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4 MARKUP ON H.R. 452, THE MEDICARE DECISIONS ACCOUNTABILITY
5 ACT;

6 H.R. 3309, THE FEDERAL COMMUNICATION COMMISSION PROCESS
7 REFORM ACT; AND

8 H.R. 3310, THE FEDERAL COMMUNICATIONS COMMISSION CONSOLIDATED
9 REPORTING ACT

10 TUESDAY, MARCH 6, 2012

11 House of Representatives,

12 Committee on Energy and Commerce

13 Washington, D.C.

14 The Committee met, pursuant to call, at 10:12 a.m., in
15 Room 2123 of the Rayburn House Office Building, Hon. Fred
16 Upton [Chairman of the Committee] presiding.

17 Members present: Representatives Upton, Barton, Stearns,
18 Whitfield, Shimkus, Pitts, Bono Mack, Walden, Terry, Rogers,

19 Myrick, Sullivan, Murphy, Burgess, Blackburn, Bilbray, Bass,
20 Gingrey, Scalise, Latta, McMorris Rodgers, Harper, Lance,
21 Cassidy, Guthrie, Olson, McKinley, Gardner, Pompeo,
22 Kinzinger, Griffith, Waxman, Dingell, Towns, Pallone, Rush,
23 Eshoo, Engel, Green, DeGette, Capps, Doyle, Schakowsky,
24 Gonzalez, Inslee, Matheson, Butterfield, Barrow, Matsui,
25 Christensen, and Castor.

26 Staff present: Gary Andres, Staff Director; Ray Baum,
27 Senior Policy Advisor/Director of Coalitions; Michael
28 Beckerman, Deputy Staff Director; Mike Bloomquist, General
29 Counsel; Allison Busbee, Legislative Clerk; Howard Cohen,
30 Chief Health Counsel; Nicholas Degani, FCC Detailee; Nancy
31 Dunlap, Health Fellow; Paul Edattel, Professional Staff
32 Member, Health; Neil Fried, Chief Counsel, C&T; Kirby Howard,
33 Legislative Clerk; Debbie Keller, Press Secretary; Peter
34 Kielty, Associate Counsel; Ryan Long, Chief Counsel, Health;
35 Carly McWilliams, Legislative Clerk; Katie Novaria,
36 Legislative Clerk; John O'Shea, Professional Staff Member,
37 Health; David Redl, Counsel, Telecom; Heidi Stirrup, Health
38 Policy Coordinator; Alex Yergin, Legislative Clerk; Phil
39 Barnett, Democratic Staff Director; Jen Berenholz, Democratic
40 Chief Clerk; Shawn Chang, Democratic Senior Counsel; Jeff
41 Cohen, FCC Detailee; Alli Corr, Democratic Policy Analyst;
42 Amy Hall, Democratic Senior Professional Staff Member;

43 Elizabeth Letter, Democratic Assistant Press Secretary; Karen
44 Lightfoot, Democratic Communications Director and Senior
45 Policy Advisor; Billie McGrane, Democratic Assistant Clerk;
46 Karen Nelson, Democratic Deputy Committee Staff Director for
47 Health; Roger Sherman, Democratic Chief Counsel; and Kara van
48 Stralen, Democratic Special Assistant.

|
49 The {Chairman.} Morning, everyone. The Committee will
50 come to order. At the conclusion of opening statements
51 yesterday, the Chair called up H.R. 452, Medicare Decisions
52 Accountability Act of 2011, and the bill was opened for
53 amendment at any point. So the Chair at this point will
54 recognize himself to offer an amendment, and the clerk will
55 report the amendment.

56 The {Clerk.} Amendment to H.R. 452 offered by Mr. Upton
57 of Michigan.

58 [The amendment follows:]

59 ***** INSERT 1 *****

|

60 The {Chairman.} And without objection, the reading of
61 the amendment is dispensed with, and I recognize myself for 5
62 minutes in support of the amendment. This is a pretty simple
63 amendment. In addition to creating the board IPAB,
64 established rules governing congressional consideration of
65 the board's recommendations. These IPAB rules are among the
66 statutory legislative procedures that were incorporated into
67 the rules of the House. Section D of IPAB, which established
68 the rules governing congressional consideration of the
69 board's recommendations also prohibits Congress from amending
70 them. So that blocks the House from considering any
71 legislation that changes how Congress considers
72 recommendations from the board.

73 Because subsection D amends congressional procedure, it
74 is the jurisdiction of the Rules Committee. Therefore, this
75 Committee excepts subsection D from the IPAD repeal. The
76 result will be that IPAB is repealed but subsection D alone
77 will remain in the U.S. code.

78 Is there further discussion of the amendment? If not,
79 the vote occurs on the amendment. All those in favor will
80 say aye. All those opposed will say no. In the opinion of
81 the Chair, the ayes have it. The ayes have it, and the
82 amendment is agreed to. Are there further amendments to this

83 bill?

84 Gentleman from California, Mr. Waxman, is recognized.

85 Mr. {Waxman.} I don't have an amendment, but I do want
86 to ask unanimous consent that a letter be inserted into the
87 record from the secretary of Health and Human Services,
88 Kathleen Sebelius, and some other documents on this--
89 expressing opinions on this bill from the AFFL, CIL, the
90 National Coalition of Healthcare, the American Federation
91 State County Municipal Employees, an article by Nancy N.
92 DePaul on this very subject.

93 The {Chairman.} Without objection, the documents are
94 put into the record.

95 [The information follows:]

96 ***** COMMITTEE INSERT *****

|
97 The {Chairman.} Are there--the gentleman yields back
98 his time?

99 Mr. {Waxman.} I do.

100 The {Chairman.} Gentleman yields back. Are there
101 further amendments of the bill? Seeing none, the question
102 now occurs on favorably reporting the bill as amended to the
103 House. All those in favor will say aye. All those opposed
104 will say no. The ayes appear to have it. The ayes have it,
105 and roll call. Is roll call required? The ayes have it, and
106 the bill is passed.

|

107 H.R. 3309

108 The {Chairman.} The Chair now calls up H.R. 3309 and
109 asks the clerk to report.

110 The {Clerk.} H.R. 3309 as amended by the Subcommittee
111 on Communications and Technology on November 16, 2011.

112 [H.R. 3309 follows:]

113 ***** INSERT 2 *****

|
114 The {Chairman.} Without objection, the first reading of
115 the bill is dispensed with. So ordered. Are there any
116 bipartisan amendments to the bill? Gentleman from Illinois--
117 for what purpose does the gentleman from Illinois seek
118 recognition?

119 Mr. {Kinzinger.} Mr. Chairman, I have an amendment at
120 the desk.

121 The {Chairman.} Gentleman has an amendment at the desk.
122 The clerk will report the title of the amendment.

123 The {Clerk.} Amendment to H.R. 3309 as amended offered
124 by Mr. Kinzinger of Illinois.

125 [The amendment follows:]

126 ***** INSERT 3 *****

|
127 The {Chairman.} The clerk will distribute the
128 amendment, and the amendment will be considered as read. And
129 the gentleman from Illinois is recognized for 5 minutes.

130 Mr. {Kinzinger.} Thank you, Mr. Chairman. I would like
131 to thank Chairman Walden first off for his continued efforts
132 in bringing the FCC process reform legislation, which he and
133 I introduced to a markup. I feel it is a vitally important
134 piece of legislation which will improve the predictability,
135 efficiency, and transparency of the FCC.

136 Since the start of these hearings, I have continually
137 stated my belief that many agencies, including the FCC at
138 times, often come up with solutions in search of problems. In
139 the case of the FCC, they sometimes do so without following a
140 standard set of procedures, statutory law, or regulatory
141 guidelines. That being said, I commend Chairman--

142 The {Chairman.} The gentleman will suspend. Ask for
143 order in the Committee. Go ahead.

144 Mr. {Kinzinger.} Thank you. That being said, I commend
145 Chairman Genachowski for many of his great efforts towards
146 streamlining some of these processes. But the fact of the
147 matter is that many of these advances have been done at the
148 Chairman's discretion and are not, in fact, set in law.

149 It is for this reason that I am offering this bipartisan

150 amendment today. My amendment simply states that the FCC
151 must complete all actions necessary to submit to the Federal
152 Register any amended or adopted rule within 45 days of its
153 adoption. This deadline does not necessarily mean that such
154 an order would become effective in that amount of time. But
155 it is a reasonable period of time for the commission to
156 submit such a document and allows for proper oversight for
157 such decisions to take place.

158 I believe this amendment to be an example of good
159 government, which will put into law what Chairman Genachowski
160 has been able to accomplish for some time now as it is my
161 understanding that the average length of time for these
162 publications currently stands at just over 37 days. Again my
163 amendment will simply require the FCC to complete all actions
164 necessary for such a document to be published in the Federal
165 Register. And I ask for its inclusion into the bill, and I
166 yield back.

167 Mr. {Waxman.} Will the gentleman yield to me?

168 Mr. {Kinzinger.} Sure.

169 Mr. {Waxman.} I thank you for yielding to me. This is
170 an amendment that we can agree on. It has been offered as a
171 bipartisan amendment, and I would urge our colleagues to vote
172 for the amendment.

173 Mr. {Kinzinger.} Thank you.

174 The {Chairman.} The gentleman yields back his time. Is
175 there further debate on the amendment? If not, the vote
176 occurs on the amendment. All those in favor will say aye.
177 All those opposed will say no. In the opinion of the Chair,
178 the ayes have it. The ayes have it, and the amendment is
179 adopted. Gentleman from California, Mr. Waxman.

180 Mr. {Waxman.} Mr. Chairman, I have a bipartisan
181 amendment at the desk. It is labeled EJS 23.

182 The {Chairman.} Clerk will report the title of the
183 amendment.

184 The {Clerk.} Number 23?

185 Mr. {Waxman.} Yes.

186 The {Clerk.} Okay, amendment to H.R. 3309 as amended
187 offered by Mr. Waxman of California.

188 [The amendment follows:]

189 ***** INSERT 4 *****

|
190 The {Chairman.} The amendment will be considered as
191 read, the staff will distribute the amendment. And the
192 gentleman is recognized for five minutes in support of the
193 amendment.

194 Mr. {Waxman.} Thank you, Mr. Chairman. The amendment
195 would require the FCC in evaluating and processing consumer
196 complaints to present information about such complaints in a
197 publically available and searchable database on its website.
198 The database would include information on the topics of the
199 complaints and the parties complained of. The FCC would
200 retain the flexibility to exclude duplicative complaints
201 regarding the same alleged misconduct.

202 H.R. 3309 is loaded with requirements that the FCC
203 considers certain factors before adopting a rule. Most of
204 these factors approach things from a business-oriented
205 perspective. I think we should make sure the commission is
206 also required to consider consumer issues as seriously as it
207 does the interests of business.

208 The amendment would help move this bill towards that
209 goal. The purpose of this amendment is to provide the public
210 with access to information about complaints being processed
211 at the FCC. Currently, the FCC makes available only
212 aggregated data regarding consumer complaints, which is not

213 in a format that can be readily used and sorted by the
214 public.

215 This amendment would ensure that consumer complaint
216 information will be readily accessible to the public and
217 provide important information on the topics of the complaints
218 and names of the parties complained of. It would also
219 provide the FCC greater discretion in how it would be framed.

220 I offered and withdrew this amendment during
221 consideration in the Subcommittee based on the understanding
222 that our staffs would work together and reach bipartisan
223 agreement on this measure. I believe the amendment I am
224 offering today reflects that agreement, and I appreciate the
225 willingness of the Committee staff of the majority to work
226 with the Committee staff of the minority in getting this
227 amendment in a position where I hope our colleagues will
228 approve it.

229 The {Chairman.} Will the gentleman yield?

230 Mr. {Waxman.} I am pleased to yield to the Chairman.

231 The {Chairman.} This is a good amendment. I am pleased
232 to support it, and I thank you for offering it.

233 Mr. {Waxman.} Thank you. Yield back my time.

234 Mr. {Walden.} Would the gentleman yield?

235 Mr. {Waxman.} Yes, be pleased to yield.

236 Mr. {Walden.} I would join both of you in supporting

237 this amendment, and I appreciate your suggestion of it. I
238 think it makes good sense. It is good for consumers. It
239 improves the FCC's process and hopefully their website, and I
240 hope our colleagues support us.

241 Mr. {Waxman.} Thank you. Yield back my time, Mr.
242 Chairman.

243 The {Chairman.} Is there further debate on the
244 amendment? Seeing none, the vote occurred on the Waxman
245 amendment. Those in favor will say aye. Those opposed say
246 no. In the opinion of the Chair, the ayes have it. The ayes
247 have it, and the amendment is agreed to. Are there further
248 amendments to the bill? Gentleman from Kansas, Mr. Pompeo.
249 For what purpose does he seek recognition?

