ 1630

And my friends on the Democratic side of the aisle seem to be protesting too much. It's a very modest bill, 20-something pages in length. It's basically a good government bill.

The bill basically says that the FCC, before they issue a rule, they've got to actually put it out for public comment for at least 30 days. Then once they formalize it, they have to let people have another 30 days to comment on what they actually are proposing.

Subcommittee Chairman WALDEN circulated a draft bill. To my knowledge, he circulated it to the entire committee and to the industry and the stakeholders. I know in my case I had a few modest suggestions that were incorporated in the bill. Then when it went to subcommittee, I offered an amendment that was accepted.

He did the same process at full committee.

It came to the Rules Committee. I'm told that there were 10 amendments that had been made in order, with eight of those by my friends on the Democratic side of the aisle. We'll have that debate and the vote on those later today or tomorrow.

So here you have a very modest bill with good government transparency reporting that brings the FCC into the 21st century on how to do business, and you would think that we're going back to the dark ages. Nothing could be further from the truth.

I'm in very strong support of the process, which is important, and also the policy and the legislation that has resulted from it. I would hope that on a bipartisan basis, at the appropriate time, we vote in the affirmative on H.R. 3309.

It's a good piece of legislation. It can pass the Senate. It can be signed by the President, and it should be.

Ms. ESHOO. Mr. Chairman, I would like to use some of our remaining time on this side to respond to several points that have been raised by my colleagues on the other side of the aisle.

First, while the majority argues that H.R. 3309 is only a ''light touch'' in making sure that the FCC follows the Obama Executive order on cost-benefit analysis, they failed to mention that such cost-benefit review is not judicially reviewable. That's a very important fact here.

The Executive order states that it's ''not intended to and does not create any right or benefit, substantive or procedural, enforceable, at law, or in equity by any party against the United States.''

H.R. 3309, therefore, would create another avenue for appeal and litigation by corporate interests that oppose the FCC's efforts to take actions in the public interest, and no other Federal Agency would be subjected to such challenges. That's number one. That speaks to, I think, the public interest which, I think, is at the heart of what the FCC's responsibilities are.

Second, Mr. GINGREY mentioned the shot clocks. There are 73 types of proceedings the FCC must consider, and each item can be, as we all know and anyone that is tuned in and listening to this knows, can be very complex. No wonder CBO estimated that H.R. 3309 would require the hiring of 20 additional employees.

Thirdly, as the majority placed in the RECORD those that support the bill—even Mr. MARKEY spoke of some of the large telecommunication companies—I think it's important to set down for the record who opposes the bill and what they have to say about it.

Bruce Gottlieb in the National Journal:

> Layering new procedural requirements on top of existing ones would effectively halt the creation of nearly any contentious new FCC rules—in other words, achieve a result more or less like what Texas Governor Rick Perry had in mind for the Commerce and Education Departments.

Susan Crawford in Wired Magazine:

> Although the bill's proponents say they aim to make things work more quickly at the FCC, the legislation will have the opposite effect: it will make it very difficult for the FCC to deal with any of the real-time telecom problems the country faces. What the Republicans seem to want, at bottom, is to grant the giant companies that sell us basic communications capacity—an essential utility for the 21st century—the ability to throw sand in the works at every opportunity.

From Philip Weiser, the dean at the University of Colorado Law School:

> I am against passing this bill, which would give rise to unfortunate and unintended consequences that would undermine the FCC's future effectiveness without providing any real benefits.

From the Consumers Union:

> The bill would require the FCC to adopt rules as long as they do not impose an additional burden on industry. The bill limits the FCC's ability to consider the public interest and protect consumers when considering mergers.

Mr. Chairman, this is no small item.

Then the Public Interest Groups Coalition letter of February 9 of this year:

> These bills would severely hinder the FCC's ability to carry out its congressional mandate to promote competition, innovation, and the availability of communication services.

With that, Mr. Chairman, I would like to inquire how much time we have left on our side.

The Acting CHAIR. The gentlewoman from California has 5½ minutes remaining.

Ms. ESHOO. I will reserve that time.

Mr. WALDEN. Given the limited amount of time we have, I will reserve as well.

Ms. ESHOO. I yield back the balance of my time, Mr. Chairman, as I don't have anymore speakers on the legislation.

Mr. WALDEN. Mr. Chairman, I yield myself the balance of my time.

The Acting CHAIR. The gentleman from Oregon is recognized for 1¾ minutes.

Mr. WALDEN. I thank the Chairman.

I appreciate the debate we've had today. I think it's been helpful. It hasn't always been enlightening, but it's been helpful.

Again, I would point out that the National Association of Regulatory Utility Commissioners praises what we're doing in this bill and the points of requiring actual language to be available for people to see.

All we're doing here is telling the FCC to operate like these other Agencies have been asked to operate by the President's jobs council and by the President's Executive order, but do so in a public and transparent way so that those who have business before the Commission know what the Commission is going to vote on before it votes or rewrites it and then puts it out later. Go out and survey the marketplace, decide if there's a harm, do a notice of inquiry, and get input like we do in hearings here, Mr. Chairman, and then propose rules and put those texts out there of those rules and let the public see.

The great defenders of the bureaucracy, my friends, some of them on the other side of the aisle, say, Oh, you can't change anything in Washington.

That's what we've heard for 40 years. Some of us came here to change Washington for the better. We did it when we changed the rules of the House at the beginning of this session to make our procedures more open and transparent.

My friends on the other side of the aisle were part of the effort that crammed a 2,000-page bill through here with no amendments allowed on the floor, one of which is being argued today across the street at the Supreme Court. The Republicans were denied the opportunity to offer a single amendment on the health care takeover bill on the House floor. They were denied every single amendment when these bills would come to the floor at thousands of pages. We've changed how the House operates so that can't happen again.

This bill is here under a modified open rule. The minority has 10 amendments on the floor. We had open markups in subcommittee and full committee.

What we're saying is we are here as Republicans to change Washington for the better. This bill does that. I urge your support.

I yield back the balance of my time.

Mr. GENE GREEN of Texas. Mr. Chair, I rise in opposition to this bill. That is not to say that I am pleased with how this FCC has conducted its business.

It has been slow and evasive when responding to inquiries from myself and my colleagues on important matters pending before the Commission.

It has taken an activist approach to regulating, as we saw with their network neutrality proceeding.

It wrongly squelched a merger that stopped an American company from acquiring a foreign owned competitor and then released proprietary and confidential information in what appeared to be an effort to salt the earth for any future attempts at a similar deal and influence the proceeding at the DOJ. This has set a troubling precedent.

Not everything that this FCC has done is bad. While I opposed the Comcast/NBC merger, I am appreciative that the FCC had the latitude to impose conditions. For instance, my constituents will benefit from the conditions aimed to preserve localism and diversity. It included an additional 1,000 hours annually of locally produced news and information to be aired by NBC's and Telemundo's owned and operated stations, as well as quarterly reports

from Comcast-NBCU detailing the number, nature, and duration of these additional local news and information programs. This condition would not be possible under H.R. 3309.

I believe the FCC plays an important role; it is a necessary agency and can foster innovation and economic growth. But we have seen again and again a pattern of overreach, of regulatory strong arming, and aggressive actions aimed at achieving an agenda, rather than implementing the laws passed by Congress.

The FCC process is in need of reform, but the Republican proposal before us today is not the answer.

Mr. WAXMAN. Mr. Chair, I urge support for the amendment offered by Representative ESHOO.

This is a straightforward amendment that will encourage transparency by requiring entities sponsoring political advertising to disclose the identity of any donors that have contributed $10,000 or more to such entity over a 2-year election reporting period.

