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1 {York Stenographic Services,  
2 HIF281.160  
3 MARKUP ON H.R. 1147, TO IMPLEMENT THE REGULATIONS OF THE  
4 FEDERAL COMMUNICATIONS COMMISSION REPORT TO THE CONGRESS  
5 REGARDING LOW-POWER FM SERVICE;  
6 H.R. 1084, TO REQUIRE THE FEDERAL COMMUNICATIONS COMMISSION  
7 TO PRESCRIBE A STANDARD TO PRECLUDE COMMERCIALS FROM BEING  
8 BROADCAST AT LOUDER VOLUMES THAN THE PROGRAM MATERIAL THEY  
9 ACCOMPANY; AND  
10 H.R. 1258, TO AMEND THE COMMUNICATIONS ACT OF 1934 TO  
11 PROHIBIT MANIPULATION OF CALLER IDENTIFICATION INFORMATION,  
12 AND FOR OTHER PURPOSES  
13 THURSDAY, OCTOBER 8, 2009  
14 House of Representatives,  
15 Subcommittee on Communications, Technology, and the Internet  
16 Committee on Energy and Commerce  
17 Washington, D.C.

18 The Committee met, pursuant to call, at 10:05 a.m., in  
19 Room 2123 of the Rayburn House Office Building, Hon. Rick

20 Boucher [Chairman of the Subcommittee] presiding.

21           Members present: Representatives Boucher, Eshoo,  
22 Stupak, Doyle, Inslee, Christensen, Space, McNerney, Welch,  
23 Dingell, Stearns, Shimkus, Buyer, Walden, Terry, Blackburn  
24 and Barton (ex officio).

25           Staff present: Phil Barnett, Staff Director; Kristin  
26 Amerling, Chief Counsel; Bruce Wolpe, Senior Advisor; Roger  
27 Sherman, Chief Counsel, Communications, Technology, and the  
28 Internet; Pat Delgado, Policy Director, Communications,  
29 Technology, and the Internet; Tim Powderly, Counsel; Amy  
30 Levine, Counsel; Shawn Chang, Counsel; Laura Vaught,  
31 Professional Staff Member; Sarah Fisher, Special Assistant;  
32 Greg Guice, FCC Detailee; Earley Green, Chief Clerk; Sharon  
33 Davis, Chief Legislative Clerk; Jen Berenholz, Deputy Clerk;  
34 Caitlin Haberman, Special Assistant; Mitchell Smiley, Special  
35 Assistant; Miriam Edelman, Special Assistant; Matt Eisenberg,  
36 Staff Assistant; Neil Fried, Minority Counsel; Amy Bender,  
37 Minority FCC Detailee; and Garrett Golding, Minority  
38 Legislative Analyst.

|  
39 Mr. {Boucher.} The Subcommittee will come to order.

40 This morning the Subcommittee convenes in general markup  
41 session to consider four items of legislation: H.R. 1147,  
42 the Local Community Radio Act of 2009; H.R. 1084, the  
43 Commercial Advertisement Loudness Mitigation Act; H.R. 1258,  
44 the Truth in Caller ID Act of 2009, and H.R. 3633, a bill to  
45 allow funding for the Interoperable Emergency Communications  
46 Grant Program to remain available through fiscal year 2012.

47 H.R. 1147, the Local Community Radio Act, introduced by  
48 Representatives Doyle and Terry, would provide for additional  
49 licenses for low-power FM radio stations by allowing their  
50 operation on third adjacent channels to full-power radio  
51 stations. Low-power radio stations are community-based  
52 nonprofits that operate at 100 watts or less and have a  
53 broadcast reach that typically is no more than 5 to 7 miles.  
54 They play a unique role in our communications firmament.  
55 They are far more likely than their full-power counterparts  
56 to be owned by women or minorities and they are an important  
57 forum for local clergy, for educational institutions, for  
58 civil rights and community leaders who want to weigh in using  
59 radio on local issues. I appreciate the constructive work  
60 that has been undertaken since our legislative hearing on  
61 this measure in June by the supporters of low-power radio

62 including Mr. Doyle and Mr. Terry and also public radio  
63 stations and they have crafted a measure that will be  
64 reflected in Mr. Doyle's Manager Amendment that resolves the  
65 concerns that public radio stations had expressed at the time  
66 of the markup that we undertook. That accommodation will  
67 assure that the relatively weak signals that are received by  
68 their translator facilities through which public radio  
69 propagates in mountainous and rural parts of the country can  
70 be received free of interference and will be adequate for the  
71 translator needs of public radio.

72 H.R. 1084, the Commercial Advertisement Loudness  
73 Mitigation Act, otherwise known as the CALM Act, was  
74 introduced by our colleague, Ms. Eshoo, to address a leading  
75 consumer complaint, the volume of advertisements on  
76 television. All of us have had the experience of enjoying a  
77 favorite program only to find ourselves scrambling for the  
78 remote control when at the commercial break seemingly the  
79 volume on the commercial doubles. As I said during our  
80 legislation hearing in June, once this measure becomes law, I  
81 think it is destined for a popularity not unlike that that  
82 attends the Do Not Call List at the present time. Ms.  
83 Eshoo's manager amendment directs the FCC to adopt the  
84 recommended practice on commercial loudness that has been  
85 assembled by the Advanced Television Systems Committee and

86 creates a waiver process for television stations that can  
87 show extreme financial hardship in meeting the requirements  
88 of the law.

89 H.R. 1258, the third item on our agenda today, the Truth  
90 in Caller ID Act of 2009, was introduced by Mr. Engel and Mr.  
91 Barton and would direct the Federal Communications Commission  
92 to prohibit caller ID spoofing where a caller falsifies the  
93 original caller ID information during the transmission of a  
94 telephone call. This measure was passed by the House of  
95 Representatives on the suspension calendar during each of the  
96 last two Congresses but the Senate to date has not acted on  
97 the measure. I look forward to advancing this legislation  
98 today and working with our Senate colleagues to ensure its  
99 enactment into law during the course of the current Congress.

100 I want to thank Mr. Engel, who is a member of our full  
101 committee, for his commitment to this matter and for his  
102 highly constructive work. I will be offering a Manager's  
103 Amendment that harmonizes this measure with a separate  
104 Judiciary Committee bill and creates an exception for  
105 authorized law enforcement activities.

106 The final measure that we have on today's agenda is H.R.  
107 3663 introduced by our colleague, Ms. Harman, and our  
108 colleague from Louisiana, Mr. Cao. It extends for 2 years  
109 the Public Safety Interoperable Communications Act Grant

110 programs administered by NTIA and by the Department of  
111 Homeland Security. These grants are funded with auction  
112 proceeds from the FCC's 700 MHz auction and are based on a  
113 recommendation from the 9/11 Commission concerning the  
114 shortcomings of interoperable communications among first  
115 responders. As required by law, the Department of Commerce's  
116 Office of Inspector General has conducted an annual  
117 assessment of the NTIA's management of the program. It found  
118 that NTIA met the statutory deadlines and requirements for  
119 making awards and for reviewing and approving grantees'  
120 communications plans, but that assessment also found that the  
121 original program deadline had not permitted States sufficient  
122 time in order to take full advantage of the program funds and  
123 so the measure we consider today will extend the grant  
124 program for 2 additional years and ensure that States have  
125 sufficient time in order to extend grant awards. I would  
126 know that Mr. Cao from Louisiana previously had introduced a  
127 separate measure on this topic. He and Ms. Harman are  
128 cosponsors of the bill that we are considering today, and I  
129 want to commend both Ms. Harman and Mr. Cao for taking this  
130 initiative.

