

[STAFF DISCUSSION DRAFT]110TH CONGRESS
2D SESSION**H. R.** _____

To require the Federal Communications Commission to promulgate new consumer protection regulations for wireless service subscribers, to restrict State and local regulation of public providers of advanced communications capability and service, to increase spectrum efficiency by Federal agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MARKEY introduced the following bill; which was referred to the Committee on _____

A BILL

To require the Federal Communications Commission to promulgate new consumer protection regulations for wireless service subscribers, to restrict State and local regulation of public providers of advanced communications capability and service, to increase spectrum efficiency by Federal agencies, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Wireless Consumer
3 Protection and Community Broadband Empowerment Act
4 of 2008”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) There are over 250 million subscribers to
8 wireless service in the United States.

9 (2) Wireless service has become a replacement
10 for traditional telephone service for millions of con-
11 sumers in the United States.

12 (3) As wireless service is increasingly used and
13 relied upon by residential and business consumers,
14 such consumers will increasingly depend on Federal
15 and State authorities to apply and enforce essential
16 consumer protections applicable to such service in a
17 manner commensurate with the role such authorities
18 have played in ensuring consumer protection with
19 traditional telephone service.

20 (4) Many consumers complain that some wire-
21 less service providers do not clearly or adequately
22 disclose in plain language the products and services
23 for which charges are imposed.

24 (5) Many consumers find it difficult to easily
25 compare the costs and attributes of wireless service
26 offered by different providers because of the lack of

1 consistency in how contracts for wireless service are
2 presented.

3 (6) To make informed decisions in choosing be-
4 tween wireless service providers or plans, consumers
5 need clear and concise wireless industry data that
6 such consumers currently lack.

7 (7) Wireless service providers typically require
8 customers to sign a contract for service for 2 years
9 and charge early termination fees of \$175 or more
10 whenever a customer ends service before the expira-
11 tion of such contract.

12 (8) These early termination fees are often levied
13 at rates that do not reflect the cost of recovering the
14 monetary amount of a bundled mobile device or any
15 other expenditure for customer acquisition, and
16 some carriers do not prorate the fee based upon
17 when a customer terminates the service.

18 (9) In some instances, wireless service providers
19 do not make readily available to consumers service
20 maps with specific coverage data. As a result, many
21 consumers learn that the wireless service for which
22 they have subscribed does not meet their needs only
23 after they have signed a 2-year contract and have
24 begun using their mobile device.

1 (10) As wireless service providers increasingly
2 offer broadband telecommunications and information
3 services, consumer protection will be vital as con-
4 sumer reliance on wireless service increases commen-
5 surately.

6 (11) Increasing the deployment of ubiquitous,
7 affordable broadband service is a policy priority for
8 the Nation.

9 (12) Many communities make available, or may
10 seek to make available, advanced telecommunications
11 services in their communities using wireless and
12 other technologies as a way of ensuring ubiquitous,
13 affordable high-speed broadband service in their
14 areas.

15 (13) Such community networks, which may be
16 used to offer an array of municipal services in addi-
17 tion to residential broadband service, are in the pub-
18 lic interest, and no State should thwart the ability
19 of a community to seek to provide such services to
20 its citizens.

21 **SEC. 3. DEFINITIONS.**

22 (a) IN GENERAL.—In this Act:

23 (1) COMMISSION.—The term “Commission”
24 means the Federal Communications Commission.

1 (2) COMMERCIAL MOBILE SERVICE.—The term
2 “commercial mobile service” has the same meaning
3 given such term in section 332(d) of the Commu-
4 nications Act of 1934 (47 U.S.C. 332(d)).

5 (3) WIRELESS CUSTOMER EQUIPMENT.—The
6 term “wireless customer equipment” means equip-
7 ment employed on the premises of a person or car-
8 ried on a person (other than a carrier) to originate,
9 route, or terminate information services or tele-
10 communications.

11 (4) WIRELESS SERVICE PLAN.—The term
12 “wireless service plan” means any legally binding
13 agreement or contract between a commercial mobile
14 service provider and a consumer related to the provi-
15 sion of commercial mobile service, including agree-
16 ments related to the provision of wireless customer
17 equipment for use with such service.