Notably, this amendment applies equally to broadcasters, cable providers, and satellite providers, and it does nothing more than update what is required to be placed in the political file.

Based on concerns raised by members of the committee at markup, Ms. ESHOO modified the amendment to make it explicit that broadcasters as well as cable and satellite providers will not be held liable for any inaccuracies in the information provided under this amendment.

Today, FCC rules require broadcasters, cable providers, and satellite providers to maintain and make available for public inspection requests to purchase airtime related to political advertising.

There is no requirement, however, to disclose who actually pays for such advertisements. Rather, the file simply needs to contain the name of the person or entity requesting such airtime.

As a result, it is easy to see how viewers might be confused about who is actually financing the advertisements they see and hear every day. Mild sounding names like ''Taxpayers Against Something'' can hide the fact that the advertisement is actually being funded by a corporation or a limited group of wealthy individuals.

Political ads can have a great impact on the outcome of an election because the broadcast medium has the ability to reach vast numbers of citizens. This amendment simply recognizes the incredible impact such advertising can have on the outcome of an election.

I think we can all agree that $10,000 indicates a significant commitment of resources, and the public should be made aware of who is paying such sums and for what.

Mr. Chair, this amendment has broad support from numerous organizations that advocate on transparency issues like this, including the Campaign Legal Center, Citizens for Responsibility and Ethics in Government, Common Cause, Democracy 21, the League of Women Voters, Public Citizen, and the Sunlight Foundation.

I urge a yes vote on the this important amendment.

Mr. VAN HOLLEN. Mr. Chair, I rise in opposition to H.R. 3309, the FCC Process Reform Act. Although the bill's proponents say the legislation is drafted to make the FCC operate more quickly and efficiently, I believe the bill will have the opposite effect.

On the surface H.R. 3309 appears innocuous—directing the FCC to do what it already does: analyze the potential harm its rulemaking might have on markets, public institutions and consumers. The problem is that under this bill, FCC procedure would change to require it to formally file its analysis before issuing its ruling. That analysis would be subject to unending litigation and the additional level of procedure will significantly impair the FCC's flexibility to respond in real-time to challenges and expose the FCC to unnecessarily burdensome litigation. This change would hurt companies and consumers alike.

If this bill becomes law, all of the FCC's rulemaldng will be subjected to judicial review. Corporations seeking to avoid oversight would have new grounds to sue the FCC just because they disagree with the agency's reasoning. The FCC could be tied up in litigation for years debating whether a cost-benefit-analysis they did was thorough enough or whether sufficient regard was paid to the potential impact of a rule on company's share of the marketplace. One expert said that it could take 15 years just for the courts to clarify the meaning of the provisions in the bill.

Additionally, the bill impedes the FCC's ability to accept publicly beneficial commitments made by transacting parties during a merger. For example, if two large internet service providers wanted to merge and promised to provide increased access to low-income consumers in order to address FCC concerns about under-served areas, under the bill, the FCC could not accept that commitment.

Mr. Chair, I oppose this bill because by introducing new and unnecessary procedures into the FCC's process, the legislation will limit the FCC's ability to exercise its statutory duty to safeguard the public interest. And, if this bill becomes law, the FCC would be reduced to little more than a reporting agency for Congress.

The Acting CHAIR. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce, printed in the bill, shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Communications Commission Process Reform Act of 2012''.

SEC. 2. FCC PROCESS REFORM.

(a) IN GENERAL.—Title I of the Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by inserting after section 12 the following new section:

''SEC. 13. TRANSPARENCY AND EFFICIENCY.

''(a) RULEMAKING REQUIREMENTS.—

''(1) REQUIREMENTS FOR NOTICES OF PROPOSED RULEMAKING.—The Commission may not issue a notice of proposed rulemaking unless the Commission provides for a period of not less than 30 days for the submission of comments and an additional period of not less than 30 days for the submission of reply comments on such notice and the Commission includes in such notice the following:

''(A) Either—

''(i) an identification of—

''(I) a notice of inquiry, a prior notice of proposed rulemaking, or a notice on a petition for rulemaking issued by the Commission during the 3-year period preceding the issuance of the notice of proposed rulemaking concerned and of which such notice is a logical outgrowth; or

''(II) an order of a court reviewing action by the Commission or otherwise directing the Commission to act that was issued by the court during the 3-year period preceding the issuance of the notice of proposed rulemaking concerned and in response to which such notice is being issued; or

''(ii) a finding (together with a brief statement of reasons therefor)—

''(I) that the proposed rule or the proposed amendment of an existing rule will not impose additional burdens on industry or consumers; or

''(II) for good cause, that a notice of inquiry is impracticable, unnecessary, or contrary to the public interest.

''(B) The specific language of the proposed rule or the proposed amendment of an existing rule.

''(C) In the case of a proposal to create a program activity, proposed performance measures for evaluating the effectiveness of the program activity.

''(D) In the case of a proposal to substantially change a program activity—

''(i) proposed performance measures for evaluating the effectiveness of the program activity as proposed to be changed; or

''(ii) a proposed finding that existing performance measures will effectively evaluate the program activity as proposed to be changed.

''(2) REQUIREMENTS FOR RULES.—Except as provided in the 3rd sentence of section 553(b) of title 5, United States Code, the Commission may not adopt or amend a rule unless—

''(A) the specific language of the adopted rule or the amendment of an existing rule is a logical outgrowth of the specific language of a proposed rule or a proposed amendment of an existing rule included in a notice of proposed rulemaking, as described in subparagraph (B) of paragraph (1);

''(B) such notice of proposed rulemaking—

''(i) was issued in compliance with such paragraph and during the 3-year period preceding the adoption of the rule or the amendment of an existing rule; and

''(ii) is identified in the order making the adoption or amendment;

''(C) in the case of the adoption of a rule or the amendment of an existing rule that may have an economically significant impact, the order contains—

''(i) an identification and analysis of the specific market failure, actual consumer harm, burden of existing regulation, or failure of public institutions that warrants the adoption or amendment; and

''(ii) a reasoned determination that the benefits of the adopted rule or the amendment of an existing rule justify its costs (recognizing that some benefits and costs are difficult to quantify), taking into account alternative forms of regulation and the need to tailor regulation to impose the least burden on society, consistent with obtaining regulatory objectives;

''(D) in the case of the adoption of a rule or the amendment of an existing rule that creates a program activity, the order contains performance measures for evaluating the effectiveness of the program activity; and

''(E) in the case of the adoption of a rule or the amendment of an existing rule that substantially changes a program activity, the order contains—

''(i) performance measures for evaluating the effectiveness of the program activity as changed; or

''(ii) a finding that existing performance measures will effectively evaluate the program activity as changed.

''(3) DATA FOR PERFORMANCE MEASURES.—The Commission shall develop a performance measure or proposed performance measure required by this subsection to rely, where possible, on data already collected by the Commission.

''(b) ADEQUATE DELIBERATION BY COMMISSIONERS.—The Commission shall by rule establish procedures for—

''(1) informing all Commissioners of a reasonable number of options available to the Commission for resolving a petition, complaint, application, rulemaking, or other proceeding;

''(2) ensuring that all Commissioners have adequate time, prior to being required to decide a petition, complaint, application, rulemaking, or other proceeding (including at a meeting held pursuant to section 5(d)), to review the proposed Commission decision document, including the specific language of any proposed rule or any proposed amendment of an existing rule; and

''(3) publishing the text of agenda items to be voted on at an open meeting in advance of such meeting so that the public has the opportunity to read the text before a vote is taken.

