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**APPROVED**  
**NOV 30 1974**

ACTION

Last Day: December 2

**THE WHITE HOUSE**  
WASHINGTON  
November 29, 1974

*mted*  
*12/2/74*  
*To Archie*  
*12/2/74*

MEMORANDUM FOR  
FROM:  
SUBJECT:

THE PRESIDENT

KEN *COLE*

Enrolled Bill S. 1227 - Amend the Communications Act of 1934, as amended

Attached for your consideration is S. 1227, sponsored by Senator Magnuson, which amends the Communications Act of 1934, as amended, to extend from one to two years the period of limitations on certain proceedings by or against communications common carriers for the recovery of charges and overcharges.

OMB recommends approval and provides you with additional background information in its enrolled bill report (Tab A).

Bill Timmons and Phil Areeda recommend approval.

RECOMMENDATION

That you sign S. 1227 (Tab B).



APPROVED  
NOV 30 1974

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

NOV 26 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1227 - Amend the Communications  
Act of 1934  
Sponsor - Sen. Magnuson (D) Washington

Last Day for Action

December 2, 1974 - Monday

Purpose

Amends the Communications Act of 1934, as amended, to extend from one to two years the period of limitations on certain proceedings by or against communications common carriers for the recovery of charges and overcharges.

Agency Recommendations

Office of Management and Budget	Approval
Federal Communications Commission	Approval
Department of Justice	Approval
Office of Telecommunications Policy	No objection
General Services Administration	No objection

Discussion

The Communications Act of 1934 prescribes a one year period of limitation during which complaints may be filed by customers with the Federal Communications Commission (FCC) or actions at law instituted against communications common carriers for the recovery of overcharges or damages not based on overcharges.

In 1934 most interstate communications were simple messages, such as long distance telephone or telegraph, such that the charges for service were relatively uncomplicated. Today, communications services are more sophisticated making computation of the proper charges a complicated undertaking often requiring more than one year.

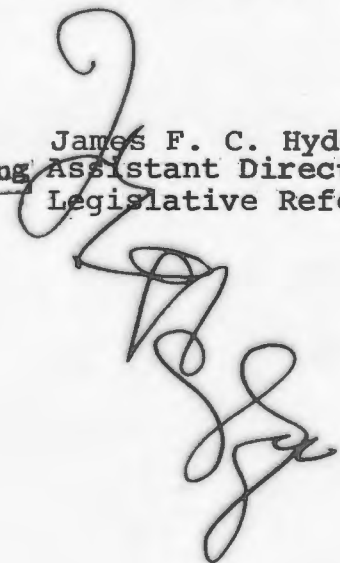


The FCC believes that the one year period of limitation is too short for a user of communications services to discover that he has been incorrectly charged and to file a complaint or bring suit. In February 1973 FCC presented proposed legislation to Congress to extend the time limitation to two years.

The bill proposed by FCC provided for extension of the period of limitations in proceedings against common carriers for the recovery of overcharges or damages not based on overcharges but did not propose extension of the time during which carriers could act against customers for recovery of their lawful charges. During Senate hearings such a provision was added with FCC concurrence.

Specifically, the enrolled bill would:

- extend from one to two years the period of limitations for complaints and actions at law against communications common carriers for the recovery of overcharges or damages not based on overcharges; and
- extend from one to two years the period of limitations for actions at law by communications common carriers against customers for recovery of their lawful charges.

  
James F. C. Hyde, Jr.  
Acting Assistant Director for  
Legislative Reference

Enclosures

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

NOV 26 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1227 - Amend the Communications  
Act of 1934  
Sponsor - Sen. Magnuson (D) Washington

Last Day for Action

December 2, 1974 - Monday

Purpose

Amends the Communications Act of 1934, as amended, to extend from one to two years the period of limitations on certain proceedings by or against communications common carriers for the recovery of charges and overcharges.

