

112TH CONGRESS
1ST SESSION

H. R. 3763

To amend title 5, United States Code, to provide for additional requirements for public comments submitted in connection with certain proceedings before the Federal Communications Commission.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 2011

Ms. WATERS introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 5, United States Code, to provide for additional requirements for public comments submitted in connection with certain proceedings before the Federal Communications Commission.

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 “FCC Merging Entities
5 Regulatory Guidance and Ethical Reform Act of 2011”
6 or as the “FCC MERGER Act”.

1 **SEC. 2. FCC RULES FOR HIDDEN CONFLICTS OF INTEREST.**

2 Section 554 of title 5, United States Code, is amend-
3 ed by adding at the end the following:

4 “(f) The Federal Communications Commission shall
5 create and implement rules requiring public disclosure of
6 contributions received by any party that submits to the
7 Commission facts, arguments, offers of settlement, or pro-
8 posals of adjustment (either electronically or in writing),
9 whenever such contributions may constitute a potential
10 conflict of interest. The rules shall apply to all Commission
11 proceedings, including rulemaking proceedings, transfers
12 of licenses, mergers, combinations, and adjudicatory pro-
13 ceedings. Contributions subject to these rules must include
14 but need not be limited to financial contributions, con-
15 tributions in-kind, language to be filed, and offers of em-
16 ployment. Contributions may constitute a potential con-
17 flict of interest if made by a party which has a direct fi-
18 nancial interest in the outcome of a pending Commission
19 proceeding. Such rules implemented by the Commission
20 shall include a requirement of a description of any con-
21 tributions received from any party or applicant within one
22 year of a merger, combination, transfer of licenses, rule-
23 making, or adjudicatory proceeding pending before the
24 Commission, where such contributions may constitute a
25 conflict of interest.”.

1 **SEC. 3. PROHIBITION ON FORMER OFFICIALS' ACCEPT-**
2 **ANCE OF EMPLOYMENT.**

3 (a) A former official of the Federal Communications
4 Commission may not accept employment from a regulated
5 entity as an employee, officer, director, or consultant of
6 the regulated entity within a period of one year after such
7 former official—

8 (1) presided over a proceeding in the transfer
9 of licenses acquired or formerly held by the entity of-
10 fering employment to the officer;

11 (2) presided over a merger, combination, or ad-
12 judicatory proceeding in which the entity offering
13 employment was a party to the proceeding; or

14 (3) issued for the Commission—

15 (A) a decision to approve a transfer of li-
16 censes to the entity offering employment;

17 (B) a decision in a complaint or other ad-
18 judicatory proceeding in which the entity offer-
19 ing employment was a party;

20 (b) A former official of the Commission who know-
21 ingly accepts compensation in violation shall be subject to
22 administrative actions and penalties as set forth in section
23 4.

24 (c) A regulated entity that offers employment to a
25 former or current official of the Commission knowing that
26 such offer is accepted by the former or current official in

1 violation of this subsection shall be subject to administra-
2 tive actions and penalties as set forth in section 4.

3 (d) Regulations implementing this subsection shall in-
4 clude procedures for an official or former official of the
5 Commission to request advice from the appropriate des-
6 ignated Commission ethics official regarding whether the
7 official or former official would be precluded by this sub-
8 section from accepting compensation from a particular
9 regulated entity.

10 **SEC. 4. PENALTIES AND ADMINISTRATIVE ACTIONS.**

11 The Attorney General may bring civil action in an
12 appropriate United States District Court against any per-
13 son who engages in conduct constituting a violation of sec-
14 tion 3. Upon proof of such conduct by a preponderance
15 of the evidence, the person is subject to a civil penalty.
16 An individual who engages in such conduct is subject to
17 a civil penalty of not more than \$50,000 for each violation
18 plus twice the amount of compensation which the indi-
19 vidual was offered for the prohibited conduct. An organi-
20 zation that engages in such conduct is subject to a civil
21 penalty of not more than \$500,000 for each violation plus
22 twice the amount of compensation which the organization
23 received or offered for the prohibited conduct.

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