''(c) NONPUBLIC COLLABORATIVE DISCUSSIONS.—

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

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

''(B) each person present at such meeting is a Commissioner, an employee of the Commission, a member of a joint board established under section 410, or a person on the staff of such a joint board; and

''(C) an attorney from the Office of General Counsel of the Commission is present at such meeting.

''(2) DISCLOSURE OF NONPUBLIC COLLABORATIVE DISCUSSIONS.—Not later than 2 business days after the conclusion of a meeting held under paragraph (1), the Commission shall publish a disclosure of such meeting, including—

''(A) a list of the persons who attended such meeting; and

''(B) a summary of the matters discussed at such meeting, except for such matters as the Commission determines may be withheld under section 552b(c) of title 5, United States Code.

''(3) PRESERVATION OF OPEN MEETINGS REQUIREMENTS FOR AGENCY ACTION.—Nothing in this subsection shall limit the applicability of section 552b of title 5, United States Code, with respect to a meeting of Commissioners other than that described in paragraph (1).

''(d) INITIATION OF ITEMS BY BIPARTISAN MAJORITY.—The Commission shall by rule establish procedures for allowing a bipartisan majority of Commissioners to—

''(1) direct Commission staff to draft an order, decision, report, or action for review by the Commission;

''(2) require Commission approval of an order, decision, report, or action with respect to a function of the Commission delegated under section 5(c)(1); and

''(3) place an order, decision, report, or action on the agenda of an open meeting.

''(e) PUBLIC REVIEW OF CERTAIN REPORTS AND EX PARTE COMMUNICATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Commission may not rely, in any order, decision, report, or action, on—

''(A) a statistical report or report to Congress, unless the Commission has published and made such report available for comment for not less than a 30-day period prior to the adoption of such order, decision, report, or action; or

''(B) an ex parte communication or any filing with the Commission, unless the public has been afforded adequate notice of and opportunity to respond to such communication or filing, in accordance with procedures to be established by the Commission by rule.

''(2) EXCEPTION.—Paragraph (1) does not apply when the Commission for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the order, decision, report, or action) that publication or availability of a report under subparagraph (A) of such paragraph or notice of and opportunity to respond to an ex parte communication under subparagraph (B) of such paragraph are impracticable, unnecessary, or contrary to the public interest.

''(f) PUBLICATION OF STATUS OF CERTAIN PROCEEDINGS AND ITEMS.—The Commission shall by rule establish procedures for publishing the status of all open rulemaking proceedings and all proposed orders, decisions, reports, or actions on circulation for review by the Commissioners, including which Commissioners have not cast a vote on an order, decision, report, or action that has been on circulation for more than 60 days.

''(g) DEADLINES FOR ACTION.—The Commission shall by rule establish deadlines for any Commission order, decision, report, or action for each of the various categories of petitions, applications, complaints, and other filings seeking Commission action, including filings seeking action through authority delegated under section 5(c)(1).

''(h) PROMPT RELEASE OF CERTAIN REPORTS AND DECISION DOCUMENTS.—

''(1) STATISTICAL REPORTS AND REPORTS TO CONGRESS.—

''(A) RELEASE SCHEDULE.—Not later than January 15th of each year, the Commission shall identify, catalog, and publish an anticipated release schedule for all statistical reports and reports to Congress that are regularly or intermittently released by the Commission and will be released during such year.

''(B) PUBLICATION DEADLINES.—The Commission shall publish each report identified in a schedule published under subparagraph (A) not later than the date indicated in such schedule for the anticipated release of such report.

''(2) DECISION DOCUMENTS.—The Commission shall publish each order, decision, report, or action not later than 7 days after the date of the adoption of such order, decision, report, or action.

''(3) EFFECT IF DEADLINES NOT MET.—

''(A) NOTIFICATION OF CONGRESS.—If the Commission fails to publish an order, decision, report, or action by a deadline described in paragraph (1)(B) or (2), the Commission shall, not later than 7 days after such deadline and every 14 days thereafter until the publication of the order, decision, report, or action, notify by letter the chairpersons and ranking members of the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Such letter shall identify such order, decision, report, or action, specify the deadline, and describe the reason for the delay. The Commission shall publish such letter.

''(B) NO IMPACT ON EFFECTIVENESS.—The failure of the Commission to publish an order, decision, report, or action by a deadline described in paragraph (1)(B) or (2) shall not render such order, decision, report, or action ineffective when published.

''(i) BIANNUAL SCORECARD REPORTS.—

''(1) IN GENERAL.—For the 6-month period beginning on January 1st of each year and the 6-month period beginning on July 1st of each year, the Commission shall prepare a report on the performance of the Commission in conducting its proceedings and meeting the deadlines established under subsections (g), (h)(1)(B), and (h)(2).

''(2) CONTENTS.—Each report required by paragraph (1) shall contain detailed statistics on such performance, including, with respect to each Bureau of the Commission—

''(A) in the case of performance in meeting the deadlines established under subsection (g), with respect to each category established under such subsection—

''(i) the number of petitions, applications, complaints, and other filings seeking Commission action that were pending on the last day of the period covered by such report;

''(ii) the number of filings described in clause (i) that were not resolved by the deadlines established under such subsection and the average length of time such filings have been pending; and

''(iii) for petitions, applications, complaints, and other filings seeking Commission action that were resolved during such period, the average time between initiation and resolution and the percentage resolved by the deadlines established under such subsection;

''(B) in the case of proceedings before an administrative law judge—

''(i) the number of such proceedings completed during such period; and

''(ii) the number of such proceedings pending on the last day of such period; and

''(C) the number of independent studies or analyses published by the Commission during such period.

''(3) PUBLICATION AND SUBMISSION.—The Commission shall publish and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate each report required by paragraph (1) not later than the date that is 30 days after the last day of the period covered by such report.

''(j) TRANSACTION REVIEW STANDARDS.—

''(1) IN GENERAL.—The Commission shall condition its approval of a transfer of lines, a transfer of licenses, or any other transaction under section 214, 309, or 310 or any other provision of this Act only if—

''(A) the imposed condition is narrowly tailored to remedy a harm that arises as a direct result of the specific transfer or specific transaction that this Act empowers the Commission to review; and

''(B) the Commission could impose a similar requirement under the authority of a specific provision of law other than a provision empowering the Commission to review a transfer of lines, a transfer of licenses, or other transaction.

''(2) EXCLUSIONS.—In reviewing a transfer of lines, a transfer of licenses, or any other transaction under section 214, 309, or 310 or any other provision of this Act, the Commission may not consider a voluntary commitment of a party to such transfer or transaction unless the Commission could adopt that voluntary commitment as a condition under paragraph (1).

''(k) ACCESS TO CERTAIN INFORMATION ON COMMISSION'S WEBSITE.—The Commission shall provide direct access from the homepage of its website to—

''(1) detailed information regarding—

''(A) the budget of the Commission for the current fiscal year;

''(B) the appropriations for the Commission for such fiscal year; and

''(C) the total number of full-time equivalent employees of the Commission; and

''(2) the performance plan most recently made available by the Commission under section 1115(b) of title 31, United States Code.

''(l) FEDERAL REGISTER PUBLICATION.—

''(1) IN GENERAL.—In the case of any document adopted by the Commission that the Commission is required, under any provision of law, to publish in the Federal Register, the Commission shall, not later than the date described in paragraph (2), complete all Commission actions necessary for such document to be so published.

