

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1123
OFFERED BY MR. GOODLATTE OF VIRGINIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Unlocking Consumer
3 Choice and Wireless Competition Act”.

**4 SEC. 2. REPEAL OF EXISTING RULE AND ADDITIONAL
5 RULEMAKING BY LIBRARIAN OF CONGRESS.**

6 (a) REPEAL AND REPLACE.—

7 (1) IN GENERAL.—Paragraph (3) of section
8 201.40(b) of title 37, Code of Federal Regulations,
9 as amended and revised by the Librarian of Con-
10 gress on October 28, 2012, pursuant to the Librar-
11 ian’s authority under section 1201(a) of title 17,
12 United States Code, shall have no force and effect,
13 and such paragraph shall read, and shall be in ef-
14 fect, as such paragraph was in effect on July 27,
15 2010, subject to paragraph (2) and subsection (c).

16 (2) UNLOCKING AT DIRECTION OF PUR-
17 CHASER.—

1 (A) IN GENERAL.—With respect to para-
2 graph (3) of section 201.40(b) of title 37, Code
3 of Federal Regulations, as made effective by
4 paragraph (1) of this subsection, in the case of
5 a purchaser of a wireless telephone handset for
6 personal use that contains a computer program
7 that restricts connections of the wireless tele-
8 phone handset to a wireless communications
9 network, circumvention described in such para-
10 graph (3) may be initiated by the purchaser, or
11 by another person at the direction of the pur-
12 chaser, for the sole use or benefit of the pur-
13 chaser.

14 (B) LIMITATION ON EFFECTIVENESS.—
15 Subparagraph (A) shall be effective during the
16 period beginning on the date of the enactment
17 of this Act and ending on the effective date of
18 the first determination that is made, on or after
19 such date of enactment, under subparagraph
20 (C) of section 1201(a)(1) of title 17, United
21 States Code.

22 (b) RULEMAKING.—Not later than 1 year after the
23 date of the enactment of this Act, the Librarian of Con-
24 gress, upon the recommendation of the Register of Copy-
25 rights, who shall consult with the Assistant Secretary for

1 Communications and Information of the Department of
2 Commerce and report and comment on his or her views
3 in making such recommendation, shall determine, con-
4 sistent with the requirements set forth under section
5 1201(a)(1) of title 17, United States Code, whether to ex-
6 tend the exemption for the class of works described in sec-
7 tion 201.40(b)(3) of title 37, Code of Federal Regulations,
8 as amended by subsection (a) of this section, to include
9 any other category of wireless devices in addition to wire-
10 less telephone handsets.

11 (c) **RULE OF CONSTRUCTION.**—Nothing in this Act
12 alters, or shall be construed to alter, the authority of the
13 Librarian of Congress under section 1201(a)(1) of title
14 17, United States Code, including the authority, with re-
15 spect to the applicable 3-year period, to modify or delete
16 paragraph (3) of section 201.40(b) of title 37, Code of
17 Federal Regulations, or modify or delete any category of
18 wireless devices exempted under subsection (b) of this sec-
19 tion.

20 **SEC. 3. GAO REPORT.**

21 (a) **IN GENERAL.**—The Comptroller General of the
22 United States shall conduct a study described in sub-
23 section (b) on the evidentiary record in the rulemaking
24 process authorized by section 1201(a)(1)(C) of title 17,
25 United States Code, and shall submit to Congress a report

1 on the results of the study not later than 1 year after
2 the date of the enactment of this Act.

3 (b) CONTENTS.—The study under subsection (a)
4 shall review and assess—

5 (1) the nature of the evidentiary record that is
6 authorized to be compiled under section
7 1201(a)(1)(C) of title 17, United States Code;

8 (2) whether the evidentiary records established
9 in rulemakings that have been conducted under such
10 section have reflected a wide range of views and in-
11 terests for each proposed exemption to the prohibi-
12 tion contained in section 1201(a)(1)(A) of such title;

13 (3) what alternative methods of compiling an
14 evidentiary record in such rulemakings could be de-
15 veloped; and

16 (4) whether the Librarian of Congress has the
17 authority to compile such alternative methods under
18 existing law.