18 (5) CHARGES.—The term “charges” includes
19 fees and taxes.

20 (b) OTHER TERMS.—Any terms not defined within
21 this Act that are defined in section 3 of the Communica-
22 tions Act of 1934 (47 U.S.C. 153) have the meanings
23 given in that section.

1 **TITLE I—NATIONAL POLICY FOR**
2 **WIRELESS SERVICE CON-**
3 **SUMER PROTECTION**

4 **SEC. 101. WIRELESS SERVICE PLAN DISCLOSURE.**

5 (a) RULEMAKING REQUIRED REGARDING DISCLO-
6 SURE TO CONSUMERS OF TERMS AND CHARGES.—The
7 Commission shall promulgate regulations requiring each
8 commercial mobile service provider to describe the terms
9 and charges associated with any wireless service plan of-
10 fered by that provider in a clear, plain, and conspicuous
11 manner, including providing to consumers—

12 (1) a description of the terms associated with
13 any wireless service plan, including—

14 (A) the duration of any such plan;

15 (B) the duration of any trial period in-
16 cluded in such plan;

17 (C) the number of minutes of service per
18 month or other duration included in any such
19 plan and the method by which such minutes will
20 be calculated and assessed;

21 (D) the terms of subsidizing any wireless
22 customer equipment; and

23 (E) the existence of any early termination
24 fees, any service initiation fees, or any other
25 non-recurring fees;

1 (2) a description of any charges associated with
2 any such plan and the amount of such charges, in-
3 cluding—

4 (A) monthly charges, per-minute charges,
5 roaming charges, and charges for additional
6 minutes not included in such plan;

7 (B) charges for long distance and inter-
8 national calling, charges for directory assist-
9 ance, charges for receipt of incoming calls, and
10 charges for additional services (such as text
11 messaging services);

12 (C) charges for early termination, service
13 initiation, or other non-recurring events;

14 (D) any Federal, State, or local taxes and
15 any regulatory fees; and

16 (E) any other charges for which consumers
17 may be assessed under any such plan; and

18 (3) any other information the Commission
19 deems appropriate for ensuring that wireless con-
20 sumers are fully and adequately informed about the
21 terms and charges associated with wireless service
22 plans.

23 (b) DISCLOSURE REQUIRED PRIOR TO WIRELESS
24 SERVICE PLAN FORMATION.—Beginning 30 days after
25 the Commission has promulgated the regulations required

1 under subsection (a), each commercial mobile service pro-
2 vider has the duty to provide to a consumer the informa-
3 tion required under the regulations required by subsection
4 (a) prior to such consumer entering into any new plan,
5 modifying an existing plan, or renewing an existing plan
6 for an additional period.

7 (c) **FORMAT OF DISCLOSURE.**—In carrying out sub-
8 section (a), the Commission shall examine the methods for
9 providing the information required by subsection (a) to a
10 consumer and shall promulgate rules regarding the for-
11 matting of printed or electronic disclosures of such infor-
12 mation, as well as how consumers who receive plan infor-
13 mation verbally may receive printed or electronic disclo-
14 sures of such information.

15 **SEC. 102. EARLY TERMINATION FEES.**

16 (a) **RULEMAKING REQUIREMENTS REGARDING**
17 **EARLY TERMINATION FEES.**—The Commission shall pro-
18 mulgate regulations requiring—

19 (1) each commercial mobile service provider to
20 offer a wireless service plan for which there is no
21 early termination fee;

22 (2) that if a commercial mobile service provider
23 offers such plans with subsidized wireless customer
24 equipment, such provider shall offer to consumers
25 the opportunity to purchase subsidy-free wireless

1 customer equipment in return for the ability to se-
2 cure service, without a long-term wireless service
3 plan, at a price no higher than a comparable wire-
4 less service plan offered with subsidized wireless cus-
5 tomer equipment; and

6 (3) for a wireless service plan that has an early
7 termination fee, that the early termination fee shall
8 be prorated over the duration of a consumer's wire-
9 less service plan in a manner that reasonably relates
10 such fee to the recovery of the cost of any subsidy
11 such consumer received when purchasing wireless
12 customer equipment.

