

Union Calendar No. 213

106TH CONGRESS
1ST SESSION

H. R. 1858

[Report No. 106-350, Part I]

A BILL

To promote electronic commerce through improved access for consumers to electronic databases, including securities market information databases.

OCTOBER 8, 1999

The Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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To promote electronic commerce through improved access for consumers to electronic databases, including securities market information databases.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 1999

Mr. BLILEY (for himself, Mr. DINGELL, Mr. TAUZIN, Mr. MARKEY, Mr. OXLEY, and Mr. TOWNS) introduced the following bill; which was referred to the Committee on Commerce

SEPTEMBER 30, 1999

Reported with an amendment and referred to the Committee on the Judiciary for a period ending not later than October 8, 1999, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X

[Strike out all after the enacting clause and insert the part printed in *italic*]

OCTOBER 8, 1999

Additional sponsors: Mr. BARTON of Texas, Mr. KASICH, Mr. CLAY, Ms. ESHOO, Mr. DEAL of Georgia, Mr. THOMPSON of Mississippi, Mr. BLUNT, Mr. STEARNS, Mr. ETHERIDGE, Mr. MCINTOSH, Mr. NEY, Mr. BARRETT of Wisconsin, and Mr. BOUCHER

OCTOBER 8, 1999

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A BILL

To promote electronic commerce through improved access for consumers to electronic databases, including securities market information databases.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Consumer and Investor*
5 *Access to Information Act of 1999”.*

6 **TITLE I—COMMERCE IN DUPLI-**
7 **CATED DATABASES PROHIB-**
8 **ITED**

9 **SEC. 101. DEFINITIONS.**

10 *As used in this title:*

11 (1) *DATABASE.—(A) The term “database” means*
12 *a collection of a large number of discrete items of in-*
13 *formation that have been collected and organized in*
14 *a single place, or in such a way as to be accessible*
15 *through a single source, through the investment of*
16 *substantial monetary or other resources, for the pur-*
17 *pose of providing access to those discrete items of in-*
18 *formation by users of the database. Such term does*
19 *not include works that are combined and ordered in*

1 *a logical progression or other meaningful way in*
2 *order to tell a story, communicate a message, rep-*
3 *resent an idea, or achieve a result.*

4 *(B) If a database is organized into discrete sec-*
5 *tions containing a large number of discrete items of*
6 *information, each section may be treated as a data-*
7 *base if each such section meets the requirements of*
8 *subparagraph (A).*

9 *(2) DUPLICATE OF A DATABASE.—A database is*
10 *“a duplicate” of any other database if the database*
11 *is substantially the same as such other database, as*
12 *a result of the extraction of information from such*
13 *other database.*

14 *(3) INFORMATION.—The term “information”*
15 *means facts, data, or any other intangible material*
16 *capable of being collected and organized in a system-*
17 *atic way, with the exception of works of authorship*
18 *within the meaning of section 102 of title 17, United*
19 *States Code.*

20 *(4) COMMERCE.—The term “commerce” means*
21 *all commerce which may be lawfully regulated by the*
22 *Congress.*

23 *(5) IN COMPETITION.—The term “in competition*
24 *with” when used with respect to the sale or distribu-*

1 *tion of a database to the public means that the*
2 *database—*

3 *(A) displaces substantial sales or licenses of*
4 *the database of which it is a duplicate; and*

5 *(B) significantly threatens the opportunity*
6 *to recover a reasonable return on the investment*
7 *in the collecting or organizing of the duplicated*
8 *database.*

9 *(6) GOVERNMENT DATABASE.—The term “gov-*
10 *ernment database” means a database that—*

11 *(A) has been collected or maintained by the*
12 *United States of America, any foreign govern-*
13 *ment, or any agency or instrumentality thereof;*

14 *(B) has been collected or maintained by a*
15 *commercial entity pursuant to a contract with*
16 *the United States of America or any agency or*
17 *instrumentality thereof, unless the information*
18 *contained in such database was permanently*
19 *available on an interactive computer network*
20 *without restriction in a publicly accessible elec-*
21 *tronic form without charge, at the time a dupli-*
22 *cate of such database was sold or distributed; or*

23 *(C) is required by Federal statute or regula-*
24 *tion to be collected or maintained, to the extent*
25 *so required.*