''(2) DATE DESCRIBED.—The date described in this paragraph is the earlier of—

''(A) the day that is 45 days after the date of the release of the document; or

''(B) the day by which such actions must be completed to comply with any deadline under any other provision of law.

''(3) NO EFFECT ON DEADLINES FOR PUBLICATION IN OTHER FORM.—In the case of a deadline that does not specify that the form of publication is publication in the Federal Register, the Commission may comply with such deadline by publishing the document in another form. Such other form of publication does not relieve the Commission of any Federal Register publication requirement applicable to such document, including the requirement of paragraph (1).

''(m) CONSUMER COMPLAINT DATABASE.—

''(1) IN GENERAL.—In evaluating and processing consumer complaints, the Commission shall present information about such complaints in a publicly available, searchable database on its website that—

''(A) facilitates easy use by consumers; and

''(B) to the extent practicable, is sortable and accessible by—

''(i) the date of the filing of the complaint;

''(ii) the topic of the complaint;

''(iii) the party complained of; and

''(iv) other elements that the Commission considers in the public interest.

''(2) DUPLICATIVE COMPLAINTS.—In the case of multiple complaints arising from the same alleged misconduct, the Commission shall be required to include only information concerning one such complaint in the database described in paragraph (1).

''(n) FORM OF PUBLICATION.—

''(1) IN GENERAL.—In complying with a requirement of this section to publish a document, the Commission shall publish such document on its website, in addition to publishing such document in any other form that the Commission is required to use or is permitted to and chooses to use.

''(2) EXCEPTION.—The Commission shall by rule establish procedures for redacting documents required to be published by this section so that the published versions of such documents do not contain—

''(A) information the publication of which would be detrimental to national security, homeland security, law enforcement, or public safety; or

''(B) information that is proprietary or confidential.

''(o) DEFINITIONS.—In this section:

''(1) AMENDMENT.—The term 'amendment' includes, when used with respect to an existing rule, the deletion of such rule.

''(2) BIPARTISAN MAJORITY.—The term 'bipartisan majority' means, when used with respect to a group of Commissioners, that such group—

''(A) is a group of 3 or more Commissioners; and

''(B) includes, for each political party of which any Commissioner is a member, at least 1 Commissioner who is a member of such political party, and, if any Commissioner has no political party affiliation, at least 1 unaffiliated Commissioner.

''(3) ECONOMICALLY SIGNIFICANT IMPACT.—The term 'economically significant impact' means an effect on the economy of $100,000,000 or more annually or a material adverse effect on the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

''(4) PERFORMANCE MEASURE.—The term 'performance measure' means an objective and quantifiable outcome measure or output measure (as such terms are defined in section 1115 of title 31, United States Code).

''(5) PROGRAM ACTIVITY.—The term 'program activity' has the meaning given such term in section 1115 of title 31, United States Code, except that such term also includes any annual collection or distribution or related series of collections or distributions by the Commission of an amount that is greater than or equal to $100,000,000.

''(6) OTHER DEFINITIONS.—The terms 'agency action', 'ex parte communication', and 'rule' have the meanings given such terms in section 551 of title 5, United States Code.''.

(b) EFFECTIVE DATE AND IMPLEMENTING RULES.—

(1) EFFECTIVE DATE.—

(A) IN GENERAL.—The requirements of section 13 of the Communications Act of 1934, as added by subsection (a), shall apply beginning on the date that is 6 months after the date of the enactment of this Act.

(B) PRIOR NOTICES OF PROPOSED RULEMAKING.—If the Federal Communications Commission identifies under paragraph (2)(B)(ii) of subsection (a) of such section 13 a notice of proposed rulemaking issued prior to the date of the enactment of this Act—

(i) such notice shall be deemed to have complied with paragraph (1) of such subsection; and

(ii) if such notice did not contain the specific language of a proposed rule or a proposed amendment of an existing rule, paragraph (2)(A) of such subsection shall be satisfied if the adopted rule or the amendment of an existing rule is a logical outgrowth of such notice.

(C) SCHEDULES AND REPORTS.—Notwithstanding subparagraph (A), subsections (h)(1) and (i) of such section shall apply with respect to 2013 and any year thereafter.

(2) RULES.—The Federal Communications Commission shall promulgate the rules necessary to carry out such section not later than 1 year after the date of the enactment of this Act.

(3) PROCEDURES FOR ADOPTING RULES.—Notwithstanding paragraph (1)(A), in promulgating rules to carry out such section, the Federal Communications Commission shall comply with the requirements of subsections (a) and (h)(2) of such section.

SEC. 3. CATEGORIZATION OF TCPA INQUIRIES AND COMPLAINTS IN QUARTERLY REPORT.

In compiling its quarterly report with respect to informal consumer inquiries and complaints, the Federal Communications Commission may not categorize an inquiry or complaint with respect to section 227 of the Communications Act of 1934 (47 U.S.C. 227) as being a wireline inquiry or complaint or a wireless inquiry or complaint unless the party whose conduct is the subject of the inquiry or complaint is a wireline carrier or a wireless carrier, respectively.

SEC. 4. EFFECT ON OTHER LAWS.

Nothing in this Act or the amendment made by this Act shall relieve the Federal Communications Commission from any obligations under title 5, United States Code, except where otherwise expressly provided.

The Acting CHAIR. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in House Report 112–422. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. CROWLEY

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in House Report 112–422.

Mr. CROWLEY. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 7, line 5, strike ''and''.

Page 7, line 15, strike the period and insert ''; and''.

Page 7, after line 15, insert the following:

''(F) in the case of the adoption of a rule or the amendment of an existing rule relating to baby monitors, such rule as adopted or amended requires the packaging of an analog baby monitor to display a warning label stating that sounds or images captured by the baby monitor may be easily viewed or heard by potential intruders outside a consumer's home.

The Acting CHAIR. Pursuant to House Resolution 595, the gentleman from New York (Mr. CROWLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

□ 1640

Mr. CROWLEY. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I rise today in support of this amendment to H.R. 3309.

Mr. Chairman, my amendment addresses a problem that has come to light over the past 2 years. It's a problem that's a concern for parents, a problem that is a concern for families. It's a problem that's a concern for law enforcement. And I believe that my amendment will help to address this problem.

Here's what we have learned. Many families do not know that the baby monitors that they purchase to help them take care of their infants and their children can be easily accessed by potential intruders. It's possible for someone, anyone at all, to purchase a normal baby monitor at the store and use that monitor to see and hear inside a family's home, quite literally making it possible to monitor other people's children and their lives.

In fact, recent investigative news stories by NBC in New York and throughout the Nation found that one can even drive down the street with a baby monitor receiver and monitor every child on that street whose family uses an analog baby monitor. Outsiders waiting hundreds of feet from a home or canvassing a neighborhood can quickly and easily see an image of a young child or an entire room, the same image seen by parents inside their home.

The concerns don't end there. Potential intruders could also identify whether the parents or children are home at all, helping create conditions for burglary. And a potential kidnapper or abuser could easily identify the location of a child within a home, as well as the easiest point of entry to abduct or cause harm to that child.

This is a situation that is deeply concerning to many parents who know of the problem. But equally as alarming is the fact that so many others don't even know about the problem to begin with.

This amendment would direct the FCC, when ruling on baby monitors, to require companies producing analog baby monitors to include warning labels on packages so that parents can make fully informed decisions about the potential risk of their purchases.

Parents have no greater concern than the well-being of their children and their families, and they deserve full information about the products they are purchasing. It comes down to making sure that parents are aware of any potential dangers. A clear warning on the monitors will help arm parents with the information they need to make the best decision for their family.

