

112TH CONGRESS
1ST SESSION

H. R. 3675

To repeal certain provisions of the Communications Act of 1934, title 17 of the United States Code, and the regulations of the Federal Communications Commission that intervened in the television marketplace, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 15, 2011

Mr. SCALISE introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To repeal certain provisions of the Communications Act of 1934, title 17 of the United States Code, and the regulations of the Federal Communications Commission that intervened in the television marketplace, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Next Generation Tele-
5 vision Marketplace Act”.

1 **SEC. 2. REPEAL OF REGULATORY INTERVENTION IN THE**
2 **TELEVISION MARKETPLACE UNDER THE**
3 **COMMUNICATIONS ACT OF 1934.**

4 (a) IN GENERAL.—The following sections of the
5 Communications Act of 1934 (47 U.S.C. 151 et seq.) are
6 hereby repealed:

7 (1) Section 339 (47 U.S.C. 339).

8 (2) Section 340 (47 U.S.C. 340).

9 (3) Section 341 (47 U.S.C. 341).

10 (4) Section 342 (47 U.S.C. 342).

11 (5) Section 612 (47 U.S.C. 532).

12 (6) Section 614 (47 U.S.C. 534).

13 (7) Section 712 (47 U.S.C. 612).

14 (b) ADDITIONAL REPEAL.—Section 325 of the Com-
15 munications Act of 1934 (47 U.S.C. 325) is amended—

16 (1) by striking subsections (b) and (e); and

17 (2) by redesignating subsections (c) and (d) as
18 subsections (b) and (c), respectively.

19 (c) AMENDMENTS.—

20 (1) SECTION 338.—Section 338 of the Commu-
21 nications Act of 1934 (47 U.S.C. 338) is amended
22 to read as follows:

23 **“SEC. 338. CARRIAGE OF LOCAL TELEVISION SIGNALS BY**
24 **SATELLITE CARRIERS.**

25 **“(a) CARRIAGE OBLIGATIONS.—**

1 “(1) IN GENERAL.—Each satellite carrier pro-
2 viding signals of a qualified noncommercial edu-
3 cational television station in that station’s local mar-
4 ket shall carry upon request the signals of all quali-
5 fied noncommercial educational television stations lo-
6 cated within that local market.

7 “(2) LOW POWER STATION CARRIAGE OP-
8 TIONAL.—No low power television station shall be
9 entitled to insist on carriage under this section, nor
10 shall any such carriage be considered in connection
11 with the requirements of subsection (c).

12 “(3) NONDISCRIMINATION IN CARRIAGE OF
13 HIGH DEFINITION SIGNALS OF NONCOMMERCIAL
14 EDUCATIONAL TELEVISION STATIONS.—

15 “(A) EXISTING CARRIAGE OF HIGH DEFI-
16 NITION SIGNALS.—If, before the date of enact-
17 ment of the Satellite Television Extension and
18 Localism Act of 2010, an eligible satellite car-
19 rier is providing, under section 122 of title 17,
20 United States Code, any secondary trans-
21 missions in high definition format to sub-
22 scribers located within the local market of a tel-
23 evision broadcast station of a primary trans-
24 mission made by that station, then such sat-
25 ellite carrier shall carry the signals in high-defi-

1 nition format of qualified noncommercial edu-
2 cational television stations located within that
3 local market in accordance with the following
4 schedule:

5 “(i) By December 31, 2010, in at
6 least 50 percent of the markets in which
7 such satellite carrier provides such sec-
8 ondary transmissions in high definition
9 format.

10 “(ii) By December 31, 2011, in every
11 market in which such satellite carrier pro-
12 vides such secondary transmissions in high
13 definition format.

14 “(B) NEW INITIATION OF SERVICE.—If, on
15 or after the date of enactment of the Satellite
16 Television Extension and Localism Act of 2010
17 through the day before the date of enactment of
18 the Next Generation Television Marketplace
19 Act, an eligible satellite carrier initiates the pro-
20 vision, under section 122 of title 17, United
21 States Code, of any secondary transmissions in
22 high definition format to subscribers located
23 within the local market of a television broadcast
24 station of a primary transmission made by that
25 station, then such satellite carrier shall carry

1 the signals in high-definition format of all
2 qualified noncommercial educational television
3 stations located within that local market.

4 “(b) GOOD SIGNAL REQUIRED.—A qualified non-
5 commercial educational television station asserting its
6 right to carriage under subsection (a) shall be required
7 to bear the costs associated with delivering a good quality
8 signal to the designated local receive facility of the satellite
9 carrier or to another facility that is acceptable to at least
10 one-half the stations asserting the right to carriage in the
11 local market.

