

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO H.R.** 3675  
**OFFERED BY M** . \_\_\_\_\_

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Communica-  
3 tions Commission Process Reform Act of 2013”.

**4 SEC. 2. FCC PROCESS REFORM.**

5 (a) IN GENERAL.—Title I of the Communications Act  
6 of 1934 (47 U.S.C. 151 et seq.) is amended by inserting  
7 after section 12 the following new section:

**8 “SEC. 13. TRANSPARENCY AND EFFICIENCY.**

9 “(a) INITIAL RULEMAKING AND INQUIRY.—

10 “(1) RULEMAKING.—Not later than 1 year  
11 after the date of the enactment of the Federal Com-  
12 munications Commission Process Reform Act of  
13 2013, the Commission shall complete a rulemaking  
14 proceeding and adopt procedural changes to its rules  
15 to maximize opportunities for public participation  
16 and efficient decisionmaking.

17 “(2) REQUIREMENTS FOR RULEMAKING.—The  
18 rules adopted under paragraph (1) shall—

1           “(A) set minimum comment periods for  
2 comment and reply comment, subject to a de-  
3 termination by the Commission that good cause  
4 exists for departing from such minimum com-  
5 ment periods, for—

6                   “(i) significant regulatory actions, as  
7 defined in Executive Order 12866; and

8                   “(ii) all other rulemaking proceedings;

9           “(B) establish policies concerning the sub-  
10 mission of extensive new comments, data, or re-  
11 ports towards the end of the comment period;

12           “(C) establish policies regarding treatment  
13 of comments, ex parte communications, and  
14 data or reports (including statistical reports  
15 and reports to Congress) submitted after the  
16 comment period to ensure that the public has  
17 adequate notice of and opportunity to respond  
18 to such submissions before the Commission re-  
19 lies on such submissions in any order, decision,  
20 report, or action;

21           “(D) establish procedures for publishing  
22 the status of open rulemaking proceedings and  
23 proposed orders, decisions, reports, or actions  
24 on circulation for review by the Commissioners,  
25 including which Commissioners have not cast a

1 vote on an order, decision, report, or action that  
2 has been on circulation for more than 60 days;

3 “(E) establish deadlines (relative to the  
4 date of filing) for—

5 “(i) in the case of a petition for a de-  
6 claratory ruling under section 1.2 of title  
7 47, Code of Federal Regulations, issuing a  
8 public notice of such petition;

9 “(ii) in the case of a petition for rule-  
10 making under section 1.401 of such title,  
11 issuing a public notice of such petition;  
12 and

13 “(iii) in the case of a petition for re-  
14 consideration under section 1.106 or 1.429  
15 of such title or an application for review  
16 under section 1.115 of such title, issuing a  
17 public notice of a decision on the petition  
18 or application by the Commission or under  
19 delegated authority (as the case may be);

20 “(F) establish guidelines (relative to the  
21 date of filing) for the disposition of petitions  
22 filed under section 1.2 of such title;

23 “(G) establish procedures for the inclusion  
24 of the specific language of the proposed rule or

1 the proposed amendment of an existing rule in  
2 a notice of proposed rulemaking; and

3 “(H) require notices of proposed rule-  
4 making and orders adopting a rule or amending  
5 an existing rule that—

6 “(i) create (or propose to create) a  
7 program activity to contain performance  
8 measures for evaluating the effectiveness of  
9 the program activity; and

10 “(ii) substantially change (or propose  
11 to substantially change) a program activity  
12 to contain—

13 “(I) performance measures for  
14 evaluating the effectiveness of the pro-  
15 gram activity as changed (or proposed  
16 to be changed); or

17 “(II) a finding that existing per-  
18 formance measures will effectively  
19 evaluate the program activity as  
20 changed (or proposed to be changed).