Agency Recommendations

Office of Management and Budget	Approval
Federal Communications Commission	Approval
Department of Justice	Approval
Office of Telecommunications Policy	No objection
General Services Administration	No objection

Discussion

The Communications Act of 1934 prescribes a one year period of limitation during which complaints may be filed by customers with the Federal Communications Commission (FCC) or actions at law instituted against communications common carriers for the recovery of overcharges or damages not based on overcharges.

In 1934 most interstate communications were simple messages, such as long distance telephone or telegraph, such that the charges for service were relatively uncomplicated. Today, communications services are more sophisticated making computation of the proper charges a complicated undertaking often requiring more than one year.

10.  
Hamm  
5:35 p.m.  
11-26-74

November 29, 1974

MEMORANDUM FOR THE PRESIDENT  
FROM: KEN COLE  
SUBJECT: Enrolled Bill S. 1227 - Amend the  
Communications Act of 1934, as amended

Attached for your consideration is S. 1227, sponsored by Senator Magnuson, which amends the Communications Act of 1934, as amended, to extend from one to two years the period of limitations on certain proceedings by or against communications common carriers for the recovery of charges and overcharges.

Roy Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

Bill Timmons and Phil Areeda recommend approval.

RECOMMENDATION

That you sign S. 386 (Tab B).



November 29, 1974

MEMORANDUM FOR THE PRESIDENT  
FROM: KEN COLE  
SUBJECT: Enrolled Bill S. 1227 - Amend the  
Communications Act of 1934, as amended

Attached for your consideration is S. 1227, sponsored by Senator Magnuson, which amends the Communications Act of 1934, as amended, to extend from one to two years the period of limitations on certain proceedings by or against communications common carriers for the recovery of charges and overcharges.

Roy Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

Bill Timmons and Phil Areeda recommend approval.

RECOMMENDATION

That you sign S. 386 (Tab B).

November 29, 1974

MEMORANDUM FOR THE PRESIDENT  
FROM: KEN COLE  
SUBJECT: Enrolled Bill S. 1227 - Amend the  
Communications Act of 1934, as amended

Attached for your consideration is S. 1227, sponsored by Senator Magnuson, which amends the Communications Act of 1934, as amended, to extend from one to two years the period of limitations on certain proceedings by or against communications common carriers for the recovery of charges and overcharges.

Ray Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

Bill Timmons and Phil Areeda recommend approval.

RECOMMENDATION

That you sign S. 386 (Tab B).



November 29, 1974

MEMORANDUM FOR THE PRESIDENT  
FROM: KEN COLE  
SUBJECT: Enrolled Bill S. 1227 - Amend the  
Communications Act of 1934, as amended

Attached for your consideration is S. 1227, sponsored by Senator Magnuson, which amends the Communications Act of 1934, as amended, to extend from one to two years the period of limitations on certain proceedings by or against communications common carriers for the recovery of charges and overcharges.

Roy Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

Bill Timmons and Phil Areeda recommend approval.

RECOMMENDATION

That you sign S. 386 (Tab B).

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 749

Date: November 26, 1974

Time: 6:00 p.m.

FOR ACTION: Geoff Shepard *no obj.* cc (for information): Warren Hendriks  
Bill Timmons *o.k.* Jerry Jones  
Phil Areeda *no objection*

FROM THE STAFF SECRETARY

DUE: Date: November 27, 1974

Time: 5:00 p.m.

SUBJECT: Enrolled Bill S. 1227 - Amend the Communications Act of 1934

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.  
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 749

Date: November 26, 1974

Time: 6:00 p.m.

FOR ACTION: Geoff Shepard ✓  
Bill Timmons  
Phil Areeda

cc (for information): Warren Hendriks  
Jerry Jones

*no objection  
per phone 11/26*

FROM THE STAFF SECRETARY

DUE: Date: November 27, 1974

Time: 5:00 p.m.