12 “(c) DUPLICATION NOT REQUIRED.—The Commis-
13 sion shall prescribe regulations limiting the carriage re-
14 quirements under subsection (a) of satellite carriers with
15 respect to the carriage of multiple qualified noncommercial
16 educational television stations. To the extent possible,
17 such regulations shall provide the same degree of carriage
18 by satellite carriers of such multiple stations as is provided
19 by cable systems under section 615.

20 “(d) CHANNEL POSITIONING.—No satellite carrier
21 shall be required to provide the signal of a qualified non-
22 commercial educational television station to subscribers in
23 that station’s local market on any particular channel num-
24 ber or to provide the signals in any particular order, ex-
25 cept that the satellite carrier shall retransmit the signal

1 of the qualified noncommercial educational television sta-
2 tion to subscribers in the stations' local market on chan-
3 nels reasonably contiguous with other television broadcast
4 channels and provide access to such station's signals at
5 a nondiscriminatory price and in a nondiscriminatory
6 manner on any navigational device, on-screen program
7 guide, or menu.

8 “(e) COMPENSATION FOR CARRIAGE.—A satellite
9 carrier shall not accept or request monetary payment or
10 other valuable consideration in exchange either for car-
11 riage of qualified noncommercial educational television
12 stations in fulfillment of the requirements of this section
13 or for channel positioning rights provided to such stations
14 under this section, except that any such station may be
15 required to bear the costs associated with delivering a good
16 quality signal to the local receive facility of the satellite
17 carrier.

18 “(f) REMEDIES.—

19 “(1) COMPLAINTS BY BROADCAST STATIONS.—
20 Whenever a qualified noncommercial educational tel-
21 evision station believes that a satellite carrier has
22 failed to meet its obligations under subsections (b)
23 through (e), such station shall notify the carrier, in
24 writing, of the alleged failure and identify its rea-
25 sons for believing that the satellite carrier failed to

1 comply with such obligations. The satellite carrier
2 shall, within 30 days after such written notification,
3 respond in writing to such notification and comply
4 with such obligations or state its reasons for believ-
5 ing that it is in compliance with such obligations. A
6 qualified noncommercial educational television sta-
7 tion that disputes a response by a satellite carrier
8 that it is in compliance with such obligations may
9 obtain review of such denial or response by filing a
10 complaint with the Commission. Such complaint
11 shall allege the manner in which such satellite car-
12 rier has failed to meet its obligations and the basis
13 for such allegations.

14 “(2) OPPORTUNITY TO RESPOND.—The Com-
15 mission shall afford the satellite carrier against
16 which a complaint is filed under paragraph (1) an
17 opportunity to present data and arguments to estab-
18 lish that there has been no failure to meet its obliga-
19 tions under this section.

20 “(3) REMEDIAL ACTIONS; DISMISSAL.—Within
21 120 days after the date a complaint is filed under
22 paragraph (1), the Commission shall determine
23 whether the satellite carrier has met its obligations
24 under subsections (b) through (e). If the Commis-
25 sion determines that the satellite carrier has failed

1 to meet such obligations, the Commission shall order
2 the satellite carrier to take appropriate remedial ac-
3 tion. If the Commission determines that the satellite
4 carrier has fully met the requirements of such sub-
5 sections, the Commission shall dismiss the com-
6 plaint.

7 “(g) PRIVACY RIGHTS OF SATELLITE SUB-
8 SCRIBERS.—

9 “(1) NOTICE.—At the time of entering into an
10 agreement to provide any satellite service or other
11 service to a subscriber and at least once a year
12 thereafter, a satellite carrier shall provide notice in
13 the form of a separate, written statement to such
14 subscriber that clearly and conspicuously informs
15 the subscriber of—

16 “(A) the nature of personally identifiable
17 information collected or to be collected with re-
18 spect to the subscriber and the nature of the
19 use of such information;

20 “(B) the nature, frequency, and purpose of
21 any disclosure which may be made of such in-
22 formation, including an identification of the
23 types of persons to whom the disclosure may be
24 made;

1 “(C) the period during which such infor-
2 mation will be maintained by the satellite car-
3 rier;

4 “(D) the times and place at which the sub-
5 scriber may have access to such information in
6 accordance with paragraph (5); and

7 “(E) the limitations provided by this sub-
8 section with respect to the collection and disclo-
9 sure of information by a satellite carrier and
10 the right of the subscriber under paragraphs
11 (7) and (9) to enforce such limitations.

12 In the case of subscribers who have entered into
13 such an agreement before February 6, 2005, such
14 notice shall be provided within 180 days of such date
15 and at least once a year thereafter.