1 **SEC. 102. PROHIBITION AGAINST DISTRIBUTION OF DUPLI-**
2 **CATES.**

3 *It is unlawful for any person or entity, by any means*
4 *or instrumentality of interstate or foreign commerce or*
5 *communications, to sell or distribute to the public a data-*
6 *base that—*

7 *(1) is a duplicate of another database that was*
8 *collected and organized by another person or entity;*
9 *and*

10 *(2) is sold or distributed in commerce in com-*
11 *petition with that other database.*

12 **SEC. 103. PERMITTED ACTS.**

13 *(a) COLLECTING OR USE OF INFORMATION OBTAINED*
14 *THROUGH OTHER MEANS.—Nothing in this title shall re-*
15 *strict any person or entity from selling or distributing to*
16 *the public a database consisting of information obtained by*
17 *means other than by extracting it from a database collected*
18 *and organized by another person or entity.*

19 *(b) NEWS REPORTING.—Nothing in this title shall re-*
20 *strict any person or entity from selling or distributing to*
21 *the public a duplicate of a database for the sole purpose*
22 *of news or sports reporting, including news and sports in-*
23 *formation gathering, dissemination, and comment, unless*
24 *the information duplicated is time sensitive and has been*
25 *collected by a news or sports reporting entity, and the sale*

1 *or distribution is part of a consistent pattern engaged in*
2 *for the purpose of direct competition.*

3 (c) *LAW ENFORCEMENT AND INTELLIGENCE ACTIVI-*
4 *TIES.*—*Nothing in this title shall prohibit an officer, agent,*
5 *or employee of the United States, a State, or a political*
6 *subdivision of a State, or a person acting under contract*
7 *with such officers, agents or employees, from selling or dis-*
8 *tributing to the public a duplicate of a database as part*
9 *of lawfully authorized law enforcement or intelligence ac-*
10 *tivities.*

11 (d) *SCIENTIFIC, EDUCATIONAL, OR RESEARCH*
12 *USES.*—*No person or entity who, for scientific, educational,*
13 *or research purposes, sells or distributes to the public a du-*
14 *PLICATE of a database that has been collected or organized*
15 *by another person or entity shall incur liability under this*
16 *title so long as such conduct is not part of a consistent pat-*
17 *tern engaged in for the purpose of competition with that*
18 *other person or entity.*

19 **SEC. 104. EXCLUSIONS.**

20 (a) *GOVERNMENT INFORMATION.*—

21 (1) *EXCLUSION OF GOVERNMENT DATABASES.*—
22 *Protection under section 102 shall not extend to a*
23 *government database.*

24 (2) *INCORPORATED NONGOVERNMENT PORTIONS*
25 *PROTECTED.*—*The incorporation of all or part of a*

1 *government database into a non-government database*
2 *does not preclude protection for the portions of the*
3 *non-government database which came from a source*
4 *other than the government database.*

5 (3) *AUTHORITY TO EXCLUDE ADDITIONAL GOV-*
6 *ERNMENT-SUPPORTED DATABASES.—Nothing in this*
7 *title shall prevent the Federal Government or a State*
8 *or local government from establishing by law or con-*
9 *tract that a database, the creation or maintenance of*
10 *which is substantially funded by such Federal, State,*
11 *or local government, shall not be subject to the protec-*
12 *tion afforded under this title.*

13 (b) *DATABASES RELATED TO INTERNET COMMUNICA-*
14 *TIONS.—Protection under section 102 does not extend to a*
15 *database incorporating information collected or*
16 *organized—*

17 (1) *to perform the function of addressing, rout-*
18 *ing, forwarding, transmitting, or storing Internet*
19 *communications; or*

20 (2) *to perform the function of providing or re-*
21 *ceiving connections for Internet communications.*

22 (c) *COMPUTER PROGRAMS.—*

23 (1) *PROTECTION NOT EXTENDED.—Subject to*
24 *paragraph (2), protection under section 102 shall not*
25 *extend to computer programs, including any com-*

1 *puter program used in the manufacture, production,*
2 *operation, or maintenance of a database, or any ele-*
3 *ment of a computer program necessary to its oper-*
4 *ation.*

5 (2) *INCORPORATED DATABASES.*—*A database*
6 *that is otherwise subject to protection under section*
7 *102 is not disqualified from such protection solely be-*
8 *cause it resides in a computer program, so long as*
9 *the database functions as a database within the*
10 *meaning of this title.*

