

116TH CONGRESS
2D SESSION

H. R. 8659

To amend the Communications Act of 1934 to provide for requirements for the exercise of the emergency powers of the President under section 706 of such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 23, 2020

Ms. ESHOO (for herself and Mr. GRIFFITH) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Communications Act of 1934 to provide for requirements for the exercise of the emergency powers of the President under section 706 of such Act, 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 “Preventing Unwar-
5 ranted Communications Shutdowns Act of 2020”.

1 **SEC. 2. REQUIREMENTS FOR EXERCISE OF CERTAIN EMER-**
2 **GENCY POWERS OF THE PRESIDENT.**

3 (a) IN GENERAL.—Section 706 of the Communica-
4 tions Act of 1934 (47 U.S.C. 606) is amended by adding
5 at the end the following:

6 “(i) REQUIREMENTS FOR ACTIONS BY PRESIDENT
7 UNDER THIS SECTION.—

8 “(1) STANDARD FOR TAKING ACTION.—The
9 President may not take an action under subsection
10 (a), (b), (c), or (d) unless such action is—

11 “(A) necessary to protect against an immi-
12 nent and specific threat to human life or an im-
13 minent and specific threat to national security;

14 “(B) narrowly tailored to achieve the pur-
15 pose described in subparagraph (A); and

16 “(C) the least restrictive means to achieve
17 such purpose.

18 “(2) NOTIFICATION TO CONGRESSIONAL LEAD-
19 ERS AND SENIOR GOVERNMENT OFFICIALS.—

20 “(A) IN GENERAL.—Before or not later
21 than 12 hours after taking any action under
22 subsection (a), (b), (c), or (d), the President
23 shall transmit a notification with respect to
24 such action that meets the requirements of sub-
25 paragraph (B) to each congressional leader and
26 each senior Government official.

1 “(B) REQUIREMENTS.—The requirements
2 of this subparagraph for a notification with re-
3 spect to an action under subsection (a), (b), (c),
4 or (d) are the following:

5 “(i) CONTENTS.—Such notification
6 shall contain the following:

7 “(I) An identification of the war,
8 threat of war, state of public peril,
9 disaster, national emergency, or other
10 circumstance that is the basis for the
11 President to take such action, as re-
12 quired by the subsection under which
13 the President has acted or wishes to
14 act.

15 “(II) A detailed description of
16 such action, including—

17 “(aa) the geographic scope
18 of such action;

19 “(bb) the types of commu-
20 nications networks impacted by
21 such action; and

22 “(cc) a list of each person to
23 whom the President has trans-
24 mitted a communication directing

1 such person to comply with such
2 action.

3 “(III) The amount of time (if
4 any) beyond the period of effective-
5 ness provided in paragraph (3) for
6 which the President is requesting au-
7 thorization to maintain such action.

8 “(IV) A justification, with re-
9 spect to such action and any amount
10 of time stated under subclause (III),
11 of how the President reached the de-
12 termination required for taking an ac-
13 tion under such subsection (including
14 the determination that the require-
15 ments of paragraph (1) of this sub-
16 section are met).

17 “(ii) FORM.—Such notification shall
18 be in writing. With respect to each con-
19 gressional leader and each senior Govern-
20 ment official, the President shall first
21 transmit such notification to such leader or
22 official in either physical or electronic
23 form, whichever the President determines
24 will result in quicker delivery to such lead-
25 er or official. The President shall transmit

1 such notification to such leader or official
2 in the other form as soon thereafter as
3 possible, but failure to transmit such noti-
4 fication in such other form shall not affect
5 the validity of the action by the President
6 to which such notification relates.

7 “(iii) TIMING.—

8 “(I) CONGRESS.—

9 “(aa) IN GENERAL.—The
10 President shall transmit such no-
11 tification in such a manner so as
12 to ensure delivery to each con-
13 gressional leader as close to si-
14 multaneously as practicable, but
15 the time between delivery to each
16 congressional leader shall not be
17 greater than 1 hour.