21 “(3) INQUIRY.—Not later than 1 year after the  
22 date of the enactment of the Federal Communica-  
23 tions Commission Process Reform Act of 2013, the  
24 Commission shall complete an inquiry to seek public

1 comment on whether and how the Commission  
2 should—

3 “(A) establish procedures for allowing a bi-  
4 partisan majority of Commissioners to place an  
5 order, decision, report, or action on the agenda  
6 of an open meeting;

7 “(B) establish procedures for informing all  
8 Commissioners of a reasonable number of op-  
9 tions available to the Commission for resolving  
10 a petition, complaint, application, rulemaking,  
11 or other proceeding;

12 “(C) establish procedures for ensuring that  
13 all Commissioners have adequate time, prior to  
14 being required to decide a petition, complaint,  
15 application, rulemaking, or other proceeding  
16 (including at a meeting held pursuant to section  
17 5(d)), to review the proposed Commission deci-  
18 sion document, including the specific language  
19 of any proposed rule or any proposed amend-  
20 ment of an existing rule;

21 “(D) establish procedures for publishing  
22 the text of agenda items to be voted on at an  
23 open meeting in advance of such meeting so  
24 that the public has the opportunity to read the  
25 text before a vote is taken;

1           “(E) establish deadlines (relative to the  
2           date of filing) for disposition of applications for  
3           a license under section 1.913 of title 47, Code  
4           of Federal Regulations;

5           “(F) assign resources needed in order to  
6           meet the deadlines described in subparagraph  
7           (E), including whether the Commission’s ability  
8           to meet such deadlines would be enhanced by  
9           assessing a fee from applicants for such a li-  
10          cense; and

11          “(G) publish each order, decision, report,  
12          or action not later than 30 days after the date  
13          of the adoption of such order, decision, report,  
14          or action.

15          “(4) DATA FOR PERFORMANCE MEASURES.—  
16          The Commission shall develop a performance meas-  
17          ure or proposed performance measure required by  
18          this subsection to rely, where possible, on data al-  
19          ready collected by the Commission.

20          “(b) PERIODIC REVIEW.—On the date that is 5 years  
21          after the completion of the rulemaking proceeding under  
22          subsection (a)(1), and every 5 years thereafter, the Com-  
23          mission shall initiate a new rulemaking proceeding to con-  
24          tinue to consider such procedural changes to its rules as

1 may be in the public interest to maximize opportunities  
2 for public participation and efficient decisionmaking.

3 “(c) NONPUBLIC COLLABORATIVE DISCUSSIONS.—

4 “(1) IN GENERAL.—Notwithstanding section  
5 552b of title 5, United States Code, a bipartisan  
6 majority of Commissioners may hold a meeting that  
7 is closed to the public to discuss official business  
8 if—

9 “(A) a vote or any other agency action is  
10 not taken at such meeting;

11 “(B) each person present at such meeting  
12 is a Commissioner, an employee of the Commis-  
13 sion, a member of a joint board or conference  
14 established under section 410, or a person on  
15 the staff of such a joint board or conference or  
16 of a member of such a joint board or con-  
17 ference; and

18 “(C) an attorney from the Office of Gen-  
19 eral Counsel of the Commission is present at  
20 such meeting.

21 “(2) DISCLOSURE OF NONPUBLIC COLLABO-  
22 RATIVE DISCUSSIONS.—Not later than 2 business  
23 days after the conclusion of a meeting held under  
24 paragraph (1), the Commission shall publish a dis-  
25 closure of such meeting, including—

1           “(A) a list of the persons who attended  
2 such meeting; and

3           “(B) a summary of the matters discussed  
4 at such meeting, except for such matters as the  
5 Commission determines may be withheld under  
6 section 552b(e) of title 5, United States Code.

7           “(3) PRESERVATION OF OPEN MEETINGS RE-  
8 QUIREMENTS FOR AGENCY ACTION.—Nothing in this  
9 subsection shall limit the applicability of section  
10 552b of title 5, United States Code, with respect to  
11 a meeting of Commissioners other than that de-  
12 scribed in paragraph (1).