SUBJECT: Enrolled Bill S. 1227 - Amend the Communications  
Act of 1934

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

\_\_\_\_\_  
Warren K. Hendriks  
For the President

THE WHITE HOUSE  
WASHINGTON  
November 27, 1974

MEMORANDUM FOR: MR. WARREN HENDRIKS  
FROM: WILLIAM E. TIMMONS *WT*  
SUBJECT: Action Memorandum - Log No. 749  
Enrolled Bill S. 1227 - Amend the  
Communications Act of 1934

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 749

Date: November 26, 1974

Time: 6:00 p.m.

FOR ACTION: Geoff Shepard  
Bill Timmons  
Phil Areeda ✓

cc (for information): Warren Hendriks  
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: November 27, 1974

Time: 5:00 p.m.

SUBJECT: Enrolled Bill S. 1227 - Amend the Communications  
Act of 1934

ACTION REQUESTED:

- |   |  |
|---|--|
| <input type="checkbox"/> For Necessary Action         | <input checked="" type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief     | <input type="checkbox"/> Draft Reply                         |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks                       |

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

*No objection  
P Areeda*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks  
For the President

**FEDERAL COMMUNICATIONS COMMISSION**

WASHINGTON, D.C. 20554

IN REPLY REFER TO:  
3200

Honorable Wilfred H. Rommel  
Assistant Director for  
Legislative Reference  
Office of Management & Budget  
Washington, D. C. 20503

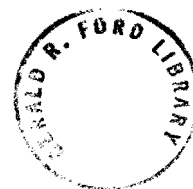
Dear Mr. Rommel:

This is in response to your request for the Commission's views on enrolled bill S. 1227, an Act to amend section 415 of the Communications Act of 1934, as amended, to provide for a two-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges.

Present section 415 prescribes a one year period of limitations with respect to proceedings against communications common carriers for the recovery of overcharges or damages not based on overcharges.

In 1934, when the one year statute was adopted, most interstate communications were simple messages, such as long distance telephone or telegraph. These two forms of communication were such that the charges for each chargeable element of service were relatively uncomplicated. There was no undue burden on the user to require complaint or suit within one year. Today, however, communication services are becoming more and more sophisticated and many businesses and organizations have vast, complex, private line networks. These services remain in place for extended periods and the computation of the proper charge under the tariff is often an involved undertaking. Consequently, the one year period is often too short for communications service users to discover that they have been incorrectly charged and to take appropriate remedial action. This legislation extends the period of limitations to two years to accommodate these changed circumstances.

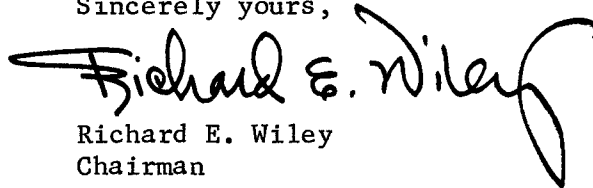
As a matter of parity, and because set-offs or counterclaims may be involved, S. 1227 similarly extends from one to two years the period during which common carriers may bring actions for recovery of their lawful charges.



The one year statute can cause further hardship in cases where the carrier is ready and willing to refund overcharges for services performed more than one year back. The statute not only bars the remedy but also destroys the liability (Midwest Horticultural Co. v. Pennsylvania Railroad Co., 320 U.S. 356 (1943)). Because after just one year there is no longer a liability, the carrier may not feel obliged to make a bona fide refund. It should be the policy of the Communications Act to promote refunds in bona fide cases. Extension of the statute of limitations in section 415 from one to two years should provide such encouragement.

This legislation was requested by the Commission and we recommend that the President approve it.

Sincerely yours,

A handwritten signature in black ink that reads "Richard E. Wiley". The signature is written in a cursive style with a large, sweeping flourish at the end.