I have written to the FCC about this issue, as well as the Federal Trade Commission and the Consumer Product Safety Commission. There is, indeed, an interest in addressing this problem, and I hope passage of this amendment will send a clear message to the agencies with jurisdiction over these products that we need to find a way to move forward and get this matter addressed.

I ask for support for this amendment.

I yield back the balance of my time.

Mr. WALDEN. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Oregon is recognized for 5 minutes.

Mr. WALDEN. I share the gentleman's concerns that he raised. A lot of people do not understand that, especially in the area of unlicensed spectrum, you don't have a right to a protective communication. And certainly, in the analog world, you can listen in. We all know that from CB radios and things of that nature and family networks—you hear other people talking. This is an issue of concern, certainly, because all of us want to protect our families, those of us who have children. Mine now much older than that at nearly 22.

But this is certainly an issue, and I appreciate the gentleman raising it. I know he has legislation, although I would say this is the wrong vehicle for that because this is an FCC process reform bill, not a labeling bill, and the FCC does not use the phrase ''baby monitor'' in any of its rules, so, in effect, this labeling requirement may never take effect anyway.

And if the labeling requirement does take effect, it may cause some consumer confusion because you'd treat all analog monitors, perhaps, as unsafe and digital monitors as safe, even if that's not true for a particular brand of baby monitor.

So I oppose this amendment, and would encourage my colleagues to do likewise.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. CROWLEY).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. CROWLEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Jersey will be postponed.

The Chair understands that amendment No. 2 will not be offered.

It is now in order to consider amendment No. 3 printed in House Report 112–422.

It is now in order to consider amendment No. 4 printed in House report 112–422.

AMENDMENT NO. 5 OFFERED BY MS. ESHOO

The Acting CHAIR. It is now in order to consider amendment No. 5 printed in House Report 112–422.

Ms. ESHOO. Mr. Chairman, I seek to offer the amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 18, after line 21, insert the following (and redesignate subsequent provisions accordingly):

''(n) CERTIFICATIONS REGARDING IDENTITY OF DONORS FOR PUBLIC INSPECTION FILES.—

''(1) IN GENERAL.—The Commission shall revise its rules to require the public inspection file of a broadcast licensee, cable operator, or provider of direct broadcast satellite service to include, from each entity sponsoring political programming, a certification that identifies any donors that have contributed a total of $10,000 or more to such entity in an election reporting cycle.

''(2) ACCURACY OF INFORMATION.—A broadcast licensee, cable operator, or provider of direct broadcast satellite service may not be held responsible for an inaccuracy in a certification filed under this subsection, unless such licensee, operator, or provider had actual knowledge, at the time such certification was filed, that such certification was false or fraudulent.

''(3) DEFINITIONS.—In this subsection:

''(A) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term in section 602.

''(B) DBS ORIGINATION PROGRAMMING.—The term 'DBS origination programming' has the meaning given such term in section 25.701 of title 47, Code of Federal Regulations.

''(C) ELECTION REPORTING CYCLE.—The term 'election reporting cycle' means, with respect to a request to purchase time by an entity sponsoring political programming, the 2-year period that begins on the date of the most recent general election for Federal office preceding such request.

''(D) GENERAL ELECTION.—The term 'general election' means an election occurring on the first Tuesday after the first Monday in November of an even-numbered year.

''(E) ORIGINATION CABLECASTING.—The term 'origination cablecasting' has the meaning given such term in section 76.5 of title 47, Code of Federal Regulations.

''(F) POLITICAL PROGRAMMING.—The term 'political programming' means programming that communicates a message relating to any political matter of national importance, including a legally qualified candidate for public office, any election to Federal office, or a national legislative issue of public importance.

''(G) PROGRAMMING.—The term 'programming' means—

''(I) with respect to a broadcast licensee, broadcast programming;

''(ii) with respect to a cable operator, origination cablecasting; and

''(iii) with respect to a provider of direct broadcast satellite service, DBS origination programming.

''(H) PROVIDER OF DIRECT BROADCAST SATELLITE SERVICE.—The term 'provider of direct broadcast satellite service' has the meaning given such term in section 335.

The Acting CHAIR. Pursuant to House Resolution 595, the gentlewoman from California (Ms. ESHOO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. ESHOO. Mr. Chairman, I come to the floor this afternoon to offer an amendment to this bill that probably, for most people, as they were tuned in and listening to the discussion and the debate of the bill, may not have gotten too excited about it because it deals with the innards of an agency. But this amendment, I think, is probably one of the most important parts of the bill, and I'm very pleased that the Rules Committee found it in order.

This amendment goes to the heart of our democracy, and it's all about disclosure. We have the opportunity today to secure disclosure in political reporting for the voting public.

There's something very sick about our system today. People across the country are deeply and profoundly upset about the undisclosed sums of money that are being poured over and through our political system. And when that happens, it goes right to the heart of democracy.

Why? Because it's undisclosed. We do not know who is contributing. We don't know how much they're contributing. We don't even know if foreign countries are involved in this.

So this is really a very simple amendment. It's an amendment that adheres to the same principles that many of my colleagues, Democrats and Republicans, have supported before, and it works like this: If an organization buys political advertising time on broadcast television, on radio, on cable, or on satellite, they would be required to disclose their large donors, those who give $10,000 or more to air the ad.

□ 1650

There is today, in statute, section 315 of the Communications Act—and it's been in place since 2002—that covers national legislative issues of public importance. It also covers legally qualified candidates, or any election to Federal office. So there's something already in place. The only thing that's being added to this is that if you're going to buy time, $10,000 or more, that you are required to disclose and name who the donors are, who's contributing that money.

I think that this is very important. We are a democracy. We're not a plutocracy. What I hear over and over and over and over again from my constituents is the damage that Citizens United, the case that the Supreme Court rendered the decision—I think a disastrous one—2 years ago. We have the jurisdiction at the Energy and Commerce Committee and this subcommittee; it is within our jurisdiction to take this up in this bill.

Now, there is something else. Some people have said that this is burdensome—burdensome for broadcasters, burdensome for those that broadcast

television, burdensome to radio, burdensome to cable, burdensome to satellite. They're not the ones that have to disclose, only those that buy the time.

And the files exist today. There is one file, one file only—now, there are other files for other responsibilities, but there's only one for political ads. Is America and our democracy not worth requiring those that want to buy the political ads to disclose who they are above $10,000? And that's it. So the law is already in place since 2002. The file is already there. There is no burden to the broadcasters, radio, TV, satellite, cable, as I said, but simply to report.

Now, there are those that say that that would be burdensome, that that would be burdensome as well. My question is, How heavy a burden is it? How heavy of a burden, how heavy of a lift is it to report and disclose to the American people? The American people have a right to know; and once they know disclosure is a disinfectant, they will make up their own minds.

With that, I yield back the balance of my time.

Mr. WALDEN. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Oregon is recognized for 5 minutes.

Mr. WALDEN. I don't rise in opposition to disclosure. I think it's a good thing if it's done in the proper venue in the proper way. And that's not on this particular bill.

A similar amendment was brought before the full committee and rejected by the full committee. It has since been rewritten. It's better than what came before the full committee, and I commend my friend from California for that. But the way that this is written, I believe that it has lots of unintended consequences that can be difficult and doesn't accomplish what she's trying to accomplish in an effective way.

For example, my colleagues in the Chamber, you all would have to disclose, when you go to inquire about the purchase of time now in radio, TV, or satellite, your $10,000 donors. So any PAC that gave you $10,000 in the last 2 years would have to be listed. Now, my colleague from California, that would be like Abbott Labs and Google that gave you 10, and I've got some that gave me 10. You'd have to do that and disclose. You wouldn't have to do money you got from others.