13 (b) MINIMUM EARLY TERMINATION FEE REDUCTION
14 REQUIRED.—In carrying out subsection (a)(3), the Com-
15 mission shall exercise its discretion, but the Commission
16 shall require that the early termination fee for a wireless
17 service plan with a duration of 2 years or more shall be
18 reduced by at least half after one-half of such duration.

19 **SEC. 103. WIRELESS SERVICE COVERAGE MAPS.**

20 (a) RULEMAKING REQUIRED REGARDING SERVICE
21 AREA MAPS.—The Commission shall promulgate regula-
22 tions requiring each commercial mobile service provider to
23 make available a map of the geographic area for which
24 such provider is licensed to provide commercial mobile
25 service depicting—

1 (1) the outdoor service coverage area of such
2 provider, including the outdoor service coverage area
3 of the consumer's local market; and

4 (2) any known outdoor service coverage gaps.

5 (b) SPECIFICITY OF REQUIRED MAPS.—

6 (1) IN GENERAL.—Each commercial mobile
7 service provider shall generate at least one map for
8 each area required under subsection (a) using pre-
9 dictive modeling and mapping techniques commonly
10 used by radio frequency engineers in the commercial
11 mobile service industry to depict approximate out-
12 door service coverage based on signal strength for
13 the applicable commercial mobile service technology
14 and signal strength confidence levels under normal
15 operating conditions on such provider's network, fac-
16 toring in topographic conditions and subject to vari-
17 ables that impact radio service generally, which shall
18 be disclosed as material limitations in commercial
19 mobile service coverage depiction and availability.

20 (2) UPDATING MAPS.—The map generated pur-
21 suant to paragraph (1) shall be updated at reason-
22 ably regular intervals.

23 (3) DETAILED USE.—The map generated pur-
24 suant to paragraph (1) shall be in sufficient detail
25 to identify—

1 (A) generally geographic areas where com-
2 mercial mobile service is not predicted to be
3 regularly available; and

4 (B) whether or not a consumer is predicted
5 to receive commercial mobile service in the gen-
6 eral geographic area in which such consumer's
7 primary residence is located, to the extent pre-
8 diction of reception in such area is feasible
9 using the formats specified in paragraph (1).

10 (c) DISCLOSURE TO CONSUMERS.—Each commercial
11 mobile service provider shall provide to a consumer the
12 map required under subsection (a)—

13 (1) upon the request of such consumer;

14 (2) when such consumer enters into a new wire-
15 less service plan; and

16 (3) at such other times as the Commission shall
17 provide.

18 (d) ONLINE ACCESS.—Each commercial mobile serv-
19 ice provider shall make available the map required under
20 subsection (a) on such provider's Internet website (or com-
21 parable successor facility).

22 **SEC. 104. BILLING POLICIES.**

23 The Commission shall promulgate regulations—

24 (1) to prohibit a commercial mobile service pro-
25 vider from listing any charge on the billing state-

1 ment of a subscriber as a separately stated charge
2 other than a charge—

3 (A) for telecommunications service or other
4 service provided to a subscriber;

5 (B) for nonpayment, early termination of
6 service, or other lawful penalty;

7 (C) for Federal, State, or local sales or ex-
8 cise taxes; or

9 (D) expressly authorized by a Federal,
10 State, or local statute, rule, regulation, or order
11 to appear on a subscriber's billing statement as
12 a separately stated charge;

13 (2) to require each commercial mobile service
14 provider to ensure that each bill sent to a subscriber
15 for commercial mobile service is clearly organized,
16 describes in plain language the products and services
17 for which a charge was imposed, and conforms to
18 such formatting standards as the Commission re-
19 quires;

20 (3) to require that any charge specifically re-
21 quired by a Federal, State, or local statute, rule,
22 regulation, or order to be collected from a subscriber
23 be listed in a separate section of each bill sent to a
24 subscriber and itemized separately in clear and plain
25 language;

1 (4) to prohibit any charge which is not required
2 to be collected from a subscriber under a Federal,
3 State, or local statute, rule, regulation, or order
4 from being included in the section of the bill de-
5 scribed in paragraph (3);

6 (5) to require that, unless the subscriber other-
7 wise requests, roaming or other off-network charges
8 associated with any call for which a subscriber is
9 charged a roaming or other off-network charge be
10 itemized on each bill provided to such subscriber not
11 later than 60 days after such call was placed and
12 that such itemization clearly identify the date and
13 location of such call; and

14 (6) to require that each commercial mobile serv-
15 ice provider, upon the request of a subscriber, pro-
16 vide an itemized bill to such subscriber at no cost to
17 such subscriber.

