

114TH CONGRESS
2D SESSION

H. R. 5093

To amend the Federal Trade Commission Act to require a time limitation for consent orders, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2016

Mr. BURGESS introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Federal Trade Commission Act to require a time limitation for consent orders, 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 “Technological Innova-
5 tion through Modernizing Enforcement Act” or the
6 “TIME Act”.

7 **SEC. 2. TIME LIMITATION FOR CONSENT ORDERS.**

8 (a) AMENDMENT.—Section 5 of the Federal Trade
9 Commission Act (15 U.S.C. 45) is amended by adding at
10 the end the following new subsection:

1 “(o) TERMINATION CLAUSE REQUIRED FOR CON-
2 SENT ORDERS.—Any consent order entered into by the
3 Commission shall include a termination clause that the
4 consent order shall expire not later than 8 years after the
5 date on which the consent order is entered into, unless
6 such consent order relates to alleged fraud by the entity
7 subject to the consent order and requires a time limit
8 longer than 8 years based on the factors described in this
9 subsection. In determining the time limit for any termi-
10 nation clause, the Commission shall consider each of the
11 following factors:

12 “(1) The impact of technological progress on
13 the continuing relevance of the consent order.

14 “(2) Whether there is reason to believe that the
15 entity would engage in activities that violate this sec-
16 tion without the consent order 8 years after the con-
17 sent order is entered into by the Commission.

18 “(p) CONSENT ORDER REVIEW.—Any consent order
19 entered into by the Commission that is unrelated to al-
20 leged fraud by the entity subject to the consent order and
21 has a termination date more than 5 years after such con-
22 sent order is entered into shall include a clause providing
23 for Commission review of the consent order 5 years after
24 the date on which the order is entered into. Such clause
25 shall require the Commission to evaluate whether the con-

1 sent order continues to serve its initial purposes based on
2 the factors described in subsection (o). The clause shall
3 provide that if, based on such evaluation, the Commission
4 determines that the consent order no longer serves its pur-
5 poses, the Commission shall terminate the consent order.

6 “(q) PETITION FOR REVIEW OF EXISTING CONSENT
7 ORDERS.—Any entity that as of the effective date of this
8 subsection is subject to a consent order that is unrelated
9 to alleged fraud and has been effective for a period of at
10 least five years may petition the Commission to terminate
11 such consent order. In evaluating a petition to terminate
12 a consent order under this subsection, the Commission
13 shall consider whether the consent order continues to serve
14 its initial purposes based on each of the factors described
15 in subsection (o). If, based on such evaluation, the Com-
16 mission determines that the consent order no longer serves
17 its purposes, the Commission shall terminate the consent
18 order.”.

19 (b) EFFECTIVE DATE; APPLICABILITY.—The amend-
20 ment made by subsection (a) shall take effect on the date
21 of enactment of this Act and with respect to subsections
22 (o) and (p) of section 5 of the Federal Trade Commission
23 Act (15 U.S.C. 45), as added by subsection (a), shall apply

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1 with respect to any consent order entered into after such
2 date.

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