250 Mr. {Pompeo.} I have an amendment at the desk.

251 The {Chairman.} Clerk will read the title of the
252 amendment.

253 The {Clerk.} Amendment to H.R. 3309 as amended offered
254 by Mr. Pompeo of Kansas.

255 [The amendment follows:]

256 ***** INSERT 5 *****

|
257 The {Chairman.} Amendment will be considered as read.
258 The staff will distribute the amendment, and the gentleman is
259 recognized for 5 minutes in support of his amendment.

260 Mr. {Pompeo.} Thank you, Mr. Chairman. I hope this is
261 a bipartisan amendment as well. It is in the same vein as
262 the amendment offered by Mr. Waxman, attempting to get better
263 information in the hands of the public so that we have a
264 better, more clear, more transparent reporting.

265 Today, violations of the Telephone Consumer Protection
266 Act, which restrict telemarketers have to be dealt with, and
267 they are growing as a percentage of all of the complaints.
268 Unfortunately today they are lumped in as a series of
269 complaints from citizens under wireless and wireline
270 complaints. My amendment simply tries to break them out.

271 It takes these complaints that have been on the rise,
272 lumps them in with other complaints, and confuses folks who
273 are trying to interpret the FCC's data. My amendment would
274 set the record straight, give the public a clearer picture of
275 the growing problem that is being found under TCPA with those
276 violations, which now represent over 80 percent of wireless
277 and wireline complaints. It is simply asking for a
278 recharacterization of the data to separate TCPA complaints
279 from non-TCPA complaints. With that, I yield back.

280 The {Chairman.} Gentleman yields back. The gentlelady
281 from California is recognized.

282 Ms. {Eshoo.} Thank you, Mr. Chairman. I support this
283 amendment. I think it makes sense, and I think that it
284 really addresses the public's rising temperature about the
285 calls and also that it would--it really doesn't make any
286 sense the way it is structured now. So I think the amendment
287 is a good one. I support it, and I think that we all should.
288 Yield back.

289 The {Chairman.} Gentlelady yields back. Are there
290 further comments on the amendment? Seeing none, the vote
291 occurs on the amendment offered by the gentleman from Kansas.
292 All those in favor will say aye. Those opposed will say no.
293 In the opinion of the Chair, the ayes have it. The ayes have
294 it, and the amendment is agreed to. Are there further
295 amendments to the bill? Gentlelady from California, Ms.
296 Eshoo.

297 Ms. {Eshoo.} Thank you, Mr. Chairman. I have an
298 amendment at the desk. It is EJS 14.

299 The {Chairman.} Clerk will report the title of the
300 amendment.

301 The {Clerk.} Amendment to H.R. 3309 as amended offered
302 by Ms. Eshoo of California.

303 [The amendment follows:]

304 ***** INSERT 6 *****

|
305 The {Chairman.} The amendment will be considered as
306 read. The staff will distribute the amendment, and the
307 gentlelady is recognized for 5 minutes in support of her
308 amendment.

309 Ms. {Eshoo.} Thank you, Mr. Chairman. I am once again
310 offering an amendment that provides a set of common sense
311 reforms to strengthen the FCC's effectiveness while improving
312 transparency and accountability. My amendment would preserve
313 the Federal Communication Commission Collaboration Act, which
314 was incorporated into H.R. 3309.

315 This bipartisan reform, which I introduced last year, is
316 supported by our colleagues, Representatives Shimkus, Doyle,
317 Matsui, Barton, and Stearns. It promotes greater
318 collaboration by allowing three or more commissioners to talk
319 to each other outside of an official public meeting. My
320 amendment would ensure the FCC provides Congress with a
321 progress report on the agency's compliance with Executive
322 Order 13579 as well as a semiannual update on whether the
323 commission is publishing orders, actions, and the specific
324 language of a proposed rule or amendment in a timely manner.

325 My amendment would also adopt recommendations by the
326 administrative conference, the ACUS, a body comprised of
327 administrative law experts who have specialized in improving

328 federal agency procedures without unduly tying their hands.
329 These changes are designed to increase opportunities for
330 public participation and enhance the quality of information
331 received by federal agencies like the FCC.

332 Experts tell us if this bill were enacted, the
333 underlying bill, it would take 15 years for the law to be
334 resettled after years of litigation, and I don't think any of
335 us want to see that. It would really create a mess in plain
336 English. So that is why I am urging my colleagues to support
337 my amendment while rejecting the portions of 3309 which will
338 hinder the FCC's ability to act in the public interest.

339 And I don't know if anyone else wants to speak. I would
340 be happy to yield time to them. If not--yes, I will yield to
341 Congresswoman Matsui.

342 Ms. {Matsui.} Thank you, Mr. Chairman. I would like to
343 speak in support of Congresswoman's Eshoo's amendment. This
344 amendment accomplishes everything that the proponents of H.R.
345 3309 say they hope to achieve but in a way that better
346 insures improved transparency in process at the FCC.

347 Specifically, this amendment preserves a bipartisan FCC
348 collaboration act that was incorporated into H.R. 3309, which
349 some have testified would do more than any other measure to
350 address many of the concerns outlined in H.R. 3309 including
351 former Republican FCC Commissioner Abernathy.

352 This amendment also includes several recommendations
353 adopted in June by the bipartisan expert agency,
354 Administrative Conference of the United States, ACUS. It
355 directs the FCC to initiate a rule-making proceeding to
356 seek public comment on whether and how the commission should,
357 one, establish procedures to refresh the record in a
358 proceeding, two, set minimum comment periods for comment and
359 reply comment subject to good cause exceptions, and, three,
360 adopt policies concerning submission of comments, data, or
361 reports toward the end of the comment period.

362 These are all issues the majority has identified as
363 being problematic at the FCC. But this is a less
364 prescriptive approach. I believe these are common sense
365 solutions.

366 Overall, the amendment frees up the commissioners to
367 hold collaborative discussions and requires the FCC to
368 consider innovations in the rule-making process as
369 recommended by the bipartisan ACUS without unduly tying the
370 hands of the commission, thus oversee the FCC and not disable
371 it. I urge my colleagues to join me in supporting the Eshoo
372 amendment. I yield back my time to Congressman Eshoo.

373 The {Chairman.} The gentlelady yields back her time.
374 Other members? The gentleman from Oregon is recognized for 5
375 minutes.

376 Mr. {Walden.} Well, thank you very much, Mr. Chairman,
377 and I seek time to oppose my friend and colleague's
378 amendment, substitute amendment. This is the equivalent of
379 taking a very long, very shiny, very sharp Samurai sword,
380 inserting it in the bill's navel, and thrusting upward and
381 out. It guts the bill.

382 And what it does is leave in place the sunshine
383 reporting requirements, the sunshine piece, which, by the
384 way, is almost--I agreed to put the sunshine piece into this
385 because I think there are times, under the right
386 circumstances--I concur with my colleague--where the
387 commissioners are hobbled in appropriate decision making by
388 not being able to talk to each other. But in exchange for
389 that, I think it is essential that we help the FCC put into
390 statute the kinds of reforms that it will write that puts the
391 public in the driver's seat, that allows the transparency,
392 the openness that is needed in these agencies.

393 And by the way, much of what we are proposing in the
394 underlying bill, if this were not an independent agency,
395 would fall directly under the requirements that the president
396 has suggested in his executive order and that his jobs
397 counsel has said agencies need to do.

398 And so I have to reluctantly oppose this amendment
399 because it is a gutting amendment in many respects and really

400 takes away from the hard work we have done through our open
401 and transparent process over the last year with public
402 meetings, with lots of discussions with current and former
403 FCC commissioners and chairs, trying to find that sweet spot
404 of not overregulating the Commission, but asking them to set
405 shot clocks, asking them to be more transparent, asking them
406 to do the right things.

407 We are in a little tussle right now with the FCC over
408 its Universal Service Fund order. They voted on a press
409 release in effect. They voted on a draft. Then they
410 circulated it all around in secret, and then they put it out,
411 751 pages. I have asked the FCC to show us what they
412 actually voted on and then show us what they actually put out
413 as a rule.

414 Because I think as taxpayers, as members of this
415 Committee, we ought to see how all that changed behind the
416 walls and doors and computers of the FCC. Other independent
417 agencies do not operate that way. Now, it may not surprise
418 you that the FCC has dragged their feet and basically refused
419 to give us that original document they voted on.

420 That is like saying my colleague's amendment, Ms.
421 Eshoo's amendment is here but we are going to vote on it.
422 And then we are going to go back here, completely rewrite it,
423 and put it out as a fait accompli. Nobody should support

424 that kind of action. This is what happens at the FCC. That
425 is why the underlying bill is so important to make what they
426 do transparent. It is the public's business. Whether you
427 are a consumer advocate or a company, you should have the
428 right to see, to participate fully, and voice your concerns.

429 And so with that, I have to oppose the substitute
430 amendment, and I would encourage my colleagues to do
431 likewise. And I would yield back my time.

432 The {Chairman.} The gentleman from California.

433 Mr. {Waxman.} I seek recognition to--

434 The {Chairman.} Recognized for 5 minutes.

435 Mr. {Waxman.} --to speak on this amendment. I urge
436 support for the Eshoo substitute. As Ms. Eshoo noted, this
437 amendment accomplishes everything that the proponents of H.R.
438 3309 say they hope to achieve but in a way that better
439 ensures improved transparency and process at the FCC.

440 Specifically the amendment preserves the Eshoo-Shimkus
441 Bipartisan FCC Collaboration Act that was incorporated into
442 H.R. 3309, which some have testified would do more than any
443 other measure to address many of the concerns outlined in
444 this bill.

445 The amendment also includes several recommendations
446 adopted in June by the bipartisan expert agency, the
447 Administrative Conference of the United States, the ACUS.

448 After years of study, the ACUS calls on all agencies to
449 develop best practices designed to increase opportunities for
450 public participation and enhance the quality of information
451 received by the agencies. Notably, ACUS does not recommend
452 imposing these practices through statutory changes like we
453 are considering today.

454 Experts are worried about the unintended consequences of
455 approaches like that which we had before us in this bill
456 today. Instead, they recommended the agency be encouraged to
457 come up with internal procedures.

458 Overall, the amendment frees up the commissioners to
459 hold collaborative discussions. It requires the FCC to
460 consider innovations in the rule-making process and not go to
461 the point where they are unduly tying the hands of the
462 commission.

463 This bill creates a new set of procedures for the FCC.
464 For 40 years, the Administrative Procedure Act has governed
465 administrative agencies across the federal government. H.R.
466 3309 creates special procedural rules. It micromanages the
467 way the FCC would do its job. And that was a point that many
468 people have come to us with. The most common response, when
469 we asked them to review this bill, was why would anybody want
470 to tie the agency up in knots like this and subject it to
471 endless legal challenges?

472 One expert told us industry lawyers would have a field
473 day challenging and delaying FCC actions. Other experts it
474 could take 15 years of litigation for the courts to clarify
475 the meaning of the new requirements in this bill.

476 Secondly, this legislation alters fundamentally the FCC
477 ability to review transactions to assure they are in the
478 public interest. Although DOJ and the FCC are charged with
479 protecting competition, only the FCC is directed to protect
480 the public interest when reviewing proposed mergers. And
481 this bill would curtail this authority significantly.

482 The H.R. 3309 requires the FCC to do the regulatory
483 analysis contained in President Obama's executive order. I
484 have no objection to the FCC doing these analyses. In fact,
485 Chairman Genachowski is appropriately committed to doing it.
486 The problem is that the bill makes each of the analyses
487 required by the executive order subject to judicial review.

488 So overall, the bill is not a process reform but
489 fundamental reform of the Communications Act, and the Eshoo
490 amendment strips away these micromanaging of the FCC, gives
491 them the discretion to come up with the ways to implement the
492 recommendation of this bipartisan agency.

493 I am disappointed we are not able to come together to
494 support a consensus bill. I know we have fundamental
495 disagreements about how to reform the FCC, and I respect

496 that. But I think we need to acknowledge that it is only
497 through genuine compromise that we can see this measure
498 become law. If we want to make political statements on the
499 legislative road to nowhere, we should vote for the
500 underlying bill. But if we want to send to the Senate a
501 measure of a strong bipartisan support that might have a
502 chance of being enacted, I would urge our colleagues to vote
503 for the Eshoo substitute.

504 I think the Eshoo substitute gets us somewhere,
505 accomplishes something, is a compromise that makes sense, and
506 the underlying bill ties the hands of the FCC and I don't see
507 that that is going to be acceptable to become a law. It is a
508 political statement, but it is not going to be a law.