131 Let me say in conclusion of these remarks that I want to  
132 thank the Republican ranking member of our Subcommittee, the  
133 gentleman from Florida, Mr. Stearns, and all Subcommittee

134 members on both sides of the aisle for their bipartisan way  
135 in which we have addressed concerns that were expressed on  
136 several of these four measures during our legislative hearing  
137 in June and for the constructive work that all members have  
138 undertaken on a bipartisan basis in order to draft the  
139 amendments that resolve those concerns that will be  
140 considered by the Subcommittee this morning. I particularly  
141 want to say thank you to the professional staff of the  
142 Subcommittee on both sides of the aisle, to Amy Levine, our  
143 professional staff member on the Democratic side, and to Neil  
144 Fried on the Republican side, for their outstanding work in  
145 association with members and also with introduced  
146 stakeholders in order to resolve the concerns that have been  
147 presented to us. Those will be reflected in the various  
148 amendments we will consider today.

149 That concludes my opening statement.

150 [The prepared statement of Mr. Boucher follows:]

151 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
152           Mr. {Boucher.} I am pleased now to recognize the  
153 gentleman from Florida, Mr. Stearns.

154           Mr. {Stearns.} Good morning, and thank you, Mr.  
155 Chairman, and let me echo your comments about the kudos and  
156 praise for staff on my side and your staff in working  
157 together to solve these problems. These are three very  
158 important, consequential bills and the fact that they went so  
159 smoothly is a tribute to our staffs working together.

160           The first bill under discussion is H.R. 1147, the Local  
161 Community Radio Act. The FCC created low-power FM service in  
162 2000 to promote local programming. At the end of 2000,  
163 Congress restricted how close low-power stations may operate  
164 to full-power stations, obviously due to interference  
165 concerns. As a result, fewer low-power stations can be  
166 authorized. This bill would repeal the statutory limits. I  
167 still have some questions about the impact on full-power FM  
168 stations and the issue of interference but these issues  
169 continue to be addressed by the bill's sponsors and industry  
170 as we move toward full committee and Floor consideration.

171           Next, we are considering H.R. 1804, the Commercial  
172 Advertisement Loudness Mitigation Act, or the CALM Act. This  
173 bill would require the FCC to mandate rules within 1 year  
174 prohibiting commercials from being excessively noisy or

175 strident. This issue is more complex than it appears. Many  
176 different entities are responsible for producing and  
177 distributing the content consumers see and hear. Each  
178 element may be recorded and provided at a different volume  
179 level. Moreover, shows and movies have a dynamic sound range  
180 to cover everything from a quiet scene to an explosion.  
181 Commercials meanwhile tend to have a narrow sound range.  
182 Volume levels are typically set for the programming which can  
183 throw off the volume levels for commercials. Two years ago,  
184 the Advanced Television Systems Committee established a  
185 subgroup on digital television loudness. This subgroup  
186 consists of the leading experts on audio technology from all  
187 the major broadcast networks, cable, production and post-  
188 production manufacturing and education. Since it was  
189 established, these audio technology experts have crafted a  
190 hard-fought consensus on the recommended practice that should  
191 be employed across the TV industry to deal with TV loudness  
192 concerns. I trust the collective wisdom of these technical  
193 experts' and subgroups' hard work to craft a solution to the  
194 TV loudness issue, and I would like to commend them for their  
195 work.

196       The third bill is H.R. 1258, the Truth in Caller ID Act  
197 of 2009. Millions of Americans use caller ID in order to  
198 secure greater privacy for their families yet as new

199 technologies continue to be developed, caller ID spoofing has  
200 become a problem for consumers and businesses. This bill  
201 protects consumers by prohibiting the deceptive manipulation  
202 of caller identification information, a practice which is  
203 known as caller ID spoofing. Caller ID spoofing occurs when  
204 a customer masquerades as someone else by falsifying the  
205 number that appears on the recipient's caller ID display.  
206 Caller ID spoofing can make a call appear to come from any  
207 phone number the caller wishes. Although caller ID spoofing  
208 services promote themselves for use in prank calls or for  
209 entertainment purposes only, such services can be easily  
210 accessed and used by criminals. Caller ID spoofing has  
211 emerged as a useful tool for identifying thieves and other  
212 scam artists. In addition, many business functions from  
213 credit card verification to automatic call routing depend on  
214 caller ID for security purposes which spoofing can render  
215 useless. This an important piece of bipartisan consumer  
216 protection legislation and obviously I urge its passage.

217       The final bill under consideration is H.R. 3633, the  
218 Public Safety Interoperable Communications Grant Program  
219 Extension Act of 2009. As has been discussed in the past,  
220 the DTV Act authorized NTIA in consultation with DHS to make  
221 payments of up to \$1 million by September 30, 2010, to carry  
222 out the Public Safety Interoperable Communications Grant

223 Program, PSIC. The program helps public safety agencies  
224 acquire deploy and train for the use of interoperable  
225 communications systems that can utilize reallocated public  
226 safety spectrum in the 700 MHz band. The PSIC program has  
227 awarded most of the money and approved over 300 investments  
228 to fund projects in all 50 States and U.S. territories.  
229 Moreover, in a report required by Congress, the Department of  
230 Commerce's Office of Inspector General found that States need  
231 additional time to comply with program requirements. This  
232 bill would simply allow funds to remain available for up to 2  
233 more years and would extend the performance period by up to 2  
234 years.

235 I would also like to acknowledge as the chairman did the  
236 gentleman from Louisiana, Mr. Cao, for his leadership and his  
237 foresight on this issue. He first called attention to this  
238 problem when he introduced H.R. 1819 in March of this year.  
239 I am glad the subcommittee has taken up this issue.

240 So thank you, Mr. Chairman, for holding this hearing. I  
241 look forward to continuing our bipartisanship work as we move  
242 forward.

243 [The prepared statement of Mr. Stearns follows:]

244 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
245 Mr. {Boucher.} Thank you very much, Mr. Stearns.

246 The gentlelady from California, Ms. Eshoo, is recognized  
247 for 3 minutes.

248 Ms. {Eshoo.} Thank you, Mr. Chairman, for moving  
249 forward on these four important piece of legislation today  
250 and I especially appreciate the kind words that you said in  
251 your opening statement about my legislation, the CALM Act. I  
252 am pleased to introduce a substitute amendment today, and I  
253 want to thank your staff, the Committee staff for working  
254 closely with mine to make certain that the bill is ready for  
255 prime time. I also want to thank the Ranking Member, Mr.  
256 Stearns, and his staff for working with mine. I will discuss  
257 the substitute in greater detail when I introduce it.