But here's the deal, because I looked this up last night about one in the morning. I couldn't sleep, I was on west coast time, and so I went to the site where this stuff is disclosed—for us, that's the Federal Election Commission site. So I could easily find all the documentation for my dear friend—I just happened to go to her contribution history for last year. And only $30,000 of the $296,817 that she got from PACs would be disclosed as a result of this, which is about 10 percent. But she was able to have another $400,000, or thereabouts, from individuals. So you're really down to only seeing a tiny little window of about 5 percent, or less, that would be disclosed in the public file of a broadcast, satellite, or cable operator, or radio, which, by the way, is all on paper, at least for now, and not online. I was able to ferret out this information online last night, one in the morning, or thereabouts.

The other thing it does, I think it draws in every candidate in America the way this is listed. Because when you read the actual language of the amendment, it talks about political programming. And it defines it as meaning ''programming that communicates a message relating to any political matter of national importance.''

So I'm thinking about a city that's having a fight with the Federal Government over some new Federal regulation. That would be an issue of national importance; or if in a local community they were fighting about something, again, that, I don't know, Second Amendment rights, First Amendment rights. That would be an issue of national importance. Further, the language talks about a legally qualified candidate for public office. So that would seem to be any candidate for public office at any level.

So then you have public broadcasting that could be pulled into this because they have people that underwrite programming that deals with issues of national importance. So could that be that every public broadcaster would have to disclose somehow everybody that's paying for that programming?

Then you have the creative minds of the people who try to hide from disclosure. This would be real simple under this amendment because it says the look-back period is back to the last Federal general election. Whatever donors you've had at $10,000 would have to be reported before you could inquire about buying time and purchasing time. Well, it's not a reach to think that these clever little rascals out there would simply create a new committee every time they wanted to buy time. That's easy to do. They've got lots of money; they've got lots of attorneys. They just create the committee to attack ANNA ESHOO, 2012. And it has no prior donors from the 2 years, so they escape this. And who among us here thinks that they won't do that?

So I don't think the amendment is written to accomplish the goal, and the goal is best achieved and accomplished through the Federal Election Commission, not the Federal Communications Commission. So we're about two letters off. I think it really raises a host of issues that are unintended consequences and should be defeated.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from California (Ms. ESHOO).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Ms. ESHOO. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California will be postponed.

AMENDMENT NO. 6 OFFERED BY MR. WALDEN

The Acting CHAIR. It is now in order to consider amendment No. 6 printed in House Report 112–422.

Mr. WALDEN. Mr. Chairman, on behalf of Mr. DIAZ-BALART, I have an amendment I am going to offer.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 19, after line 13, insert the following (and redesignate subsequent provisions accordingly):

''(o) TRANSPARENCY RELATING TO PERFORMANCE IN MEETING FOIA REQUIREMENTS.—The Commission shall take additional steps to inform the public about its performance and efficiency in meeting the disclosure and other requirements of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), including by doing the following:

''(1) Publishing on the Commission's website the Commission's logs for tracking, responding to, and managing requests submitted under such section, including the Commission's fee estimates, fee categories, and fee request determinations.

''(2) Releasing to the public all decisions made by the Commission (including decisions made by the Commission's Bureaus and Offices) granting or denying requests filed under such section, including any such decisions pertaining to the estimate and application of fees assessed under such section.

''(3) Publishing on the Commission's website electronic copies of documents released under such section.

''(4) Presenting information about the Commission's handling of requests under such section in the Commission's annual budget estimates submitted to Congress and the Commission's annual performance and financial reports. Such information shall include the number of requests under such section the Commission received in the most recent fiscal year, the number of such requests granted and denied, a comparison of the Commission's processing of such requests over at least the previous 3 fiscal years, and a comparison of the Commission's results with the most recent average for the United States Government as published on www.foia.gov.

The Acting CHAIR. Pursuant to House Resolution 595, the gentleman from Oregon (Mr. WALDEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oregon.

Mr. WALDEN. Mr. Chairman, throughout the course of the debate today on the floor we'll have amendments offered by Republicans and Democrats, a total of potentially 10. This is one offered by my colleague from Florida (Mr. DIAZ-BALART), which we will be supportive of. There will be at least one amendment on the other side we will be supportive of as well.

This one will require the FCC to make additional disclosures on its Web site and in its annual budget regarding its processing of Freedom of Information Act requests. I think this does fall

in the category of reforming how the FCC operates in a positive way. It would increase the Agency's transparency with regard to how it complies with Freedom of Information Act requests. Additional disclosure and transparency is a good thing, and the burdens on the FCC are clearly modest, completely.

So I would urge passage of this amendment, and I yield back the balance of my time.

Ms. ESHOO. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentlewoman from California is recognized for 5 minutes.

Ms. ESHOO. Mr. Chairman, obviously, my colleagues know that I'm a strong proponent of openness and transparency rules in government. I'm concerned about this amendment because it seems as if it would apply special Freedom of Information Act, FOIA, requirements on one agency alone.

□ 1700

As with the underlying bill, I am concerned that this would create confusion and inconsistency.

Most frankly, I also question what the problem is that we're addressing here. Just 2 weeks ago, Chairman ISSA, the chairman of the committee with jurisdiction over FOIA matters, issued a report in which he gave an A grade for FOIA compliance relative to the FCC. It is also my understanding that the FCC is already publishing on its Web site logs for tracking, for responding to, and for managing FOIA requests. So it's a little confusing given the grade that Chairman ISSA issued relative to the FCC and FOIA requests and relative to the issues that I raised.

So I think, perhaps, that the amendment may be redundant or simply not needed at all. Those are my observations, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Oregon (Mr. WALDEN).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MR. OWENS

The Acting CHAIR. It is now in order to consider amendment No. 7 printed in House Report 112–422.

Mr. OWENS. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 22, after line 24, insert the following (and redesignate the subsequent section accordingly):

SEC. 4. BROADBAND ACCESS IN RURAL AREAS.

Nothing in this Act (including the amendment made by section 2 of this Act) shall impede the Federal Communications Commission from implementing rules to ensure broadband access in rural areas.

The Acting CHAIR. Pursuant to House Resolution 595, the gentleman from New York (Mr. OWENS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. OWENS. Mr. Chairman, I rise in support of my amendment to H.R. 3309, the Federal Communications Commission Process Reform Act.

I agree that cost-benefit analysis is an important factor that independent agencies should consider before issuing new rules and regulations. To that end, I have supported bipartisan legislation that would require other agencies, like the CFTC and the SBA, to conduct similar analyses.

Mr. Chairman, in our efforts to change the rulemaking process at the FCC, it is important that we consider unintended consequences. My amendment is very simple and limited in scope. It simply expresses that nothing in this act shall impede the FCC from implementing rules to ensure broadband access in rural areas. I would like to clarify that this amendment is not intended to influence the current debate concerning the FCC's reforms to the Universal Service Fund.

Last year, I introduced legislation that would direct the Department of Agriculture to craft a comprehensive plan to expand broadband access to rural America. If such a plan were enacted under the bill we are considering today, the FCC would likely be required to conduct additional market surveys and analysis that could delay its implementation.

New York's 23rd Congressional District is 14,000 square miles and encompasses a large portion of the State's rural communities. My amendment would simply ensure that the development of much-needed broadband in rural areas, like in my congressional district in upstate New York, is not held up by the increased requirements imposed by the FCC under this bill.