509 Thank you, Mr. Chairman. Urge support of the Eshoo
510 amendment.

511 Mr. {Terry.} Mr. Chairman.

512 The {Chairman.} The gentleman from Nebraska, Mr. Terry,
513 is recognized for 5 minutes.

514 Mr. {Terry.} Thank you, Mr. Chairman. I would like to
515 yield as much time as Mr. Walden desires.

516 Mr. {Walden.} I thank the Vice Chairman of the
517 Subcommittee, and I just want to touch on a couple of these
518 points. First of all, the terms in the bill are drawn from
519 well-established legal sources. Administrative law professor

520 Ronald Levin testified the logical outgrowth test reflects
521 existing DC circuit case law. The good cause exemption to
522 the notice of inquire requirement tracks the good cause
523 exception language of the Administrative Procedures Act. The
524 requirement to identify market failures or actual consumer
525 harms tracks with the executive orders from both Presidents
526 Clinton and Bush.

527 The requirement to conduct a cost/benefit assessment
528 tracks the language of President Obama's 2011 executive order
529 that each agency must, among other things, one, propose or
530 adopt a regulation only after a reasoned determination that
531 its benefits justify its costs, recognizing that some
532 benefits and costs are difficult to quantify, two, tailor its
533 regulations to impose the least burdened on society,
534 consistent with obtaining regulatory objectives, taking into
535 account, among other things, and to the extent practical,
536 ``the cost of cumulative regulations.''

537 The requirement to create a performance measure tracks
538 the Government Performance Results Act of 1993. We didn't
539 pull this stuff out of thin air. There is solid backdrop to
540 everything that we are doing in this reform legislation. The
541 bill defines economically significant and program activity
542 based on the \$100 million threshold that has been in
543 executive orders on regulatory reform since President Reagan.

544 The bill is designed actually to reduce litigation risk.
545 Courts regularly defer to the Federal Communications
546 Commission--susceptible to appeal.

547 If potential litigation risk were the reason not to pass
548 a law, no new law would be passed. We are reforming how this
549 commission operates and it is long overdue. And in terms of
550 hamstringing, in many cases, what we are proposing here
551 directs the FCC to implement the reforms itself such as by
552 setting its own shot clocks or setting up its own processes
553 for sharing information with the commissioners and the
554 public.

555 Many of the reforms are based on policies advocated by
556 Clinton and Obama executive orders, the president's job
557 counsel, or the commissioners themselves. If the executive
558 agencies can comply, why shouldn't the independent agencies
559 comply just like we are proposing with the FCC?

560 The bill incorporates exceptions under current law. It
561 even creates some new ones to allow the FCC to skip certain
562 procedural obligations for good cause, such as emergencies.
563 There are safety valves and off ramps.

564 The FCC rarely makes its decisions quickly. Providing
565 more opportunity for better input from industry and the
566 public, from consumer advocate groups and others will
567 therefore not slow down the commission. It will just help

568 generate better results. We have seen different commissions
569 chaired by different people that have worked well and have
570 not worked at all. What we are trying to do is incorporate
571 best practices and give this FCC the opportunity through
572 statute to write its own rules so that it becomes more
573 transparent and more accountable to the people it serves.

574 And with that, I would recognize the gentleman from
575 Louisiana, Mr. Scalise.

576 The {Chairman.} Mr. Scalise.

577 Mr. {Scalise.} No, the gentleman stated it well from
578 Oregon. So I yield back.

579 Mr. {Shimkus.} Thank you. Just to weigh in a little
580 bit on this also, is I don't think, as my colleague from
581 Oregon, I don't think it causes micromanaging because I think
582 it is something that the FCC can do. I think, I am not a
583 lawyer, but the legal analysis of current law is solid. And
584 I guess the concern with the amendment is the premise that we
585 are going to allow the FCC to, in 5 years, tell us whether
586 they are transparent or not and then reevaluate their ability
587 to be transparent when we are not concerned they are very
588 transparent now, is the basic concern I have.

589 So this really forces a more transparent system on them,
590 which is the reason for the legislation. And I support my
591 colleague and yield back my time to the gentleman from

592 Nebraska.

593 Mr. {Terry.} Thank you. Mr. Dingell, did you wish 11
594 seconds? All right, thank you. I will just--I have 4
595 seconds. I will just yield back.

596 The {Chairman.} Gentleman yields back. Other members
597 wishing to speak. The gentleman from Michigan first.

598 Mr. {Dingell.} Thank you, Mr. Chairman.

599 The {Chairman.} Recognized for 5 minutes.

600 Mr. {Dingell.} I want to begin by expressing great
601 affection for the Chairman of the Subcommittee and great
602 sympathy for him and the rest of the Committee. I understand
603 the frustration of my colleagues about the way the FCC runs
604 their business. Now, there is nobody in this room that has
605 had more occasions to tilt swords with the FCC. They are a
606 sorry agency, but not because the agency is bad but because
607 they have had a succession of sorry chairmen who have run the
608 place poorly. This Committee has documented that.

609 Now, the question we have before us is like the one that
610 Dick Gregory had a long time ago. Somebody said should we
611 have a new religion? Gregory thought, and he said no, don't
612 need a new religion. All we need to do is to practice the
613 one we got, and that is our problem.

614 What we are going to do is to take and substitute a
615 whole array of new responsibilities and legislation and

616 procedural duties upon the FCC. The Administrative
617 Conference of the United States says it is going to take 15
618 years to get it settled out. Now, I don't know how many of
619 us on this committee are going to be around in 15 years to
620 see that if it occurred, but I seriously doubt that there
621 will be many of us. And I seriously doubt that it will
622 occur.

623 Having said these things, the kindest description I can
624 give to this legislation is that it is legislative
625 malpractice. Without the vaguest idea of what this is going
626 to do, we are passing a whole new change in rules and
627 regulations and order and powers and authorities and
628 limitations on the FCC. The courts are going to have a field
629 day, and the lawyers are going to make money until Hell won't
630 hold it.

631 Now, having said these problems, if you want to create a
632 fine mess, to adopt this legislation is the way to do it. If
633 you want to perhaps mitigate some of the mischief that we
634 would do with this piece of legislation which has been
635 dreamed up, I think, by the staff, because I think most of
636 the members here are too smart to come up with this kind of
637 nonsense.

638 But if you want to create unending and unmitigated
639 mischief, adopt the bill as it is. If you want to perhaps

640 mitigate some of the mischief that would be created by that,
641 then adopt the Eshoo amendment. And I want to commend her
642 for it, and I want to thank her for offering it because
643 perhaps this will save this Committee embarrassment as we
644 have the chairman of the FCC before us time after time to
645 explain what he is doing down there under the new legislative
646 powers that he has.

647 And he is not going to know and we are not going to
648 know, and we are not going to know how to ask him questions
649 about what he is doing. But in the process, everybody is
650 going to look sublimely silly, and the end result of this is
651 going to be if you don't like what is going on now, you will
652 really detest what is going to happen under this legislation
653 if it is adopted.

654 Having said all these nice things about the legislation,
655 I would like to observe to my colleagues that there is a
656 thing that this committee has the power to do. It is called
657 oversight. You haul them up, and you explain to them how the
658 law is and what they ought to be doing. And you listen to a
659 fellow by the name of Sam Rayburn, who used to enlighten the
660 chairman of the FCC.

661 On one occasion, the chairman of the FCC was sort of off
662 base, so Sam called him in, and they had a long discussion.
663 The guy walked out of the speaker's office much enlightened.

664 Sam said to him, he said Son, just remember you work for us,
665 and everything will be okay.

666 The Chairman of the Committee, the Chairman of the
667 Oversight Subcommittee, and the members of this Committee
668 working together have the power to control these things. We
669 don't need to adopt another monstrous piece of legislation
670 that is going to sew confusion around Washington in unlimited
671 and unmitigated amounts.

672 My prayer to the Committee is adopt the Eshoo amendment
673 and to reject the legislation and start using oversight.
674 Haul them up, and let us help them understand. I had one
675 chairman just refuse to answer my correspondence down there
676 because he said that he was afraid if the answer came out, it
677 would create panic in Washington. And I observed to him that
678 this made pretty good sense, because if it is that bad, then
679 he ought to come out and tell us what he is about so that
680 people can either sell their communications stock or leave
681 town or move to Canada. The simple fact of the matter is we
682 have to bring that matter under control. But giving them a
683 whole array of new powers, duties, and challenges is, I
684 assure you, not the way. It is the way of creating
685 unmitigated misery, mischief and trouble, but, of course,
686 wonderful and lucrative practices for litigators, lawyers,
687 and lobbyist.

688 I urge you to adopt the amendment and reject the bill.

689 Thank you.

690 The {Chairman.} The gentleman's time has expired. The
691 Chair would recognize the gentleman from Texas, Mr. Barton,
692 for 5 minutes.

693 Mr. {Barton.} Mr. Chairman, I rise in opposition to the
694 gentlelady's amendment. Would say with greatest affection
695 and respect to the former Chairman of the Committee who just
696 spoke, since there are there former Chairmen of this
697 Committee on the dais, be careful when you characterize other
698 chairmen of other agencies as sorry. They may return the
699 favor.

700 I do share your opinion. I think that some of the
701 chairmen and former chairmen of the FCC has been less than
702 optimal, but this bill that Mr. Walden has introduced is a
703 real reform bill. And some of us, yourself included, have
704 been on this Committee a number of years actually trying to
705 move an FCC reform bill. This is such an animal. It may not
706 be perfect, and some of the items may need to be modified or
707 improved, but it is a great first step. And I would not
708 throw the baby out with the bath water.

709 I think we should commend Mr. Walden and Mr. Upton and
710 others who have worked on it for moving the bill and worked
711 to perfect it not, with all due respect to my gentlelady

712 friend, good friend from California, offer an amendment that
713 substantially doesn't move the ball forward. So I would
714 support the underlying bill and oppose the amendment, and I
715 would be happy to yield to Mr. Walden if he wishes.

716 Mr. {Walden.} I thank the gentleman from Texas for
717 offering. So I think it always helps to go back and get away
718 from the hyperbole and the history and get into what we are
719 talking about here before us now. This bill is designed to
720 promote transparency by reforming the FCC. Now, some may
721 want to defend the processes downtown at the portholes all
722 they want. I am not in that camp.

723 So what does it do? It says that the specific text of
724 proposed regulations in its notices of proposed rule-makings,
725 that it has to make those available. They may object to
726 that. That at least 30 days each for public and industry
727 comments and replies on proposed rules. It requires the FCC
728 to provide at least 30 days. It requires the FCC to make
729 what it is going to vote on public before it votes. At least
730 30 days for public and industry comment on reports before
731 relying on them so people have time to digest this.

732 This is one of the biggest sectors of our economy
733 controlled by three people who want to be able to do this
734 behind closed doors, vote in public on something that isn't
735 what becomes the end product, and then publish it a week or a

736 month or whenever they want later. The USF reform is a
737 perfect example of that. 751 pages put out. We don't know
738 what they actually voted on and who changed what between then
739 and the outcome. It requires adequate opportunity for
740 comment on ex parte filings before the commission makes its
741 decisions relying upon them.

742 It requires in advance the text of an item scheduled for
743 a vote at an open meeting. Now, I come from a state that
744 prides itself on open meeting process and public work being
745 public, not done privately. To promote transparency requires
746 the FCC to provide the status of all open rule-making
747 proceedings and proposed decisions. Tell us what you are
748 doing and where it stands.

749 There is a lot of commerce that gets held up because
750 nobody knows where it is in the process, and it requires the
751 text of its decisions be made public within seven days of
752 adoption. Is that asking too much of a commission that works
753 for the taxpayers and the public? To say tell us what you
754 are working on, make it available public, do your process
755 more publically, and when you are done, take a week, but put
756 it out there. Don't take months.

757 And then we said, you know, it does make sense, and I
758 agree with my colleague from California, to allow for the
759 commissioners sometimes to get their heads together and talk

760 under certain limited conditions. They can't do that today.
761 But then we also have seen a case where a chairman basically
762 ran the place himself and denied votes. Where there were
763 four commissioners ready to approve something, he wouldn't
764 put it up. So we dealt with that by allowing a bipartisan
765 majority of commissioners to draft an order, to put a full
766 commissioned vote, a decision that could be adopted or
767 delegated authority to add an item to the public meeting.

768 So if you do have a chairman gone rogue, you can have a
769 bipartisan group of the commissioners put something on the
770 agenda and try and move things forward. That is called
771 democracy the last time I looked, and so these are the
772 things, if you want to get into the specifics, that we are
773 doing in this bill and many others. Be happy to talk about
774 it as time permits.