18 “(bb) OFFICIAL TIME RE-
19 CEIVED; PUBLICATION.—Each
20 congressional leader shall record
21 the official time of the chamber
22 at receipt. In the case of notifica-
23 tion to a congressional leader in
24 both physical and electronic
25 form, the time recorded shall be

1 the time of receipt of the form
2 that was received first. Each con-
3 gressional leader shall, imme-
4 diately upon such receipt, inform
5 the Clerk of the House or the
6 Secretary of the Senate (as the
7 case may be) of the time of re-
8 ceipt, to be recorded and pub-
9 lished by the Clerk or Secretary.

10 “(cc) 48-HOUR PERIOD DE-
11 FINED.—In this subsection, the
12 term ‘48-hour period’ means the
13 48-hour period that begins at the
14 third earliest of the 4 times re-
15 corded under item (bb), including
16 any extension of such period
17 under paragraph (4)(D) and ex-
18 cluding any period disregarded
19 under paragraph (4)(C)(v).

20 “(II) SENIOR GOVERNMENT OF-
21 FICIALS.—The President shall trans-
22 mit such notification in such a man-
23 ner so as to ensure delivery to each
24 senior Government official not more
25 than 1 hour after the third earliest of

1 the 4 times recorded under subclause
2 (I)(bb).

3 “(C) PUBLIC AVAILABILITY.—

4 “(i) PRESUMPTIVELY PUBLIC.—Ex-
5 cept as provided in clause (ii), the Presi-
6 dent shall publicly release a notification
7 transmitted under subparagraph (A) at the
8 time when the 48-hour period begins.

9 “(ii) TEMPORARY WITHHOLDING AND
10 RELEASE.—

11 “(I) WITHHOLDING.—The Presi-
12 dent may withhold from public release
13 under clause (i) a portion of a notifi-
14 cation transmitted under subpara-
15 graph (A) only to the extent that the
16 President determines that—

17 “(aa) secrecy of such portion
18 is necessary to protect against an
19 imminent and specific threat to
20 human life; or

21 “(bb) such portion contains
22 classified information.

23 “(II) RELEASE.—Notwithstand-
24 ing any provision of law or Executive
25 order regarding the protection of clas-

1 sified information, any portion of a
2 notification transmitted under sub-
3 paragraph (A) that is withheld under
4 subclause (I) shall be publicly released
5 not later than 180 days after—

6 “(aa) if there is not enacted
7 a law authorizing the action by
8 the President under subsection
9 (a), (b), (c), or (d) to which such
10 notification relates to take effect
11 or to be extended (as the case
12 may be), the date on which the
13 48-hour period begins; or

14 “(bb) if there is enacted
15 such a law, the date on which
16 such action ceases to have any
17 force or effect under such law (or
18 any subsequent law authorizing
19 such action to be extended).

20 “(D) INDEPENDENT ANALYSIS.—Con-
21 sistent with the protection of intelligence
22 sources and methods, each Commissioner of the
23 Commission may transmit to Congress an inde-
24 pendent analysis regarding any matter included
25 in a notification transmitted by the President

1 under subparagraph (A) or related judgments
2 of the President or facts supplied by the Presi-
3 dent.

4 “(3) EFFECTIVENESS OF ACTION.—Unless
5 there is enacted a law authorizing an action by the
6 President under subsection (a), (b), (c), or (d) to
7 take effect or to be extended (as the case may be)—

8 “(A) if the President fails to transmit to
9 each congressional leader and each senior Gov-
10 ernment official a notification with respect to
11 such action as required by paragraph (2), such
12 action shall cease to have any force or effect at
13 the time that is 12 hours after the President
14 takes such action; and

15 “(B) if the President transmits to each
16 congressional leader and each senior Govern-
17 ment official a notification with respect to such
18 action as required by paragraph (2), such ac-
19 tion shall cease to have any force or effect at,
20 and may not take effect after, the end of the
21 48-hour period.

22 “(4) PROCEDURES FOR EXPEDITED CONGRES-
23 SIONAL CONSIDERATION.—

24 “(A) FAST TRACK CONSIDERATION IN THE
25 HOUSE OF REPRESENTATIVES.—

1 “(i) RECONVENING.—Upon receipt of
2 a notification under paragraph (2), the
3 Speaker, if the House would otherwise be
4 adjourned, shall notify the Members of the
5 House that, pursuant to this paragraph,
6 the House shall convene as soon as the
7 Speaker deems practicable.