258 I am also pleased to cosponsor two of the other bills we  
259 are taking up today, the Local Community Radio Act and the  
260 bill to extend funding for the PSIC program. On H.R. 1147,  
261 which codifies some components of LP FM, all I can say is, it  
262 is about time. This struggle goes all the way back to when  
263 Bill Canard was chairman, as you recall, of the FCC. It was  
264 absurd and ridiculous, I thought, that broadcasters went to  
265 such great lengths to block the public from having some small  
266 measure of access to the airwaves and disgraceful, I think,  
267 that we had to spend more than \$2 million to prove what the

268 FCC already had shown, and that is that the LP FM would not  
269 interfere with full-power stations, so now it is time to move  
270 ahead and finish this business and I welcome doing so.

271         As for H.R. 3633, our colleague, Jane Harman, has worked  
272 long and hard to ensure funding for public station. She was  
273 instrumental in drafting legislation that created the PSIC  
274 program and her bill ensures that funding continues under  
275 this program to make certain that public safety entities have  
276 access to funds for interoperability. That is really the  
277 operational word here, interoperability.

278         So again, Mr. Chairman, I thank you for your efforts n  
279 moving these bills forward and for all of your cooperation  
280 for the bill, the CALM Act. Without your help, I don't think  
281 we would be here today.

282         [The prepared statement of Ms. Eshoo follows:]

283 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
284 Mr. {Boucher.} Thank you very much, Ms. Eshoo.

285 The gentleman from Oregon, Mr. Walden, is recognized for  
286 3 minutes.

287 Mr. {Walden.} Thank you very much, Mr. Chairman.

288 First, on the Local Community Radio Act, I have had  
289 lingering doubts in the past about the engineering issues and  
290 the possible interference issues. After reviewing the study  
291 and actually spending some time with the broadcast engineer I  
292 worked side by side with for nearly 22 years when we were in  
293 the business, I have come to the conclusion that it is time  
294 to move forward and that the interference issues are not what  
295 they once were or potentially were. Therefore, I will  
296 support the legislation. I would again reiterate the comment  
297 that I made during the hearing regarding the need for the FCC  
298 to maintain oversight over LP FM broadcasters to make sure  
299 that they too are following the rules under which they are  
300 licensed and to pay special attention to the fact that they  
301 are nonprofit organizations, state and local governments,  
302 noncommercial public safety radio services and not engage in  
303 the kind of activities that would be in opposition to the  
304 rules, specifically as it relates to advertising.

305 The second issue regarding the CALM Act, I too will  
306 support that. I have some reservations about especially

307 small cable operators and their ability to deal with some of  
308 these issues and the retransmission consents. They aren't  
309 exactly given the negotiations given the ability to determine  
310 what audio levels are set at when they are just taking  
311 programming and passing it through. I know from my days in  
312 broadcasting in the radio side we faced some of the same  
313 issues because network programming where it is at the network  
314 level if the audio levels are different between the  
315 advertising and the program and even locally we would face  
316 that at times and certainly not something we wanted to have  
317 happen but you have different audio transmission devices, if  
318 you will, feeding into a common stream and those device  
319 settings may be altered or there might be a problem with one  
320 over the other and so it is always a challenge to try and get  
321 your audio levels to balance out.

322         So hopefully as we move forward, I appeal to you, Mr.  
323 Chairman, and Ms. Eshoo to try to work between now and the  
324 Floor to address this issue with the small cable operators  
325 especially, and with that, I will yield back the balance of  
326 my time and plan to support these bills today.

327         [The prepared statement of Mr. Walden follows:]

328 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
329 Mr. {Boucher.} Thank you very much, Mr. Walden, and we  
330 do intend to have the conversations that you have  
331 recommended, particularly with small cable operators.

332 The gentleman from Michigan, Mr. Stupak, is recognized  
333 for 3 minutes.

334 Mr. {Stupak.} Well, thank you, Mr. Chairman.

335 On H.R. 3633, a bill to allow the funding for the  
336 interoperable emergency communications grant program to  
337 remain available through fiscal year 2012, the Department of  
338 Commerce Office of Inspector General was correct to warn us  
339 that the Congressional deadline had not afforded sufficient  
340 time for these funds to be spent. Last week my staff and I  
341 met with the Upper Peninsula county commissioners who  
342 expressed the same concern and hoped Congress would extend  
343 this Act. I appreciate the swift action of the subcommittee  
344 and hope we can move quickly to pass this legislation in the  
345 full committee and the House. I share in Congresswoman  
346 Harman's passion for public safety and I am cosponsor of her  
347 legislation. While the Public Safety Interoperability  
348 Communications Grant Program is a good step, we must realize  
349 it only represents the first step. As I previously stated,  
350 the estimated cost of national interoperable broadband  
351 network is as low as \$10 billion and maybe as high as \$20

352 billion. In fact, at our last hearing, we heard an estimate  
353 as high as \$40 billion now that we are discussing the 4G LTE  
354 network. In total, the grant program we are extending here  
355 today will only provide a maximum of 10 percent of the money  
356 towards the lowest of these cost estimates. That being said,  
357 as the Federal Communications Commission weighs the options  
358 on how to proceed with the D block spectrum, we in Congress  
359 must be prepared to respond by providing additional public  
360 funding. This issue has languished far too long and will  
361 continue to languish until we make a commitment of public  
362 money on a continued, reliable basis.

363 I must also comment that Mr. Doyle's legislation, while  
364 I understand it will pass on a voice vote, I still have  
365 concerns about the interference and cannot support the  
366 legislation as currently written. Like I said, I understand  
367 it will be passed on a voice vote but I want to be recorded  
368 as a ``no'' vote on that one.

369 I must compliment Ms. Eshoo on the good work on the  
370 CALM Act and Mr. Engel on the Caller ID Act, and I look  
371 forward to moving forward on three out of four of this  
372 legislation today, Mr. Chairman.

373 [The prepared statement of Mr. Stupak follows:]

374 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
375 Mr. {Boucher.} Thank you very much, Mr. Stupak.

376 The gentle from Nebraska, Mr. Terry, is recognized for 3  
377 minutes.

378 Mr. {Terry.} Thank you, Mr. Chairman, and thank you for  
379 bringing this to markup today. I want to thank Mr. Doyle and  
380 his leadership on this and allowing me to be part of the  
381 process. I am a big fan of low-power FM and the way that it  
382 really empowers people and communities that need a louder  
383 voice. For example, in Omaha already in the poorest area of  
384 my district, we have 100 black men that want to apply for a  
385 low-power license to be a community voice. One of the major  
386 churches, Salem Baptist Church, has already talked about  
387 having a low-power FM license, and these are the types of  
388 entities that will be empowered by this piece of legislation.

