

117TH CONGRESS  
2D SESSION

# H. R. 7703

To amend the CALM Act to include video streaming services, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2022

Ms. ESHOO (for herself, Mr. MCNERNEY, and Mr. RUSH) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the CALM Act to include video streaming services, 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 “Commercial Advertise-  
5       ment Loudness Mitigation Modernization Act of 2022” or  
6       the “CALM Modernization Act of 2022”.

1 **SEC. 2. MODERNIZATION OF THE CALM ACT AND RULE-**  
2 **MAKING ON LOUD COMMERCIALS ON**  
3 **STREAMING VIDEO.**

4 (a) AMENDMENTS.—The CALM Act (Public Law  
5 111–311; 124 Stat. 3294) is amended—

6 (1) in section 2 (47 U.S.C. 621)—

7 (A) by striking “Federal Communications  
8 Commission” each place the term appears and  
9 inserting “Commission”;

10 (B) by striking subsection (c) and insert-  
11 ing the following:

12 “(c) COMPLIANCE.—

13 “(1) REBUTTABLE PRESUMPTION.—There is a  
14 rebuttable presumption that any television broadcast  
15 station, cable operator, or other multichannel video  
16 programming distributor that installs, uses, and  
17 maintains in a commercially reasonable manner the  
18 equipment and associated software in compliance  
19 with the regulations issued by the Commission in ac-  
20 cordance with subsection (a) is in compliance with  
21 those regulations.

22 “(2) FACTORS TO DETERMINE REBUTTAL.—In  
23 determining whether the presumption of compliance  
24 under paragraph (1) has been rebutted with respect  
25 to a television broadcast station, cable operator, or

1 other multichannel video programming distributor,  
2 the Commission shall consider the following:

3 “(A) The number of complaints regarding  
4 loud commercials the Commission has received  
5 with respect to that station, operator, or other  
6 distributor.

7 “(B) Substantive patterns or trends from  
8 complaints on loud commercials the Commis-  
9 sion has received.

10 “(C) Data and conclusions in any report  
11 issued by a Federal agency (including the Gov-  
12 ernment Accountability Office) regarding the  
13 effectiveness of this Act in moderating the loud-  
14 ness of commercials in comparison with accom-  
15 panying video programming.

16 “(D) Any other factor established by the  
17 Commission by regulation.”; and

18 (C) in subsection (d)—

19 (i) by redesignating paragraph (1) as  
20 paragraph (3) and moving it to appear  
21 after paragraph (2);

22 (ii) in paragraph (3), as so redesign-  
23 nated, by striking “; and” at the end and  
24 inserting a period;

1 (iii) by redesignating paragraph (2) as  
 2 paragraph (1);

3 (iv) in paragraph (1), as so redesign-  
 4 nated—

5 (I) by striking “multi-channel”  
 6 and inserting “multichannel”; and

7 (II) by striking the period at the  
 8 end and inserting a semicolon; and

9 (v) by inserting after paragraph (1),  
 10 as so redesignated, the following:

11 “(2) the term ‘Commission’ means the Federal  
 12 Communications Commission; and”; and

13 (2) by adding at the end the following:

14 **“SEC. 3. RULEMAKING ON LOUD COMMERCIALS ON**  
 15 **STREAMING VIDEO.**

16 “(a) RULEMAKING REQUIRED FOR LOUD STREAM-  
 17 ING VIDEO COMMERCIALS.—

18 “(1) IN GENERAL.—Not later than 1 year after  
 19 the date of enactment of this section, the Commis-  
 20 sion shall prescribe pursuant to the Communications  
 21 Act of 1934 (47 U.S.C. 151 et seq.) a regulation  
 22 that prohibits video streaming services from trans-  
 23 mitting the audio of commercial advertisements  
 24 louder than the video content the advertisements ac-

1 company in a manner that is similar in effect to the  
2 regulation prescribed under section 2.