775 The {Chairman.} The gentleman's time has expired.

776 Mr. {Waxman.} I ask unanimous consent the gentleman be
777 given an additional minute if he yield to me.

778 The {Chairman.} Gentleman from Texas?

779 Mr. {Barton.} I would ask for a minute and be happy to
780 yield to the former Chairman, Mr. Waxman.

781 Mr. {Waxman.} Thank you very much. I think that a lot
782 of what is proposed in this legislation would be very
783 helpful, and members should note that a lot of it is already

784 being done. For example, Chairman Genachowski has been
785 moving the FCC in the right direction regarding process since
786 he became chairman. The number of notices of proposed rule-
787 making that contained the full text of proposed rules has
788 increased from 38 to 86 percent. The FCC closed 999 dormant
789 dockets which represented a third of the agency's open docket
790 proceedings. The FCC has reduced the number of pending
791 broadcast applications. The FCC reformed ex parte rules to
792 require more information and disclosure.

793 These are things that are being done, and we all support
794 that. This legislation would mandate it. What we disagree
795 with is the mandate and the parts of the legislation, the
796 underlying bill, that tied the hands of the agency. And that
797 is where our disagreement comes in.

798 Mr. {Walden.} Would the gentleman yield?

799 Mr. {Waxman.} I would be happy to if I had time.

800 The {Chairman.} Gentleman's time has expired.

801 Mr. {Waxman.} I ask unanimous consent that the
802 gentleman from Texas be given an additional minute so that he
803 could yield.

804 The {Chairman.} Without objection.

805 Mr. {Waxman.} Without objection.

806 Mr. {Barton.} I yield to the gentleman from Oregon.

807 Mr. {Walden.} I thank the gentleman. You know actually

808 this is how we should have these discussions. I guess the
809 question I would ask my friend from California, Mr. Waxman,
810 is I hear how we tie the hands of the commission. What I
811 would like to see is specifically which of these things I
812 have outlined lead you to that conclusion. When it comes to
813 shot clocks, we have the commission determine what the
814 lengths of those should be. We just say have them, you
815 decide.

816 I mean our original draft, which I think may have been
817 what drew the ire of some of the outside groups, we had a
818 hearing on it. We put everything out there including a
819 really rusty kitchen sink or two. And you know what? We
820 actually used a public open process and did something that
821 doesn't always happen around this place and had people
822 comment on it and come back and go you know some of those are
823 really stupid ideas, and we took them out. And people said
824 you are being too restrictive here. You are tying the
825 commission. Why don't you have them set the rules for what
826 they think the timelines are and just report back? Which is
827 what we changed to. So I hope you will read the current
828 draft that is before us today.

829 The {Chairman.} Gentleman's time has expired. I think
830 we are about--gentlelady from California.

831 Ms. {Eshoo.} Mr. Chairman, I would like to ask for a

832 unanimous consent that a letter to both you and Mr. Waxman
833 from 45 public interest organizations be placed in the record
834 and their opposition to the underlying bill.

835 The {Chairman.} Without--

836 Mr. {Waxman.} Will the gentlelady yield to me?

837 Ms. {Eshoo.} Be glad to.

838 Mr. {Waxman.} I don't want to take any more time of the
839 Committee. If no one would object, I would like to put into
840 the record some answers to the points raised by Mr. Walden,
841 particularly how the H.R. 3309 fundamentally alters the FCC's
842 authority to review transactions, and the bill creates unique
843 statutory requirements that apply only to the FCC.

844 Mr. {Walden.} Well, but if the gentleman or gentlelady
845 would yield, I appreciate you putting those in the record,
846 but we are voting on this now. So at some point, I hope we
847 have time where you can actually point to the bill so we
848 could see where those are.

849 The {Chairman.} Without objection, the material will be
850 put into the record.

851 [The information follows:]

852 ***** COMMITTEE INSERT *****

|
853 Ms. {Eshoo.} Thank you, Mr. Chairman.

854 The {Chairman.} I think we are about ready to vote on
855 this amendment. Other members wishing to speak on the
856 amendment? Seeing none. The vote occurs on the amendment
857 offered by the gentlelady from California. Those in favor
858 will say aye. Those opposed will say no. Roll call is
859 requested. The clerk will call the roll.

860 The {Clerk.} Mr. Barton?

861 Mr. {Barton.} No.

862 The {Clerk.} Mr. Barton votes no.

863 Mr. Stearns?

864 [No response.]

865 The {Clerk.} Mr. Whitfield?

866 [No response.]

867 The {Clerk.} Mr. Shimkus?

868 Mr. {Shimkus.} No.

869 The {Clerk.} Mr. Shimkus votes no.

870 Mr. Pitts?

871 Mr. {Pitts.} No.

872 The {Clerk.} Mr. Pitts votes no.

873 Mrs. Bono Mack?

874 Mrs. {Bono Mack.} No.

875 The {Clerk.} Mrs. Bono Mack votes no.

876 Mr. Walden?
877 Mr. {Walden.} No.
878 The {Clerk.} Mr. Walden votes no.
879 Mr. Terry?
880 Mr. {Terry.} No.
881 The {Clerk.} Mr. Terry votes no.
882 Mr. Rogers?
883 Mr. {Rogers.} No.
884 The {Clerk.} Mr. Rogers votes no.
885 Mrs. Myrick?
886 Mrs. {Myrick.} No.
887 The {Clerk.} Mrs. Myrick votes no.
888 Mr. Sullivan?
889 Mr. {Sullivan.} No.
890 The {Clerk.} Mr. Sullivan votes no.
891 Mr. Murphy?
892 Mr. {Murphy.} No.
893 The {Clerk.} Mr. Murphy votes no.
894 Mr. Burgess?
895 Dr. {Burgess.} No.
896 The {Clerk.} Mr. Burgess votes no.
897 Mrs. Blackburn?
898 Mrs. {Blackburn.} No.
899 The {Clerk.} Mrs. Blackburn votes no.

900 Mr. Bilbray?

901 Mr. {Bilbray.} No.

902 The {Clerk.} Mr. Bilbray votes no.

903 Mr. Bass?

904 Mr. {Bass.} No.

905 The {Clerk.} Mr. Bass votes no.

906 Mr. Gingrey?

907 Dr. {Gingrey.} No.

908 The {Clerk.} Mr. Gingrey votes no.

909 Mr. Scalise?

910 [No response.]

911 The {Clerk.} Mr. Latta?

912 Mr. {Latta.} No.

913 The {Clerk.} Mr. Latta votes no.

914 Mrs. McMorris Rodgers?

915 [No response.]

916 The {Clerk.} Mr. Harper?

917 Mr. {Harper.} No.

918 The {Clerk.} Mr. Harper votes no.

919 Mr. Lance?

920 Mr. {Lance.} No.

921 The {Clerk.} Mr. Lance votes no.

922 Mr. Cassidy?

923 Dr. {Cassidy.} No.

924 The {Clerk.} Mr. Cassidy votes no.
925 Mr. Guthrie?
926 Mr. {Guthrie.} No.
927 The {Clerk.} Mr. Guthrie votes no.
928 Mr. Olson?
929 Mr. {Olson.} No.
930 The {Clerk.} Mr. Olson votes no.
931 Mr. McKinley?
932 Mr. {McKinley.} No.
933 The {Clerk.} Mr. McKinley votes no.
934 Mr. Gardner?
935 Mr. {Gardner.} No.
936 The {Clerk.} Mr. Gardner votes no.
937 Mr. Pompeo?
938 Mr. {Pompeo.} No.
939 The {Clerk.} Mr. Pompeo votes no.
940 Mr. Kinzinger?
941 Mr. {Kinzinger.} No.
942 The {Clerk.} Mr. Kinzinger votes no.
943 Mr. Griffith?
944 Mr. {Griffith.} No.
945 The {Clerk.} Mr. Griffith votes no.
946 Mr. Waxman?
947 Mr. {Waxman.} Aye.

948 The {Clerk.} Mr. Waxman votes aye.
949 Mr. Dingell?
950 Mr. {Dingell.} Aye.
951 The {Clerk.} Mr. Dingell votes aye.
952 Mr. Markey?
953 [No response.]
954 The {Clerk.} Mr. Towns?
955 [No response.]
956 The {Clerk.} Mr. Pallone?
957 Mr. {Pallone.} Aye.
958 The {Clerk.} Mr. Pallone votes aye.
959 Mr. Rush?
960 [No response.]
961 The {Clerk.} Ms. Eshoo?
962 Ms. {Eshoo.} Aye.
963 The {Clerk.} Ms. Eshoo votes aye.
964 Mr. Engel?
965 Mr. {Engel.} Aye.
966 The {Clerk.} Mr. Engel votes aye.
967 Mr. Green?
968 Mr. {Green.} Aye.
969 The {Clerk.} Mr. Green votes aye.
970 Ms. DeGette?
971 Ms. {DeGette.} Aye.

972 The {Clerk.} Ms. DeGette votes aye.
973 Mrs. Capps?
974 Mrs. {Capps.} Aye.
975 The {Clerk.} Mrs. Capps votes aye.
976 Mr. Doyle?
977 Mr. {Doyle.} Aye.
978 The {Clerk.} Mr. Doyle votes aye.
979 Ms. Schakowsky?
980 Ms. {Schakowsky.} Aye.
981 The {Clerk.} Ms. Schakowsky votes aye.
982 Mr. Gonzalez?
983 Mr. {Gonzalez.} Aye.
984 The {Clerk.} Mr. Gonzalez votes aye.
985 Mr. Inslee?
986 Mr. {Inslee.} Aye.
987 The {Clerk.} Mr. Inslee votes aye.
988 Ms. Baldwin?
989 [No response.]
990 The {Clerk.} Mr. Ross?
991 [No response.]
992 The {Clerk.} Mr. Matheson?
993 Mr. {Matheson.} No.
994 The {Clerk.} Mr. Matheson votes no.
995 Mr. Butterfield?

996 Mr. {Butterfield.} Aye.

997 The {Clerk.} Mr. Butterfield votes aye.

998 Mr. Barrow?

999 Mr. {Barrow.} Aye.

1000 The {Clerk.} Mr. Barrow votes aye.

1001 Ms. Matsui?

1002 Ms. {Matsui.} Aye.

1003 The {Clerk.} Ms. Matsui votes aye.

1004 Mrs. Christensen?

1005 Dr. {Christensen.} Aye.

1006 The {Clerk.} Mrs. Christensen votes aye.

1007 Ms. Castor?

1008 Ms. {Castor.} Aye.

1009 The {Clerk.} Ms. Castor votes aye.

1010 Chairman Upton?

1011 The {Chairman.} Votes no.

1012 The {Clerk.} Chairman Upton votes no.

1013 The {Chairman.} Mr. Stearns?

1014 Mr. {Stearns.} Votes no.

1015 The {Clerk.} Mr. Stearns votes no.

1016 The {Chairman.} Mr. Whitfield?

1017 Mr. {Whitfield.} No.

1018 The {Clerk.} Mr. Whitfield votes no.

1019 The {Chairman.} Ms. McMorris Rodgers?

1020 Ms. {McMorris Rodgers.} No.

1021 The {Clerk.} Ms. McMorris Rodgers votes no.

1022 The {Chairman.} Mr. Scalise?

1023 Mr. {Scalise.} No.

1024 The {Clerk.} Mr. Scalise votes no.

1025 The {Chairman.} Mr. Towns?

1026 Mr. {Towns.} Aye.

1027 The {Clerk.} Mr. Towns votes aye.

1028 The {Chairman.} Are there other members wishing to cast
1029 a vote? Seeing none. The clerk will report the tally.

1030 The {Clerk.} Mr. Chairman, on that vote, there were 18
1031 ayes, 32 nays.

1032 The {Chairman.} Eighteen ayes, 32 nays?

1033 The {Clerk.} Correct.

1034 The {Chairman.} The amendment is not agreed to. The
1035 Chair would recognize the gentleman from Texas to strike the
1036 last word.

1037 Mr. {Green.} Thank you, Mr. Chairman, for allowing me
1038 to strike the last word. I know oftentimes in our Committee
1039 we have staff members who have worked with us for many years
1040 who are going on to many things, and I just wanted to
1041 recognize my legislative director who has been with me for
1042 nine years, Abigail Pinkley, who is leaving at the end of
1043 this week and actually going not too far because over the

1044 years, she has worked on health issues and the Affordable
1045 Care Act and on our effort to expand community-based health
1046 centers. Abby is actually going to go to the National
1047 Association of Community-Based Health Centers. But I know
1048 this session she has worked with Chairman Shimkus and his
1049 staff on the Environment and Economy Subcommittee. But I
1050 know with Congressman Whitfield and a number of members, Dr.
1051 Murphy, Dr. Burgess, and Mr. Barton, we worked on
1052 transparency and lots of other health care issues.

1053 So obviously I think our Committee will miss Abby, but I
1054 know I will. And but I sure appreciate the courtesies over
1055 the last number of years with her and just wanted to
1056 recognize her today before she leaves. Abby, thank you.