Richard E. Wiley  
Chairman

Department of Justice  
Washington, D.C. 20530

NOV 22 1974

Honorable Roy L. Ash  
Director, Office of Management  
and Budget  
Washington, D. C. 20503

Dear Mr. Ash:

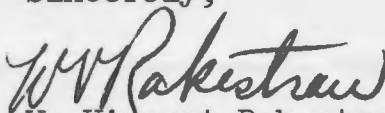
In compliance with your request, I have examined a facsimile of the enrolled bill S. 1227, "To amend section 415 of the Communications Act of 1934, as amended, to provide for a two-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges."

S. 1227 amends section 415 of the Communications Act of 1934 to extend from one to two years the period of limitations applicable to actions against communications common carriers for recovery of overcharges, or damages not based upon overcharges, and to actions brought by carriers for recovery of their lawful charges.

The congressional hearings surfaced no opposition to the bill as the chairman of FCC testified in favor of the bill. One year is a very short limitations period under the circumstances shown in the Congressional Committee's report.

Therefore, the Department of Justice recommends Executive approval of the bill.

Sincerely,



W. Vincent Rakestraw  
Assistant Attorney General

VMD 87001  
OFFICE OF MANAGEMENT

NOV 25 1974 4:11

RECEIVED



OFFICE OF TELECOMMUNICATIONS POLICY  
EXECUTIVE OFFICE OF THE PRESIDENT  
WASHINGTON, D.C. 20504

November 22, 1974

GENERAL COUNSEL

Memorandum for

Assistant Director for Legislative Reference  
Office of Management and Budget

Attention: W. H. Rommel

Subject: S. 1479, an Act "To amend subsection (b) of section 214 and subsection (c)(1) of section 222 of the Communications Act of 1934, as amended, in order to designate the Secretary of Defense (rather than the Secretaries of the Army and the Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service and to provide notice to the Secretary of State where under section 214 applications involve service to foreign points"; and

S. 2457, an Act "To amend the Communications Act of 1934, as amended, to permit the Federal Communications Commission to grant radio station licenses in the safety and special and experimental radio services directly to aliens, representatives of aliens, foreign corporations, or domestic corporations with alien officers, directors, or stockholders; and to permit aliens holding such radio station licenses to be licensed as operators"; and

S. 1227, an Act "To amend section 415 of the Communications Act of 1934, as amended, to provide for a two-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges.

You requested OTP's views and recommendations on the above enrolled bills.

The Office has stated its views to the Congress with respect to each of these bills, and I have attached for your information copies of these communications. As you will note, with respect to each of the bills, JTP has no objection to enactment, and we recommend that the President sign each of the bills.

  
Henry Goldberg

Attachments

4-10-73

Honorable Warren G. Magnuson  
Chairman  
Committee on Commerce  
United States Senate  
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to your request of March 30, 1973, for the views of the Office of Telecommunications Policy on S. 1227. This proposed legislation, if enacted, would amend subsections 415(b) and 415(c) of the 1934 Communications Act (47 U.S.C. §§415(b), 415(c) (1970)) to extend to two years the present one-year period of limitations during which complaints may be filed with the Federal Communications Commission against communications common carriers for the recovery of overcharges. Neither the present nor the proposed period of limitations would apply to any such claims brought by the Federal Government. (See 30 Fed. Reg. 7932).

This Office has no special knowledge regarding the extent, if any, to which the existing one-year period of limitations may constitute an undue burden upon users. Accordingly, we defer to the views of the Federal Communications Commission with respect to the need for or desirability of favorable consideration of S. 1227, and would have no objection to its enactment at this time.

The Office of Management and Budget advises that it has no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

/s/

Henry Goldberg

UNITED STATES OF AMERICA  
GENERAL SERVICES ADMINISTRATION  
WASHINGTON, DC 20405



NOV 22 1974

BUDGET

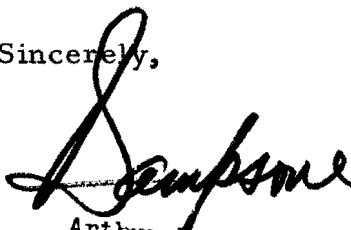
Honorable Roy L. Ash  
Director, Office of  
Management and Budget  
Washington, DC 20503

Dear Mr. Ash:

By referral dated November 21, 1974, from the Assistant Director for Legislative Reference, your office requested the views of the General Services Administration on enrolled bill S. 1227, 93rd Congress, an act "To amend section 415 of the Communications Act of 1934, as amended, to provide for a two-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges."

