

Commission's regulations (47 C.F.R. 54.301 et seq.); or

"(B) are within or comprised of any census tract—

"(i) the poverty level of which is at least 30 percent (based on the most recent census data); or

"(ii) the median family income of which does not exceed—

"(I) in the case of a census tract located in a metropolitan statistical area, 70 percent of the greater of the metropolitan area median family income or the statewide median family income; and

"(II) in the case of a census tract located in a nonmetropolitan statistical area, 70 percent of the nonmetropolitan statewide median family income.

"(3) DESIGNATION OF CENSUS TRACTS.—The Commission shall, not later than 90 days after the date of the enactment of this section, designate and publish those census tracts meeting the criteria described in paragraph (2)(B)."

SEC. 8. COMMISSION AUTHORIZED TO PRESCRIBE JUST AND REASONABLE CHARGES.

The Federal Communications Commission may impose penalties under section 503 of the Communications Act of 1934 not to exceed \$1,000,000 for any violation of provisions contained in, or amended by, section 5, 6, or 7 (or any combination thereof) of this Act. Each distinct violation shall be a separate offense, and in the case of a continuing violation, each day shall be deemed a separate offense, except that the amount assessed for any continuing violation shall not exceed a total of \$10,000,000 for any single act or failure to act described in section 5, 6, or 7 (or any combination thereof) of this Act.

SEC. 9. CLARIFICATION OF CONTINUING OPERATION OF ANTITRUST LAWS.

Section 601(b) of the Telecommunications Act of 1996 (Public Law 104-104; 110 Stat. 143) is amended by adding at the end the following new paragraph:

"(4) CONTINUING OPERATION OF THE ANTITRUST LAWS.—Paragraph (1) shall be interpreted to mean that the antitrust laws are—

"(A) not repealed by,

"(B) not precluded by,

"(C) not diminished by, and

"(D) not incompatible with,

the Communications Act of 1934, this Act, or any law amended by either such Act."

The CHAIRMAN. No further amendment to the bill, as amended, shall be in order except those printed in part B of the report. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

The Committee will rise informally.

The Speaker pro tempore (Mr. WELDON of Florida) assumed the chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Evans, one of his secretaries.

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

INTERNET FREEDOM AND BROADBAND DEPLOYMENT ACT OF 2001

The Committee resumed its sitting.

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in part B of House Report 107-361.

PART B AMENDMENT NO. 1 OFFERED BY MR. UPTON

Mr. UPTON. Mr. Chairman, I offer amendment No. 1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B Amendment No. 1 offered by Mr. UPTON:

At the end of the bill, add the following new section:

SEC. 9. COMMON CARRIER ENFORCEMENT.

(a) CEASE AND DESIST AUTHORITY.—Section 501 of the Communications Act of 1934 (47 U.S.C. 501) is amended—

(1) by striking "Any person" and inserting "(a) FINES AND IMPRISONMENT.—Any person";

(2) by adding at the end the following new subsection:

"(b) CEASE AND DESIST ORDERS.—If, after a hearing, the Commission determines that any common carrier is engaged in an act, matter, or thing prohibited by this Act, or is failing to perform any act, matter, or thing required by this Act, the Commission may order such common carrier to cease or desist from such action or inaction."

(b) FORFEITURE PENALTIES.—Section 503(b) of the Communications Act of 1934 (47 U.S.C. 503(b)) is amended—

(1) in paragraph (2)(B)—

(A) by striking "exceed \$100,000" and inserting "exceed \$1,000,000"; and

(B) by striking "of \$1,000,000" and inserting "of \$10,000,000";

(2) in paragraph (2)(C), by striking "subparagraph (A) or (B)" and inserting "subparagraph (A), (B), or (C)";

(3) by redesignating subparagraphs (C) and (D) of paragraph (2) as subparagraphs (D) and (E), respectively;

(4) by inserting after subparagraph (B) of paragraph (2) the following new subparagraph:

"(C) If a common carrier has violated a cease and desist order or has previously been assessed a forfeiture penalty for a violation of a provision of this Act or of any rule, regulation, or order issued by the Commission, and if the Commission or an administrative law judge determines that such common carrier has willfully violated the same provision, rule, regulation, that this repeated violation has caused harm to competition, and that such common carrier has been assessed a forfeiture penalty under this subsection for such previous violation, the Commission may assess a forfeiture penalty not to exceed \$2,000,000 for each violation or each day of continuing violation; except that the amount of such forfeiture penalty shall not exceed \$20,000,000."; and

(5) in paragraph (6)(B), by striking "1 year" and inserting "2 years".

(c) EVALUATION OF IMPACT.—

(1) EVALUATION REQUIRED.—Within one year after the date of enactment of this Act, the Federal Communications Commission shall conduct an evaluation of the impact of the increased remedies available under the amendments made by this section on improving compliance with the requirements of the Communications Act of 1934, and with the rules, regulations, and orders of the Commission thereunder. Such evaluation shall include—

(A) an assessment of the number of enforcement proceedings commenced before and after such date of enactment;

(B) an analysis of any changes in the number, type, seriousness, or repetition of violations; and

(C) an analysis of such other factors as the Commission considers appropriate to evaluate such impact.

(2) REPORT.—Within one year after such date of enactment, the Commission shall submit a report on the evaluation to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

The CHAIRMAN. Pursuant to House Resolution 350, the gentleman from Michigan (Mr. UPTON) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Chairman, I ask unanimous consent to yield 10 minutes of my time to the gentleman from Texas (Mr. GREEN) for his use and for him to yield that time to other Members as he sees fit.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

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

Mr. Chairman, as the chairman of the Subcommittee on Telecommunications and the Internet, I am very pleased to offer this commonsense, bipartisan enforcement amendment with my good friend and colleague, the gentleman from Texas (Mr. GREEN).

When I became chairman last year, one of the first things I did was to invite the then new chairman of the FCC, Chairman Powell, to appear before the subcommittee to present his vision for that agency. The thing that struck me most was his message that the FCC's current enforcement authority was in fact too weak, and that the FCC's current fines were viewed by many as simply the cost of doing business for many companies.

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And I heard that from many competitive carriers as well.

In a letter to Congress last year, Chairman Powell specifically wrote that, among other things, Congress should consider increasing the cap on fines to at least \$10 million in order to enhance their deterrent effect. The current cap, of course, is at \$1.2 million.

Responding to Chairman Powell's recommendation, we are, in fact, offering this bipartisan amendment which will substantially increase the FCC's fines for phone companies which violate the telecommunications law by elevating the current cap from \$1.2 million to \$10 million and increasing the amount up to which the FCC can impose per violation or each day of a continuing violation from \$120,000 to \$1 million. We did exactly what Chairman Powell requested.

In addition, for repeat offenders the amendment doubles the increased fines up to \$2 million per violation or each day of a continuing violation capped at \$20 million.