1057 The {Chairman.} We wish her well. Are there other
1058 members wishing to offer an amendment? Mr. Stearns.

1059 Mr. {Stearns.} Mr. Chairman, I think I have an
1060 amendment at the desk.

1061 The {Chairman.} The clerk will report the title.

1062 The {Clerk.} Amendment to H.R. 3309 as amended offered
1063 by Mr. Stearns of Florida.

1064 [The amendment follows:]

1065 ***** INSERT 7 *****

|
1066 The {Chairman.} And the amendment will be considered as
1067 read. The staff will distribute the amendment, and the
1068 gentleman is recognized for 5 minutes.

1069 Mr. {Stearns.} All right, Mr. Chairman, I probably
1070 won't take the whole 5 minutes. This bill, H.R. 3309, does a
1071 lot to improve the process at the FCC. That has been our
1072 debate this morning. However, my colleagues, I believe it is
1073 missing one key component: hiring more engineers at the FCC.
1074 In 1948, the FCC has 720 engineers on staff. Today is has
1075 fewer than 270, an astonishingly 63 percent reduction even
1076 though now the FCC must face more technical issues concerning
1077 broadband, advanced wireless communication, commercial cable
1078 and satellite industries.

1079 Therefore, this amendment incorporates my bipartisan
1080 bill H.R. 2102, The FCC Commissioner's Technical Resources
1081 Enhancement Act, into H.R. 3309, the FCC process reform
1082 legislation we have before us today. Importantly, my bill is
1083 already cosponsored by Congressman Bobby Rush, Jerry
1084 McNerney, and Tom Petri from Wisconsin. Specifically H.R.
1085 2102 modifies existing laws so that each commissioner may
1086 hire an additional staff member, an electrical engineer, or
1087 computer specialist--scientist, rather, computer scientist,
1088 to provide in-depth technical consultation as well as an

1089 interface with the office of engineering and technology and
1090 other commissioner staff, technical staff.

1091 My colleagues, currently the statute limits each
1092 commissioner to appoint three professional assistants, which
1093 typically are lawyers, legal advisors. But having both legal
1094 and technical advisors will provide the FCC commissioners
1095 with the necessary staff experience to properly address the
1096 increasingly complex technical and legal matters today.

1097 So importantly, CBO has already estimated that the net
1098 budgetary impact of the bill would be insignificant. The
1099 language only permits the commissioners to hire an engineer.
1100 It does not require a commissioner to do so.

1101 Therefore for commissioners who believe that this
1102 provision is not necessary, nothing in this amendment would
1103 force them to take on an additional employee. Moreover, fees
1104 collected by the commission would simply offset the
1105 compensation for this employee.

1106 On February 22, 2002, President Obama signed into law
1107 important legislation giving the FCC the authority to create
1108 a spectrum auction that will determine the fate of our
1109 wireless future in this country. And while the contours of
1110 this auction will largely be crafted at the staff level, the
1111 commissioners will supervise, guide, and shape the ultimate
1112 policy. Although the legal and policy advisors to the

1113 commissioners continue to serve an important role, I honestly
1114 believe it is time we allow the commissioners to appoint an
1115 engineer to inform their decision so they can ask them about
1116 these technical matters.

1117 So the purpose, Mr. Chairman, of this amendment is to
1118 provide the necessary support to the agency that we are
1119 entrusting with determining the future of our country's
1120 telecommunication policy, extremely important. I would hope
1121 all my colleagues would consider this.

1122 However as I understand after talking to the Chairman of
1123 the Telecommunications and the Chairman of this Committee,
1124 that this might not be the appropriate time to do this. But
1125 I do want to make the argument and hope that my leaders will
1126 consider at some later date putting this in part of the
1127 package.

1128 And with that, Mr. Chairman, I ask unanimous consent to
1129 withdrawal my amendment at this time.

1130 Ms. {Eshoo.} Will the gentleman yield?

1131 Mr. {Stearns.} I would be glad to yield.

1132 Ms. {Eshoo.} I would like to thank the gentleman for
1133 his amendment. I think it is a sensible one, and it should
1134 be built in at some point. I am sorry you are withdrawing
1135 it, but I think it is important to state for the record that
1136 I support it. I think it is a worthwhile amendment and I

1137 thank him for offering it.

1138 Mr. {Stearns.} I thank the gentlelady.

1139 The {Chairman.} The gentleman withdraws his amendment.

1140 Look forward to working with him as I know Mr. Walden does

1141 too. Gentlelady from Virgin Islands, Ms. Christensen.

1142 Dr. {Christensen.} Thank you, Mr. Chairman. I have an

1143 amendment at the desk.

1144 The {Chairman.} The clerk will report the title of the

1145 amendment.

1146 The {Clerk.} Amendment to H.R. 3309 as amended offered

1147 by Ms. Christensen of the Virgin Islands.

1148 [The amendment follows:]

1149 ***** INSERT 8 *****

|
1150 The {Chairman.} The amendment will be considered as
1151 read, and the staff will distribute the amendment. And the
1152 gentlelady is recognized for 5 minutes.

1153 Dr. {Christensen.} Thank you, Mr. Chairman. I too plan
1154 to offer this amendment and withdraw with a clarification.
1155 My amendment is offered to simply clarify that to the extent
1156 that any provision of the FCC Reform Act conflicts with the
1157 Administrative Procedures Act, the Administrative Procedures
1158 Act controls unless otherwise expressly provided. H.R. 3309
1159 dramatically alters standard administrative law practice and
1160 procedure by applying unique statutory process requirements
1161 of the FCC.

1162 These requirements would amend the Communications Act
1163 and mandate how the agency should operate internally with
1164 detailed requirements of the most basic regulatory actions
1165 such as specific timelines associated with notice and comment
1166 rule-making proceedings.

1167 H.R. 3309 would undo over 60 years of federal court
1168 precedents under the Administrative Procedure Act and create
1169 uncertainty and confusion for the FCC and stakeholders going
1170 forward.

1171 This FCC will be subjected to endless court challenges
1172 by industry that could take well over a decade to resolve. A

1173 key reason the APA has been important and successful bedrock
1174 of regulatory law is that it applies uniformly across federal
1175 agencies. If we do choose to statutorily impose new or
1176 different obligations on agencies, we should do so through
1177 legislation that applies to all agencies and does not just
1178 single out one.

1179 By taking the agency outside the precedent and course of
1180 future development of the APA, H.R. 3309 sews the seeds of
1181 uncertainty, confusion, and additional work for the FCC for
1182 consumers, entities regulated by the agency, as well as the
1183 courts. Contrary to the purported goals of this legislation,
1184 H.R. 3309 will make the FCC less effective, less agile, and
1185 less transparent.

1186 So I am offering this amendment today to simply ensure
1187 that in the event of conflict between H.R. 3309 and APA, that
1188 APA controls. And with that, I will yield back the balance
1189 of my time if no one else wants any time on it.

1190 The {Chairman.} Does the gentlelady wish to withdraw
1191 her amendment?

1192 Dr. {Christensen.} Yes, Mr. Chairman. The way the law
1193 is written, is it clear that APA does control in the event of
1194 a conflict?

1195 The {Chairman.} I would address that to the counsel.

1196 {Counsel.} Based on how section three is currently

1197 written, it is the opinion of counsel this would have no
1198 effect on the law most likely. So yes.

1199 Dr. {Christensen.} Thank you, Mr. Chairman. I yield
1200 back, and I do withdraw the amendment.

1201 The {Chairman.} Gentlelady withdraws her amendment.

1202 Are there further amendments to the bill? Gentlelady from
1203 California.

1204 Ms. {Eshoo.} Thank you, Mr. Chairman. I have an
1205 amendment at the desk.

1206 The {Chairman.} Staff will report the title of the
1207 amendment.

1208 The {Clerk.} Amendment to H.R. 3309 as amended offered
1209 by Ms. Eshoo of California.

1210 [The amendment follows:]

1211 ***** INSERT 9 *****

|
1212 The {Chairman.} And the amendment will be considered as
1213 read, and the gentlelady is recognized for 5 minutes in
1214 support of her amendment.

1215 Ms. {Eshoo.} Thank you, Mr. Chairman. I am offering
1216 this amendment today to secure disclosure for the voting
1217 public. In an election season in which voters will be
1218 deluged--are being deluged with hundreds of millions of
1219 dollars in political ads, many of them aired under misleading
1220 names, voters are clamoring for transparency. My amendment
1221 is very simple, and it adheres to the same principles many of
1222 my colleagues have supported before.

1223 If an organization buys political advertising time on
1224 television, including cable, satellite broadcast as well as
1225 radio, it would be required to disclose its large donors,
1226 those who give \$10,000 or more to air the ad. It is a fair
1227 amendment because it applies across all medium. Whomever
1228 pays more than \$10,000 to air a political ad, their name will
1229 be disclosed in the public inspection file.

1230 Our constituents, the voters are smart, but they also
1231 have a right to know and with this knowledge, they can draw
1232 their own conclusions. I believe sunlight is the best
1233 disinfectant, and I ask my colleagues to join me in
1234 supporting this common sense and important transparency

1235 measure. And I don't know if anyone would like to speak on
1236 this. I would be happy to yield time on my side. I would be
1237 happy to yield to Mr. Dingell.

1238 Mr. {Dingell.} I would like to thank the gentlelady for
1239 yielding, and I support rigorous reporting requirements for
1240 advertising. These are important to increase the
1241 transparency in our democracy. However this language in the
1242 bill, I hope, is interpreted reasonably unless we adopt this
1243 amendment by the FCC, broadcasters should not be held liable
1244 with their license in balance over issues they have no
1245 control over. If a Super PAC, for example, misrepresents
1246 facts to a broadcaster and that broadcaster files with the
1247 FCC, that should not penalize the broadcaster. The Super PAC
1248 should be responsible for the false information.

1249 Broadcasters can't be the cop on the beat, and we have
1250 to--the FCC or the FEC to do that job. And with that, I
1251 would be glad my colleague has the amendment. And I look
1252 forward to supporting it.

1253 Ms. {Eshoo.} Thank you, and I appreciate your comments.
1254 Is there anyone else that would like to speak? Be happy to
1255 yield time to. If not, I will yield back.

1256 The {Chairman.} Gentlelady yields back. The Chair
1257 would recognize the gentleman from Oregon.

1258 Mr. {Walden.} I thank the gentleman. I am going to

1259 rise in opposition to this amendment. I want to clarify one
1260 thing too. I was just reading through the amendment because
1261 in your remarks, you said it would apply to radio
1262 broadcasters as well. I don't see that in here. It appears
1263 to only be video. Is that correct or not?

1264 Ms. {Eshoo.} Well, responding to the gentleman. It
1265 applies to--

1266 Mr. {Walden.} All broadcast--

1267 Ms. {Eshoo.} --television.

1268 Mr. {Walden.} Yeah, I am talking about radio.

1269 Ms. {Eshoo.} All broadcast license.

1270 Mr. {Walden.} So all broadcast licensees?

1271 Ms. {Eshoo.} Television including cable, satellite,
1272 broadcast as well as radio. So it doesn't single any group
1273 out. It just applies across the board, which I think the
1274 voting public deserves.

1275 Mr. {Walden.} I appreciate that clarification. I
1276 guess, while I am not opposed to disclosure, I am not sure
1277 this--well, I am sure this is not the proper place to do
1278 this. We are talking about how we reform the Federal
1279 Communications Commission's processes. I think this is
1280 worthy of discussion at another place in another time. But I
1281 don't think this is that place or time. Obviously there are
1282 lots of questions about Citizen United and Super PACs and all

1283 of that and how they disclose. I think this does put the
1284 burden back on the broadcaster. The broadcaster in these
1285 cases is on the line anyway as it is for the content of the
1286 message. Unlike one of us buying time in a broadcast
1287 environment, there the broadcaster is not on the line for the
1288 content of the message. We are.

1289 Third-party expenditures, they share a responsibility to
1290 make sure that it is not knowingly false when it is put out
1291 there. And so they have a lot more flexibility. I don't
1292 know how someone picks just an arbitrary \$10,000 amount or
1293 more. I know you got to pick something somewhere, but I
1294 think this whole issue needs to be dealt with in a more
1295 comprehensive manner in a different venue. And so I would
1296 oppose the amendment on this basis.

1297 Ms. {Eshoo.} Will the gentleman yield?

1298 Mr. {Walden.} Sure, of course.

1299 Ms. {Eshoo.} I just want to observe that the
1300 parliamentarian found the amendment to be germane.

1301 Mr. {Walden.} Certainly. I understand that.

1302 Ms. {Eshoo.} So it does fit with what we are doing, and
1303 I was prepared to withdraw if it was not found to be in
1304 order. So--

1305 Mr. {Walden.} Certainly. Reclaiming my time. And I
1306 was not alleging that it was not germane. There are lots of

1307 things that could be germane to the Communications Act and
1308 the underlying law but don't really pertain to the discussion
1309 we are having here about FCC process reform. This more falls
1310 in the campaign process reform. And so I would oppose and
1311 yield back my time.