18 **SEC. 105. SERVICE QUALITY MONITORING.**

19 (a) IN GENERAL.—The Commission shall promulgate
20 regulations to conduct examinations of the quality of com-
21 mercial mobile service in the United States by requiring
22 semiannual reports from commercial mobile service pro-
23 viders on the following:

1 (1) An assessment of the percentage of the li-
2 censed geographic market for which the commercial
3 mobile service provider currently offers service.

4 (2) An assessment of the average outdoor signal
5 strength within geographic areas to be determined
6 by the Commission.

7 (3) An assessment of dropped calls within geo-
8 graphic areas to be determined by the Commission.

9 (4) Any known coverage gaps within geographic
10 areas to be determined by the Commission.

11 (5) Any other matters the Commission con-
12 siderers appropriate.

13 (b) PUBLIC COMMENTS.—The Commission shall es-
14 tablish an Internet website through which members of the
15 public can submit to the Commission their comments on
16 the quality of service of any commercial mobile service pro-
17 vider.

18 (c) PUBLICATION.—The Commission shall make
19 available to commercial mobile service providers and to the
20 public on a semiannual basis a report summarizing and
21 analyzing the information received under this section on
22 the quality of commercial mobile service.

1 **SEC. 106. WIRELESS SERVICE PLAN MODIFICATIONS AND**
2 **TERMINATIONS.**

3 (a) RULEMAKING REQUIRED.—The Commission shall
4 promulgate regulations to require commercial mobile serv-
5 ice providers to comply with each of the requirements in
6 subsection (b), subsection (c), and subsection (d).

7 (b) VALIDITY OF EXTENSIONS.—

8 (1) IN GENERAL.—Beginning 30 days after the
9 Commission has promulgated regulations under sub-
10 section (a), an extension of a wireless service plan
11 shall not be valid unless—

12 (A) the commercial mobile service provider
13 provides point-of-sale notice of such extension
14 to the subscriber;

15 (B) the subscriber agrees to extend such
16 plan by providing express consent to such ex-
17 tension; and

18 (C) the subscriber is given the right to
19 cancel such extension for any reason within 30
20 days after the notice required by subparagraph
21 (A) is provided.

22 (2) PENALTY-FREE TRIAL PERIOD.—If a sub-
23 scriber cancels the extension of a wireless service
24 plan within the 30-day period provided by paragraph
25 (1)(C), the commercial mobile service provider may
26 not impose a penalty or other charge for the can-

1 cellation on the subscriber. For the purposes of this
2 paragraph, a charge for commercial mobile service
3 provided to the subscriber during the extension pe-
4 riod before cancellation shall not be considered to be
5 a penalty or other charge for the cancellation.

6 (c) NOTICE OF PLAN CHANGES.—

7 (1) IN GENERAL.—Beginning 30 days after the
8 Commission has promulgated regulations under sub-
9 section (a), a commercial mobile service provider
10 shall provide directly to a subscriber written notice
11 of any change in terms or charges of such sub-
12 scriber's wireless service plan at least 30 days before
13 such change is to take effect.

14 (2) RIGHT TO TERMINATE.—If such change in
15 terms or charges of such subscriber's wireless service
16 plan will result in higher rates or more restrictions
17 on use of service or otherwise will result in a mate-
18 rial, adverse change for a subscriber, such subscriber
19 may, not later than 30 days after such change is to
20 take effect, terminate the wireless service plan with-
21 out penalty, including early termination fees, and re-
22 ceive a pro rata refund of the charges, if any, paid
23 for wireless customer equipment used in conjunction
24 with such plan.