389 So with that, just recognizing what is going to happen,  
390 I want to thank everybody for their work in this. I think  
391 the changes that have been made over the last year or two  
392 have actually made a good bill better and provide assurances  
393 to those that are in the industry that the interference will  
394 not impact them or there won't be the interference that  
395 originally thought may impact commercial radio.

396 So with that, Mr. Chairman, let us move on, and I yield  
397 back the rest of my time.

398 [The prepared statement of Mr. Terry follows:]

399 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
400 Mr. {Boucher.} Thank you very much, Mr. Terry.

401 The gentleman from Pennsylvania, Mr. Doyle, is  
402 recognized for 3 minutes.

403 Mr. {Doyle.} Thank you, Mr. Chairman. I want to thank  
404 you and Chairman Waxman for so strongly supporting H.R. 1147.  
405 This legislation will bring communities across the country  
406 access to their airwaves, and I am very proud of the support  
407 that this bill has from both sides of the aisle including the  
408 bill's lead cosponsor and my good friend, Lee Terry. I  
409 appreciate the words we just heard from Mr. Walden too and  
410 from many other members of this subcommittee that have  
411 supported us.

412 Through the creation of LP FM, the Federal  
413 Communications Commission sought to create opportunities for  
414 new voices on the airwaves and to allow local groups  
415 including schools, churches and other community-based  
416 organizations to provide programming responsive to the local  
417 community needs and interest. When Congress passed the Radio  
418 Broadcasting Preservation Act in 2000, many of those  
419 organizations were prevented from communicating to their  
420 members, supporters and residents on the FM dial by what were  
421 known as third adjacent protections. Basically, a low-power  
422 station had to be more than three clicks of the dial on both

423 sides away from a bigger broadcaster. The bill was enacted  
424 because some incumbent broadcasters were worried about the  
425 interference that new low-power FM stations might cause that  
426 would harm radio listeners across the dial. But thanks to  
427 the work of my good friend, Chairman Dingell, and others,  
428 Congress at that time also wisely mandated that an outside  
429 study be conducted to evaluate those claims and Congress  
430 demanded that the FCC, our expert agency over the public  
431 airwaves, review that outside study, analyze its impact on  
432 listeners and incumbent radio broadcasters and then vote on  
433 its conclusions and recommend to us if we should reduce the  
434 impact of or eliminate the impact altogether the impact of  
435 that law. On a unanimous bipartisan basis, the FCC issued a  
436 report to Congress on February 19, 2004, that stated Congress  
437 should readdress this issue and modify the statute to  
438 eliminate the third adjacent channel distance separation  
439 requirement for LP FM stations. For a second time on  
440 November 27, 2007, and for a third time once again last  
441 month, September 17, 2009, right before this very  
442 subcommittee, all five commissioners agreed that Congress  
443 should lift the restrictions on LP FM stations and allow the  
444 FCC to license new stations in more communities. Where  
445 allowed to exist under current law, LP FM stations have  
446 proven to be a vital source of information during local or

447 national emergencies, and these stations promote the arts and  
448 education from religious organizations, community groups,  
449 organizations promoting literacy and many other civically  
450 oriented organizations. But we have to act on the  
451 commission's recommendations. Otherwise these stations are  
452 prevented from operating and communities across America,  
453 communities like mine, which are too large to have any slots  
454 for new LP FM stations at the fourth adjacent but could fit  
455 several at the third.

456         The time has come for Congress to rewrite this law. The  
457 time has come to make the airwaves available to the people  
458 they serve. The time has come to bring low power to the  
459 people.

460         Mr. Chairman, I want to thank you very much for your  
461 support of this legislation and for including it in this  
462 markup today. I yield back.

463         [The prepared statement of Mr. Doyle follows:]

464         \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
465           Mr. {Boucher.} Thank you very much, Mr. Doyle, and  
466 thank you for your fine work on this measure.

467           The gentlelady from Tennessee, Ms. Blackburn, is  
468 recognized for 3 minutes.

469           Mrs. {Blackburn.} Thank you, Mr. Chairman. I do  
470 appreciate that we are having the markup today.

471           A couple of comments on the bills. The low-power FM is  
472 something that we have all worked on for a good period of  
473 time. I am glad to see that bill brought forward. And I  
474 support the Truth in Caller ID Act. When I was in the State  
475 Senate in Tennessee and working at the State level, this is  
476 something that I supported and worked toward. I am pleased  
477 to see the extension of funds and usage extended through the  
478 Public Safety Interoperable Communications Grant Program. It  
479 is timely and it is needed.

480           I have concerns about the CALM Act and the reach of the  
481 government into this area. I hope we will continue to work  
482 on this as we move forward. I am not in support of that one  
483 out of our four bills, and I thank you for the good work and  
484 I yield the balance of my time.

485           [The prepared statement of Mrs. Blackburn follows:]

486 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
487 Mr. {Boucher.} Thank you very much, Ms. Blackburn.

488 The gentleman from Washington State, Mr. Inslee, is  
489 recognized for 3 minutes.

490 Mr. {Inslee.} Thank you, Mr. Chairman. I thank you for  
491 moving these bills.

492 I just want to focus on one bill in particular, Local  
493 Community Radio Act, and we know low-power FM radio really  
494 serves our constituents especially in my State and very  
495 unique programming. It just provides a unique service to  
496 unserved and underserved populations. In the last filing  
497 window for low-power stations, over 100 community  
498 organizations, schools and local governments applied for  
499 stations. It is my hope by moving the Local Community Radio  
500 Act we are taking a very important step to ensuring all  
501 voices to be heard, and I want to compliment Coach Doyle for  
502 his perseverance to make this happen for people. He did a  
503 great job and I know he will remember this when he makes up  
504 the lineup card next year. Thank you very much.

505 [The prepared statement of Mr. Inslee follows:]

506 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|

507           Mr. {Boucher.} Thank you, Mr. Inslee.

508           I understand that the from Indiana, Mr. Buyer, is not

509 making an opening statement.

510           [The prepared statement of Mr. Buyer follows:]

511           \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
512           Mr. {Boucher.} The gentleman from California, Mr.  
513 McNerney, is recognized for 3 minutes.

514           Mr. {McNerney.} Thank you, Mr. Chairman. All I want to  
515 do is thank the authors of these four bills, Mr. Doyle, for  
516 your work on the Local Radio Community Act, Ms. Eshoo for the  
517 CALM Act--we have all had instances where we have been  
518 interrupted by commercials, Mr. Engel for Truth in Caller ID-  
519 -I certainly don't like seeing phone calls come through that  
520 aren't represented by the ID number, and then Ms. Harman for  
521 her extension. So thank you, and I refer back to the chair.

522           [The prepared statement of Mr. McNerney follows:]

523 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
524 Mr. {Boucher.} Thank you very much, Mr. McNerney.

