To amend the CALM Act to include video streaming services, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Commercial Advertise-

ment Loudness Mitigation Modernization Act of 2022” or

the “CALM Modernization Act of 2022”.

A BILL

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6
SEC. 2. MODERNIZATION OF THE CALM ACT AND RULE-MAKING ON LOUD COMMERCIALS ON STREAMING VIDEO.

(a) AMENDMENTS.—The CALM Act (Public Law 111–311; 124 Stat. 3294) is amended—

(1) in section 2 (47 U.S.C. 621)—

(A) by striking “Federal Communications Commission” each place the term appears and inserting “Commission”;

(B) by striking subsection (c) and inserting the following:

“(c) COMPLIANCE.—

“(1) REBUTTABLE PRESUMPTION.—There is a rebuttable presumption that any television broadcast station, cable operator, or other multichannel video programming distributor that installs, uses, and maintains in a commercially reasonable manner the equipment and associated software in compliance with the regulations issued by the Commission in accordance with subsection (a) is in compliance with those regulations.

“(2) FACTORS TO DETERMINE REBUTTAL.—In determining whether the presumption of compliance under paragraph (1) has been rebutted with respect to a television broadcast station, cable operator, or
other multichannel video programming distributor, the Commission shall consider the following:

“(A) The number of complaints regarding loud commercials the Commission has received with respect to that station, operator, or other distributor.

“(B) Substantive patterns or trends from complaints on loud commercials the Commission has received.

“(C) Data and conclusions in any report issued by a Federal agency (including the Government Accountability Office) regarding the effectiveness of this Act in moderating the loudness of commercials in comparison with accompanying video programming.

“(D) Any other factor established by the Commission by regulation.”; and

(C) in subsection (d)—

(i) by redesignating paragraph (1) as paragraph (3) and moving it to appear after paragraph (2);

(ii) in paragraph (3), as so redesignated, by striking “; and” at the end and inserting a period;
(iii) by redesignating paragraph (2) as paragraph (1);

(iv) in paragraph (1), as so redesignated—

(I) by striking “multi-channel” and inserting “multichannel”; and

(II) by striking the period at the end and inserting a semicolon; and

(v) by inserting after paragraph (1), as so redesignated, the following:

“(2) the term ‘Commission’ means the Federal Communications Commission; and”; and

(2) by adding at the end the following:

“SEC. 3. RULEMAKING ON LOUD COMMERCIALS ON STREAMING VIDEO.

“(a) RULEMAKING REQUIRED FOR LOUD STREAMING VIDEO COMMERCIALS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Commission shall prescribe pursuant to the Communications Act of 1934 (47 U.S.C. 151 et seq.) a regulation that prohibits video streaming services from transmitting the audio of commercial advertisements louder than the video content the advertisements ac-
company in a manner that is similar in effect to the
regulation prescribed under section 2.

“(2) Rebuttable presumption.—In pre-
scribing the regulation under paragraph (1), the
Commission may include a rebuttable presumption
provision that is similar to the rebuttable presump-
tion under section 2(c) if it is practicable and war-
ranted for effective enforcement of this section.

“(3) Effective date.—Except as provided in
paragraph (4), the regulation required under para-
graph (1) shall take effect 180 days after the date
on which the regulation is published in the Federal
Register.

“(4) Extension of effective date.—The
Commission may extend the effective date described
in paragraph (3) for 1 year for any video streaming
service that demonstrates that complying with the
regulation would result in significant financial hard-
ship.

“(5) Updates.—The Commission shall update
the regulation prescribed under paragraph (1) as
necessary.

“(b) Definitions.—In this section:

“(1) Commission.—The term ‘Commission’
means the Federal Communications Commission.
“(2) VIDEO PROGRAMMING.—The term ‘video programming’ has the meaning given the term in section 713(h) of the Communications Act of 1934 (47 U.S.C. 613(h)).

“(3) VIDEO STREAMING SERVICE.—The term ‘video streaming service’—

“(A) means an entity that makes available directly to the end user through a distribution method that uses Internet protocol—

“(i) video programming; or

“(ii) video content the entity makes available for users to view; and

“(B) does not include—

“(i) a television broadcast station, cable operator, or other multichannel video programming distributor (as those terms are defined in section 2(d)), only with respect to commercial advertisements and video programming subject to section 2; or

“(ii) an entity that serves video programming or video content that is served without video commercial advertisements.

“SEC. 4. ENFORCEMENT.

“(a) IN GENERAL.—The Federal Communications Commission shall implement and enforce this Act as if this
Act were a part of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

“(b) Violations.—A violation of this Act, or a regulation promulgated under this Act, shall be considered to be a violation of the Communications Act of 1934, or a regulation promulgated under that Act, respectively.

“(c) No Citation Required.—Paragraph (5) of section 503(b) of the Communications Act of 1934 (47 U.S.C. 503(b)) shall not apply to a determination of forfeiture liability under that subsection against a person who commits a violation described in subsection (b) of this section.”.

(b) GAO Report on CALM Act Enforcement.—

(1) In General.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on section 2 of the CALM Act (47 U.S.C. 621), as amended by subsection (a), that—

(A) analyzes the effectiveness of that section in moderating the loudness of commercials in comparison to accompanying video programming;
(B) evaluates the ability of the Federal Communications Commission to effectively moderate the loudness of commercials in comparison to accompanying video programming under subsection (c) of that section; and

(C) as appropriate, recommends policy solutions that would enable better moderation of the loudness of commercials in comparison to accompanying video programming.

(2) VIDEO PROGRAMMING DEFINED.—In this subsection, the term “video programming” has the meaning given the term in section 713(h) of the Communications Act of 1934 (47 U.S.C. 613(h)).