1 (3) CONSUMER NOTICE.—The notice of change
2 required under paragraph (1) shall inform a sub-
3 scriber of—

4 (A) the right of that subscriber to termi-
5 nate the service and to a pro rata refund for
6 any wireless customer equipment; and

7 (B) the steps necessary to implement such
8 a termination.

9 (d) CONSUMER RIGHT TO CANCEL SERVICE WITHIN
10 30 DAYS.—

11 (1) IN GENERAL.—Beginning 30 days after the
12 Commission has promulgated regulations under sub-
13 section (a), a wireless service plan may be canceled
14 upon the request of a subscriber for any reason dur-
15 ing the 30-day period that begins on the date on
16 which such plan was executed.

17 (2) NO PENALTY.—If a subscriber exercises the
18 right to cancel such plan under paragraph (1), there
19 shall be no penalty or other costs, including early
20 termination fees, to such subscriber for such termi-
21 nation, except that such subscriber shall be respon-
22 sible for paying the charges for the commercial mo-
23 bile service used during the time period in which
24 such plan was in effect and except as provided in
25 paragraph (3).

1 (3) WIRELESS CUSTOMER EQUIPMENT.—If a
2 subscriber exercises the right to cancel such plan
3 under paragraph (1), a subscriber shall receive a pro
4 rata refund of the charges, if any, paid for wireless
5 customer equipment used in conjunction with such
6 plan if such equipment is returned during such 30-
7 day period.

8 **SEC. 107. ENFORCEMENT.**

9 (a) ENFORCEMENT BY THE COMMISSION.—

10 (1) IN GENERAL.—Notwithstanding sections
11 2(b) and 221(b) of the Communications Act of 1934
12 (47 U.S.C. 152(b), 47 U.S.C. 221(b)), the Commis-
13 sion shall have the power and authority to enforce
14 the provisions of this title (and the rules, regula-
15 tions, and orders issued under this title) as if such
16 provisions were provisions of the Communications
17 Act of 1934 (or of rules, regulations, or orders
18 issued under such Act).

19 (2) PENALTIES.—Penalties authorized by title
20 V of the Communications Act of 1934 may be im-
21 posed under this subsection for a violation of a pro-
22 vision of this title or any rule, regulation, or order
23 issued under this title.

24 (b) ENFORCEMENT BY THE STATES.—

1 (1) AUTHORITY.—The attorney general of a
2 State, the public utility commission, or any other
3 State agency authorized by State law may—

4 (A) bring a civil action on behalf of the
5 residents of the State in a district court of the
6 United States of appropriate jurisdiction to en-
7 force the provisions of this title; and

8 (B) utilize administrative procedures au-
9 thorized by the State to enforce the provisions
10 of this title.

11 (2) PENALTIES.—Penalties authorized by title
12 V of the Communications Act of 1934 for a violation
13 of a provision of that Act, or a rule, regulation, or
14 order issued under that Act, may be imposed in a
15 civil action under the subsection for a violation of a
16 provision of this title, or a rule, regulation, or order
17 issued under this title. However, nothing in this title
18 prohibits a State from imposing higher fines or more
19 punitive civil or criminal remedies, including injunc-
20 tive relief, for any violation of State laws that are
21 not inconsistent with this title.

22 (3) SAVINGS.—Nothing in this section shall be
23 construed to preempt or otherwise affect laws of
24 general applicability in a State.

1 **SEC. 108. EFFECT ON STATE LAW.**

2 (a) IN GENERAL.—This title preempts the laws of
3 any State to the extent that such laws are inconsistent
4 with this title, or the rules, regulations, or orders issued
5 under this title, except that this title shall not preempt
6 any State laws or actions that provide additional enforce-
7 ment protection to consumers of commercial mobile service
8 if any such laws or enforcement actions are consistent with
9 this title and the rules, regulations, or orders issued until
10 this title.

11 (b) RIGHT TO PETITION.—A commercial mobile serv-
12 ice provider may submit a petition to the Commission to
13 challenge State consumer protection measures as incon-
14 sistent with this title or the rules, regulations, or orders
15 issued under this title. The Commission shall act on any
16 such petition within 90 days and shall determine whether
17 such measure is inconsistent with this title or with rules,
18 regulations, or orders issued by the Commission pursuant
19 to this title.