525 The gentleman from Ohio, Mr. Space, is recognized for 3  
526 minutes.

527 Mr. {Space.} Thank you, Mr. Chairman. Thank you,  
528 Ranking Member Stearns.

529 I would like to use my time really to reiterate what  
530 some of my colleagues have already suggested concerning the  
531 small cable operators as it pertains to H.R. 1084. I don't  
532 think that many would dispute the need for a solution to the  
533 problem that the CALM Act seeks to rectify and I commend my  
534 colleague from California for her work in this regard. The  
535 small cable operators that I have heard from would like to  
536 see this issue resolved as well and I certainly support the  
537 intent. There is, however, an issue raised by this bill that  
538 I believe should be addressed and the bill perhaps  
539 unintentionally is prejudiced toward these small operators.  
540 Many of them do not do ad insertions themselves and they do  
541 not have the right to alter national feeds unilaterally like  
542 some of the bigger cable companies. Small operators who  
543 often serve smaller and more rural areas simply pass through  
544 local broadcast signals and national programming to their  
545 customers and have no means of adjusting the loudness or the  
546 volume of commercials on the stream. So for these small

547 operators, the bill could impose burdens and hefty fines on  
548 them.

549           Mr. Chairman, I hope we can work toward a solution for  
550 these smaller operators so that they are not held accountable  
551 for something over which they have very little control.

552 Thank you, Mr. Chairman, and I yield back my time.

553           [The prepared statement of Mr. Space follows:]

554 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
555           Mr. {Boucher.} Thank you very much, Mr. Space, and as I  
556 assured Mr. Walden, we do have on our agenda for  
557 conversations meetings with the small cable operators in  
558 order to make sure those concerns are satisfactorily  
559 addressed.

560           The gentleman from Michigan, the chairman emeritus of  
561 the full Energy and Commerce Committee, Mr. Dingell, is  
562 recognized for 5 minutes.

563           Mr. {Dingell.} Mr. Chairman, good morning. Thank you  
564 for recognition and thank you for holding today's markup. It  
565 is my hope that we will approve the bills under consideration  
566 today. They all serve legitimate consumer interests and in  
567 the case of H.R. 3633 will provide improved protection in  
568 times of emergency.

569           With regard to H.R. 1147, the Local Community Radio Act  
570 of 2009, although I continue to maintain a modest degree of  
571 skepticism about low-power FM radio and its sometimes curious  
572 encroachment on high-power stations, I nevertheless feel that  
573 this bill and the amendment in the nature of a substitute  
574 which will be offered are fundamentally sound and therefore  
575 plan to support them. I would note I intend to offer my  
576 support in good part because of great affection and respect  
577 that I feel for my dear friend from Pennsylvania, Mr. Doyle.

578           Concerning H.R. 1084, the Commercial Advertisement  
579 Loudness Mitigation Act, and H.R. 1258, the Truth in Caller ID  
580 Act of 2009, I find these bills offer tangible benefits to  
581 consumers and plan to vote for them.

582           Finally, I want to commend my dear friend and colleague  
583 from California, Ms. Harman, for her fine work on H.R. 3633,  
584 which will extend the period during which grants under the  
585 Public Safety Interoperable Communications Grant Program may  
586 be awarded. This is commonsense legislation and will ensure  
587 better and more coordinated public safety communications. I  
588 am a cosponsor of this bill and I urge my colleagues to join  
589 me in voting for it.

590           Thank you, Mr. Chairman, and I commend you for your  
591 efforts today and I yield back the balance of my time.

592           [The prepared statement of Mr. Dingell follows:]

593           \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
594 Mr. {Boucher.} Thank you very much, Mr. Dingell.

595 The gentlelady from the Virgin Islands, Ms. Christensen,  
596 is recognized for 3 minutes.

597 Mrs. {Christensen.} Thank you, Mr. Chairman.

598 I would like to just thank my colleagues for the bills  
599 that we are marking up today. Thank you for bringing them to  
600 this markup this morning. Given the work that we have done  
601 with our low-power FM stations in my district, which are  
602 operated by not-for-profits and educational and religious  
603 organizations, the bill, 1147, will be very helpful to them.  
604 I am sure all of us will be happy not to have to change our  
605 volumes when the commercials come on.

606 I appreciate the bill that has also been introduced by  
607 Ms. Harman. Having been on Homeland Security with her and  
608 gone through the difficulties of dealing with  
609 noninteroperable emergency communications, I really  
610 appreciate that bill.

611 Also, in looking at limited-liability issues in the  
612 future as we move H.R. 1258 forward, you know, we hope that  
613 the committee would continue to work towards a resolution of  
614 those limited-liability issues in order to reduce unnecessary  
615 litigation.

616 I thank you, Mr. Chairman, for this markup and my

617 colleagues for the bills, and I look forward to working with  
618 you to take them to the Floor.

619 [The prepared statement of Mrs. Christensen follows:]

620 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|

621 Mr. {Boucher.} Thank you very much, Mrs. Christensen.  
622 All member have been recognized for opening statements.

|  
623 H.R. 1147

624           Mr. {Boucher.} Now I am pleased to call up the first of  
625 the four bills we are considering this morning, H.R. 1147,  
626 the Local Community Radio Act. The clerk will report the  
627 title of the bill.

628           The {Clerk.} H.R. 1147, a bill to implement the  
629 recommendations of the Federal Communications Commission  
630 report to the Congress regarding low-power FM service.

631           [H.R. 1147 follows:]

632 \*\*\*\*\* INSERT 1 \*\*\*\*\*

|  
633           Mr. {Boucher.} Without objection, the first reading of  
634 the bill will be dispensed with, and the gentleman from  
635 Pennsylvania, Mr. Doyle, is recognized for the purpose of  
636 offering a Manager's Amendment in the nature of a substitute.

637           Mr. {Doyle.} Thank you, Mr. Chairman. I will be brief  
638 with the description of the Manager's Amendment.

639           Mr. {Boucher.} Well, we need to offer it first, Mr.  
640 Boyle.

641           Mr. {Doyle.} Thank you, Mr. Chairman.

642           Mr. {Boucher.} So Mr. Doyle offers an amendment.

643           The {Clerk.} Amendment in the nature of a substitute to  
644 H.R. 1147 offered by Mr. Doyle of Pennsylvania.

645           [The amendment follows:]

646 \*\*\*\*\* INSERT 2 \*\*\*\*\*

|  
647           Mr. {Boucher.} Without objection, the reading of the  
648 amendment is dispensed with, and the gentleman from  
649 Pennsylvania is recognized for 5 minutes.

650           Mr. {Doyle.} Thank you, Mr. Chairman. I will be brief  
651 with my description of the amendment.

652           I first want to thank you for your work and the work of  
653 Amy Levine on your staff on this Manager's Amendment. I also  
654 want to thank the many thousands of existing incumbent  
655 licensed broadcasters who support this bill including members  
656 of the National Federation of Community Broadcasters and the  
657 Christian Community Broadcasters. I am also very pleased by  
658 the support shown for the bill as introduced by the U.S.  
659 Conference of Catholic Bishops, the United Church of Christ,  
660 OC Incorporated, the United Methodist Church, the Evangelical  
661 Lutheran Church in America, the National Council of Churches  
662 of Christ, Christian Coalition, Leadership Conference on  
663 Civil Rights, the National Hispanic Media Coalition, NAACP,  
664 Communication Workers of America, the Future of Music  
665 Coalition and the outstanding work from the Prometheus Radio  
666 Project and dozens of others of local and national groups  
667 across the country.

