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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Communications Act of 1934 to provide for time limits for action by the Federal Communications Commission on applications for the transfer of control or assignment of any license or other authorization subject to the jurisdiction of the Commission, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. PFLUGER introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Communications Act of 1934 to provide for time limits for action by the Federal Communications Commission on applications for the transfer of control or assignment of any license or other authorization subject to the jurisdiction of the Commission, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Keep It Moving Act”.

1 **SEC. 2. TIME LIMITS FOR FCC ACTION ON APPLICATIONS**
2 **FOR TRANSFER OF CONTROL OR ASSIGN-**
3 **MENT.**

4 (a) IN GENERAL.—Title IV of the Communications
5 Act of 1934 (47 U.S.C. 401 et seq.) is amended by adding
6 at the end the following:

7 **“SEC. 417. TIME LIMITS FOR COMMISSION ACTION ON AP-**
8 **PLICATIONS FOR TRANSFER OF CONTROL OR**
9 **ASSIGNMENT.**

10 **“(a) DETERMINATION REGARDING COMPLETENESS**
11 **AND PUBLIC NOTICE.—**

12 **“(1) IN GENERAL.—**Not later than 15 days
13 after the date on which a covered application is filed
14 with the Commission, the Commission shall—

15 **“(A)** determine whether or not such appli-
16 cation is complete; and

17 **“(B)** notify the applicant of—

18 **“(i)** the determination under subpara-
19 graph (A); and

20 **“(ii)** if such determination is that
21 such application is not complete, the infor-
22 mation needed to make such application
23 complete.

24 **“(2) FILING OF AMENDED APPLICATION.—**

25 **“(A) IN GENERAL.—**If the Commission de-
26 termines under paragraph (1)(A) or subpara-

1 graph (B)(i) of this paragraph that a covered
2 application is not complete, the applicant may
3 file an amendment to such application to supply
4 the information needed to make such applica-
5 tion complete.

6 “(B) DEADLINE.—Not later than 5 days
7 after the date on which an applicant files an
8 amendment to a covered application under sub-
9 paragraph (A), the Commission shall—

10 “(i) determine whether or not such
11 application, as amended, is complete; and

12 “(ii) notify such applicant of—

13 “(I) the determination under
14 clause (i); and

15 “(II) if such determination is
16 that such application is not complete,
17 the information needed to make such
18 application complete.

19 “(3) DEEMED COMPLETE.—If the Commission
20 does not notify an applicant of whether or not a cov-
21 ered application filed by such applicant is complete
22 as required by paragraph (1)(B) or (2)(B)(ii) during
23 the period required by such paragraph, such applica-
24 tion shall be deemed to be complete on the day after
25 the last day of such period.

1 “(4) PUBLIC NOTICE.—Not later than 7 days
2 after the date on which the Commission notifies an
3 applicant under paragraph (1)(B) or (2)(B)(ii) that
4 a covered application filed by such applicant is com-
5 plete, or not later than 7 days after a covered appli-
6 cation is deemed to be complete under paragraph (3)
7 or (5), as the case may be, the Commission shall
8 issue a public notice formally accepting such applica-
9 tion for filing and (if applicable) initiating public
10 comment with respect to such application.

11 “(5) REVIEWABILITY OF COMPLETENESS DE-
12 TERMINATION.—A determination by the Commis-
13 sion, or any bureau or office of the Commission, that
14 a covered application is not complete shall be consid-
15 ered an order reviewable under section 1.106 or
16 1.115 of title 47, Code of Federal Regulations (or
17 any successor regulation) or section 402 of this Act.
18 If on review of such determination it is found that
19 the Commission, or any bureau or office of the Com-
20 mission, unreasonably determined such application
21 to be not complete, such application shall be deemed
22 to be complete on the date that is 15 days after the
23 date on which such application was filed with the
24 Commission or (in the case of a review of such a de-
25 termination relating to an application amended

1 under paragraph (2)) on the date that is 5 days
2 after the date on which the most recent amendment
3 to such application was filed with the Commission
4 under such paragraph.

5 “(b) ACTION ON APPLICATION.—

6 “(1) IN GENERAL.—Notwithstanding any other
7 provision of law, except as provided in paragraph
8 (4), the Commission shall issue a final order approv-
9 ing a covered application not later than—

10 “(A) except as provided in subparagraph
11 (B), the date that is 180 days after the public
12 notice date with respect to such application; or

13 “(B) if the Commission issues a formal re-
14 quest for additional information under para-
15 graph (3) with respect to such application or
16 refers such application to the Committee for the
17 Assessment of Foreign Participation in the
18 United States Telecommunications Services
19 Sector (or any successor to such Committee),
20 except as provided in paragraph (2), the date
21 that is 1 year after the public notice date with
22 respect to such application.