8 “(ii) PLACEMENT ON CALENDAR.—
9 Upon introduction in the House, the ap-
10 proval legislation shall be placed imme-
11 diately on the calendar.

12 “(iii) PROCEEDING TO CONSIDER-
13 ATION.—It shall be in order at any time
14 during the 48-hour period immediately to
15 move to proceed to consider the approval
16 legislation in the House. All points of order
17 against the motion are waived. Such a mo-
18 tion shall not be in order after the House
19 has disposed of a motion to proceed on the
20 approval legislation. The previous question
21 shall be considered as ordered on the mo-
22 tion to its adoption without intervening
23 motion. The motion shall not be debatable.
24 A motion to reconsider the vote by which

1 the motion is disposed of shall not be in
2 order.

3 “(iv) CONSIDERATION.—The approval
4 legislation shall be considered as read. All
5 points of order against the approval legis-
6 lation and against its consideration are
7 waived. The previous question shall be con-
8 sidered as ordered on the approval legisla-
9 tion to its passage without intervening mo-
10 tion except two hours of debate equally di-
11 vided and controlled by the proponent and
12 an opponent. A motion to reconsider the
13 vote on passage of the approval legislation
14 shall not be in order.

15 “(B) FAST TRACK CONSIDERATION IN THE
16 SENATE.—

17 “(i) RECONVENING.—Upon receipt of
18 a notification under paragraph (2), if the
19 Senate has adjourned or recessed for more
20 than 2 days, the majority leader of the
21 Senate, after consultation with the minor-
22 ity leader of the Senate, shall notify the
23 Members of the Senate that, pursuant to
24 this paragraph, the Senate shall convene

1 as soon as the majority leader deems prac-
2 ticable.

3 “(ii) PLACEMENT ON CALENDAR.—

4 Upon introduction in the Senate, the ap-
5 proval legislation shall be placed imme-
6 diately on the calendar.

7 “(iii) FLOOR CONSIDERATION.—

8 “(I) IN GENERAL.—Notwith-
9 standing Rule XXII of the Standing
10 Rules of the Senate, it is in order at
11 any time during the 48-hour period to
12 move to proceed to the consideration
13 of the approval legislation, and all
14 points of order against the approval
15 legislation (and against consideration
16 of the legislation) are waived. The mo-
17 tion to proceed is not debatable. The
18 motion is not subject to a motion to
19 postpone. A motion to reconsider the
20 vote by which the motion is agreed to
21 or disagreed to shall not be in order.
22 If a motion to proceed to the consider-
23 ation of the approval legislation is
24 agreed to, the approval legislation

1 shall remain the unfinished business
2 until disposed of.

3 “(II) CONSIDERATION.—Consid-
4 eration of the approval legislation, and
5 of all debatable motions and appeals
6 in connection therewith, shall be lim-
7 ited to not more than 4 hours, which
8 shall be divided equally between the
9 majority and minority leaders or their
10 designees. A motion further to limit
11 consideration is in order and not de-
12 batable. An amendment to, or a mo-
13 tion to postpone, or a motion to pro-
14 ceed to the consideration of other
15 business, or a motion to recommit the
16 approval legislation is not in order.

17 “(III) VOTE ON PASSAGE.—The
18 vote on passage shall occur imme-
19 diately following the conclusion of the
20 debate on the approval legislation, and
21 a single quorum call at the conclusion
22 of the debate if requested in accord-
23 ance with the rules of the Senate.

24 “(IV) RULINGS OF THE CHAIR
25 ON PROCEDURE.—Appeals from the

1 decisions of the Chair relating to the
2 application of the rules of the Senate,
3 as the case may be, to the procedure
4 relating to the approval legislation
5 shall be decided without debate.