13           “(d) ACCESS TO CERTAIN INFORMATION ON COMMIS-  
14 SION’S WEBSITE.—The Commission shall provide direct  
15 access from the homepage of its website to—

16           “(1) detailed information regarding—

17           “(A) the budget of the Commission for the  
18 current fiscal year;

19           “(B) the appropriations for the Commis-  
20 sion for such fiscal year; and

21           “(C) the total number of full-time equiva-  
22 lent employees of the Commission; and

23           “(2) the performance plan most recently made  
24 available by the Commission under section 1115(b)  
25 of title 31, United States Code.



1 “(e) FEDERAL REGISTER PUBLICATION.—

2 “(1) IN GENERAL.—In the case of any docu-  
3 ment adopted by the Commission that the Commis-  
4 sion is required, under any provision of law, to pub-  
5 lish in the Federal Register, the Commission shall,  
6 not later than the date described in paragraph (2),  
7 complete all Commission actions necessary for such  
8 document to be so published.

9 “(2) DATE DESCRIBED.—The date described in  
10 this paragraph is the earlier of—

11 “(A) the day that is 45 days after the date  
12 of the release of the document; or

13 “(B) the day by which such actions must  
14 be completed to comply with any deadline under  
15 any other provision of law.

16 “(3) NO EFFECT ON DEADLINES FOR PUBLICA-  
17 TION IN OTHER FORM.—In the case of a deadline  
18 that does not specify that the form of publication is  
19 publication in the Federal Register, the Commission  
20 may comply with such deadline by publishing the  
21 document in another form. Such other form of publi-  
22 cation does not relieve the Commission of any Fed-  
23 eral Register publication requirement applicable to  
24 such document, including the requirement of para-  
25 graph (1).

1 “(f) CONSUMER COMPLAINT DATABASE.—

2 “(1) IN GENERAL.—In evaluating and pro-  
3 cessing consumer complaints, the Commission shall  
4 present information about such complaints in a pub-  
5 licly available, searchable database on its website  
6 that—

7 “(A) facilitates easy use by consumers; and

8 “(B) to the extent practicable, is sortable  
9 and accessible by—

10 “(i) the date of the filing of the com-  
11 plaint;

12 “(ii) the topic of the complaint;

13 “(iii) the party complained of; and

14 “(iv) other elements that the Commis-  
15 sion considers in the public interest.

16 “(2) DUPLICATIVE COMPLAINTS.—In the case  
17 of multiple complaints arising from the same alleged  
18 misconduct, the Commission shall be required to in-  
19 clude only information concerning one such com-  
20 plaint in the database described in paragraph (1).

21 “(g) FORM OF PUBLICATION.—

22 “(1) IN GENERAL.—In complying with a re-  
23 quirement of this section to publish a document, the  
24 Commission shall publish such document on its  
25 website, in addition to publishing such document in

1 any other form that the Commission is required to  
2 use or is permitted to and chooses to use.

3 “(2) EXCEPTION.—The Commission shall by  
4 rule establish procedures for redacting documents  
5 required to be published by this section so that the  
6 published versions of such documents do not con-  
7 tain—

8 “(A) information the publication of which  
9 would be detrimental to national security,  
10 homeland security, law enforcement, or public  
11 safety; or

12 “(B) information that is proprietary or  
13 confidential.

14 “(h) TRANSPARENCY RELATING TO PERFORMANCE  
15 IN MEETING FOIA REQUIREMENTS.—The Commission  
16 shall take additional steps to inform the public about its  
17 performance and efficiency in meeting the disclosure and  
18 other requirements of section 552 of title 5, United States  
19 Code (commonly referred to as the Freedom of Informa-  
20 tion Act), including by doing the following:

21 “(1) Publishing on the Commission’s website  
22 the Commission’s logs for tracking, responding to,  
23 and managing requests submitted under such sec-  
24 tion, including the Commission’s fee estimates, fee  
25 categories, and fee request determinations.