20 (c) RETENTION OF STATE ENFORCEMENT AUTHOR-
21 ITY.—Whenever the attorney general of a State, or an offi-
22 cial or agency designated by a State, has reason to believe
23 that any person has engaged or is engaging in a pattern
24 or practice of offering commercial mobile service to resi-
25 dents of that State in violation of this title, or rules, regu-
26 lations, or orders issued under this title, the State may

1 bring a civil action on behalf of its residents to enjoin such
2 offering of commercial mobile service, an action to recover
3 for actual monetary loss or receive \$500 in damages for
4 each violation, or both such actions, if the State has served
5 prior written notice of any such civil action upon the Com-
6 mission and provided the Commission with a copy of its
7 complaint. The Commission shall have the right—

8 (1) to intervene in the action;

9 (2) upon so intervening, to be heard on all mat-
10 ters arising from such action; and

11 (3) to file petitions for appeal.

12 **SEC. 109. DEADLINE FOR PROMULGATION OF REGULA-**
13 **TIONS.**

14 The Commission shall promulgate regulations re-
15 quired by this title not later than 120 days after the date
16 of enactment of this Act and thereafter may amend such
17 regulations from time to time.

18 **TITLE II—COMMUNITY**
19 **BROADBAND EMPOWERMENT**

20 **SEC. 201. LOCAL GOVERNMENT PROVISION OF ADVANCED**
21 **COMMUNICATIONS CAPABILITY AND SERV-**
22 **ICES.**

23 No State or local government statute, regulation, or
24 other legal requirement may prohibit, or have the effect
25 of prohibiting, any public provider from providing ad-

1 vanced communications capability or service to any person
2 or to any public or private entity.

3 **SEC. 202. SAFEGUARDS.**

4 (a) COMPETITION NEUTRALITY.—A public pro-
5 vider—

6 (1) shall not grant any regulatory preference to
7 itself or to any provider of advanced communications
8 capability or service that it owns or with which it is
9 affiliated; and

10 (2) shall apply its ordinances, rules, and poli-
11 cies, including those relating to the use of public
12 rights-of-way, permitting, performance bonding, pro-
13 curement, and reporting, without discrimination in
14 favor of any such provider as compared to other pro-
15 viders of such capability or service.

16 (b) APPLICATION OF GENERAL LAWS.—Except as
17 provided in section 201 and subsection (a) of this section,
18 nothing in this title affects any obligation or benefit that
19 a public provider has under any other Federal or State
20 law or regulation.

21 **SEC. 203. COMMUNITY INPUT.**

22 (a) NOTICE AND COMMUNITY INPUT.—Before a pub-
23 lic provider may provide advanced communications capa-
24 bility or service to the public, either directly or through
25 a public-private partnership, such public provider shall—

1 (1) publish a notice of its intention to do so
2 that—

3 (A) generally describes the advanced com-
4 munications capability or service to be provided
5 and the proposed coverage area for such capa-
6 bility or service; and

7 (B) identifies any special advanced commu-
8 nications capability or service to be provided in
9 low-income areas or other demographically or
10 geographically defined areas; and

11 (2) provide local citizens and private-sector en-
12 tities with an opportunity to be heard on the costs
13 and benefits of the project and potential alternatives
14 to it.

15 (b) APPLICATION TO EXISTING PROJECTS AND
16 PENDING PROPOSALS.—Subsection (a) does not apply
17 to—

18 (1) any contract or other arrangement under
19 which a public provider is providing advanced com-
20 munications capability or service to the public as of
21 the date of enactment of this Act; and

22 (2) any proposal by a public provider to provide
23 advanced communications capability or service to the
24 public that, as of such date of enactment—

25 (A) is in the request-for-proposals process;

1 (B) is in the process of being built; or

2 (C) has been approved by referendum.