Whether it is a small business in Massena, Watertown, Oswego or in Plattsburgh, New York, that wants to market its products to customers in Canada or to a hospital that is able to save a life by accessing patient records, access to broadband is critical to creating jobs and growing the economy in rural New York and in rural regions across the country. In many of these areas, there is simply insufficient demand for private industry to justify the cost of building out their networks.

Congress must be prepared to help develop this infrastructure to ensure our economy remains competitive in the global marketplace. I urge my colleagues to support this amendment, and I yield back the balance of my time.

Mr. WALDEN. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Oregon is recognized for 5 minutes.

Mr. WALDEN. This amendment would exempt from procedural reforms any FCC actions with regard to broadband access in rural areas. Now, I know the gentleman talked about representing a large rural district. My district in eastern Oregon is larger than his State of New York. It is 70,000 square miles. In fact, it's bigger than any State this side of the Mississippi River, I'm told.

This is my bill. I am an advocate for it because, in many respects, it's bad process at the FCC that harms those least able to afford big high-rise towers of lawyers to come and oversee the FCC. That's why we need a more open and transparent process. This would exempt the FCC from using good process when reforming the Universal Service Fund, for example.

I know the gentleman is fairly new here, but he may not have caught the part about the FCC doing a data dump in the final hours before they promulgated their rule on the Universal Service Fund, which meant it was very difficult, if not impossible, for anybody who really cared deeply about the build-out of broadband or of the future of the USF to go through literally thousands of pages. I used these earlier today in the debate on the underlying bill. We have binders and binders and binders of the actual documents that they dumped at the last minute. It's just not the way to do the public's business.

So I understand what the gentleman is saying. Mr. TERRY, who is the sponsor of this bill, is a long-time advocate of rural broadband build-out, as am I, which is part of what we are hoping to accomplish in other legislation as well that has become law. The National Telecommunications Cooperative Association, the voice of rural carriers—the very people you're trying to help and genuinely so with your amendment—actually supports the underlying bill. Surely they don't think it will slow down rural broadband deployment.

So I appreciate the gentleman's commitment to rural broadband build-out. I think his amendment actually goes in the wrong direction in that it reduces transparency, accountability, and access for the very people we're trying to help.

Therefore, Mr. Chairman, I will oppose the amendment. I yield back the balance of my time.

Mr. OWENS. Mr. Chairman, may I reclaim my unused time?

The Acting CHAIR. The gentleman seeks unanimous consent to reclaim the remaining part of his time.

Without objection, the gentleman from New York is recognized for 2½ minutes.

There was no objection.

Mr. OWENS. I just want to point out two items.

First, this bill is not intended to influence in any way the current debate concerning the FCC's reforms to the Universal Service Fund. We are not in any way attempting to impact that. In addition, what we're really asking is that the FCC take into account in its rulemaking process the rural broadband needs. We are not exempting it from the process but are simply asking that that be taken into account as

they go through the process. There is no exemption intended here.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. OWENS).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. OWENS. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York will be postponed.

AMENDMENT NO. 8 OFFERED BY MR. AL GREEN OF TEXAS

The Acting CHAIR. It is now in order to consider amendment No. 8 printed in House Report 112–422.

Mr. AL GREEN of Texas. I have an amendment at the desk, Mr. Chairman.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 22, after line 24, insert the following (and redesignate the subsequent section accordingly):

SEC. 4. PROVISION OF EMERGENCY WEATHER INFORMATION.

Nothing in subsection (a) of section 13 of the Communications Act of 1934, as added by section 2 of this Act, shall be construed to impede the Federal Communications Commission from acting in times of emergency to ensure the availability of efficient and effective communications systems to alert the public to imminent dangerous weather conditions.

The Acting CHAIR. Pursuant to House Resolution 595, the gentleman from Texas (Mr. AL GREEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. AL GREEN of Texas. Mr. Chairman, I will be very brief because I understand that time is of the essence.

I've had an opportunity to work with my colleagues across the aisle, and our staffs have worked together. Mr. Chairman, this amendment would simply make it clear that the FCC will not be impeded in any way as it relates to notifying the public about dangerous conditions. We all know about the hurricanes that hit the gulf coast and that we have tornadoes in other areas of the country. This is a very simple, commonsense amendment. I believe my colleague will agree with me, and I don't believe there will be a need for a vote.

Mr. WALDEN. Will the gentleman yield?

Mr. AL GREEN of Texas. I yield to the gentleman from Oregon.

□ 1710

Mr. WALDEN. I thank the gentleman for yielding, and I thank him for working with this side of the aisle. You have been terrific and so have your staff as we worked through this.

This wasn't a surprise amendment by any means. We were able to sit down and work through it. We share your concern fully, and we are fully supportive of your amendment. And I thank you for raising this issue.

As a former radio broadcaster, having been involved in some emergencies—not hurricanes, clearly, in Oregon—but this is important. So we do support it. And again, I thank you for working with us in a bipartisan spirit.

Mr. AL GREEN of Texas. Thank you. And reclaiming my time, I am grateful for my colleague and the staff members that worked with us.

And with that said, Mr. Chairman, I don't believe there will be a request for a vote if the amendment is accepted.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. AL GREEN).

The amendment was agreed to.

AMENDMENT NO. 9 OFFERED BY MS. SPEIER

The Acting CHAIR. It is now in order to consider amendment No. 9 printed in House Report 112–422.

Ms. SPEIER. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 22, after line 24, insert the following (and redesignate the subsequent section accordingly):

SEC. 4. IMPACT ON COMPETITION AND INNOVATION.

This Act (including the amendment made by section 2 of this Act) shall not take effect until the Federal Communications Commission submits to Congress a report on the impact of this Act (and amendment) on the mandate of the Commission to promote competition and innovation.

The Acting CHAIR. Pursuant to House Resolution 595, the gentlewoman from California (Ms. SPEIER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. SPEIER. Mr. Chairman, who among us is not for competition and innovation? This amendment speaks directly to that issue. And I want to read you the amendment:

This act shall not take effect until the Federal Communications Commission submits to Congress a report on the impact of this act on the mandate of the commission to promote competition and innovation.

Again, who isn't for competition and innovation? Among the important mandates of the FCC are the following: promoting competition, innovation, and investment in broadband services and facilities; supporting the Nation's economy by ensuring an appropriate competitive framework for the unfolding of the communications revolution; encouraging the highest and best use of spectrum domestically and internationally; revising media regulations so that new technologies flourish alongside diversity and localism; providing leadership; and strengthening the defense of the Nation's communications infrastructure.

The provisions of this bill could potentially disable the agency and stymie the commission's ability to fulfill its most basic mission: to promote innovation while protecting the public interest. The U.S. has led the world in developing policies to unleash spectrum for mobile investment and innovation. The FCC was the first agency to develop spectrum auctions and also the first to free up so-called junk bands for unlicensed use, such as Bluetooth, cordless phones, and Wi-Fi, all things we take for granted today.

The economic benefit created by unlicensed spectrum alone is estimated at $37 billion a year. In 2011, the U.S. tech sector grew three times faster than the overall economy. This is success, and we should do nothing to stymie that success.

The U.S. has regained global leadership in mobile innovation. We are ahead of the world in deploying 4G mobile broadband, and those next-generation networks are projected to add more than $150 billion in GDP growth over the next 4 years. Internet startups attracted $7 billion in venture capital last year, almost double the 2009 level. The apps economy alone has generated more than 500,000 jobs, and many of those are right smack-dab in my district. You know them: Google, YouTube, and Facebook.