GSA has no objection to Presidential approval of the enrolled bill.

Sincerely,

  
Arthur F. Sampson  
Administrator

---

EXTENSION OF PERIOD OF LIMITATIONS IN PROCEEDINGS BY  
OR AGAINST COMMUNICATIONS CARRIERS FOR RECOVERY OF  
CHARGES, OVERCHARGES OR DAMAGES NOT BASED ON OVER-  
CHARGES

---

APRIL 30, 1974.—Ordered to be printed

---

Mr. PASTORE, from the Committee on Commerce,  
submitted the following

## REPORT

[To accompany S. 1227]

The Committee on Commerce, to which was referred the bill (S. 1227) to amend section 415 of the Communications Act of 1934 to extend the period of limitations in proceedings against communications carriers for recovery of overcharges or damages not based on overcharges, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

### PURPOSE AND SUMMARY OF LEGISLATION

The purpose of the bill (S. 1227), as referred to the Committee, is to amend subsections 415(b) and 415(c) of the Communications Act of 1934 to extend from one to two years the period of limitations applicable to proceedings against communications common carriers for the recovery of overcharges or damages not based on overcharges. As reported, the bill includes an amendment which would similarly amend subsection 415(a) of the Act to extend from one to two years the period of limitations for actions at law by carriers for recovery of their lawful charges. Aside from extending the applicable periods of limitations, this legislation would work no substantive change in the existing provisions of subsections 415 (a), (b), and (c), nor otherwise modify any other provision of the Act.

### NEED FOR LEGISLATION

Subsections 415 (b) and (c) presently provide for a one year period of limitations with respect to proceedings against communications

carriers for the recovery of overcharges or damages not based on overcharges.

The Federal Communications Commission has found that under present conditions, the one year period is often too short for a user of communications services to discover that he has been incorrectly charged or otherwise damaged, and then to file a complaint or bring suit. In 1934, when the one year statute of limitations was enacted, most interstate communications were simple messages, such as long distance telephone or telegraph. These two modes of communication were such that the charges for each chargeable element of service involved a relatively uncomplicated determination. Thus, there was no undue burden imposed on the user by the requirement that any complaint or suit be brought within one year. Today, however, communication services are becoming increasingly sophisticated, and many businesses and organizations have vast and intricate private-line networks. These services remain in place for extended periods, and the computation of the proper charge under the applicable tariff is often a complex undertaking.

The present one year statute of limitations can work further hardship in cases where the carrier is ready and willing to refund overcharges for services rendered more than one year prior to the discovery thereof, since the statute would appear not only to bar the remedy but also to destroy the liability (*Midwest Horticultural Co. v. Pennsylvania Railroad Co.*, 320 U.S. 356 (1943)). Because after only one year there is no longer a liability, the communications carrier may feel no obligation to make a bona fide refund. It is believed that the policy of the Communications Act should be to promote refunds in bona fide cases, and the extension of the limitations period under subsection 415(c) from one to two years would provide such desirable encouragement.

These same considerations apply to the period of limitations under subsection 415(b) with respect to complaints for damages not based on overcharges, such as actions claiming tariff charges are unjust, unreasonable, unduly discriminatory or otherwise contrary to the provisions of the Communications Act. The FCC advises that, in practice, complaints of this type usually include counts under both subsections 415 (b) and (c).

#### COMMITTEE HEARINGS

This bill was introduced by Senator Warren G. Magnuson, chairman of the committee, at the request of the Federal Communications Commission. The Subcommittee on Communications held hearings on this legislation on March 25, 1974. Federal Communications Commission Chairman Richard E. Wiley testified in support of the proposal.