3 **SEC. 204. EXEMPTIONS.**

4 The requirements of sections 202 and 203 do not
5 apply—

6 (1) to a public provider's provision of advanced
7 communications capability or service to itself or to
8 another public entity; or

9 (2) during an emergency declared by—

10 (A) the President;

11 (B) the Governor of the State in which the
12 public provider is located; or

13 (C) any other elected local official author-
14 ized by law to declare a state of emergency in
15 the jurisdiction in which the public provider is
16 located.

17 **SEC. 205. DEFINITIONS.**

18 In this title, the following definitions apply:

19 (1) **ADVANCED COMMUNICATIONS CAPABILITY**
20 **OR SERVICE.**—The term “advanced communications
21 capability or service” means a capability or service
22 that enables a user to originate or receive high-qual-
23 ity voice, data, graphics, video, or other communica-
24 tions using any broadband technology.

1 (2) PUBLIC PROVIDER.—The term “public pro-
2 vider” means a State or political subdivision thereof,
3 any agency, authority, or instrumentality of a State
4 or political subdivision thereof, or any entity that is
5 owned, controlled, or otherwise affiliated with a
6 State, political subdivision thereof, or its agency, au-
7 thority, or instrumentality.

8 **TITLE III—SPECTRUM EFFI-**
9 **CIENCY AND AVAILABILITY**
10 **ASSESSMENT**

11 **SEC. 301. EFFICIENCY IMPLEMENTATION PLAN AND SPEC-**
12 **TRUM AVAILABILITY ASSESSMENT.**

13 Section 104 of the National Telecommunications and
14 Information Administration Organization Act (47 U.S.C.
15 903) is amended by adding at the end the following new
16 subsections:

17 “(f) SPECTRUM EFFICIENCY PLAN.—Within 180
18 days after the date of enactment of the Wireless Consumer
19 Protection and Community Broadband Empowerment Act
20 of 2008, the Secretary shall adopt and commence imple-
21 mentation of a plan for Federal agencies with existing mo-
22 bile radio systems to use spectrum technologies that are
23 more spectrum-efficient and cost-effective. Such plan shall
24 include a time-table for implementation. Such plan shall
25 include requirements that Federal agencies with existing

1 mobile radio systems use smart radio receiver technology
2 to the extent technologically feasible and economically rea-
3 sonable.

4 “(g) REPORT.—Within 270 days after the date of en-
5 actment of the Wireless Consumer Protection and Com-
6 munity Broadband Empowerment Act of 2008, the Sec-
7 retary shall submit to the Committee on Energy and Com-
8 merce of the House of Representatives and the Committee
9 on Commerce, Science, and Transportation of the Senate
10 a report containing the following—

11 “(1) a summary of the plan adopted under sub-
12 section (f);

13 “(2) a list of frequencies that, due to the great-
14 er efficiency obtained under the plan adopted under
15 subsection (f) or through other initiatives, can be
16 made available for re-allocation to the Commission;

17 “(3) a list of frequencies that, due to the great-
18 er efficiency obtained under the plan adopted under
19 subsection (f) or through other initiatives, can be
20 made available for use by the public on a shared or
21 secondary basis for commercial or non-commercial
22 use;

23 “(4) a time-table for implementing any re-allo-
24 cation possible under paragraph (2) or sharing
25 under paragraph (3); and

1 “(5) a detailed itemization of frequencies for
2 which re-allocation or sharing is not possible and the
3 reasons why such action can not occur.

4 “(h) DEFINITIONS.—For purposes of this section, the
5 following definitions apply:

6 “(1) SMART RADIO RECEIVER.—The term
7 “smart radio receiver” means a device that receives
8 wireless transmissions in a manner that is highly ef-
9 ficient and is typified by software-defined radio de-
10 vices and devices that, in general, can increase spec-
11 trum usage by dynamically sensing transmissions
12 and adapting in frequency, time, and space to do so.

13 “(2) SHARED OR SECONDARY BASIS.—The term
14 “shared or secondary basis” means that Government
15 agencies are the primary licensees of particular spec-
16 trum, but that non-governmental users may use such
17 frequencies on a shared, or co-equal basis, from the
18 standpoint of frequency interference mitigation, or
19 on a secondary basis where non-governmental users
20 must limit interference to governmental use.”.