6 “(C) RULES RELATING TO SENATE AND
7 HOUSE OF REPRESENTATIVES.—

8 “(i) COORDINATION WITH ACTION BY
9 OTHER HOUSE.—If, before the passage by
10 one House of approval legislation of that
11 House relating to an action by the Presi-
12 dent under subsection (a), (b), (c), or (d),
13 that House receives from the other House
14 approval legislation relating to such action,
15 then the following procedures shall apply:

16 “(I) The approval legislation of
17 the other House shall not be referred
18 to a committee.

19 “(II) With respect to approval
20 legislation of the House receiving the
21 approval legislation from the other
22 House—

23 “(aa) the procedure in that
24 House shall be the same as if no

1 approval legislation had been re-
2 ceived from the other House; but

3 “(bb) if—

4 “(AA) the approval leg-
5 islation from the other
6 House is identical to the ap-
7 proval legislation then pend-
8 ing for passage in that
9 House, the vote on passage
10 shall be on the approval leg-
11 islation of the other House;
12 or

13 “(BB) the approval leg-
14 islation received from the
15 other House is not identical
16 to the approval legislation
17 then pending for passage in
18 that House and that House
19 then passes the approval leg-
20 islation of that House, that
21 House shall be considered to
22 have passed the approval
23 legislation from the other
24 House as amended by the

1 text of the approval legisla-
2 tion of that House.

3 “(ii) TREATMENT OF APPROVAL LEG-
4 ISLATION OF OTHER HOUSE.—If one
5 House fails to introduce or consider ap-
6 proval legislation relating to an action by
7 the President under subsection (a), (b),
8 (c), or (d), the approval legislation of the
9 other House relating to such action shall
10 be entitled to expedited floor procedures
11 under this paragraph.

12 “(iii) TREATMENT OF COMPANION
13 MEASURES.—If, following passage of ap-
14 proval legislation relating to an action by
15 the President under subsection (a), (b),
16 (c), or (d) in the Senate, the Senate then
17 receives approval legislation relating to
18 such action from the House of Representa-
19 tives, the approval legislation from the
20 House of Representatives shall be entitled
21 to expedited floor procedures under this
22 paragraph except it shall not be debatable.

23 “(iv) ACTION ON MESSAGE BETWEEN
24 HOUSES.—During the consideration in the
25 Senate or the House of Representatives of

1 a message between Houses on any ap-
2 proval legislation relating to an action by
3 the President under subsection (a), (b),
4 (c), or (d), and all amendments in dis-
5 agreement, and all amendments thereto,
6 and debatable motions and appeals in con-
7 nection therewith, consideration shall be
8 limited to 2 hours, to be equally divided
9 between, and controlled by, the majority
10 leader and minority leader or their des-
11 ignees. Consideration of any debatable mo-
12 tion or appeal related to the message shall
13 be limited to 1 hour, to be equally divided
14 between, and controlled by, the mover and
15 the manager of the message.

16 “(v) CONSIDERATION AFTER PAS-
17 SAGE.—

18 “(I) IN GENERAL.—If Congress
19 passes approval legislation, the period
20 beginning on the date the President is
21 presented with the legislation and
22 ending on the date the President
23 takes action with respect to the legis-
24 lation shall be disregarded in com-
25 puting the 48-hour period.

1 “(II) VETOES.—If the President
2 vetoed the approval legislation—

3 “(aa) the period beginning
4 at the time the President vetoes
5 the legislation and ending on the
6 date the Congress receives the
7 veto message with respect to the
8 approval legislation shall be dis-
9 regarded in computing the 48-
10 hour period; and

11 “(bb) debate on a veto mes-
12 sage in the Senate under this
13 paragraph shall be 1 hour equally
14 divided between the majority and
15 minority leaders or their des-
16 ignees.

17 “(D) EXTENSION OF 48-HOUR PERIOD FOR
18 EXIGENT CIRCUMSTANCES.—If either chamber
19 is adjourned when the 48-hour period begins
20 and cannot practicably reconvene in time to
21 consider approval legislation in accordance with
22 this subsection during the 48-hour period, and
23 if all of the congressional leaders, or their des-
24 ignees, reach an agreement under which they,
25 or their designees, determine that the action

1 under subsection (a), (b), (c), or (d) to which
2 such notification relates is necessary to protect
3 against an imminent and specific threat to
4 human life or an imminent and specific threat
5 to national security, and that the 48-hour pe-
6 riod will be extended until such time as they, or
7 their designees, consider practicable, such pe-
8 riod shall be extended until such time. Such
9 agreement shall be provided to the President,
10 the Members of the House of Representatives
11 and Senate, and each senior Government offi-
12 cial.