668           We make the changes in the Manager's Amendment today to  
669 address concerns from other incumbent broadcasters, and I am

670 especially pleased that National Public Radio expressed its  
671 appreciation of these changes. I would like to put this  
672 letter in the record expressing their support for the changes  
673 [The information follows:]

674 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
675 Mr. {Boucher.} Without objection.

676 Mr. {Doyle.} So first, we simply amend current law  
677 instead of repealing it, and we also add language requiring  
678 the FCC to protect co-first and second adjacent channel  
679 spacing. The new language also grants substantial  
680 flexibility to the FCC to manage the spectrum. Second, the  
681 amendment takes a belt-and-suspenders approach to the  
682 interference complaints by adding process language permitting  
683 different evidence and a more streamlined process for full-  
684 power stations complaining about interference, although to  
685 date very, very complaints have been filed at all.

686 And lastly, we add protection for translator inputs. As  
687 we know, translators are lower-power stations that  
688 rebroadcast a big station's signal and expand the station's  
689 coverage. This amendment adds even more protection to  
690 already-strict FCC rules protecting translator inputs.

691 Again, I want to thank Chairman Boucher and Chairman  
692 Waxman for their strong support and Shawn Chang, Roger  
693 Sherman and Pat Delgado for their hard work, but I would be  
694 remission if I didn't also thank Pete Treatish from the  
695 Prometheus Radio Project and Cheryl Leanza from the United  
696 Church of Christ Office of Communications for their countless  
697 hours over their decade of work dedicating to expanding

698 community radio across the United States. Their technical  
699 and legal expertise was essential and their ability to show  
700 real local grassroots support for this bill has been  
701 critical.

702 Mr. Chairman, I thank you, and I yield back.

703 Mr. {Boucher.} Well, thank you very much, Mr. Doyle.

704 Are other members seeking recognition to debate the  
705 Manager's Amendment in the nature of a substitute? Seeing  
706 none, I will ask if there are any amendments to the amendment  
707 in the nature of a substitute, and if there are none, the  
708 question then occurs on approving the amendment in the nature  
709 of a substitute offered by Mr. Doyle. Those in favor will  
710 say ``aye.'' Those opposed, ``no.'' The amendment is agreed  
711 to.

712 And now the question occurs on the reporting of the bill  
713 as amended to full Energy and Commerce Committee with a  
714 favorable recommendation. Those in favor will say ``aye.''  
715 Those opposed, ``no.'' The ayes have it and the bill as  
716 amended is reported.

717 Without objection, two statements of members of the  
718 House will be placed in the record, a statement by our  
719 Committee colleague, Mr. Engel from New York, and a statement  
720 by our colleague, Mr. Cao from Louisiana.

721 [The information follows:]

722 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|

723 [The prepared statement of Mr. Cao follows:]

724 \*\*\*\*\* INSERT 8 \*\*\*\*\*

|  
725 H.R. 1084

726 Mr. {Boucher.} I now call up the second measure on our  
727 agenda for today, H.R. 1084, the Commercial Advertisement  
728 Loudness Mitigation Act, and the clerk will report the title  
729 of the bill.

730 The {Clerk.} H.R. 1084, a bill to require the Federal  
731 Communications Commission to prescribe a standard to preclude  
732 commercials from being broadcast at louder volumes than the  
733 program material they accompany.

734 [H.R. 1084 follows:]

735 \*\*\*\*\* INSERT 3 \*\*\*\*\*

|  
736           Mr. {Boucher.} Without objection, the first reading of  
737 the bill will be dispensed with, and the gentlelady from  
738 California, Ms. Eshoo, is recognized for the purpose of  
739 introducing a Manager's Amendment in the nature of a  
740 substitute.

741           Ms. {Eshoo.} Thank you, Mr. Chairman, again for your  
742 support and this opportunity to introduce a substitute  
743 amendment that I think--

744           Mr. {Boucher.} And Ms. Eshoo, before you comment on it,  
745 let us just call it up officially.

746           The {Clerk.} Amendment in the nature of a substitute to  
747 H.R. 1084 offered by Ms. Eshoo of California.

748           [The amendment follows:]

749 \*\*\*\*\* INSERT 4 \*\*\*\*\*

|  
750           Mr. {Boucher.} Without objection, the reading of the  
751 amendment is dispensed with and the gentlelady is recognized  
752 for 5 minutes.

753           Ms. {Eshoo.} Well, once again, thank you, Mr. Chairman,  
754 for this opportunity to introduce the substitute amendment  
755 that I think really strengthens the CALM Act and gives  
756 broadcasters, cable, satellite and multichannel video  
757 distributors ample opportunity to comply with the law.

758           The premise of the bill is really simple: to make the  
759 volume of commercials and programming uniform so that spikes  
760 in volume do not affect the consumer's ability to control  
761 sound. My bill originally gave the FCC 1 year to implement  
762 regulations to that effect. The substitute amendment makes  
763 the following changes. First, we recognize that the Advanced  
764 Television Systems Committee or the ATSC, has developed  
765 technical standards that will solve the problem of varied  
766 volume between commercials and programming with one stream  
767 that keeps the volume uniform. The law directs the FCC to  
768 adopt these engineering standards within 1 year. And I thank  
769 the organization for the work that they have done with us and  
770 on this issue. I look forward to voluntary and immediate  
771 adoption of the standards by broadcasters, cable, satellite  
772 and all multichannel service providers but I have heeded the

773 call for a compliance grace period.

774         The second part of the substitute amendment allows this  
775 additional time for compliance. Those affected will have 1  
776 year after the FCC adopts the rule for purchase and  
777 installation of the ATSC standard-based equipment.

778         Third and finally, the substitute allows the FCC to  
779 grant up to two successive 1-year waivers for financial  
780 hardship. Small stations and cable operators certainly  
781 should be able to comply within 3 years, plus the amount of  
782 time it takes the FCC to adopt and release the rules. There  
783 will not be an open-ended waiver process that drags on for  
784 several years. Most frankly, this issue has dragged on for  
785 several years, and so we are putting some parentheses around  
786 this so that consumers get relief but we want to be fair and  
787 have the right timeframes for this.