23 “(2) EXTENSION.—In the case of a covered ap-
24 plication that the Commission refers to the Com-
25 mittee for the Assessment of Foreign Participation

1 in the United States Telecommunications Services
2 Sector (or any successor to such Committee), if the
3 Committee (or any such successor) determines that
4 a secondary assessment (or similar additional review
5 by any such successor) of such application is war-
6 ranted, the period during which the Commission is
7 required to approve such application under para-
8 graph (1)(B) may be extended by not more than 90
9 days, in the discretion of the Commission.

10 “(3) REQUEST FOR ADDITIONAL INFORMA-
11 TION.—If the Commission determines that addi-
12 tional information is necessary for review of a cov-
13 ered application and that a formal request for such
14 information should be issued to the applicant, the
15 Commission shall issue such request not later than
16 the earlier of—

17 “(A) the date that is 30 days after the last
18 day of the public comment period, if any, with
19 respect to such application; and

20 “(B) the date that is 120 days after the
21 public notice date with respect to such applica-
22 tion.

23 “(4) DESIGNATION FOR HEARING.—If the Com-
24 mission determines that any substantial and mate-
25 rial question of fact prevents the Commission from

1 approving a covered application under paragraph
2 (1), the Commission shall designate such application
3 for hearing in accordance with section 309(e). Not-
4 withstanding section 309(e), the Commission shall
5 conclude such hearing and issue a final order ap-
6 proving or denying such application not later than
7 15 months after the public notice date with respect
8 to such application.

9 “(5) CONSEQUENCE OF COMMISSION MISSING
10 DEADLINE TO ACT.—

11 “(A) WRIT TO COMPEL ACTION.—If the
12 Commission does not issue a final order approv-
13 ing a covered application during the period re-
14 quired by paragraph (1) or approving or deny-
15 ing a covered application after a hearing during
16 the period required by paragraph (4), the appli-
17 cant shall be entitled to a writ issued promptly
18 (and in no event later than 72 hours after the
19 petition for such writ has been filed) by the ap-
20 propriate United States court pursuant to sec-
21 tion 1651 of title 28, United States Code, com-
22 pelling the Commission to immediately—

23 “(i) approve such application; or

24 “(ii) file a complaint described in sub-
25 paragraph (B)(i) to seek an order permit-

1 ting the Commission to deny such applica-
2 tion.

3 “(B) COURT ORDER PERMITTING DE-
4 NIAL.—

5 “(i) IN GENERAL.—If the Commission
6 wishes to deny a covered application after
7 a writ has been issued under subparagraph
8 (A) with respect to such application, the
9 Commission may file a complaint against
10 the applicant in the United States District
11 Court for the District of Columbia to seek
12 an order permitting the Commission to
13 deny such application.

14 “(ii) CLEAR AND CONVINCING EVI-
15 DENCE.—The court may issue an order
16 permitting the Commission to deny such
17 application if the Commission proves to the
18 court by clear and convincing evidence that
19 approval of such application is not in the
20 public interest.

21 “(iii) ORDER.—An order issued by the
22 court pursuant to this subparagraph shall
23 include the date by which the Commission
24 shall be required to approve or deny the
25 covered application.

1 “(iv) EXCLUSIVE AUTHORITY FOR DE-
2 NIAL.—After a writ has been issued under
3 subparagraph (A) with respect to a covered
4 application, the Commission may deny
5 such application only if the Commission
6 obtains an order under this subparagraph
7 permitting the Commission to deny such
8 application.

9 “(c) TIMELINESS OF FILING OF ADDITIONAL MATE-
10 RIALS.—

11 “(1) IN GENERAL.—Except as provided in para-
12 graph (2), if an applicant files a major amendment
13 or waiver request with respect to a covered applica-
14 tion after the public notice date with respect to such
15 application, the period during which the Commission
16 is required to issue a final order approving such ap-
17 plication under subsection (b)(1), and (if applicable)
18 the period during which the Commission is required
19 to issue a final order approving or denying such ap-
20 plication under subsection (b)(4), may be extended
21 by not more than 30 days, in the discretion of the
22 Commission.

23 “(2) ADDITIONAL INFORMATION FILED UPON
24 REQUEST OF COMMISSION.—A formal request by the
25 Commission for additional information with respect

1 to a covered application under subsection (b)(3), or
2 any submission by an applicant in response to such
3 a request, does not toll, restart, or otherwise affect
4 the period during which the Commission is required
5 to issue a final order approving such application
6 under subsection (b)(1) or (if applicable) the period
7 during which the Commission is required to issue a
8 final order approving or denying such application
9 under subsection (b)(4).