#### AMENDMENT

Although no other witnesses appeared at the Committee hearings, several parties communicated with the subcommittee in writing to express the view that if subsections 415 (b) and (c) were amended to extend to two years the period of limitations for proceedings against carriers for recovery of overcharges or damages not based on over-

charges, subsection 415(a) should also be amended to provide a similar extension from one to two years with respect to the limitations period applicable to actions at law by carriers for their lawful charges.

A statement filed with the subcommittee by the United States Independent Telephone Association stated that the omission of such complementary amendment to subsection 415(a) would be unfair and inequitable in that the situation could arise where one party to a disrupted transaction would be able to sue and recover, while the other could neither sue nor set-off against the plaintiff's recovery. The subcommittee received a letter from Mr. William Malone, Vice-President of General Telephone & Electronics Corporation, expressing objection to the procedural and substantive "dissymmetry" of law and regulation which such omission might cause.

In a letter to the subcommittee, Mr. Richard L. Callaghan, Vice-President of Western Union, also urged a corresponding amendment of subsection 415(a), stating that considerable time is required to investigate, adjust, and negotiate agreement on items or amounts which are the subject of honest dispute between Western Union and its customers, and that due to the present one year limitations statute, his company is sometimes compelled to file a protective lawsuit and thereby possibly impair a good business relationship with its customer.

The American Telephone and Telegraph Company and the Bell System Operating Companies also submitted a statement favoring amendment of subsection 415(a) which noted that the growing complexity of tariff structures and charging procedures affect the customer and the carrier equally, and that negotiations between them concerning the discovery of errors in these systems should be on an equal basis and without the inhibitory effects of differing limitations periods.

At the subcommittee hearings, the FCC agreed that a modification of the bill to include a corresponding amendment of the limitations period under subsection 415(a) would be fair and indicated its support of such modification. No opposition to the modification was heard or noted.

In view of the above, your committee has adopted an amendment to the bill which would also amend subsection 415(a) to extend from one to two years the period of limitations for actions at law by carriers for recovery of their lawful charges.

#### CONCLUSION

Your committee believes that passage of this bill will serve the public interest in the more equitable and orderly negotiation and disposition of bona fide claims of communications carriers and their customers involving charges, overcharges, and other damages. The extension of the period of limitations for such actions to two years is fully justified, if not compelled, by the ever-increasing complexities of communications services which render the existing one year statutory period adopted in 1934 inappropriate and unreasonable.

#### COST ESTIMATE

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that enactment of this legislation will result in no additional cost to the Government.

The Committee knows of no cost estimate by any Federal agency which is at variance with its estimate.

#### CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (new matter is printed in italic and deleted matter is enclosed in black brackets) :

#### COMMUNICATIONS ACT OF 1934, AS AMENDED

##### "LIMITATIONS AS TO ACTIONS

"SEC. 415. (a) All actions at law by carriers for recovery of their lawful charges, or any part thereof, shall be begun, within [one year] *two years* from the time the cause of action accrues, and not after.

"(b) All complaints against carriers for the recovery of damages not based on overcharges shall be filed with the Commission within [one year] *two years* from the time the cause of action accrues, and not after, subject to subsection (d) of this section.

"(c) For recovery of overcharges action at law shall be begun or complaint filed with the Commission against carriers within [one year] *two years* from the time the cause of action accrues, and not after, subject to subsection (d) of this section, except that if claim for the overcharge has been presented in writing to the carrier within the [one] *two-year* period of limitation said period shall be extended to include [one year] *two years* from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice."

\* \* \* \* \*

#### AGENCY COMMENTS

Letter from the General Counsel of the Office of Telecommunications Policy, Executive Office of the President, dated April 10, 1973, and a letter from the Comptroller General of the United States dated June 12, 1973.