13 “(E) SUPERMAJORITY REQUIRED.—In the
14 Senate and the House of Representatives, the
15 approval legislation may only be adopted (in-
16 cluding in the case of adoption by one House of
17 approval legislation received from the other
18 House, with or without amendment) by an af-
19 firmative vote of not less than—

20 “(i) three-fifths of the Members of
21 each respective chamber, duly chosen and
22 sworn; and

23 “(ii) one-quarter of Members of each
24 respective chamber who caucus with the

1 party that has the second-largest number
2 of Members of such chamber.

3 “(F) RULES OF HOUSE OF REPRESENTA-
4 TIVES AND SENATE.—This paragraph is en-
5 acted by Congress—

6 “(i) as an exercise of the rulemaking
7 power of the Senate and House of Rep-
8 resentatives, respectively, and as such it is
9 deemed a part of the rules of each House,
10 respectively, but applicable only with re-
11 spect to the procedure to be followed in
12 that House in the case of approval legisla-
13 tion, and it supersedes other rules only to
14 the extent that it is inconsistent with such
15 rules; and

16 “(ii) with full recognition of the con-
17 stitutional right of either House to change
18 the rules (so far as relating to the proce-
19 dure of that House) at any time, in the
20 same manner, and to the same extent as in
21 the case of any other rule of that House.

22 “(5) SUBSEQUENT ACTIONS.—If an action by
23 the President under subsection (a), (b), (c), or (d)
24 does not take effect or ceases to have any force or
25 effect as provided in this subsection, the same or a

1 substantially similar action by the President may not
2 take effect unless—

3 “(A) there is enacted a law authorizing
4 such same or substantially similar action; or

5 “(B) the basis for such same or substan-
6 tially similar action is a war, threat of war,
7 state of public peril, disaster, national emer-
8 gency, or other circumstance that is completely
9 separate and distinct from the circumstance
10 that is the basis for the President to take the
11 earlier action.

12 “(6) EARLIER TERMINATION BY PRESIDENT.—

13 Nothing in this subsection may be construed to pro-
14 hibit the President from providing that an action
15 under subsection (a), (b), (c), or (d) shall cease to
16 have any force or effect before the time provided in
17 this subsection.

18 “(7) POST-HOC GAO REPORT.—

19 “(A) IN GENERAL.—Not later than 90
20 days after the President takes an action under
21 subsection (a), (b), (c), or (d), the Comptroller
22 General of the United States shall submit to
23 Congress a report on such action.

24 “(B) CONTENTS.—A report required by
25 subparagraph (A) shall assess—

1 “(i) the degree to which the President
2 adhered to the requirements of this sub-
3 section, including the standard required by
4 paragraph (1) for taking such an action;
5 and

6 “(ii) the impact of the action taken by
7 the President on—

8 “(I) civil liberties and civil rights,
9 including any disproportionate im-
10 pacts on marginalized communities;

11 “(II) public safety, including
12 emergency services, emergency sup-
13 port services, and public safety an-
14 swering points (as such terms are de-
15 fined in section 222(h));

16 “(III) functions of Federal,
17 State, Tribal, and local governments;

18 “(IV) the economy, including any
19 projection of future or ongoing im-
20 pacts;

21 “(V) communications facilities
22 and the technical architecture of im-
23 pacted communications networks (in-
24 cluding the security of such facilities
25 and networks); and

1 “(VI) private companies.

2 “(C) CONSULTATION.—In preparing a re-
3 port required by subparagraph (A), the Comp-
4 troller General shall consult with relevant stake-
5 holders.

6 “(D) UNCLASSIFIED FORM.—A report re-
7 quired by subparagraph (A) shall be submitted
8 in unclassified form but may contain a classi-
9 fied annex.