3 “(2) REBUTTABLE PRESUMPTION.—In pre-  
4 scribing the regulation under paragraph (1), the  
5 Commission may include a rebuttable presumption  
6 provision that is similar to the rebuttable presump-  
7 tion under section 2(c) if it is practicable and war-  
8 ranted for effective enforcement of this section.

9 “(3) EFFECTIVE DATE.—Except as provided in  
10 paragraph (4), the regulation required under para-  
11 graph (1) shall take effect 180 days after the date  
12 on which the regulation is published in the Federal  
13 Register.

14 “(4) EXTENSION OF EFFECTIVE DATE.—The  
15 Commission may extend the effective date described  
16 in paragraph (3) for 1 year for any video streaming  
17 service that demonstrates that complying with the  
18 regulation would result in significant financial hard-  
19 ship.

20 “(5) UPDATES.—The Commission shall update  
21 the regulation prescribed under paragraph (1) as  
22 necessary.

23 “(b) DEFINITIONS.—In this section:

24 “(1) COMMISSION.—The term ‘Commission’  
25 means the Federal Communications Commission.

1           “(2) VIDEO PROGRAMMING.—The term ‘video  
2           programming’ has the meaning given the term in  
3           section 713(h) of the Communications Act of 1934  
4           (47 U.S.C. 613(h)).

5           “(3) VIDEO STREAMING SERVICE.—The term  
6           ‘video streaming service’—

7                   “(A) means an entity that makes available  
8                   directly to the end user through a distribution  
9                   method that uses internet protocol—

10                           “(i) video programming; or

11                                   “(ii) video content the entity makes  
12                                   available for users to view; and

13                           “(B) does not include—

14                                   “(i) a television broadcast station,  
15                                   cable operator, or other multichannel video  
16                                   programming distributor (as those terms  
17                                   are defined in section 2(d)), only with re-  
18                                   spect to commercial advertisements and  
19                                   video programming subject to section 2; or

20   “(ii) an entity that serves video pro-  
21   gramming or video content that is served  
22   without video commercial advertisements.

23   **“SEC. 4. ENFORCEMENT.**

24           “(a) IN GENERAL.—The Federal Communications  
25   Commission shall implement and enforce this Act as if this

1 Act were a part of the Communications Act of 1934 (47  
2 U.S.C. 151 et seq.).

3 “(b) VIOLATIONS.—A violation of this Act, or a regu-  
4 lation promulgated under this Act, shall be considered to  
5 be a violation of the Communications Act of 1934, or a  
6 regulation promulgated under that Act, respectively.

7 “(c) NO CITATION REQUIRED.—Paragraph (5) of  
8 section 503(b) of the Communications Act of 1934 (47  
9 U.S.C. 503(b)) shall not apply to a determination of for-  
10 feiture liability under that subsection against a person who  
11 commits a violation described in subsection (b) of this sec-  
12 tion.”.

13 (b) GAO REPORT ON CALM ACT ENFORCEMENT.—

14 (1) IN GENERAL.—Not later than 180 days  
15 after the date of enactment of this Act, the Comp-  
16 troller General of the United States shall submit to  
17 the Committee on Commerce, Science, and Trans-  
18 portation of the Senate and the Committee on En-  
19 ergy and Commerce of the House of Representatives  
20 a report on section 2 of the CALM Act (47 U.S.C.  
21 621), as amended by subsection (a), that—

22 (A) analyzes the effectiveness of that sec-  
23 tion in moderating the loudness of commercials  
24 in comparison to accompanying video program-  
25 ming;

1 (B) evaluates the ability of the Federal  
2 Communications Commission to effectively mod-  
3 erate the loudness of commercials in compari-  
4 son to accompanying video programming under  
5 subsection (c) of that section; and

6 (C) as appropriate, recommends policy so-  
7 lutions that would enable better moderation of  
8 the loudness of commercials in comparison to  
9 accompanying video programming.

10 (2) VIDEO PROGRAMMING DEFINED.—In this  
11 subsection, the term “video programming” has the  
12 meaning given the term in section 713(h) of the  
13 Communications Act of 1934 (47 U.S.C. 613(h)).

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