

114TH CONGRESS  
1ST SESSION

# S. 760

To amend the Communications Act of 1934 to authorize a bipartisan majority of Commissioners of the Federal Communications Commission to hold nonpublic collaborative discussions.

---

## IN THE SENATE OF THE UNITED STATES

MARCH 17, 2015

Mr. HELLER (for himself and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

---

## A BILL

To amend the Communications Act of 1934 to authorize a bipartisan majority of Commissioners of the Federal Communications Commission to hold nonpublic collaborative discussions.

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 “Federal Communica-  
5 tions Commission Collaboration Act of 2015”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1           (1) Commissioners of the Federal Communica-  
2           tions Commission (in this section referred to as the  
3           “Commission”), past and present, have stated that,  
4           while they support the intent of section 552b of title  
5           5, United States Code, the implementation of that  
6           section has hindered the ability of the Commission  
7           to have a substantive exchange of ideas and hold col-  
8           lective deliberations on issues pending before the  
9           Commission.

10           (2) The principal purpose of Congress in cre-  
11           ating a multimember agency is to obtain the benefits  
12           of collegial decisionmaking by the members of the  
13           agency, who bring to the decisionmaking process dif-  
14           ferent philosophical perspectives, experiences, and  
15           areas of expertise.

16           (3) Commissioners have relied primarily on an  
17           inefficient combination of written messages, commu-  
18           nications among staff, and a series of meetings re-  
19           stricted to 2 Commissioners at each such meeting to  
20           discuss complex telecommunications matters pending  
21           before the Commission.

22           (4) Extensive use of such methods of commu-  
23           nication has harmed collegiality and cooperation at  
24           the Commission.

1           (5) Numerous regulatory matters have been  
 2 pending before the Commission for years, and con-  
 3 tinued inaction on these issues has the potential to  
 4 hinder innovation and private investment in the do-  
 5 mestic communications industry.

6           (6) The Commission must be able to work more  
 7 collaboratively and efficiently than in the past to  
 8 meet the current challenge of expanding broadband  
 9 Internet access to the extent necessary to serve the  
 10 business, educational, health, and cultural needs of  
 11 all people in the United States.

12 **SEC. 3. NONPUBLIC COLLABORATIVE DISCUSSIONS OF THE**  
 13 **FEDERAL COMMUNICATIONS COMMISSION.**

14           Section 4 of the Communications Act of 1934 (47  
 15 U.S.C. 154) is amended by adding at the end the fol-  
 16 lowing:

17           “(p) NONPUBLIC COLLABORATIVE DISCUSSIONS.—

18           “(1) DEFINITIONS.—In this subsection—

19           “(A) the term ‘agency action’ has the  
 20 meaning given the term in section 551 of title  
 21 5, United States Code; and

22           “(B) the term ‘bipartisan majority’ means,  
 23 when used with respect to a group of Commis-  
 24 sioners, that the group—

1           “(i) is a group of 3 or more Commis-  
2           sioners; and

3           “(ii) includes—

4                   “(I) for each political party of  
5                   which any Commissioner is a member,  
6                   not less than 1 Commissioner who is  
7                   a member of the political party; and

8                   “(II) if any Commissioner has no  
9                   political party affiliation, not less than  
10                  1 unaffiliated Commissioner.

11           “(2) AUTHORITY TO HOLD MEETINGS.—Not-  
12           withstanding section 552b of title 5, United States  
13           Code, a bipartisan majority of Commissioners may  
14           hold a meeting that is closed to the public to discuss  
15           official business if—

16                   “(A) a vote or any other agency action is  
17                   not taken at the meeting;

18                   “(B) each person present at the meeting is  
19                   a Commissioner, an employee of the Commis-  
20                   sion, a member of a joint board or conference  
21                   established under section 410, or a person on  
22                   the staff of such a joint board or conference or  
23                   of a member of such a joint board or con-  
24                   ference; and

1           “(C) an attorney from the Office of Gen-  
2           eral Counsel of the Commission is present at  
3           the meeting.

4           “(3) DISCLOSURE OF NONPUBLIC COLLABO-  
5           RATIVE DISCUSSIONS.—Not later than 2 business  
6           days after the conclusion of a meeting held under  
7           paragraph (2), the Commission shall publish a dis-  
8           closure of the meeting, including—

9           “(A) a list of the persons who attended the  
10          meeting; and

11          “(B) a summary of the matters discussed  
12          at the meeting, except for any matters that the  
13          Commission determines may be withheld under  
14          section 552b(c) of title 5, United States Code.

15          “(4) PRESERVATION OF OPEN MEETINGS RE-  
16          QUIREMENTS FOR AGENCY ACTION.—Nothing in this  
17          subsection shall limit the applicability of section  
18          552b of title 5, United States Code, with respect to  
19          a meeting of Commissioners other than that de-  
20          scribed in paragraph (2).”.

○