1           “(2) Releasing to the public all decisions made  
2           by the Commission (including decisions made by the  
3           Commission’s Bureaus and Offices) granting or de-  
4           nying requests filed under such section, including  
5           any such decisions pertaining to the estimate and  
6           application of fees assessed under such section.

7           “(3) Publishing on the Commission’s website  
8           electronic copies of documents released under such  
9           section.

10           “(4) Presenting information about the Commis-  
11           sion’s handling of requests under such section in the  
12           Commission’s annual budget estimates submitted to  
13           Congress and the Commission’s annual performance  
14           and financial reports. Such information shall include  
15           the number of requests under such section the Com-  
16           mission received in the most recent fiscal year, the  
17           number of such requests granted and denied, a com-  
18           parison of the Commission’s processing of such re-  
19           quests over at least the previous 3 fiscal years, and  
20           a comparison of the Commission’s results with the  
21           most recent average for the United States Govern-  
22           ment as published on [www.foia.gov](http://www.foia.gov).

23           “(i) PROMPT RELEASE OF STATISTICAL REPORTS  
24           AND REPORTS TO CONGRESS.—Not later than January  
25           15th of each year, the Commission shall identify, catalog,

1 and publish an anticipated release schedule for all statis-  
2 tical reports and reports to Congress that are regularly  
3 or intermittently released by the Commission and will be  
4 released during such year.

5 “(j) ANNUAL SCORECARD REPORTS.—

6 “(1) IN GENERAL.—For the 1-year period be-  
7 ginning on January 1st of each year, the Commis-  
8 sion shall prepare a report on the performance of  
9 the Commission in conducting its proceedings and  
10 meeting the deadlines established under subsection  
11 (a)(2)(E) and the guidelines established under sub-  
12 section (a)(2)(F).

13 “(2) CONTENTS.—Each report required by  
14 paragraph (1) shall contain detailed statistics on  
15 such performance, including, with respect to each  
16 Bureau of the Commission—

17 “(A) with respect to each type of filing  
18 specified in subsection (a)(2)(E) or (a)(2)(F)—

19 “(i) the number of filings that were  
20 pending on the last day of the period cov-  
21 ered by such report;

22 “(ii) the number of filings described  
23 in clause (i) for which each applicable  
24 deadline or guideline established under  
25 such subsection was not met and the aver-

1           age length of time such filings have been  
2           pending; and

3           “(iii) for filings that were resolved  
4           during such period, the average time be-  
5           tween initiation and resolution and the  
6           percentage for which each applicable dead-  
7           line or guideline established under such  
8           subsection was met;

9           “(B) with respect to proceedings before an  
10          administrative law judge—

11           “(i) the number of such proceedings  
12           completed during such period; and

13           “(ii) the number of such proceedings  
14           pending on the last day of such period; and

15           “(C) the number of independent studies or  
16           analyses published by the Commission during  
17           such period.

18          “(3) PUBLICATION AND SUBMISSION.—The  
19          Commission shall publish and submit to the Com-  
20          mittee on Energy and Commerce of the House of  
21          Representatives and the Committee on Commerce,  
22          Science, and Transportation of the Senate each re-  
23          port required by paragraph (1) not later than the  
24          date that is 30 days after the last day of the period  
25          covered by such report.

1 “(k) DEFINITIONS.—In this section:

2 “(1) AMENDMENT.—The term ‘amendment’ in-  
3 cludes, when used with respect to an existing rule,  
4 the deletion of such rule.

5 “(2) BIPARTISAN MAJORITY.—The term ‘bipar-  
6 tisan majority’ means, when used with respect to a  
7 group of Commissioners, that such group—

8 “(A) is a group of 3 or more Commis-  
9 sioners; and

10 “(B) includes, for each political party of  
11 which any Commissioner is a member, at least  
12 1 Commissioner who is a member of such polit-  
13 ical party, and, if any Commissioner has no po-  
14 litical party affiliation, at least one unaffiliated  
15 Commissioner.

