To amend the Federal Trade Commission Act to require a time limitation for consent orders, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 2021

Mr. BURGESS introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Federal Trade Commission Act to require a time limitation for consent orders, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Technological Innova-
tion through Modernizing Enforcement Act” or the “TIME Act”.

SEC. 2. TIME LIMITATION FOR CONSENT ORDERS.

(a) Amendment.—Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end the following new subsection:
“(o) Termination Clause Required for Consent Orders.—Any consent order entered into by the Commission shall include a termination clause that the consent order shall expire not later than 8 years after the date on which the consent order is entered into, unless such consent order relates to alleged fraud by the entity subject to the consent order and requires a time limit longer than 8 years based on the factors described in this subsection. In determining the time limit for any termination clause, the Commission shall consider each of the following factors:

“(1) The impact of technological progress on the continuing relevance of the consent order.

“(2) Whether there is reason to believe that the entity would engage in activities that violate this section without the consent order 8 years after the consent order is entered into by the Commission.

“(p) Consent Order Review.—Any consent order entered into by the Commission that is unrelated to alleged fraud by the entity subject to the consent order and has a termination date more than 5 years after such consent order is entered into shall include a clause providing for Commission review of the consent order 5 years after the date on which the order is entered into. Such clause shall require the Commission to evaluate whether the con-
sent order continues to serve its initial purposes based on
the factors described in subsection (o). The clause shall
provide that if, based on such evaluation, the Commission
determines that the consent order no longer serves its pur-
poses, the Commission shall terminate the consent order.

“(q) Petition for Review of Existing Consent
Orders.—Any entity that as of the effective date of this
subsection is subject to a consent order that is unrelated
to alleged fraud and has been effective for a period of at
least five years may petition the Commission to terminate
such consent order. In evaluating a petition to terminate
a consent order under this subsection, the Commission
shall consider whether the consent order continues to serve
its initial purposes based on each of the factors described
in subsection (o). If, based on such evaluation, the Com-
mision determines that the consent order no longer serves
its purposes, the Commission shall terminate the consent
order.”.

(b) Effective Date; Applicability.—The amend-
ment made by subsection (a) shall take effect on the date
of enactment of this Act and with respect to subsections
(o) and (p) of section 5 of the Federal Trade Commission
Act (15 U.S.C. 45), as added by subsection (a), shall apply
with respect to any consent order entered into after such date.