

CALM Modernization Act

In 2010, Congress passed the CALM Act¹ to regulate the volume of TV ads to be no louder than the programming they accompany. Yet loud ads persist on traditional TV and, more importantly, the law does not apply to popular ad-supported streaming TV services like Hulu, Peacock, and Paramount+. The *CALM Modernization Act* fixes these two problems.

The 2010 CALM Act directed the Federal Communications Commission (FCC) to promulgate regulations to codify a standard limiting TV ad loudness.² The law applies to ads on traditional TV (i.e., broadcast, cable, satellite) and includes a safe harbor provision for providers that use equipment and software limiting loudness.

In the years since its enactment, the FCC has never enforced the law despite having the authority to do so and has only sent two letters of inquiry, even though it continues to receive thousands of consumer complaints per year.³ Press reports also indicate increased consumer frustration at loud ads on traditional and streaming TV in the last year.⁴

The *CALM Modernization Act* does the following:

- Modifies the 2010 CALM Act’s safe harbor to a rebuttable presumption based on: whether a provider uses appropriate equipment and software to moderate volume; the number and pattern of complaints the FCC receives about the provider; and other factors.
- Directs the FCC to promulgate regulations limiting the volume of ads on ad-supported TV streaming services similar in effect to the regulations for traditional TV.
- Enables the FCC to enforce violations of the legislation as it would enforce other violations of the Communications Act.
- Directs the GAO to submit a report to Congress analyzing the effectiveness of the CALM Act in moderating loudness, evaluating enforcement provisions of the law, and recommending policy solutions to better moderate loudness.

¹ Commercial Advertisement Loudness Mitigation (CALM) Act (Pub. L. No. 111-311), enacted December 15, 2010, after passing under unanimous consent in the Senate and via voice vote in the House.

² 47 C.F.R. § 73.682(e); 47 C.F.R. § 76.607.

³ FCC Chairman Ajit Pai, letter in response to Rep. Anna G. Eshoo, August 11, 2020, <https://docs.fcc.gov/public/attachments/DOC-366308A1.pdf> (original letter at <https://docs.fcc.gov/public/attachments/DOC-366308A2.pdf>).

⁴ Walt Hickey, “Americans Hate Loud Commercials. There’s a Law to Ban Them But the FCC Isn’t Enforcing it — And Streaming TV Has a Loophole,” *Business Insider*, March 31, 2021, <https://www.businessinsider.com/why-commercials-are-so-loud-streaming-tv-calm-act-2021-3>.