10 “(d) LIMITATION ON DELEGATED AUTHORITY.—
11 Notwithstanding section 5(c), an order approving a cov-
12 ered application may be adopted pursuant to a delegation
13 under such section, but an order denying a covered appli-
14 cation or designating a covered application for hearing
15 may only be adopted by a vote of a majority of the mem-
16 bers of the Commission then holding office.

17 “(e) INAPPLICABILITY TO PRO FORMA TRANS-
18 ACTIONS.—The provisions of this section (other than this
19 subsection) do not apply to pro forma transactions, which,
20 notwithstanding any other provision of law, do not require
21 Commission approval in advance of the proposed transfer
22 of control or assignment of a license or other authorization
23 subject to the jurisdiction of the Commission or the pro-
24 posed transfer of control of a lessee of a spectrum lease
25 subject to the jurisdiction of the Commission. The holder

1 of such a license or other authorization, or such a lessee,
2 that is subject to a pro forma transaction shall notify the
3 Commission of such transaction in writing not later than
4 30 days after the date on which such transaction is com-
5 pleted.

6 “(f) DEFINITIONS.—In this section:

7 “(1) COMPLETE.—The term ‘complete’ means,
8 with respect to a covered application, that all of the
9 information required by the regulations of the Com-
10 mission to be included in or filed with such applica-
11 tion is included in or filed with such application.

12 “(2) COVERED APPLICATION.—The term ‘cov-
13 ered application’ means an application for—

14 “(A) the transfer of control or assignment
15 of any license or other authorization subject to
16 the jurisdiction of the Commission; or

17 “(B) the transfer of control of a lessee of
18 a spectrum lease subject to the jurisdiction of
19 the Commission.

20 “(3) PRO FORMA TRANSACTION.—The term
21 ‘pro forma transaction’ means a transfer of control
22 or assignment of any license or other authorization
23 subject to the jurisdiction of the Commission, or a
24 transfer of control of a lessee of a spectrum lease
25 subject to the jurisdiction of the Commission, if the

1 transaction is considered insubstantial or pro forma
2 under the rules and policies of the Commission.

3 “(4) PUBLIC NOTICE DATE.—The term ‘public
4 notice date’ means, with respect to a covered appli-
5 cation—

6 “(A) the date on which the Commission
7 issues a public notice with respect to such ap-
8 plication under subsection (a)(4); or

9 “(B) if the Commission does not issue a
10 public notice with respect to such application
11 during the period required by subsection (a)(4),
12 the date on which the Commission notifies the
13 applicant under subsection (a)(1)(B) or
14 (a)(2)(B)(ii) that such application is complete,
15 or the date on which such application is deemed
16 to be complete under subsection (a)(3) or
17 (a)(5), as the case may be.”.

18 (b) APPLICABILITY.—

19 (1) IN GENERAL.—Section 417 of the Commu-
20 nications Act of 1934, as added by subsection (a),
21 shall apply with respect to a covered application that
22 is pending with the Commission on, or filed with the
23 Commission on or after, the date of the enactment
24 of this Act.

1 (2) PENDING APPLICATIONS.—In the case of a
2 covered application that is pending with the Com-
3 mission on the date of the enactment of this Act, the
4 covered application shall be treated as having been
5 filed with the Commission on such date of enactment
6 for purposes of calculating the deadlines with respect
7 to such application under section 417 of the Com-
8 munications Act of 1934, as added by subsection
9 (a).

10 (3) PRO FORMA TRANSACTIONS.—Subsection
11 (e) of section 417 of the Communications Act of
12 1934, as added by subsection (a), shall apply with
13 respect to a pro forma transaction that is completed
14 on or after the date of the enactment of this Act.

15 (c) DEFINITIONS.—In this section:

16 (1) COMMISSION.—The term “Commission”
17 means the Federal Communications Commission.

18 (2) COVERED APPLICATION.—The term “cov-
19 ered application” has the meaning given such term
20 in subsection (f) of section 417 of the Communica-
21 tions Act of 1934, as added by subsection (a).

22 (3) PRO FORMA TRANSACTION.—The term “pro
23 forma transaction” has the meaning given such term
24 in subsection (f) of section 417 of the Communica-
25 tions Act of 1934, as added by subsection (a).

1 SEC. 3. APPEAL OF COMMISSION DECISIONS.

2 Section 402(b)(3) of the Communications Act of
3 1934 (47 U.S.C. 402(b)(3)) is amended by inserting “,
4 designated for hearing, granted subject to conditions to
5 which the applicant objects, or determined to be not com-
6 plete” after “denied”.