1312 Mr. {Kinzinger.} Will the gentleman yield?

1313 The {Chairman.} The gentleman yielded back.

1314 Mr. {Walden.} I yielded back. I am sorry.

1315 The {Chairman.} The gentleman yielded back--given a
1316 unanimous consent to reclaim your minute.

1317 Mr. {Walden.} I would reclaim the minute and yield to
1318 my colleague from Illinois if the Committee is okay with
1319 that.

1320 Mr. {Kinzinger.} Well, thank you, and I think just to
1321 add onto what you are saying, I think again the purpose of
1322 this bill is not to really get into campaign finance law and
1323 details. I mean there is a time and a place for that, and I
1324 think it may be a discussion that is worthy of having, but
1325 the purpose of this is just simply to say look, the current
1326 chairman has really put a lot of process into place, which I
1327 think is good. Really opens up the commission. Really is
1328 getting people engaged and understanding of what is
1329 happening.

1330 But we just want to take some of the good things that he

1331 has already done, expand upon it, and open up the process of
1332 the commission. It is just basically giving the public the
1333 ability to take a look inside their government to see what is
1334 going on to ensure that there are rules in place.

1335 And again it is really taking into account a lot of what
1336 has been happening now. So again when it comes to, you know,
1337 talking about campaign finance reform and all this kind of
1338 stuff, that is a discussion that is worthy of having
1339 eventually. But I think that is not necessarily what this
1340 bill intends to do as we just want to open up the process.
1341 And I thank you, and I yield back.

1342 The {Chairman.} Does the gentleman yield back his time?
1343 The gentleman yields back. The Chair would recognize the
1344 gentleman from California for 5 minutes.

1345 Mr. {Waxman.} Mr. Chairman, we have been told this bill
1346 is about openness, transparency, let the public know what is
1347 going on. This amendment furthers that purpose. Today the
1348 FCC requires broadcasters, cable providers, and satellite
1349 providers to maintain and make available for public
1350 inspection requests to purchase air time related to political
1351 advertising. Right now the FCC does that. That is so the
1352 public will know who is going to buy the time.

1353 But there is no requirement to disclose who actually
1354 pays for the advertisement. The public ought to know about

1355 that too. And this amendment would accomplish that goal.
1356 Rather the file simply needs to contain now the name of the
1357 person or entity requesting air time. But it is easy to see
1358 how viewers might be confused. Who is actually financing the
1359 advertisements they see and hear every day? Mild-sounding
1360 names like Taxpayers Against Something or Other can hide the
1361 fact that the advertisement is actually being funded by a
1362 corporation or a limited group of wealthy individuals who may
1363 well have a vested economic interest, but the public doesn't
1364 know that.

1365 In California, we have a lot of ballot proposals, and
1366 when the public finds out that the oil companies are
1367 sponsoring something that they say is good for the
1368 environment, that has a psychological effect. Disclosure is
1369 important, openness and transparency. We have been told that
1370 is what this bill is all about. Political ads can have a
1371 great impact on the outcome of an election because the
1372 broadcast medium has the ability to reach vast numbers of
1373 citizens.

1374 A recent study revealed that as of this January, 95
1375 percent of spending during the 2012 election cycle was backed
1376 by outside groups as opposed to candidates and political
1377 parties. As a result of the 2012 Supreme Court decision and
1378 Citizens United versus the FEC, we have exacerbated the

1379 problems of insufficient disclosure in political advertising.
1380 This amendment simply recognizes the incredible impact of
1381 such advertising that it can have on the outcome of an
1382 election. And it does not increase the burden on
1383 broadcasters or cable providers and satellite providers in
1384 maintaining public inspection files related to political
1385 advertisements since they are already required to do this,
1386 keep a record of request to purchase air time on file at
1387 their stations.

1388 So I think it is a well-crafted, well-worth amendment.
1389 This is the time for this amendment. This is what this bill
1390 is all about. Let us not take something and say this is a
1391 good idea, but it ought to be considered another time,
1392 another place. This is the time and place where we are being
1393 told legislation to provide transparency and openness is
1394 before us, and this is the time and place for us to adopt
1395 this amendment. I urge my colleagues to vote for the issue
1396 amendment.

1397 The {Chairman.} Gentleman yields back his time.
1398 Gentleman from Texas is recognized, Mr. Gonzalez.

1399 Mr. {Gonzalez.} Thank you very much, Mr. Chairman, and
1400 I will be brief. To those individuals, my colleagues that
1401 expressed an interest in maybe looking at this issue in
1402 broader terms, I would welcome their co-sponsorship of H.R.

1403 4010 which is the Disclose Act. But this is a sincere and
1404 could be a very effective way of taking one step in the right
1405 direction.

1406 This is an opportunity. It is about transparency, and
1407 it is not really placing any additional burden on our
1408 broadcasters. The truth of the matter is that the great bulk
1409 of the money is being spent via these individuals that own
1410 the stations, running the ads, and so on. And it would be
1411 appropriate that we had this collection of information again
1412 so that the voter is knowledgeable. We know who is behind
1413 the advertising, something that we don't have presently. And
1414 I am hoping that we will be able to address, as I have said,
1415 on a wider scale.

1416 Until that day, we have an opportunity today to do
1417 something that will educate the voter. And I would yield
1418 back at this time. And I support, of course, the amendment.

1419 The {Chairman.} Will the gentleman yield, the gentleman
1420 from Michigan, Mr. Dingell?

1421 Mr. {Gonzalez.} Well, I will.

1422 The {Chairman.} The gentleman from Michigan is
1423 recognized for 5 minutes.

1424 Mr. {Dingell.} Thank you, Mr. Chairman. Again I
1425 express my great affection for the Chairman of the
1426 Subcommittee and the Chairman of the full Committee, and I

1427 want to make clear I support the amendment. But I think we
1428 all need to know a little more and to understand how this is
1429 going to impact what this bill is going to do.

1430 Now, the Committee has been charging around happily with
1431 a bucket on its head with no idea what we are doing or what
1432 will be the consequences of the legislation. And we have
1433 already amended, I think, the Federal Communications Act, the
1434 Administrative Procedure Act, and I am not quite clear how
1435 many others, but probably the Freedom of Information Act and
1436 a number of other statutes that will relate to how the
1437 business of the Nation and the business of the FCC is being
1438 conducted. And I don't think there is anybody in this room
1439 and certainly nobody on the staff who knows what this is all
1440 going to do.

1441 In any event, having said that, I think we desperately
1442 need openness here. We got a bunch of billionaires,
1443 millionaires, who are pouring millions of dollars into the
1444 elections of this country under these Super PACs with nobody
1445 having the vaguest idea who they are, what they are up to,
1446 what they want, or what will be the consequences of it. But
1447 they are literally able to secretly buy the U.S. government
1448 and buy the next election. And we certainly have to find
1449 that.

1450 Now, one of the questions we have is are we going to

1451 hang our criminals with this or innocent men? The history of
1452 election law is that the criminals get away and the innocent
1453 men go to jail. This is hardly a comforting thought to me or
1454 to anybody who studies our election system.

1455 In any event, having said that, Mr. Chairman, I am
1456 asking the attention of both the Chairman of the Subcommittee
1457 and the Chairman of the full Committee. I am hoping that
1458 this bill is going to be vetted with all of the stakeholders
1459 and will have some appreciation of what the different
1460 provisions of the legislation mean, most specifically those
1461 which are relating to liability in the case of noncompliance
1462 with the disclosure requirements.

1463 Do you think that the Chairman of the Subcommittee, Mr.
1464 Chairman, or the Chairman of the full Committee can comfort
1465 me by telling me that we are going to go into these questions
1466 to find out what assurances we have with regard to potential
1467 liabilities in the case of noncompliance with the disclosure
1468 requirements? I would yield either to the Chairman of the
1469 Subcommittee or the Chairman of the full Committee.

1470 Mr. {Walden.} I would be happy to try and take the
1471 question and get you an answer.

1472 Mr. {Dingell.} I will yield to the gentleman with
1473 enormous respect.

1474 Mr. {Walden.} And I return that. Is the question

1475 regarding this amendment and the liability that might ensue
1476 from it?

1477 Mr. {Dingell.} Pardon? We are discussing here the
1478 amendment I tell my good friend. In other words, I want to
1479 know what is going to be the liability of persons involved
1480 here with noncompliance with the disclosure amendments? Will
1481 we have the staff look into it so we have some appreciation
1482 of what will be the liabilities and what will be the risks
1483 and the dangers to persons who might be involved probably
1484 innocently but might be headed on a quick trip to the
1485 jailhouse.

1486 Mr. {Walden.} I think the gentleman raises really
1487 significant questions because this issue has not been vetted
1488 along the way in the Subcommittee or in any of the hearings.
1489 It was not an issue that had been brought up and discussed.
1490 We had a number of hearings. We have had a lot of
1491 discussions. This is kind of new. I was wondering myself
1492 what the definition of political programming is on line seven
1493 because I am curious who all is captured by this.

1494 And maybe the counsel--I don't know if counsel can speak
1495 specifically to the definition of political programming as it
1496 is found on line seven because that would be a question, Mr.
1497 Chairman Emeritus, that would be in play here. What all does
1498 the broadcaster have to look at? What is the term political

1499 programming? Who all does that capture? How do they
1500 determine that? That may be defined in statute. I just
1501 don't know. That is why I don't think, frankly, this is the
1502 right place. And I appreciate my colleague, Mr. Waxman from
1503 California, now advocating for this amendment in the notion
1504 this bill will actually pass and become law because earlier
1505 he wasn't quite so sure that was going to happen.

1506 But I would yield to counsel if we can find even a
1507 definition because I think that is one of those issues. It
1508 is about the liability. It is about--he yielded to me, I
1509 believe.

1510 Mr. {Dingell.} I was happy to yield.

1511 Mr. {Walden.} Yeah, those are legitimate questions. I
1512 would yield back.

1513 Mr. {Dingell.} Does the gentlewoman wish to--

1514 Ms. {Eshoo.} Thank you, Mr. Dingell. I think it is
1515 important to establish that the amendment does not bring the
1516 burden to any of the broadcasters. It is the responsibility
1517 of those requesting the airtime, the broadcast time, the
1518 satellite time, the cable time, the radio time. It is up to
1519 them to place in the file the information that is part of the
1520 amendment. So the burden does not fall to any of the
1521 broadcasters. And I thank you for yielding.

1522 Mr. {Waxman.} Would the gentleman yield?

1523 Mr. {Dingell.} My time has run out, but if I can have--
1524 I ask unanimous consent I have 2 additional minutes, and I
1525 will be happy to give them to you.

1526 Mr. {Walden.} I appreciate that because then first of
1527 all, I think we have to ask the question political
1528 programming because the broadcaster is responsible for
1529 getting this certification from each entity sponsoring
1530 political programming. So we need to know how that is
1531 defined in statute, and it may be.

1532 The second is kind of an interesting point too on line
1533 10 as I read this for the first time, that they require this
1534 certification from an entity, finding out who contributed
1535 \$10,000 or more to such an entity during the two-year period
1536 preceding the request for broadcast time. The reason I raise
1537 that issue is because it would be real easy to get around
1538 this particular amendment because an entity could put in the
1539 request for time as the Committee for You-Name-it, buy the
1540 time, and then get the donation in.

1541 So because this says that they want to know the donors
1542 in the past two years. Well, those donors may not have
1543 anything to do with the current buy because I was in the
1544 business. We would get requests from ad agencies for time,
1545 and they may or may not act on that request.

1546 This is predicated on a request for time, and so

1547 therefore you could have a request for time, and it may not
1548 reflect who is actually paying for it if you are reaching
1549 back two years looking at big donors. Because you could have
1550 a different entity. I could just create a different entity
1551 each time and get right around this. So I don't think this
1552 serves the purpose you are trying to get to.