11 (d) *NONPROTECTABLE SUBJECT MATTER.*—*Protection*
12 *under section 102 does not extend to the sale or distribution*
13 *to the public of a duplicate of any individual idea, fact,*
14 *procedure, system, method of operation, concept, principle,*
15 *or discovery.*

16 (e) *SUBSCRIBER LIST INFORMATION.*—*Protection*
17 *under section 102 does not extend to a database of sub-*
18 *scriber list information within the meaning of section*
19 *222(f) of the Communications Act of 1934 (47 U.S.C.*
20 *222(f)). Nothing in this subsection shall affect the operation*
21 *of section 222(e) of such Act, under which a telecommuni-*
22 *cations carrier provides, upon request, subscriber list infor-*
23 *mation for the purposes of publishing directories in any*
24 *format under nondiscriminatory and reasonable rates,*
25 *terms, and conditions.*

1 (f) *LEGAL MATERIALS.*—*Protection under section 102*
2 *does not extend to a database of primary legal materials,*
3 *including court opinions, statutes, codes, regulations, or ad-*
4 *ministrative agency decisions, from any Federal, State, or*
5 *local jurisdiction, unless such materials were permanently*
6 *available on an interactive computer network without re-*
7 *striction, in an official publicly accessible electronic form*
8 *without charge, at the time a duplicate of such database*
9 *was sold or distributed.*

10 (g) *SECURITIES MARKET DATA.*—*Nothing in this title*
11 *shall apply to any database, or any discrete section of a*
12 *database, composed predominantly of market information*
13 *within the meaning of section 11A(e)(6) of the Securities*
14 *Exchange Act of 1934, as amended by section 201 of this*
15 *Act.*

16 **SEC. 105. RELATIONSHIP TO OTHER LAWS.**

17 (a) *OTHER RIGHTS NOT AFFECTED.*—*Subject to sub-*
18 *section (b), nothing in this title shall affect rights, limita-*
19 *tions, or remedies concerning copyright, or any other rights*
20 *or obligations relating to information, including laws with*
21 *respect to patent, trademark, design rights, antitrust, trade*
22 *secrets, privacy, access to public documents, misuse, and the*
23 *law of contract.*

24 (b) *PREEMPTION OF STATE LAW.*—*On or after the ef-*
25 *fective date of this Act, no State law that prohibits or that*

1 *otherwise regulates conduct that is subject to the prohibi-*
2 *tions specified in section 102 shall be effective to the extent*
3 *that such State law is inconsistent with section 102.*

4 (c) *LICENSING.*—*Subject to the provisions on misuse*
5 *in section 106(b), nothing in this title shall restrict the*
6 *rights of parties freely to enter into licenses or any other*
7 *contracts with respect to the use of information.*

8 (d) *COMMUNICATIONS ACT OF 1934.*—*Nothing in this*
9 *title shall affect the operation of the Communications Act*
10 *of 1934 (47 U.S.C. 151 et seq.) or the authority of the Fed-*
11 *eral Communications Commission.*

12 (e) *SECURITIES LAWS.*—*Nothing in this title shall*
13 *affect—*

14 (1) *the operation of the Securities Act of 1933*
15 *(15 U.S.C. 78a et seq.), the Securities Exchange Act*
16 *of 1934 (15 U.S.C. 78a et seq.), the Public Utility*
17 *Holding Company Act of 1935 (15 U.S.C. 79a et*
18 *seq.), the Trust Indenture Act of 1939 (15 U.S.C.*
19 *77aaa et seq.), the Investment Company Act of 1940*
20 *(15 U.S.C. 80a–1 et seq.), the Investment Advisers Act*
21 *of 1940 (15 U.S.C. 80b et seq.), or the Securities In-*
22 *vestor Protection Act of 1970 (15 U.S.C. 78aaa et*
23 *seq.); or*

24 (2) *the authority of the Securities and Exchange*
25 *Commission.*

1 **SEC. 106. LIMITATIONS ON LIABILITY.**

2 (a) *SERVICE PROVIDER LIABILITY.*—A provider of
3 *telecommunications services or information services (within*
4 *the meaning of section 3 of the Communications Act of 1934*
5 *(47 U.S.C. 153)), or the operator of facilities therefor, shall*
6 *not be liable for a violation of section 102 if such provider*
7 *or operator did not initially place the database that is the*
8 *subject of the violation on a system or network controlled*
9 *by such provider or operator.*