788         The problem of loud commercials is not new. It has  
789 bothered consumers and endangered actually hearing for  
790 decades. Constituents routinely contact me about these  
791 commercials wherever I am. I could be in the grocery store,  
792 the gas station. I have more spouses of Members of Congress  
793 that have urged their spouses to cosponsor the legislation.  
794 I think they are all tired of getting blasted out of their  
795 easy chairs or off their exercise equipment due to these  
796 ridiculously loud commercials designed to get their

797 attention. So this has not only gotten mine but everyone  
798 feels the same way, and so I think it is time to do this. I  
799 am relieved that the Advanced Television Systems Committee  
800 did not go deaf from these commercials before they heard my  
801 complaint. They got to work and they developed a technical  
802 fix that should end the practice of commercials outstripping  
803 the sound of programming, and they should be commended. I  
804 salute them for the work they have done. Now the time comes  
805 for implementation and I wish that we could trust everyone to  
806 voluntary comply but the industry's track record has not been  
807 so great in this great. So I appreciate this moment. It has  
808 been a little time in coming but it is worth the effort.

809         If I might, Mr. Chairman, I would like to make a couple  
810 comments about what some members have raised. I look to the  
811 back of the hearing room. There is a young man there, I am  
812 not going to say his name, long time fabulous staffer that  
813 was responsible for the CALM Act. He has now raised at the  
814 last minute with some of my colleagues the business of small  
815 cable operators, and most frankly, at this stage I am wary of  
816 an 11th-hour amendment and I want to study its potential  
817 effects before accepting it. I will work with those that  
818 have raised the issue but this is an 11th-hour issue. No one  
819 has raised this for over 2 years. We don't have any real  
820 testimony or discussion about this language and we need to

821 make certain that we are not creating an unnecessary  
822 loophole. I think that the problem as I see it right now is  
823 really nonexistent because the larger cable operators will  
824 contract with the various networks to use proper modulation  
825 for retransmission. Then smaller operators will  
826 automatically receive properly modulated retransmission from  
827 the Weather Channel or the Food Network, for instance. Local  
828 channels also are going to have to comply prior to  
829 retransmission. If the small cable operator is carrying a  
830 broadcast transmission that has a hardship waiver, then the  
831 cable operator may also apply for a waiver from the FCC. So  
832 the exemption seems to presume that broadcasters will not  
833 comply with the law and leave the small operators hanging out  
834 there. I expect all broadcasters to comply with the law or  
835 seek a waiver, and if they don't, there are serious  
836 consequences.

837         So the question is whether this is necessary at all, but  
838 I will listen to the industry's concerns and make certain  
839 that we review the necessity of the language prior to the  
840 full committee markup. So with that, Mr. Chairman, my thanks  
841 to you again and I yield back.

842         Mr. {Boucher.} Thank you very much, Ms. Eshoo.

843         Do other members seek recognition on the Eshoo Manager's  
844 Amendment? Does any member have amendments to the Manager's

845 Amendment? If not, the question occurs on approving the  
846 Manager's Amendment offered by the gentlelady from  
847 California, Ms. Eshoo. Those in favor will say ``aye.''  
848 Those opposed, ``no.''. The aye have it. The amendment is  
849 agreed to.

850       The question now occurs on reporting the bill as amended  
851 to full Energy and Commerce Committee with a favorable  
852 recommendation. Those in favor will say ``aye.''. Those  
853 opposed, ``no.''. The ayes have it and the bill as amended is  
854 favorably reported to the full Committee.

|

855 H.R. 1258

856 Mr. {Boucher.} I now call up the third bill on our  
857 agenda, H.R. 1258, the Truth in Caller ID Act of 2009. The  
858 clerk will report the title of the bill.

859 The {Clerk.} H.R. 1258, a bill to amend the  
860 Communications Act of 1934 to prohibit manipulation of caller  
861 identification information and for other purposes.

862 [H.R. 1258 follows:]

863 \*\*\*\*\* INSERT 5 \*\*\*\*\*

|  
864           Mr. {Boucher.} Without objection, the first reading of  
865 the bill is dispensed with, and I have an amendment at the  
866 desk.

867           The {Clerk.} Amendment in the nature of a substitute to  
868 H.R. 1258 offered by Mr. Boucher of Virginia, Mr. Barton of  
869 Texas and Mr. Stearns of Florida.

870           [The amendment follows:]

871 \*\*\*\*\* INSERT 6 \*\*\*\*\*

|  
872 Mr. {Boucher.} I will recognize myself for 3 minutes in  
873 support of the Manager's Amendment, and I am pleased to offer  
874 this amendment along with our Committee colleagues, Mr.  
875 Barton and Mr. Stearns.

876 The bill itself makes it unlawful for any person to  
877 falsify caller ID information with the intent to defraud to  
878 cause harm. The amendment creates an exception for  
879 authorized law enforcement activities and it also harmonizes  
880 the bill with a separate measure being considered by the  
881 House Judiciary Committee that imposes a criminal penalty for  
882 caller ID spoofing. It is a very concise amendment. Those  
883 are the changes that it makes, and I urge its approval.

884 Does any member seek recognition on the Manager's  
885 Amendment?

886 Mr. {Barton.} Mr. Chairman.

887 Mr. {Boucher.} The gentleman from Texas, Mr. Barton,  
888 cosponsor of the Manager's Amendment.

889 Mr. {Barton.} Simply to say that I support the  
890 Manager's Amendment, Mr. Chairman, and support you and Mr.  
891 Stearns and I think we ought to compliment Congressman Engel  
892 of New York, who has also worked very hard on this issue.  
893 This spoofing practice is something that we have been aware  
894 of for a number of years. It is nefarious, it shouldn't be

895 allowed, and this bill if passed and implemented would make  
896 it very difficult to continue that practice, so I support the  
897 underlying bill and certainly support the Manager's Amendment  
898 and all the members on both sides who worked on it. I yield  
899 back.

900 Mr. {Boucher.} Thank you very much, Mr. Barton, and  
901 thank you for your assistance and that of Mr. Stearns with  
902 this measure.

903 Do other members seek recognition on the Manager's  
904 Amendment? The question then occurs on approving the  
905 Manager's Amendment. Those in favor will say ``aye.'' Those  
906 opposed, ``no.'' The ayes have it. The Manager's Amendment  
907 is approved.

908 Are there amendments to the Manager's Amendment?  
909 Hearing none, the question occurs on approving the bill as  
910 amended with a favorable report to the full committee. Those  
911 in favor will say ``aye.'' Those opposed, ``no.'' The ayes  
912 have it and the bill as amended is reported to the full  
913 Committee.

|  
914 H.R. 3633

915           Mr. {Boucher.} I now call up the fourth bill on our  
916 agenda, H.R. 3633, a bill to allow funding for the  
917 Interoperable Emergency Communications Grant Program to  
918 remain available through fiscal year 2012. The clerk will  
919 report the title of the bill.

920           The {Clerk.} H.R. 3633, a bill to allow the funding for  
921 the Interoperable Emergency Communications Grant Program  
922 established under the Digital Television Transition and  
923 Public Safety Act of 2005 to remain available until expended  
924 through fiscal year 2012, and for other purposes.

925           [H.R. 3633 follows:]

926 \*\*\*\*\* INSERT 7 \*\*\*\*\*

|  
927           Mr. {Boucher.} Without objection, the first reading of  
928 the bill will be dispensed with. Are there amendments to the  
929 bill? The gentleman from Vermont, Mr. Welch.