10 “(8) DEFINITIONS.—In this subsection:

11 “(A) APPROVAL LEGISLATION.—The term
12 ‘approval legislation’ means a joint resolution
13 that—

14 “(i) does not contain a preamble;

15 “(ii) the matter after the resolving
16 clause of which is as follows: ‘That Con-
17 gress approves the action by the President
18 under section 706 of the Communications
19 Act of 1934 (47 U.S.C. 606) with respect
20 to which the President transmitted a noti-
21 fication under subsection (i)(2) of such
22 section on _____, and such action
23 is authorized to be in effect through
24 _____.’, the blank spaces being
25 appropriately filled in; and

1 “(iii) is introduced during the 48-hour
2 period.

3 “(B) CONGRESSIONAL LEADERS.—The
4 term ‘congressional leaders’ means the Speaker
5 and minority leader of the House of Represent-
6 atives and the majority leader and minority
7 leader of the Senate.

8 “(C) RELEVANT STAKEHOLDERS.—The
9 term ‘relevant stakeholders’ means—

10 “(i) senior Government officials;

11 “(ii) the Under Secretary of Com-
12 merce for Standards and Technology;

13 “(iii) the Privacy and Civil Liberties
14 Oversight Board;

15 “(iv) the congressional leaders; and

16 “(v) experts from academia, public in-
17 terest organizations, and private industry
18 with expertise in—

19 “(I) civil liberties and civil rights;

20 “(II) economics;

21 “(III) cybersecurity and network
22 security;

23 “(IV) national security; and

24 “(V) telecommunications.

1 “(D) SENIOR GOVERNMENT OFFICIAL.—

2 The term ‘senior Government official’ means—

3 “(i) the Vice President;

4 “(ii) the head of each Executive de-
5 partment (as defined in section 101 of title
6 5, United States Code);

7 “(iii) each Commissioner of the Com-
8 mission;

9 “(iv) the head of each element of the
10 intelligence community (as defined in sec-
11 tion 3 of the National Security Act of
12 1947 (50 U.S.C. 3003)); and

13 “(v) each member of the Joint Chiefs
14 of Staff.

15 “(j) LIABILITY.—No person shall be held criminally
16 or civilly liable for any action taken to comply with an
17 action taken by the President under subsection (a), (b),
18 (c), or (d), if—

19 “(1) the action by the President is taken in ac-
20 cordance with this section and any other applicable
21 provision of law; and

22 “(2) any service disrupted by the action of such
23 person is restored as soon as reasonably feasible
24 after the action by the President ceases to have any

1 force or effect in accordance with this section and
2 any other applicable provision of law.”.

3 (b) ONE-TIME GAO REPORT.—

4 (1) IN GENERAL.—Not later than 6 months
5 after the date of the enactment of this Act, the
6 Comptroller General of the United States shall sub-
7 mit to Congress a report that predicts the impact of
8 a communications shutdown, partial or complete, as
9 provided for in subsection (a), (b), (c), or (d) of sec-
10 tion 706 of the Communications Act of 1934 (47
11 U.S.C. 606) or any other law, regulation, Executive
12 order, or document of the Federal Government, on—

13 (A) civil liberties and civil rights, including
14 any disproportionate impacts on marginalized
15 communities;

16 (B) national security;

17 (C) public safety, including emergency
18 services, emergency support services, and public
19 safety answering points (as such terms are de-
20 fined in section 222(h) of the Communications
21 Act of 1934 (47 U.S.C. 222(h)));

22 (D) functions of Federal, State (as defined
23 in section 3 of the Communications Act of 1934
24 (47 U.S.C. 153)), Tribal, and local govern-
25 ments;

1 (E) the economy, including any projection
2 of future or ongoing impacts;

3 (F) communications facilities and the tech-
4 nical architecture of impacted communications
5 networks (including the security of such facili-
6 ties and networks); and

7 (G) private companies.

8 (2) CONSULTATION.—In preparing the report
9 required by paragraph (1), the Comptroller General
10 shall, to the degree practicable, consult with relevant
11 stakeholders (as defined in paragraph (8) of sub-
12 section (i) of section 706 of the Communications Act
13 of 1934, as added by subsection (a) of this section).