OFFICE OF TELECOMMUNICATIONS POLICY,  
EXECUTIVE OFFICE OF THE PRESIDENT,  
*Washington, D.C., April 10, 1973.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request of March 30, 1973, for the views of the Office of Telecommunications Policy on S. 1227. This proposed legislation, if enacted, would amend subsections 415(b) and 415(c) of the 1934 Communications Act (47 U.S.C. §§ 415(b), 415(c), (1970)) to extend to two years the present one-year period of limitations during which complaints may be filed with the Federal Communications Commission against communications common carriers for the recovery of overcharges. Neither the

present nor the proposed period of limitations would apply to any such claims brought by the Federal Government. (See 30 *Fed. Reg.* 7932).

This Office has no special knowledge regarding the extent, if any, to which the existing one-year period of limitations may constitute an undue burden upon users. Accordingly, we defer to the views of the Federal Communications Commission with respect to the need for or desirability of favorable consideration of S. 1227, and would have no objection to its enactment at this time.

The Office of Management and Budget advises that it has no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

HENRY GOLDBERG,  
*General Counsel.*

COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., June 12, 1973.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate.*

DEAR MR. CHAIRMAN: With respect to your letter of March 30, 1973, requesting our views on S. 1227, 93d Congress, a bill to amend section 415 of the Communications Act of 1934, as amended, to provide for a two-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges, this is to advise that we have no comments to offer.

Sincerely yours,

PAUL B. DEMBLING,  
(For the Comptroller General of the United States).

○

AMENDING THE COMMUNICATIONS ACT OF 1934 WITH RESPECT TO  
THE PERIOD OF LIMITATIONS ON CERTAIN PROCEEDINGS BY OR  
AGAINST COMMUNICATIONS CARRIERS

OCTOBER 3, 1974.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign  
Commerce, submitted the following

REPORT

[To accompany S. 1227]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 1227) to amend section 415 of the Communications Act of 1934, as amended, to provide for a two-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

SUMMARY OF LEGISLATION

S. 1227 amends section 415 of the Communications Act of 1934 (hereafter the "Act") to extend from one to two years the period of limitations applicable to actions against communications common carriers for recovery of overcharges, or damages not based upon overcharges, and to actions brought by carriers for recovery of their lawful charges. The legislation makes no other substantive change.

NEED FOR LEGISLATION

Subsections (b) and (c) of section 415 of the Act prescribe a one year period of limitation on actions against communications carriers for recovery of overcharges or damages not based on overcharges.

The current one year period of limitations has proved too short for many users of services of communications common carriers to determine whether they have been improperly charged or damaged, and, if they have, to take appropriate legal action. At the time the Act was drafted, most interstate communication consisted of simple messages. Charges for these services were uncomplicated. Thus it was reasonable to require related legal actions to commence within one year.



Modern service, however, is more sophisticated and often involves sizeable, complex networks. Because these services remain in place over long periods of time, determining the appropriate charge is a more difficult undertaking.

The Chairman of the Federal Communications Commission stated that the Commission has been advised by several communications consultants that they often discover substantial overcharges of their customers by communications common carriers but that the discovery frequently occurs after the period of limitations has run and the customer has no recourse.

An additional difficulty caused by the present one year period of limitations is encountered in cases where a common carrier has made overcharges but because the one year limitation bars the carriers' liability as well as the customer's remedy, (*Midwest Horticultural Co. v. Pennsylvania Railroad Co.*, 320 U.S. 356 (1943)), the carrier may no longer feel a legal obligation to make a refund. The Act should encourage refunds where appropriate. The extension of the period of limitations from one to two years proposed in S. 1227 will serve this end.

The above considerations also apply to the period of limitations prescribed by subsection 415(b) for actions for damages not based on overcharges, such as actions claiming tariff charges are unjust, unreasonable, unduly discriminatory, or otherwise contrary to the provisions of the Communications Act. The FCC advises that, in practice, complaints of this type usually include counts under both subsections 415(b) and (c).