10 (b) *MISUSE.*—A person or entity shall not be liable
11 *for a violation of section 102 if the person or entity bene-*
12 *fitting from the protection afforded a database under section*
13 *102 misuses the protection. In determining whether a per-*
14 *son or entity has misused the protection afforded under this*
15 *title, the following factors, among others, shall be consid-*
16 *ered:*

17 (1) *the extent to which the ability of persons or*
18 *entities to engage in the permitted acts under this*
19 *title has been frustrated by contractual arrangements*
20 *or technological measures;*

21 (2) *the extent to which information contained in*
22 *a database that is the sole source of the information*
23 *contained therein is made available through licensing*
24 *or sale on reasonable terms and conditions;*

25 (3) *the extent to which the license or sale of in-*
26 *formation contained in a database protected under*

1 *this title has been conditioned on the acquisition or*
2 *license of any other product or service, or on the per-*
3 *formance of any action, not directly related to the li-*
4 *cence or sale;*

5 *(4) the extent to which access to information nec-*
6 *essary for research, competition, or innovation pur-*
7 *poses has been prevented;*

8 *(5) the extent to which the manner of asserting*
9 *rights granted under this title constitutes a barrier to*
10 *entry into the relevant database market; and*

11 *(6) the extent to which the judicially developed*
12 *doctrines of misuse in other areas of the law may ap-*
13 *propriately be extended to the case or controversy.*

14 **SEC. 107. ENFORCEMENT.**

15 *(a) USE OF FEDERAL TRADE COMMISSION ACT AU-*
16 *THORITY.—The Federal Trade Commission shall have juris-*
17 *isdiction, under section 5 of the Federal Trade Commission*
18 *Act (15 U.S.C. 45), to prevent violations of section 102 of*
19 *this title.*

20 *(b) RULEMAKING AUTHORITY.—The Federal Trade*
21 *Commission may, pursuant to subparagraph (A) or (B) of*
22 *section 18(a) of the Federal Trade Commission Act (15*
23 *U.S.C. 57a(a)), but without regard to the limitations con-*
24 *tained in section 18(b)(3) of such Act, prescribe rules to*
25 *implement this title.*

1 (c) *ENFORCEMENT.*—Any violation of any rule pre-
2 scribed under subsection (b) shall be treated as a violation
3 of a rule respecting unfair or deceptive acts or practices
4 under section 5 of the Federal Trade Commission Act (15
5 U.S.C. 45). Notwithstanding section 5(a)(2) of such Act (15
6 U.S.C. 45(a)(2)), communications common carriers shall be
7 subject to the jurisdiction of the Federal Trade Commission
8 for purposes of this title.

9 (d) *ACTIONS BY THE COMMISSION.*—The Federal
10 Trade Commission shall prevent any person or entity from
11 violating section 102 or a rule of the Commission under
12 subsection (b) of this section in the same manner, by the
13 same means, and with the same jurisdiction, powers, and
14 duties as though all applicable terms and provisions of the
15 Federal Trade Commission Act (15 U.S.C. 41 et seq.) were
16 incorporated into and made a part of this title. Any person
17 or entity who violates section 102 or such rule shall be sub-
18 ject to the penalties and entitled to the privileges and im-
19 munities provided in the Federal Trade Commission Act
20 in the same manner, by the same means, and with the same
21 jurisdiction, power, and duties as though all applicable
22 terms and provisions of the Federal Trade Commission Act
23 were incorporated into and made a part of this title.

1 **SEC. 108. REPORT TO CONGRESS.**

2 *Not later than 36 months after the date of enactment*
3 *of this title, the Federal Trade Commission shall report to*
4 *the Congress on the effect this title has had on electronic*
5 *commerce and on the United States database industry and*
6 *related parties, including—*

7 *(1) the availability of databases, search engines,*
8 *and other tools for locating information necessary for*
9 *electronic commerce;*

10 *(2) the extent of competition between database*
11 *producers, including the concentration of market*
12 *power within the database industry;*

13 *(3) the investment in the development and main-*
14 *tenance of databases, including changes in the num-*
15 *ber and size of databases;*

16 *(4) the availability of information to industries*
17 *and researchers which rely upon such availability;*

18 *(5) whether in the period after enactment of this*
19 *title database producers have faced unfair competi-*
20 *tion, particularly from publishers in the European*
21 *Union; and*

22 *(6) the extent to which extraction of information*
23 *from databases, to a degree insufficient to result in li-*
24 *ability under section 102, is harming database pro-*
25 *ducers' incentive to collect and organize databases.*

