

**AMENDMENT TO THE AMENDMENT TO THE
NATURE OF A SUBSTITUTE FOR H.R. 2668
OFFERED BY M . _____**

At the end add the following new section:

1 SEC. 3. TIME LIMITATION FOR CONSENT ORDERS.

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

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

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

18 “(2) Whether there is reason to believe that the
19 entity would engage in activities that violate this sec-

1 tion without the consent order 8 years after the con-
2 sent order is entered into by the Commission.

3 “(p) CONSENT ORDER REVIEW.—Any consent order
4 entered into by the Commission that is unrelated to al-
5 leged fraud by the entity subject to the consent order and
6 has a termination date more than 5 years after such con-
7 sent order is entered into shall include a clause providing
8 for Commission review of the consent order 5 years after
9 the date on which the order is entered into. Such clause
10 shall require the Commission to evaluate whether the con-
11 sent order continues to serve its initial purposes based on
12 the factors described in subsection (o). The clause shall
13 provide that if, based on such evaluation, the Commission
14 determines that the consent order no longer serves its pur-
15 poses, the Commission shall terminate the consent order.

16 “(q) PETITION FOR REVIEW OF EXISTING CONSENT
17 ORDERS.—Any entity that as of the effective date of this
18 subsection is subject to a consent order that is unrelated
19 to alleged fraud and has been effective for a period of at
20 least five years may petition the Commission to terminate
21 such consent order. In evaluating a petition to terminate
22 a consent order under this subsection, the Commission
23 shall consider whether the consent order continues to serve
24 its initial purposes based on each of the factors described
25 in subsection (o). If, based on such evaluation, the Com-

1 mission determines that the consent order no longer serves
2 its purposes, the Commission shall terminate the consent
3 order.”.

4 (b) EFFECTIVE DATE; APPLICABILITY.—The amend-
5 ment made by subsection (a) shall take effect on the date
6 of enactment of this Act and with respect to subsections
7 (o) and (p) of section 5 of the Federal Trade Commission
8 Act (15 U.S.C. 45), as added by subsection (a), shall apply
9 with respect to any consent order entered into after such
10 date.