As a matter of equity, S. 1227 also extends from one to two years the period of limitations applicable to actions brought by carriers to recover their lawful charges.

#### COMMITTEE ACTION

Your committee, acting through its Subcommittee on Communications and Power, held hearings on S. 1227 on September 19, 1974. The Chairman of the Federal Communications Commission, Richard E. Wiley, testified in support of the legislation. No one appeared in opposition to it.

S. 1227 was reported by the Subcommittee and the full committee by unanimous voice vote.

#### CONCLUSION

Your committee believes that passage of this bill will serve the public interest by establishing a more equitable and orderly procedure for disposing of legitimate customer grievances concerning charges, overcharges and other damages and by affording carriers a parallel procedure for collecting their lawful charges. The increased complexity of the communications common carrier industry renders the existing period of limitations enacted in 1934 inappropriate and unreasonable and necessitates the extension of this period from one to two years.

#### COST

Enactment of this legislation will result in no additional cost to the Federal Government.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows. (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

#### SECTION 415 OF THE COMMUNICATIONS ACT OF 1934

#### TITLE IV—PROCEDURAL AND ADMINISTRATIVE PROVISIONS

\* \* \* \* \*

#### LIMITATIONS AS TO ACTIONS

SEC. 415. (a) All actions at law by carriers for recovery of their lawful charges, or any part thereof, shall be begun, within **[one year]** *two years* from the time the cause of action accrues, and not after.

(b) All complaints against carriers for the recovery of damages not based on overcharges shall be filed with the Commission within **[one year]** *two years* from the time the cause of action accrues, and not after, subject to subsection (d) of this section.

(c) For recovery of overcharges action at law shall be begun or complaint filed with the Commission against carriers within **[one year]** *two years* from the time the cause of action accrues, and not after, subject to subsection (d) of this section, except that if claim for the overcharge has been presented in writing to the carrier within the **[one year]** *two-year* period of limitation said period shall be extended to include **[one year]** *two years* from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice.

(d) If on or before expiration of the period of limitation in subsection (b) or (c) a carrier begins action under subsection (a) for recovery of lawful charges in respect of the same service, or, without beginning action, collects charges in respect of that service, said period of limitation shall be extended to include ninety days from the time such action is begun or such charges are collected by the carrier.

(e) The cause of action in respect of the transmission of a message shall, for the purposes of this section, be deemed to accrue upon delivery or tender of delivery thereof by the carrier, and not after.

(f) A petition for the enforcement of an order of the Commission for the payment of money shall be filed in the district court or the State court within one year from the date of the order, and not after.

(g) The term "overcharges" as used in this section shall be deemed to mean charges for services in excess of those applicable thereto under the schedules of charges lawfully on file with the Commission.

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# Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,  
one thousand nine hundred and seventy-four*

## An Act

To amend section 415 of the Communications Act of 1934, as amended, to provide for a two-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsections (a), (b), and (c) of section 415 of the Communications Act of 1934, as amended (47 U.S.C. 415), are amended to read as follows:

“(a) All actions at law by carriers for recovery of their lawful charges, or any part thereof, shall be begun, within two years from the time the cause of action accrues, and not after.

“(b) All complaints against carriers for the recovery of damages not based on overcharges shall be filed with the Commission within two years from the time the cause of action accrues, and not after, subject to subsection (d) of this section.

“(c) For recovery of overcharges action at law shall be begun or complaint filed with the Commission against carriers within two years from the time the cause of action accrues, and not after, subject to subsection (d) of this section, except that if claim for the overcharge has been presented in writing to the carrier within the two-year period of limitation said period shall be extended to include two years from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice.”

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*

November 20, 1974

Dear Mr. Director:

The following bills were received at the White House on November 20th:

S. 1227  
S. 1479  
S. 2457

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder  
Chief Executive Clerk

The Honorable Roy L. Ash  
Director  
Office of Management and Budget  
Washington, D. C.