1 **SEC. 109. EFFECTIVE DATE.**

2 *This title shall take effect on the date of the enactment*
 3 *of this Act, and shall apply to the sale or distribution after*
 4 *that date of a database that was collected and organized*
 5 *after that date.*

6 **TITLE II—SECURITIES MARKET**
 7 **INFORMATION**

8 **SEC. 201. MISAPPROPRIATION OF REAL-TIME MARKET IN-**
 9 **FORMATION.**

10 *Section 11A of the Securities Exchange Act of 1934*
 11 *(15 U.S.C. 78k-1) is amended by adding at the end the*
 12 *following new subsection:*

13 *“(e) MISAPPROPRIATION OF REAL-TIME MARKET IN-*
 14 *FORMATION.—*

15 *“(1) PROHIBITION AGAINST MISAPPROPRIA-*
 16 *TION.—Subject to paragraphs (3), (4), and (5), any*
 17 *person or entity who—*

18 *“(A) obtains directly or indirectly from a*
 19 *market information processor real-time market*
 20 *information, and*

21 *“(B) directly or indirectly sells, distributes*
 22 *or redistributes, or otherwise disseminates such*
 23 *real-time market information, without the au-*
 24 *thorization of such market information processor,*
 25 *shall be liable to such market information processor*
 26 *for the remedies set forth in paragraph (2).*

1 “(2) *CIVIL REMEDIES.*—

2 “(A) *CIVIL ACTIONS.*—*Any person who is*
3 *injured by a violation of paragraph (1) may*
4 *bring a civil action for such a violation in an*
5 *appropriate United States district court, except*
6 *that any action against a State governmental*
7 *entity may be brought in any court that has ju-*
8 *risdiction over claims against such entity.*

9 “(B) *TEMPORARY AND PERMANENT INJUNC-*
10 *TIONS.*—*To the extent otherwise authorized by*
11 *section 1651 of title 28, United States Code, or*
12 *other law, any court having jurisdiction of a*
13 *civil action under this subsection shall have the*
14 *power to grant temporary and permanent in-*
15 *junctions, according to the principles of equity*
16 *and upon such terms as the court may deem rea-*
17 *sonable, to prevent a violation of paragraph (1).*

18 “(C) *MONETARY RELIEF.*—*When a violation*
19 *of paragraph (1) has been established in any*
20 *civil action arising under this subsection, the*
21 *plaintiff shall be entitled to recover any damages*
22 *sustained by the plaintiff.*

23 “(D) *DISGORGEMENT.*—*When a violation of*
24 *paragraph (1) has been established, if the plain-*
25 *tiff is not able to prove recoverable damages to*

1 *the full extent of the defendant’s monetary gain*
2 *directly attributable to the violation, the court,*
3 *in its equitable discretion, may order the defend-*
4 *ant to disgorge the amount of such monetary*
5 *gain to the plaintiff.*

6 “(3) *PERMITTED ACTS.*—

7 “(A) *GATHERING OR USE OF REAL-TIME*
8 *MARKET INFORMATION INDEPENDENTLY OB-*
9 *TAINED.*—*Nothing in this subsection shall re-*
10 *strict any person or entity from independently*
11 *gathering real-time market information, or from*
12 *selling, distributing or redistributing, or other-*
13 *wise disseminating such independently gathered*
14 *information.*

15 “(B) *NEWS REPORTING.*—*Nothing in this*
16 *subsection shall restrict any news reporting enti-*
17 *ty from extracting real-time market information*
18 *for the sole purpose of news reporting, including*
19 *news gathering, dissemination, and comment,*
20 *unless the extraction is part of a consistent pat-*
21 *tern of competing in the distribution of real-time*
22 *market information with the market information*
23 *processor from which the information was ob-*
24 *tained.*

25 “(4) *RELATIONSHIP TO OTHER LAWS.*—

1 “(A) *PREEMPTION.*—Subject to subpara-
2 graphs (B) through (F), on and after the date of
3 enactment of this subsection, this section—

4 “(i) shall exclusively govern the unau-
5 thorized extraction, sale, distribution or re-
6 distribution, or other dissemination of real-
7 time market information; and

8 “(ii) shall supersede any other Federal
9 or State law (either statutory or common
10 law) to the extent that—

11 “(I) such other Federal or State
12 law establishes rights and remedies
13 with respect to the unauthorized ex-
14 traction, sale, distribution or redis-
15 tribution, or other dissemination of
16 real-time market information that are
17 different from or in addition to the
18 rights and remedies established by this
19 subsection; or

20 “(II) such other Federal or State
21 law is inconsistent with this section.