1553 Mr. {Dingell.} If the gentleman would permit, the
1554 purpose of my comments were not to discuss in detail what is
1555 going on here because I simply do not know in fact know. But
1556 it is to say that if we are going to proceed on this, we
1557 ought to at least, as we go forward, have the staff to look
1558 at it and tell us what it means, what the perils are, and
1559 whether or not we ought in fact to continue, or whether this
1560 ought to be amended or adjusted or addressed--

1561 Mr. {Waxman.} Mr. Dingell, would you yield in your--

1562 Mr. {Dingell.} --or otherwise fashioned.

1563 Mr. {Waxman.} Mr. Dingell, would you yield?

1564 Mr. {Dingell.} I will yield to the gentleman, yes.

1565 Mr. {Waxman.} I thank you. If we are going to look--I
1566 think we ought to accept this amendment because we are going
1567 to have to look at it and refine it and figure out some of
1568 these details. That is no reason to be against it. But the
1569 whole bill is going to have to be evaluated, carefully
1570 revised, and compromised--

1571 Mr. {Dingell.} Well, I am not opposed to the amendment.
1572 I just want to make sure we look at it.

1573 Mr. {Waxman.} Good point.

1574 Mr. {Dingell.} And that the leadership, the Committee
1575 sees we go into it in order to know what we are doing and to
1576 make sure that there are not some very red faces on the
1577 committee.

1578 The {Chairman.} Gentleman's time has expired. I think
1579 we are ready to vote on--

1580 Mr. {Shimkus.} Mr. Chairman, I know you want to vote,
1581 but I want to--I don't want to pile on. I just want to speak
1582 against the amendment and understand this path that we are
1583 going down to. First of all, the First Amendment says
1584 Congress shall make no law respecting an establishment of
1585 religion or prohibiting the free exercise thereof or
1586 abridging the freedom of speech.

1587 Now, this is a great debate for the judiciary committee,
1588 the constitutional prerogatives. Is disclosure abridging the
1589 freedom of speech? I think the Supreme Court has ruled that
1590 money is speech in current rulings. Does political
1591 programming--who is going to define political programming?
1592 And now how is that part of this whole debate we are having
1593 on the free exercise of religion in other venues in the
1594 health care debate? And is the free exercise of religion now

1595 going to be thrown into political speech?

1596 I understand the concern. I have wrestled with campaign
1597 finance laws. We have all been attacked by unnamed
1598 individuals. I am coming down on the position now that let
1599 it all come. I will sort it out. It is free speech, First
1600 Amendment principles. And that is kind of where I am
1601 standing on. So I definitely don't think this is the right--

1602 Mr. {Walden.} Will the gentleman yield?

1603 Mr. {Shimkus.} Well, let me finish. I don't think this
1604 is the right venue first of all because if you are going to
1605 do campaign finance law and you are going to fight the
1606 judiciary constitutional First Amendment, that is a Judiciary
1607 Committee provision. So I am not comfortable with the
1608 amendment.

1609 I want to first yield to my colleague from Oregon, Mr.
1610 Walden.

1611 Mr. {Walden.} Well, I appreciate the gentleman
1612 yielding, and I will try and get through this. You could
1613 drive a 527 freight truck through this because all you have
1614 to do is create a new subentity, request the time. It has no
1615 donors from the prior two years, and then you buy the time.
1616 You reserve the time, and then you go get the donors. And
1617 you repeat the process. So I understand what you are trying
1618 to get at, and I think this is an issue that, as a Congress,

1619 we need to look at is how we get more openness.

1620 I just don't think the FCC and the broadcaster should be
1621 the one doing this. I think perhaps the FEC or someone else
1622 should, but even then, this doesn't get at what you are
1623 trying to do because all you do is create a new committee
1624 preservation of whatever or the opposition to whatever. It
1625 has no prior donors because it is new. It is simple as
1626 filing, and I yield back.

1627 Mr. {Shimkus.} Will the gentleman yield? Mr. Waxman,
1628 can I just give Mr. Gonzalez first and then I will--

1629 Mr. {Gonzalez.} Well, real quick on political speech,
1630 freedom of speech, we already know that with Citizens United,
1631 the Supreme Court said look, disclosure, timely disclosure
1632 and such is something that could be contemplated given when
1633 they exercise such freedom of speech to either individually,
1634 corporations, entities, Super PACs, whatever we want to call
1635 them. So I don't think disclosure tramples or in any way
1636 threatens any of the constitutional protections we have.

1637 Secondly, as far as how some individuals or entities may
1638 be able to circumvent the intent of this law, that is always
1639 going to happen out there. But that is not a reason why we
1640 shouldn't be doing that which we can do at this point in
1641 time, given that we probably aren't going to be doing
1642 anything that is more expensive. This is a step in the right

1643 direction, so I think we can respond to those concerns. And
1644 I yield back, and I thank you.

1645 Mr. {Shimkus.} Reclaiming my time, Mr. Waxman.

1646 Mr. {Waxman.} Thank you very much for yielding to me.
1647 I agree with what Mr. Gonzalez just said on the
1648 constitutional question. I would observe that some of our
1649 Republican colleagues have talked about this amendment are
1650 finding it hard but they are straining to look for a reason
1651 to be against it. And I think that we ought to be for it.
1652 And if there are little provisions that need to be changed,
1653 we could change them as part of the bill. The bill in its
1654 present form is not going to be law. It micromanages the FCC
1655 in a way that is not going to be acceptable, in my view, to
1656 others that are going to have to pass on this legislation in
1657 the Senate and the President.

1658 Mr. {Shimkus.} Reclaiming--and if I--

1659 Mr. {Waxman.} So I would say let us put this in the
1660 bill, and let us review the whole issue. But don't exclude
1661 this from the bill because I think it makes this a much
1662 better bill for openness and--

1663 Mr. {Shimkus.} Reclaiming my time and yielding the
1664 balance to my colleague from Tennessee.

1665 Mrs. {Blackburn.} I thank the gentleman for yielding,
1666 and I will just note with my colleagues that I am thrilled to

1667 see their interest in transparency and who is giving to
1668 different organizations. And I would like to remind you all
1669 that about nine months ago I asked an organization that came
1670 before us for a list of their contributors. They said they
1671 would be happy to comply, and we at the Subcommittee are
1672 still waiting to get a list of those donors and participants
1673 with free press. With that, I yield back.

1674 The {Chairman.} Time has expired. I think we are ready
1675 to vote on this amendment. We will ask for a roll call vote.
1676 All those in favor will say aye. All those opposed say no,
1677 and the clerk will call the roll.

1678 The {Clerk.} Mr. Barton?

1679 Mr. {Barton.} No.

1680 The {Clerk.} Mr. Barton votes no.

1681 Mr. Stearns?

1682 [No response.]

1683 The {Clerk.} Mr. Whitfield?

1684 [No response.]

1685 The {Clerk.} Mr. Shimkus?

1686 Mr. {Shimkus.} No.

1687 The {Clerk.} Mr. Shimkus votes no.

1688 Mr. Pitts?

1689 Mr. {Pitts.} No.

1690 The {Clerk.} Mr. Pitts votes no.

1691 Mrs. Bono Mack?
1692 Mrs. {Bono Mack.} No.
1693 The {Clerk.} Mrs. Bono Mack votes no.
1694 Mr. Walden?
1695 Mr. {Walden.} No.
1696 The {Clerk.} Mr. Walden votes no.
1697 Mr. Terry?
1698 [No response.]
1699 The {Clerk.} Mr. Rogers?
1700 Mr. {Rogers.} No.
1701 The {Clerk.} Mr. Rogers votes no.
1702 Mrs. Myrick?
1703 Mrs. {Myrick.} No.
1704 The {Clerk.} Ms. Myrick votes no.
1705 Mr. Sullivan?
1706 [No response.]
1707 The {Clerk.} Mr. Murphy?
1708 Mr. {Murphy.} No.
1709 The {Clerk.} Mr. Murphy votes no.
1710 Mr. Burgess?
1711 [No response.]
1712 The {Clerk.} Mrs. Blackburn?
1713 Mrs. {Blackburn.} No.
1714 The {Clerk.} Mrs. Blackburn votes no.

1715 Mr. Bilbray?
1716 [No response.]
1717 The {Clerk.} Mr. Bass?
1718 Mr. {Bass.} No.
1719 The {Clerk.} Mr. Bass votes no.
1720 Mr. Gingrey?
1721 Dr. {Gingrey.} No.
1722 The {Clerk.} Mr. Gingrey votes no.
1723 Mr. Scalise?
1724 Mr. {Scalise.} No.
1725 The {Clerk.} Mr. Scalise votes no.
1726 Mr. Latta?
1727 Mr. {Latta.} No.
1728 The {Clerk.} Mr. Latta votes no.
1729 Mrs. McMorris Rodgers?
1730 [No response.]
1731 The {Clerk.} Mr. Harper?
1732 Mr. {Harper.} No.
1733 The {Clerk.} Mr. Harper votes no.
1734 Mr. Lance?
1735 Mr. {Lance.} No.
1736 The {Clerk.} Mr. Lance votes no.
1737 Mr. Cassidy?
1738 Dr. {Cassidy.} No.

1739 The {Clerk.} Mr. Cassidy votes no.
1740 Mr. Guthrie?
1741 Mr. {Guthrie.} No.
1742 The {Clerk.} Mr. Guthrie votes no.
1743 Mr. Olson?
1744 Mr. {Olson.} No.
1745 The {Clerk.} Mr. Olson votes no.
1746 Mr. McKinley?
1747 Mr. {McKinley.} No.
1748 The {Clerk.} Mr. McKinley votes no.
1749 Mr. Gardner?
1750 Mr. {Gardner.} No.
1751 The {Clerk.} Mr. Gardner votes no.
1752 Mr. Pompeo?
1753 Mr. {Pompeo.} No.
1754 The {Clerk.} Mr. Pompeo votes no.
1755 Mr. Kinzinger?
1756 Mr. {Kinzinger.} No.
1757 The {Clerk.} Mr. Kinzinger votes no.
1758 Mr. Griffith?
1759 Mr. {Griffith.} No.
1760 The {Clerk.} Mr. Griffith votes no.
1761 Mr. Waxman?
1762 Mr. {Waxman.} Aye.

1763 The {Clerk.} Mr. Waxman votes aye.
1764 Mr. Dingell?
1765 Mr. {Dingell.} Aye.
1766 The {Clerk.} Mr. Dingell votes aye.
1767 Mr. Markey?
1768 [No response.]
1769 The {Clerk.} Mr. Towns?
1770 [No response.]
1771 The {Clerk.} Mr. Pallone?
1772 [No response.]
1773 The {Clerk.} Mr. Rush?
1774 [No response.]
1775 The {Clerk.} Ms. Eshoo?
1776 Ms. {Eshoo.} Aye.
1777 The {Clerk.} Ms. Eshoo votes aye.
1778 Mr. Engel?
1779 Mr. {Engel.} Aye.
1780 The {Clerk.} Mr. Engel votes aye.
1781 Mr. Green?
1782 Mr. {Green.} Aye.
1783 The {Clerk.} Mr. Green votes aye.
1784 Ms. DeGette?
1785 Ms. {DeGette.} Aye.
1786 The {Clerk.} Ms. DeGette votes aye.

1787 Mrs. Capps?
1788 Mrs. {Capps.} Aye.
1789 The {Clerk.} Mrs. Capps votes aye.
1790 Mr. Doyle?
1791 Mr. {Doyle.} Aye.
1792 The {Clerk.} Mr. Doyle votes aye.
1793 Ms. Schakowsky?
1794 Ms. {Schakowsky.} Aye.
1795 The {Clerk.} Ms. Schakowsky votes aye.
1796 Mr. Gonzalez?
1797 Mr. {Gonzalez.} Aye.
1798 The {Clerk.} Mr. Gonzalez votes aye.
1799 Mr. Inslee?
1800 Mr. {Inslee.} Aye.
1801 The {Clerk.} Mr. Inslee votes aye.
1802 Ms. Baldwin?
1803 [No response.]
1804 The {Clerk.} Mr. Ross?
1805 [No response.]
1806 The {Clerk.} Mr. Matheson?
1807 Mr. {Matheson.} Aye.
1808 The {Clerk.} Mr. Matheson votes aye.
1809 Mr. Butterfield?
1810 Mr. {Butterfield.} Aye.

- 1811 The {Clerk.} Mr. Butterfield votes aye.
- 1812 Mr. Barrow?
- 1813 Mr. {Barrow.} No.
- 1814 The {Clerk.} Mr. Barrow votes no.
- 1815 Ms. Matsui?
- 1816 Ms. {Matsui.} Aye.
- 1817 The {Clerk.} Ms. Matsui votes aye.
- 1818 Mrs. Christensen?
- 1819 Dr. {Christensen.} Aye.
- 1820 The {Clerk.} Mrs. Christensen votes aye.
- 1821 Ms. Castor?
- 1822 Ms. {Castor.} Aye.
- 1823 The {Clerk.} Ms. Castor votes aye.
- 1824 Chairman Upton?
- 1825 The {Chairman.} Votes no.
- 1826 The {Clerk.} Chairman Upton votes no.
- 1827 The {Chairman.} Mr. Stearns?
- 1828 Mr. {Stearns.} Votes no.
- 1829 The {Clerk.} Mr. Stearns votes no.
- 1830 The {Chairman.} Mr. Whitfield?
- 1831 Mr. {Whitfield.} No.
- 1832 The {Clerk.} Mr. Whitfield votes no.
- 1833 The {Chairman.} Mr. Burgess?
- 1834 Dr. {Burgess.} No.