930           Mr. {Welch.} Thank you, Mr. Chairman. I move to strike  
931 the last word.

932           Mr. {Boucher.} The gentleman is recognized for 5  
933 minutes.

934           Mr. {Welch.} I am very pleased that Representative  
935 Harman has introduced legislation to provide additional time  
936 for States to utilize federal grants made available through  
937 the Public Safety Interoperable Communications Grant Program,  
938 known, as you know, as PSIC. That grant program funds state  
939 projects that provide public safety personnel with  
940 interoperable communications equipment and training for  
941 system users. The Act appropriated \$1 billion for the  
942 program from the proceeds of the auction of analog spectrum  
943 reclaimed by the digital television transition. In our  
944 current environment, of course, public safety needs this  
945 assistance more than ever.

946           Unfortunately, under current law, funding for this  
947 interoperability project will expire in September 2010.  
948 Given the enormous importance of interoperable public safety  
949 communications, we must provide States the time and the funds

950 necessary to complete projects that are already underway or  
951 in planning stages. If adopted, Representative Harman's  
952 legislation, which I cosponsor, will provide this necessary  
953 time. H.R. 3633 represents the best approach to the problem  
954 for three reasons. One, it minimizes the regulatory burden  
955 on public safety; two, it create incentives for public safety  
956 to act quickly; and three, it protects public money. More  
957 specifically, the proposed legislation would all States an  
958 automatic 1-year extension. This will reduce the regulatory  
959 burden on the States associated with individual extension  
960 requests. Some States may not need more than a year and then  
961 can avoid filing an extension request altogether. The  
962 automatic 1-year extension gives an incentive to States that  
963 are on track for completion to complete that work rapidly so  
964 they don't have to go through the extension request process.  
965 But those States that need more than a year to complete  
966 projects will have the flexibility to request an additional  
967 year if the head of NTIA determines that the circumstances  
968 warrant an extension. The criteria enumerated in the  
969 proposed legislation will ensure that the Assistant  
970 Secretary's decisions are based on a complete evaluation of  
971 the extension request. This discretion allows the Assistant  
972 Secretary to protect public money and ill-advised or  
973 mismanaged projects may not be eligible for continued

974 funding.

975           Representative Harman's bill, H.R. 3633, has widespread  
976 support: the National Governors Association, the Association  
977 of Public Communications Officers, the National Emergency  
978 Management Association, the Telecom Industry Association, the  
979 city of L.A., the L.A. County sheriff, among others.

980 Representative Harman's bill incidentally is identical to a  
981 bipartisan measure introduced in the Senate by Senators  
982 Rockefeller and Hutchison. If we move this bill through the  
983 House quickly, we are going to have a fighting chance of  
984 making this extension happen in time for public safety to  
985 plan and budget accordingly. And one of the painful lessons  
986 that our Nation learned in the aftermath of September 11 and  
987 from the response to Hurricane Katrina was how absolutely  
988 essential it is for first responders to be able to  
989 communicate seamlessly with one another when they are  
990 responding to an emergency. This is as true in big city like  
991 Los Angeles as in a rural State like Vermont where emergency  
992 personnel are sparse and in many parts of the State we have  
993 to bring many jurisdictions together to provide the response,  
994 and obviously if we are going to ask our first responders to  
995 put themselves at risk to protect us, we must provide them  
996 with the tools they need to do their jobs effectively.

997           On behalf of Representative Harman and I, we urge our

998 colleagues on both sides of the aisle to join us in  
999 supporting the Harman legislation. I yield back.

1000 Mr. {Boucher.} Thank you very much, Mr. Welch.

1001 Do other members seek recognition to offer amendments?

1002 The gentleman from Texas, Mr. Barton.

1003 Mr. {Barton.} Mr. Chairman, I don't seek recognition to  
1004 offer an amendment. I just want to make a comment.

1005 Mr. {Boucher.} The gentleman is recognized for 5  
1006 minutes.

1007 Mr. {Barton.} This legislation is noncontroversial, and  
1008 Congressman Welch and Congresswoman Harman are to be  
1009 commended for sponsoring it and bringing it to the attention  
1010 of the committee as members of the committee, but as you  
1011 pointed out in your opening statement, I am told, we also  
1012 need to compliment Congressman Cao of New Orleans. His  
1013 original bill was brought to the attention of the committee  
1014 in a letter to Chairman Waxman, and Chairman Waxman and  
1015 Chairman Boucher have been very supportive of moving this  
1016 bill. It is not quite the same bill that Congressman Cao  
1017 introduced, and my staff informs me that he is very  
1018 supportive of the bill and hopes to cosponsor it, and it is  
1019 our intention to allow him to manage the time on the Floor if  
1020 this bill gets to the Floor, which I think it will, but  
1021 before we move too forward, I just wanted to let the

1022 committee know that we have a young Republican Congressman  
1023 from New Orleans who has worked hard on this issue, and at  
1024 the appropriate time I hope he is given the proper  
1025 consideration. Having said that, the Majority has been very  
1026 complimentary in working on it and we are very prepared to  
1027 move the bill with the improvements in the bill that Mrs.  
1028 Harman and Mr. Welch and yourself, Mr. Chairman, have  
1029 incorporated.

1030         Mr. {Boucher.} Thank you very much, Mr. Barton, and I  
1031 certainly acknowledge the work that Congressman Cao did on  
1032 this measure. He is a cosponsor of the bill along with Ms.  
1033 Harman, and I commend the good work that both of these able  
1034 members have done in bringing this measure to us.

1035         The gentleman from Florida, Mr. Stearns.

1036         Mr. {Stearns.} Thank you, Mr. Chairman. Let me just  
1037 echo the ranking member, Mr. Barton's, comment. Mr. Cao had  
1038 introduced this in March and then again he revised it in  
1039 July. We had his opening statement. I would say to my  
1040 colleague from Texas, we put his opening statement as a part  
1041 of the record by unanimous consent so he has officially an  
1042 opening statement part of this markup so that his efforts are  
1043 recognized by himself.

1044         Mr. {Boucher.} Thank you very much, Mr. Stearns.

1045         Do other members seek recognition for the purpose of

1046 offering amendments? The Chair hears none.

1047           The question therefore occurs on reporting the bill to  
1048 the Energy and Commerce Committee with a favorable  
1049 recommendation. Those in favor will say ``aye.'' Those  
1050 opposed, ``no.'' The ayes have it and the bill is reported  
1051 to the full committee with a favorable recommendation.

1052           I want to say thank you to all of the members and their  
1053 staffs for their excellent work on a bipartisan basis and  
1054 allowing us to move very expeditiously through this markup of  
1055 four measures this morning. We have completed our work  
1056 within 10 seconds of one hour, and I think that is a tribute  
1057 to all here, and so with thanks to everyone who has  
1058 cooperated in this effort, this markup stands adjourned.

1059           [Whereupon, at 11:04 a.m., the Subcommittee was  
1060 adjourned.]