22 “(B) *FEDERAL SECURITIES LAWS.*—Nothing
23 in this subsection shall—

24 “(i) affect the operation of any other
25 provision of the securities laws (as defined

1 *in section 3(a)(47)), or the rules and regu-*
2 *lations thereunder; or*

3 “(i) *impair or limit the authority of*
4 *the Commission.*

5 “(C) *ANTITRUST.—Nothing in this sub-*
6 *section shall limit in any way the constraints*
7 *that are imposed by Federal and State antitrust*
8 *laws on the manner in which products and serv-*
9 *ices may be provided to the public, including*
10 *those regarding single suppliers of products and*
11 *services.*

12 “(D) *LICENSING.—Nothing in this sub-*
13 *section shall restrict the rights of parties freely*
14 *to enter into licenses or any other contracts with*
15 *respect to the extraction, sale, distribution or re-*
16 *distribution, or other dissemination of real-time*
17 *market information, and to maintain civil ac-*
18 *tions under State law to enforce such licenses or*
19 *contracts.*

20 “(E) *FEDERAL TRADE COMMISSION.—Noth-*
21 *ing in this subsection shall affect—*

22 “(i) *the authority of the Federal Trade*
23 *Commission; or*

1 “(ii) the operation of any of the laws
2 administered by the Federal Trade Commis-
3 sion.

4 “(F) OTHER LAWS.—Nothing in this sub-
5 section shall affect rights, limitations, or rem-
6 edies concerning rights or obligations under laws
7 with respect to patent, trademark, or fraud.

8 “(5) LIMITATIONS ON ACTIONS.—

9 “(A) ADDITIONAL LIMITATION.—No civil ac-
10 tion shall be maintained under this subsection
11 for the extraction, sale, distribution or redis-
12 tribution, or other dissemination of market in-
13 formation that is not real-time market informa-
14 tion.

15 “(B) PERSONS OR ENTITIES SUBJECT TO
16 CONTRACTUAL REMEDIES.—No civil action shall
17 be maintained under this subsection by a market
18 information processor against any person or en-
19 tity to whom such processor provides real-time
20 market information pursuant to a contract or
21 agreement between such processor and such per-
22 son or entity with respect to any real-time mar-
23 ket information or any rights or remedies pro-
24 vided pursuant to such contract or agreement.

25 “(6) DEFINITIONS.—As used in this subsection:

1 “(A) *MARKET INFORMATION*.—*The term*
2 *‘market information’ means information—*

3 “(i) *with respect to quotations and*
4 *transactions in any security; and*

5 “(ii) *the collection, processing, dis-*
6 *tribution, and publication of which is sub-*
7 *ject to this title.*

8 “(B) *REAL-TIME MARKET INFORMATION*.—
9 *Taking into account the present state of tech-*
10 *nology, different types of market data, how mar-*
11 *ket participants use market data, and other rel-*
12 *evant factors, the Commission may, consistent*
13 *with the protection of investors and the public*
14 *interest and with the objectives of this section,*
15 *prescribe by rule the extent to which market in-*
16 *formation shall be considered to be real-time*
17 *market information for purposes of this sub-*
18 *section.*

19 “(C) *MARKET INFORMATION PROCESSOR*.—
20 *The term ‘market information processor’ means*
21 *any exchange, self-regulatory organization, secu-*
22 *rities information processor, or national market*
23 *system plan administrator.”.*

1 **SEC. 202. EFFECTIVE DATE.**

2 (a) *IN GENERAL.*—*The amendment made by section*
3 *201 shall take effect on the date of the enactment of this*
4 *Act, and shall apply to acts committed on or after that date.*

5 (b) *PRIOR ACTS NOT AFFECTED.*—*No person or entity*
6 *shall be liable under section 11A(e) of the Securities Ex-*
7 *change Act of 1934 (15 U.S.C. 78k–1(e)), as added by sec-*
8 *tion 201 of this Act, for the extraction, sale, distribution*
9 *or redistribution, or other dissemination of real-time mar-*
10 *ket information prior to the date of enactment of this Act,*
11 *by that person or by that person’s predecessor in interest.*