

106TH CONGRESS
2D SESSION

H. R. 4201

AN ACT

To amend the Communications Act of 1934 to clarify the service obligations of noncommercial educational broadcast stations.

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To amend the Communications Act of 1934 to clarify the service obligations of noncommercial educational broadcast stations.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Noncommercial Broad-
3 casting Freedom of Expression Act of 2000”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) In the additional guidance contained in the
7 Federal Communication Commission’s memorandum
8 opinion and order in WQED Pittsburgh (FCC 99–
9 393), adopted December 15, 1999, and released De-
10 cember 29, 1999, the Commission attempted to im-
11 pose content-based programming requirements on
12 noncommercial educational television broadcasters
13 without the benefit of notice and comment in a rule-
14 making proceeding.

15 (2) In doing so, the Commission did not ade-
16 quately consider the implications of its proposed
17 guidelines on the rights of such broadcasters under
18 First Amendment and the Religious Freedom Res-
19 toration Act.

20 (3) Noncommercial educational broadcasters
21 should be responsible for using the station to pri-
22 marily serve an educational, instructional, cultural,
23 or religious purpose in its community of license, and
24 for making judgments about the types of program-
25 ming that serve those purposes.

1 (4) Religious programming contributes to serv-
2 ing the educational and cultural needs of the public,
3 and should be treated by the Commission on a par
4 with other educational and cultural programming.

5 (5) Because noncommercial broadcasters are
6 not permitted to sell air time, they should not be re-
7 quired to provide free air time to commercial entities
8 or political candidates.

9 (6) The Commission should not engage in regu-
10 lating the content of speech broadcast by non-
11 commercial educational stations.

12 **SEC. 3. CLARIFICATION OF SERVICE OBLIGATIONS OF NON-**
13 **COMMERCIAL EDUCATIONAL OR PUBLIC**
14 **BROADCAST STATIONS.**

15 (a) SERVICE CONDITIONS.—Section 309 of the Com-
16 munications Act of 1934 (47 U.S.C. 309) is amended by
17 adding at the end the following new subsection:

18 “(m) SERVICE CONDITIONS ON NONCOMMERCIAL
19 EDUCATIONAL AND PUBLIC BROADCAST STATIONS.—

20 “(1) IN GENERAL.—A nonprofit organization
21 shall be eligible to hold a noncommercial educational
22 radio or television license if the station is used pri-
23 marily to broadcast material that the organization
24 determines serves an educational, instructional, cul-
25 tural, or religious purpose (or any combination of

1 such purposes) in the station’s community of license,
2 unless that determination is arbitrary or unreason-
3 able.

4 “(2) ADDITIONAL CONTENT-BASED REQUIRE-
5 MENTS PROHIBITED.—The Commission shall not—

6 “(A) impose or enforce any quantitative re-
7 quirement on noncommercial educational radio
8 or television licenses based on the number of
9 hours of programming that serve educational,
10 instructional, cultural, or religious purposes; or

11 “(B) impose or enforce any other require-
12 ment on the content of the programming broad-
13 cast by a licensee, permittee, or applicant for a
14 noncommercial educational radio or television li-
15 cense that is not imposed and enforced on a li-
16 censee, permittee, or applicant for a commercial
17 radio or television license, respectively.

18 “(3) RULES OF CONSTRUCTION.—Nothing in
19 this subsection shall be construed as affecting—

20 “(A) any obligation of noncommercial edu-
21 cational television broadcast stations under the
22 Children’s Television Act of 1990 (47 U.S.C.
23 303a, 303b); or

24 “(B) the requirements of section 396, 399,
25 399A, and 399B of this Act.”.

1 (b) POLITICAL BROADCASTING EXEMPTION.—Sec-
2 tion 312(a)(7) of the Communications Act of 1934 (47
3 U.S.C. 312(a)(7)) is amended by inserting “, other than
4 a noncommercial educational broadcast station,” after
5 “use of a broadcasting station”.

6 (c) AUDIT OF COMPLIANCE WITH DONOR PRIVACY
7 PROTECTION REQUIREMENTS.—Section 396(l)(3)(B)(ii)
8 of the Communications Act of 1934 (47 U.S.C.
9 396(l)(3)(B)(ii)) is amended—

10 (1) in subclause (I), by inserting before the
11 semicolon the following: “, and shall include a deter-
12 mination of the compliance of the entity with the re-
13 quirements of subsection (k)(12)”;

14 (2) in subclause (II), by inserting before the
15 semicolon the following: “, except that such state-
16 ment shall include a statement regarding the extent
17 of the compliance of the entity with the require-
18 ments of subsection (k)(12)”.

19 (d) IMPLEMENTATION.—Consistent with the require-
20 ments of section 4 of this Act, the Federal Communica-
21 tions Commission shall amend sections 73.1930 through
22 73.1944 of its rules (47 CFR 73.1930–73.1944) to pro-
23 vide that those sections do not apply to noncommercial
24 educational broadcast stations.

1 **SEC. 4. RULEMAKING.**

2 (a) LIMITATION.—After the date of the enactment of
3 this Act, the Federal Communications Commission shall
4 not establish, expand, or otherwise modify requirements
5 relating to the service obligations of noncommercial edu-
6 cational radio or television stations except by means of
7 agency rulemaking conducted in accordance with chapter
8 5 of title 5, United States Code, and other applicable law
9 (including the amendments made by section 3).

10 (b) RULEMAKING DEADLINE.—The Federal Commu-
11 nications Commission shall prescribe such revisions to its
12 regulations as may be necessary to comply with the
13 amendment made by section 3 within 270 days after the
14 date of the enactment of this Act.

Passed the House of Representatives June 20, 2000.

Attest:

Clerk.