Rest assured, the innovation is continuing. For example, JellyRadio is a small technology company with about 15 employees, and it's located right across the street from my district office. It's already received $2 million in angel and venture capital. It allows crowdsourcing of radio playlists. You vote for what you want to hear, and the band or subject with the most votes gets played. They just received a local business award for small technology company of the year.

Another is Storm8, the creator of the number one role-playing games on iPhone, iPad, iPod touch, and Android devices and parent company of the number one mobile social game developer, TeamLava. Started in 2009, Storm8 quickly shot to the top of the mobile gaming industry, celebrating its first million-dollar day in June of last year.

These are examples of what we must protect in our FCC operation. We must ensure that innovators like these have the opportunity to grow and thrive. The FCC has a critical role to play in moving us forward technologically and with the jobs that it brings. Broadband has unlocked new opportunities to transform health care, education, energy, and public safety.

Cloud computing is the next wave, a $68 billion global industry that is growing 17 percent annually. In fact, my son is now working for one of those companies. That's why we need to make sure that the FCC has the ability to make sure there continues to be innovation and competitiveness. The FCC Process Reform Act undermines standard administrative law practices, undoing over 60 years of Federal court precedent under the Administrative Procedures Act, creating uncertainty and

confusion for the FCC and innovative businesses that interact with the agency. It also severely undermines the FCC's ability to develop sensible conditions to protect consumers and ensure competition.

I am a strong component of congressional oversight over agencies within our jurisdiction. That's part of our job. But we have to make sure that the FCC has the tools to do its job as well. So before we risk millions of jobs affected by the important work of the FCC, let's be sure we know how this bill will affect our innovative economy. I urge support of this amendment, and I yield back the balance of my time.

Mr. KINZINGER of Illinois. I rise in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. KINZINGER of Illinois. Mr. Chairman, I appreciate the gentlewoman bringing the amendment forward.

I rise in opposition to it today because in essence what it does is implements a study on the idea of these reforms. These reforms, again, are very basic. This just says, hey, a lot of these are already in place. It opens up the process to the American public. We believe in an open transparent government, an open and transparent system.

This puts a study on the bill that simply has no timeline to it. Let me give you a quick example. The FCC is already behind on completing its reports. It didn't finish its satellite competition report for 2008 until 2011 and still hasn't finished the 2010 report on media ownership. So let's just be very honest with this. This is an attempt to kill this bill. This is an attempt to put a study on it that has no time line and simply allows the FCC to indefinitely delay the reforms that I think, frankly, the American people are demanding of Congress, demanding of Washington, which is to just open up government, let us know what's going on, be transparent. That's basic. That's what we stand for.

With that, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from California (Ms. SPEIER).

The amendment was rejected.

The Acting CHAIR. The Committee will rise informally.

The Speaker pro tempore (Mr. KINZINGER of Illinois) assumed the chair.

ENROLLED BILL SIGNED

Karen L. Haas, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3606. An act to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies.

The SPEAKER pro tempore. The Committee will resume its sitting.

FEDERAL COMMUNICATIONS COMMISSION PROCESS REFORM ACT OF 2012

The Committee resumed its sitting.

□ 1720

AMENDMENT NO. 10, AS MODIFIED, OFFERED BY MS. ESHOO

The Acting CHAIR. It is now in order to consider amendment No. 10 printed in House Report 112–422.

Ms. ESHOO. Mr. Chairman, I rise to offer an amendment that is actually Ms. CLARKE's of New York that I am offering on her behalf.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 22, after line 24, insert the following (and redesignate the subsequent section accordingly):

SEC. 4. COMMUNICATIONS OF FIRST RESPONDERS.

Nothing in this Act (including the amendment made by section 2 of this Act) shall impede the Federal Communications Commission from ensuring the availability of efficient and effective communications systems for State and local first responders.

Ms. ESHOO. Mr. Chairman, I ask unanimous consent to offer a revised version.

The Acting CHAIR. Does the gentlewoman ask unanimous consent to modify the amendment?

Ms. ESHOO. I do, Mr. Chairman.

The Acting CHAIR. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 10 offered by Ms. ESHOO:

Page 22, after line 24, insert the following (and redesignate the subsequent section accordingly):

SEC. 4. COMMUNICATIONS OF FIRST RESPONDERS.

Nothing in subsection (a) of section 13 of the Communications Act of 1934, as added by section 2 of this Act, shall be construed to impede the Federal Communications Commission from acting in times of emergency to ensure the availability of efficient and effective communications systems for State and local first responders.

The Acting CHAIR. Pursuant to House Resolution 595, the gentlewoman from California (Ms. ESHOO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. ESHOO. Mr. Chairman, I simply present this amendment on behalf of Ms. CLARKE, and I hope that the majority will accept it.

With that, I yield back the balance of my time.

Mr. WALDEN. Mr. Chairman, I appreciate the work we've done with the people involved in this, and we agree to it, and we accept the amendment as well.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment, as modified, offered by the gentlewoman from California (Ms. ESHOO).

The amendment, as modified, was agreed to.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in House Report 112–422 on which further proceedings were postponed, in the following order:

Amendment No. 1 by Mr. CROWLEY of New York.

Amendment No. 5 by Ms. ESHOO of California.

Amendment No. 7 by Mr. OWENS of New York.

The Chair will reduce to 2 minutes the minimum time for any electronic vote after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. CROWLEY

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. CROWLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 196, noes 219, not voting 16, as follows:

[Roll No. 134]

AYES—196

Ackerman	Davis (IL)	Kaptur
Altmire	DeFazio	Keating
Amodei	DeGette	Kildee
Andrews	DeLauro	Kind
Baca	Dent	King (NY)
Baldwin	Deutch	Kissell
Barrow	Dicks	Kucinich
Bartlett	Dingell	Langevin
Bass (CA)	Doggett	Larsen (WA)
Becerra	Dold	Larson (CT)
Berkley	Donnelly (IN)	Latham
Berman	Doyle	Lee (CA)
Bishop (GA)	Edwards	Levin
Bishop (NY)	Ellison	Lewis (GA)
Blumenauer	Engel	Lipinski
Bonamici	Eshoo	LoBiondo
Boren	Farr	Loebsack
Boswell	Fattah	Lofgren, Zoe
Brady (PA)	Filner	Lowey
Braley (IA)	Fitzpatrick	Luján
Brown (FL)	Fortenberry	Lynch
Burgess	Frank (MA)	Markey
Butterfield	Fudge	Matheson
Capps	Garamendi	Matsui
Capuano	Gibson	McCarthy (NY)
Cardoza	Gonzalez	McCollum
Carnahan	Green, Al	McDermott
Carney	Green, Gene	McGovern
Carson (IN)	Griffith (VA)	McIntyre
Castor (FL)	Grijalva	McNerney
Chandler	Gutierrez	Meeks
Chu	Hahn	Miller (NC)
Cicilline	Hanabusa	Miller, George
Clarke (MI)	Hastings (FL)	Moore
Clarke (NY)	Heck	Moran
Clay	Heinrich	Murphy (CT)
Cleaver	Higgins	Nadler
Clyburn	Himes	Napolitano
Cohen	Hinchey	Neal
Connolly (VA)	Hinojosa	Olver
Conyers	Hirono	Owens
Cooper	Hochul	Pallone
Costa	Holden	Pascrell
Costello	Holt	Pastor (AZ)
Courtney	Honda	Paulsen
Critz	Hoyer	Pelosi
Crowley	Israel	Perlmutter
Cuellar	Johnson (GA)	Peters
Cummings	Johnson, E. B.	Peterson
Davis (CA)	Jones	Pingree (ME)