14 (3) UNCLASSIFIED FORM.—The report required
15 by paragraph (1) shall be submitted in unclassified
16 form but may contain a classified annex.

17 (4) COMMUNICATIONS SHUTDOWN DEFINED.—
18 In this subsection, the term “communications shut-
19 down” has the meaning given such term in para-
20 graph (6) of subsection (e) of section 706 of the
21 Communications Act of 1934, as amended by sub-
22 section (c).

23 (c) JUST COMPENSATION AND COSTS TO CUS-
24 TOMERS.—

1 (1) IN GENERAL.—Subsection (e) of section
2 706 of the Communications Act of 1934 (47 U.S.C.
3 606) is amended to read as follows:

4 “(e)(1) The President shall ascertain—

5 “(A) the just compensation for use or control
6 under subsection (c) or (d); and

7 “(B) the cost of any harm to the customers of
8 a provider of communications by wire or radio
9 caused by an action by the President under sub-
10 section (a), (b), (c), or (d) that results in a partial
11 or complete communications shutdown.

12 “(2)(A) The President shall certify the amounts
13 ascertained under paragraph (1) to Congress for appro-
14 piation and payment to the person entitled thereto.

15 “(B) In the case of the cost of harm to the customers
16 of a provider, the person entitled to payment under sub-
17 paragraph (A) shall be such provider. Such provider shall,
18 not later than 60 days after receiving payment, pay such
19 amount to the customers who were harmed.

20 “(3) If an amount certified under paragraph (2) is
21 unsatisfactory to the person entitled thereto, such person
22 shall be paid only 75 percent of the amount and shall be
23 entitled to sue the United States to recover such further
24 sums as added to such payment of 75 percent will make
25 such amount as will be just compensation described in

1 paragraph (1)(A) or the cost of any harm described in
2 paragraph (1)(B), as the case may be. Such suit shall be
3 brought in the manner provided by section 1346 or section
4 1491 of title 28, United States Code.

5 “(4) The Commission shall promulgate regulations
6 that contain—

7 “(A) a methodology for ascertaining the cost of
8 harm under paragraph (1)(B); and

9 “(B) a methodology that a provider of commu-
10 nications shall use to determine how much of the
11 amount required by paragraph (2)(B) to be paid to
12 customers of such provider who were harmed shall
13 be paid to each such customer.

14 “(5) A provider of communications by wire or radio
15 may not charge a customer for reactivating, reconnecting,
16 or taking any similar action with respect to any service
17 or connection impacted by an action by the President
18 under subsection (a), (b), (c), or (d).

19 “(6) In this subsection, the term ‘communications
20 shutdown’ means an intentional disruption of internet or
21 other communications by wire or radio rendering such
22 communications inaccessible or effectively unusable, for a
23 specific population or within a specific location (which may
24 include the entire population of the United States or the
25 entire territory of the United States).”.

1 (2) DEADLINE FOR REGULATIONS.—The Fed-
2 eral Communications Commission shall promulgate
3 the regulations required by paragraph (4) of sub-
4 section (e) of section 706 of the Communications
5 Act of 1934, as amended by paragraph (1), not later
6 than 180 days after the date of the enactment of
7 this Act.

8 (d) CONFORMING AMENDMENTS.—Section 706 of the
9 Communications Act of 1934 is further amended—

10 (1) in the second sentence of subsection (a), by
11 inserting “(subject to subsection (i))” after “deter-
12 mine”;

13 (2) in the first sentence of subsection (c), by in-
14 serting “(subject to subsection (i))” after “as he
15 may see fit”; and

16 (3) in subsection (d), by striking “and not later
17 than such earlier date as the Congress by concurrent
18 resolution may designate” and inserting “(but sub-
19 ject to subsection (i) with respect to any particular
20 action under this subsection during such period)”.

21 (e) RULE OF CONSTRUCTION.—This section and the
22 amendments made by this section shall not be construed
23 to expand Presidential authorities existing as of the day
24 before the date of the enactment of this Act.

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