

113TH CONGRESS
2D SESSION

H. R. 1123

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2014

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To promote consumer choice and wireless competition by
permitting consumers to unlock mobile wireless devices,
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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Unlocking Consumer
3 Choice and Wireless Competition Act”.

4 **SEC. 2. REPEAL OF EXISTING RULE AND ADDITIONAL**
5 **RULEMAKING BY LIBRARIAN OF CONGRESS.**

6 (a) REPEAL AND REPLACE.—As of the date of the
7 enactment of this Act, paragraph (3) of section 201.40(b)
8 of title 37, Code of Federal Regulations, as amended and
9 revised by the Librarian of Congress on October 28, 2012,
10 pursuant to the Librarian’s authority under section
11 1201(a) of title 17, United States Code, shall have no
12 force and effect, and such paragraph shall read, and shall
13 be in effect, as such paragraph was in effect on July 27,
14 2010.

15 (b) RULEMAKING.—

16 (1) IN GENERAL.—The Librarian of Congress,
17 upon the recommendation of the Register of Copy-
18 rights, who shall consult with the Assistant Sec-
19 retary for Communications and Information of the
20 Department of Commerce and report and comment
21 on his or her views in making such recommendation,
22 shall determine, consistent with the requirements set
23 forth under section 1201(a)(1) of title 17, United
24 States Code, whether to extend the exemption for
25 the class of works described in section 201.40(b)(3)
26 of title 37, Code of Federal Regulations, as amended

1 by subsection (a), to include any other category of
2 wireless devices in addition to wireless telephone
3 handsets.

4 (2) TIMING OF RULEMAKING.—(A) If this Act
5 is enacted before June 1, 2014, the determination
6 under paragraph (1) shall be made by not later than
7 the end of the 9-month period beginning on the date
8 of the enactment of this Act.

9 (B) If this Act is enacted on or after June 1,
10 2014, the determination under paragraph (1) shall
11 be made in the first rulemaking under section
12 1201(a)(1)(C) of title 17, United States Code, that
13 begins on or after the date of the enactment of this
14 Act.

15 (c) UNLOCKING AT DIRECTION OF OWNER.—

16 (1) IN GENERAL.—Circumvention of a techno-
17 logical measure that restricts wireless telephone
18 handsets or other wireless devices from connecting
19 to a wireless telecommunications network—

20 (A)(i) as authorized by paragraph (3) of
21 section 201.40(b) of title 37, Code of Federal
22 Regulations, as made effective by subsection
23 (a), and

1 (ii) as may be extended to other wireless
2 devices pursuant to a determination in the rule-
3 making conducted under subsection (b), or

4 (B) as authorized by an exemption adopted
5 by the Librarian of Congress pursuant to a de-
6 termination made on or after the date of enact-
7 ment of this Act under section 1201(a)(1)(C) of
8 title 17, United States Code,

9 may be initiated by the owner of any such handset
10 or other device, by another person at the direction
11 of the owner, or by a provider of a commercial mo-
12 bile radio service or a commercial mobile data serv-
13 ice at the direction of such owner or other person,
14 solely in order to enable such owner or a family
15 member of such owner to connect to a wireless tele-
16 communications network, when such connection is
17 authorized by the operator of such network.

18 (2) NO BULK UNLOCKING.—Nothing in this
19 subsection shall be construed to permit the
20 unlocking of wireless handsets or other wireless de-
21 vices, for the purpose of bulk resale, or to authorize
22 the Librarian of Congress to authorize circumven-
23 tion for such purpose under this Act, title 17,
24 United States Code, or any other provision of law.

1 (d) RULE OF CONSTRUCTION.—Except as provided
2 in subsection (c), nothing in this Act alters, or shall be
3 construed to alter, the authority of the Librarian of Con-
4 gress under section 1201(a)(1) of title 17, United States
5 Code.

6 (e) DEFINITIONS.—In this Act:

7 (1) COMMERCIAL MOBILE DATA SERVICE; COM-
8 Mercial MOBILE RADIO SERVICE.—The terms
9 “commercial mobile data service” and “commercial
10 mobile radio service” have the respective meanings
11 given those terms in section 20.3 of title 47, Code
12 of Federal Regulations, as in effect on the date of
13 the enactment of this Act.

14 (2) WIRELESS TELECOMMUNICATIONS NET-
15 WORK.—The term “wireless telecommunications net-
16 work” means a network used to provide a commer-
17 cial mobile radio service or a commercial mobile data
18 service.

19 (3) WIRELESS TELEPHONE HANDSETS; WIRE-
20 LESS DEVICES.—The terms “wireless telephone
21 handset” and “wireless device” mean a handset or

1 other device that operates on a wireless tele-
2 communications network.

Passed the House of Representatives February 25,
2014.

Attest:

KAREN L. HAAS,

Clerk.