1835 The {Clerk.} Mr. Burgess votes no.

1836 The {Chairman.} Mr. Terry?

1837 Mr. {Terry.} No.

1838 The {Clerk.} Mr. Terry votes no.

1839 The {Chairman.} Mr. Bilbray?

1840 Mr. {Bilbray.} No.

1841 The {Clerk.} Mr. Bilbray votes no.

1842 The {Chairman.} Are there other members wishing to cast

1843 a vote? Seeing none. The clerk will report the tally.

1844 The {Clerk.} Mr. Chairman, on that vote, there were 16

1845 ayes, 30 nays.

1846 The {Chairman.} Sixteen ayes, 30 nays. The amendment

1847 is not agreed to. Are there further amendments to the bill?

1848 Seeing none. The question now occurs on favorably reporting

1849 the bill as amended to the House. All those in favor will

1850 say aye. All those opposed say no. In the opinion of the

1851 Chair, the ayes have it. Roll call is requested. The clerk

1852 will call the roll.

1853 The {Clerk.} Mr. Barton?

1854 Mr. {Barton.} Aye.

1855 The {Clerk.} Mr. Barton votes aye.

1856 Mr. Stearns?

1857 Mr. {Stearns.} Aye.

1858 The {Clerk.} Mr. Stearns votes aye.

1859 Mr. Whitfield?
1860 Mr. {Whitfield.} Aye.
1861 The {Clerk.} Mr. Whitfield votes aye.
1862 Mr. Shimkus?
1863 Mr. {Shimkus.} Aye.
1864 The {Clerk.} Mr. Shimkus votes aye.
1865 Mr. Pitts?
1866 Mr. {Pitts.} Aye.
1867 The {Clerk.} Mr. Pitts votes aye.
1868 Mrs. Bono Mack?
1869 Mrs. {Bono Mack.} Aye.
1870 The {Clerk.} Mrs. Bono Mack votes aye.
1871 Mr. Walden?
1872 Mr. {Walden.} Aye.
1873 The {Clerk.} Mr. Walden votes aye.
1874 Mr. Terry?
1875 [No response.]
1876 The {Clerk.} Mr. Rogers?
1877 Mr. {Rogers.} Aye.
1878 The {Clerk.} Mr. Rogers votes aye.
1879 Mrs. Myrick?
1880 Mrs. {Myrick.} Aye.
1881 The {Clerk.} Mrs. Myrick votes aye.
1882 Mr. Sullivan?

- 1883 [No response.]
- 1884 The {Clerk.} Mr. Murphy?
- 1885 Mr. {Murphy.} Aye.
- 1886 The {Clerk.} Mr. Murphy votes aye.
- 1887 Mr. Burgess?
- 1888 Dr. {Burgess.} Aye.
- 1889 The {Clerk.} Mr. Burgess votes aye.
- 1890 Mrs. Blackburn?
- 1891 Mrs. {Blackburn.} Aye.
- 1892 The {Clerk.} Mrs. Blackburn votes aye.
- 1893 Mr. Bilbray?
- 1894 Mr. {Bilbray.} Aye.
- 1895 The {Clerk.} Mr. Bilbray votes aye.
- 1896 Mr. Bass?
- 1897 Mr. {Bass.} Aye.
- 1898 The {Clerk.} Mr. Bass votes aye.
- 1899 Mr. Gingrey?
- 1900 [No response.]
- 1901 The {Clerk.} Mr. Scalise?
- 1902 Mr. {Scalise.} Aye.
- 1903 The {Clerk.} Mr. Scalise votes aye.
- 1904 Mr. Latta?
- 1905 Mr. {Latta.} Aye.
- 1906 The {Clerk.} Mr. Latta votes aye.

1907 Mrs. McMorris Rodgers?
1908 [No response.]
1909 The {Clerk.} Mr. Harper?
1910 Mr. {Harper.} Aye.
1911 The {Clerk.} Mr. Harper votes aye.
1912 Mr. Lance?
1913 Mr. {Lance.} Aye.
1914 The {Clerk.} Mr. Lance votes aye.
1915 Mr. Cassidy?
1916 Dr. {Cassidy.} Aye.
1917 The {Clerk.} Mr. Cassidy votes aye.
1918 Mr. Guthrie?
1919 Mr. {Guthrie.} Aye.
1920 The {Clerk.} Mr. Guthrie votes aye.
1921 Mr. Olson?
1922 Mr. {Olson.} Aye.
1923 The {Clerk.} Mr. Olson votes aye.
1924 Mr. McKinley?
1925 Mr. {McKinley.} Aye.
1926 The {Clerk.} Mr. McKinley votes aye.
1927 Mr. Gardner?
1928 Mr. {Gardner.} Aye.
1929 The {Clerk.} Mr. Gardner votes aye.
1930 Mr. Pompeo?

1931 Mr. {Pompeo.} Aye.

1932 The {Clerk.} Mr. Pompeo votes aye.

1933 Mr. Kinzinger?

1934 Mr. {Kinzinger.} Aye.

1935 The {Clerk.} Mr. Kinzinger votes aye.

1936 Mr. Griffith?

1937 [No response.]

1938 The {Clerk.} Mr. Waxman?

1939 Mr. {Waxman.} No.

1940 The {Clerk.} Mr. Waxman votes no.

1941 Mr. Dingell?

1942 Mr. {Dingell.} Votes no.

1943 The {Clerk.} Mr. Dingell votes no.

1944 Mr. Markey?

1945 [No response.]

1946 The {Clerk.} Mr. Towns?

1947 Mr. {Towns.} No.

1948 The {Clerk.} Mr. Towns votes no.

1949 Mr. Pallone?

1950 [No response.]

1951 The {Clerk.} Mr. Rush?

1952 [No response.]

1953 The {Clerk.} Ms. Eshoo?

1954 Ms. {Eshoo.} No.

1955 The {Clerk.} Ms. Eshoo votes no.
1956 Mr. Engel?
1957 Mr. {Engel.} No.
1958 The {Clerk.} Mr. Engel votes no.
1959 Mr. Green?
1960 Mr. {Green.} No.
1961 The {Clerk.} Mr. Green votes no.
1962 Ms. DeGette?
1963 Ms. {DeGette.} No.
1964 The {Clerk.} Ms. DeGette votes no.
1965 Mrs. Capps?
1966 Mrs. {Capps.} No.
1967 The {Clerk.} Mrs. Capps votes no.
1968 Mr. Doyle?
1969 Mr. {Doyle.} No.
1970 The {Clerk.} Mr. Doyle votes no.
1971 Ms. Schakowsky?
1972 Ms. {Schakowsky.} No.
1973 The {Clerk.} Ms. Schakowsky votes no.
1974 Mr. Gonzalez?
1975 Mr. {Gonzalez.} No.
1976 The {Clerk.} Mr. Gonzalez votes no.
1977 Mr. Inslee?
1978 Mr. {Inslee.} No.

1979 The {Clerk.} Mr. Inslee votes no.
1980 Ms. Baldwin?
1981 [No response.]
1982 The {Clerk.} Mr. Ross?
1983 [No response.]
1984 The {Clerk.} Mr. Matheson?
1985 Mr. {Matheson.} Aye.
1986 The {Clerk.} Mr. Matheson votes aye.
1987 Mr. Butterfield?
1988 [No response.]
1989 The {Clerk.} Mr. Barrow?
1990 [No response.]
1991 The {Clerk.} Ms. Matsui?
1992 Ms. {Matsui.} No.
1993 The {Clerk.} Ms. Matsui votes no.
1994 Mrs. Christensen?
1995 Dr. {Christensen.} No.
1996 The {Clerk.} Mrs. Christensen votes no.
1997 Ms. Castor?
1998 Ms. {Castor.} No.
1999 The {Clerk.} Ms. Castor votes no. Chairman Upton?
2000 The {Chairman.} Votes aye.
2001 The {Clerk.} Chairman Upton votes aye.
2002 The {Chairman.} Mr. Terry?

2003 Mr. {Terry.} Aye.

2004 The {Clerk.} Mr. Terry votes aye.

2005 The {Chairman.} Mr. Griffith?

2006 Mr. {Griffith.} Aye.

2007 The {Clerk.} Mr. Griffith votes aye.

2008 The {Chairman.} Are there other members wishing to cast

2009 a vote? Seeing none, the clerk will report the tally. Is

2010 Mr. Barrow--

2011 The {Clerk.} Mr. Barrow is not recorded.

2012 Mr. {Barrow.} Votes aye.

2013 The {Clerk.} Mr. Barrow votes aye.

2014 The {Chairman.} How is the gentleman from Illinois, Mr.

2015 Rush, recorded?

2016 The {Clerk.} Mr. Rush is not recorded.

2017 Mr. {Rush.} No.

2018 The {Clerk.} Mr. Rush votes no.

2019 The {Chairman.} Mr. Sullivan?

2020 Mr. {Sullivan.} Aye.

2021 The {Clerk.} Mr. Sullivan votes aye.

2022 The {Chairman.} Are there other members? The clerk

2023 will report the tally.

2024 The {Clerk.} Mr. Chairman, on that vote, there were 31

2025 ayes, 16 nays.

2026 The {Chairman.} Thirty-one ayes, 16 nays. The ayes

2027 have it, and the bill is favorably recorded. At this point,
2028 the Chair would call up H.R. 3310.

2029 Mr. {Dingell.} Mr. Chairman, I seek recognition.

2030 The {Chairman.} The gentleman.

2031 Mr. {Dingell.} How much time will we have to file a
2032 proper denunciation?

2033 The {Chairman.} All bills will have the proper time.

2034 There is one more bill to go. All three bill will have the
2035 proper time to file the minority view.

2036 Mr. {Dingell.} Can I be informed what that is?

2037 Sometime it changes.

2038 The {Chairman.} No, I think it is always three days.

2039 Mr. {Dingell.} Three days? Thank you.

|

2040 H.R. 3310

2041 The {Chairman.} At this point, the Chair will call up
2042 H.R. 3310 and ask the clerk to report.

2043 The {Clerk.} H.R. 3310 as amended by the Subcommittee
2044 on Communications and Technology on November 16, 2011.

2045 [The amendment follows:]

2046 ***** INSERT 10 *****

|
2047 The {Chairman.} And without objection, the first
2048 reading of the bill is dispensed with. So ordered. Are
2049 there any bipartisan amendments to the bill? The gentlelady
2050 from California, Ms. Eshoo, is recognized.

2051 Ms. {Eshoo.} Thank you, Mr. Chairman. I have an
2052 amendment at the desk. It is labeled EJS--what is the
2053 number? Do you have the number? 4? 2?

2054 The {Chairman.} The clerk will report the title of the
2055 amendment.

2056 The {Clerk.} Amendment to H.R. 3310 as amended offered
2057 by Ms. Eshoo of California.

2058 [The amendment follows:]

2059 ***** INSERT 11 *****

|
2060 The {Chairman.} And the clerk will be considered as
2061 read. The staff will distribute the amendment, and the
2062 gentlelady is recognized for 5 minutes.

2063 Ms. {Eshoo.} Thank you, Mr. Chairman. At the
2064 subcommittee markup, I offered an amendment to ensure that
2065 the FCC continues to have the flexibility to evaluate all
2066 forms of competition. With the growing convergence of
2067 communications and media platforms, I am introducing a
2068 revised amendment today to ensure that when assessing the
2069 state of competition, the FCC can consider all forms of
2070 competition including examining particular segments or
2071 sectors of the communications marketplace. Mr. Chairman, I
2072 understand that you have agreed to accept my amendment. I
2073 thank you for being willing to include this small but
2074 important change. And with the adoption of the amendment, I
2075 will support this bill today. Yield back.

2076 Mr. {Walden.} [Presiding] I thank the gentlelady. I
2077 am delighted to support her amendment. And are there any
2078 other people seeking recognition on this amendment? Is there
2079 any objection to this amendment? All those in favor will say
2080 aye. Those opposed nay. The ayes have it. The amendment is
2081 agreed to. The question now occurs on favorably reporting
2082 the bill as amended to the House. All those in favor will

2083 say aye. Those opposed no. All those favoring the bill will
2084 say aye. Those opposed no. See, the same outcome. The ayes
2085 appear to have it. The ayes have it. The bill is favorably
2086 reported. Without objection, the staff is authorized to make
2087 technical and conforming changes to the bills approved by the
2088 committee today. The Chair thanks all members and staff.
2089 Without objection, the Committee now stands adjourned.
2090 [Whereupon, at 11:50 a.m., the Committee was adjourned.]