16 “(3) PERFORMANCE MEASURE.—The term ‘per-  
17 formance measure’ means an objective and quantifi-  
18 able outcome measure or output measure (as such  
19 terms are defined in section 1115 of title 31, United  
20 States Code).

21 “(4) PROGRAM ACTIVITY.—The term ‘program  
22 activity’ has the meaning given such term in section  
23 1115 of title 31, United States Code, except that  
24 such term also includes any annual collection or dis-  
25 tribution or related series of collections or distribu-

1 tions by the Commission of an amount that is great-  
2 er than or equal to \$100,000,000.

3 “(5) OTHER DEFINITIONS.—The terms ‘agency  
4 action’, ‘ex parte communication’, and ‘rule’ have  
5 the meanings given such terms in section 551 of title  
6 5, United States Code.”.

7 (b) EFFECTIVE DATES AND IMPLEMENTING  
8 RULES.—

9 (1) EFFECTIVE DATES.—

10 (A) NONPUBLIC COLLABORATIVE DISCUS-  
11 SIONS.—Subsection (c) of section 13 of the  
12 Communications Act of 1934, as added by sub-  
13 section (a), shall apply beginning on the first  
14 date on which all of the procedural changes to  
15 the rules of the Federal Communications Com-  
16 mission required by subsection (a)(1) of such  
17 section have taken effect.

18 (B) SCHEDULES AND REPORTS.—Sub-  
19 sections (i) and (j) of such section 13 shall  
20 apply with respect to 2014 and any year there-  
21 after.

22 (2) RULES.—Except as otherwise provided in  
23 such section 13, the Federal Communications Com-  
24 mission shall promulgate any rules necessary to



1 carry out such section not later than 1 year after  
2 the date of the enactment of this Act.

3 **SEC. 3. CATEGORIZATION OF TCPA INQUIRIES AND COM-**  
4 **PLAINTS IN QUARTERLY REPORT.**

5 In compiling its quarterly report with respect to in-  
6 formal consumer inquiries and complaints, the Federal  
7 Communications Commission may not categorize an in-  
8 quiry or complaint with respect to section 227 of the Com-  
9 munications Act of 1934 (47 U.S.C. 227) as being a  
10 wireline inquiry or complaint or a wireless inquiry or com-  
11 plaint unless the party whose conduct is the subject of  
12 the inquiry or complaint is a wireline carrier or a wireless  
13 carrier, respectively.

14 **SEC. 4. EFFECT ON OTHER LAWS.**

15 Nothing in this Act or the amendments made by this  
16 Act shall relieve the Federal Communications Commission  
17 from any obligations under title 5, United States Code,  
18 except where otherwise expressly provided.

19 **SEC. 5. APPLICATION OF ANTIDEFICIENCY ACT TO UNI-**  
20 **VERSAL SERVICE PROGRAM.**

21 (a) IN GENERAL.—Section 254 of the Communica-  
22 tions Act of 1934 (47 U.S.C. 254) is amended by adding  
23 at the end the following:

1       “(m) APPLICATION OF ANTIDEFICIENCY ACT.—Sec-  
2 tion 1341 and subchapter II of chapter 15 of title 31,  
3 United States Code, do not apply—

4               “(1) to any amount collected or received as  
5 Federal universal service contributions required by  
6 this section, including any interest earned on such  
7 contributions; or

8               “(2) to the expenditure or obligation of  
9 amounts attributable to such contributions for uni-  
10 versal service support programs established pursuant  
11 to this section.”.

12       (b) REPEAL OF TEMPORARY PROVISION.—Title III  
13 of Public Law 108–494 (118 Stat. 3997) is repealed.

Amend the title so as to read: “A bill to amend the  
Communications Act of 1934 to provide for greater  
transparency and efficiency in the procedures followed by  
the Federal Communications Commission, and for other  
purposes.”.