16 “(2) DEFINITIONS.—For purposes of this sub-
17 section, other than paragraph (9)—

18 “(A) the term ‘personally identifiable infor-
19 mation’ does not include any record of aggre-
20 gate data which does not identify particular
21 persons;

22 “(B) the term ‘other service’ includes any
23 wire or radio communications service provided
24 using any of the facilities of a satellite carrier

1 that are used in the provision of satellite serv-
2 ice; and

3 “(C) the term ‘satellite carrier’ includes, in
4 addition to persons within the definition of sat-
5 ellite carrier, any person who—

6 “(i) is owned or controlled by, or
7 under common ownership or control with,
8 a satellite carrier; and

9 “(ii) provides any wire or radio com-
10 munications service.

11 “(3) PROHIBITIONS.—

12 “(A) CONSENT TO COLLECTION.—Except
13 as provided in subparagraph (B), a satellite
14 carrier shall not use any facilities used by the
15 satellite carrier to collect personally identifiable
16 information concerning any subscriber without
17 the prior written or electronic consent of the
18 subscriber concerned.

19 “(B) EXCEPTIONS.—A satellite carrier
20 may use such facilities to collect such informa-
21 tion in order to—

22 “(i) obtain information necessary to
23 render a satellite service or other service
24 provided by the satellite carrier to the sub-
25 scriber; or

1 “(ii) detect unauthorized reception of
2 satellite communications.

3 “(4) DISCLOSURE.—

4 “(A) CONSENT TO DISCLOSURE.—Except
5 as provided in subparagraph (B), a satellite
6 carrier shall not disclose personally identifiable
7 information concerning any subscriber without
8 the prior written or electronic consent of the
9 subscriber concerned and shall take such ac-
10 tions as are necessary to prevent unauthorized
11 access to such information by a person other
12 than the subscriber or satellite carrier.

13 “(B) EXCEPTIONS.—A satellite carrier
14 may disclose such information if the disclosure
15 is—

16 “(i) necessary to render, or conduct a
17 legitimate business activity related to, a
18 satellite service or other service provided
19 by the satellite carrier to the subscriber;

20 “(ii) subject to paragraph (9), made
21 pursuant to a court order authorizing such
22 disclosure, if the subscriber is notified of
23 such order by the person to whom the
24 order is directed;

1 “(iii) a disclosure of the names and
2 addresses of subscribers to any satellite
3 service or other service, if—

4 “(I) the satellite carrier has pro-
5 vided the subscriber the opportunity
6 to prohibit or limit such disclosure;
7 and

8 “(II) the disclosure does not re-
9 veal, directly or indirectly, the—

10 “(aa) extent of any viewing
11 or other use by the subscriber of
12 a satellite service or other service
13 provided by the satellite carrier;
14 or

15 “(bb) the nature of any
16 transaction made by the sub-
17 scriber over any facilities used by
18 the satellite carrier; or

19 “(iv) to a government entity as au-
20 thorized under chapter 119, 121, or 206 of
21 title 18, United States Code, except that
22 such disclosure shall not include records
23 revealing satellite subscriber selection of
24 video programming from a satellite carrier.

1 “(5) ACCESS BY SUBSCRIBER.—A satellite sub-
2 scriber shall be provided access to all personally
3 identifiable information regarding that subscriber
4 which is collected and maintained by a satellite car-
5 rier. Such information shall be made available to the
6 subscriber at reasonable times and at a convenient
7 place designated by such satellite carrier. A satellite
8 subscriber shall be provided reasonable opportunity
9 to correct any error in such information.

10 “(6) DESTRUCTION OF INFORMATION.—A sat-
11 ellite carrier shall destroy personally identifiable in-
12 formation if the information is no longer necessary
13 for the purpose for which it was collected and there
14 are no pending requests or orders for access to such
15 information under paragraph (5) or pursuant to a
16 court order.

17 “(7) PENALTIES.—Any person aggrieved by
18 any act of a satellite carrier in violation of this sub-
19 section may bring a civil action in a United States
20 district court. The court may award—

21 “(A) actual damages but not less than liq-
22 uidated damages computed at the rate of \$100
23 a day for each day of violation or \$1,000,
24 whichever is higher;

25 “(B) punitive damages; and

1 “(C) reasonable attorneys’ fees and other
2 litigation costs reasonably incurred.

3 The remedy provided by this subsection shall be in
4 addition to any other lawful remedy available to a
5 satellite subscriber.

6 “(8) RULE OF CONSTRUCTION.—Nothing in
7 this subsection shall be construed to prohibit any
8 State from enacting or enforcing laws consistent
9 with this subsection for the protection of subscriber
10 privacy.

11 “(9) COURT ORDERS.—Except as provided in
12 paragraph (4)(B)(iv), a governmental entity may ob-
13 tain personally identifiable information concerning a
14 satellite subscriber pursuant to a court order only if,
15 in the court proceeding relevant to such court
16 order—

17 “(A) such entity offers clear and con-
18 vincing evidence that the subject of the infor-
19 mation is reasonably suspected of engaging in
20 criminal activity and that the information
21 sought would be material evidence in the case;
22 and

23 “(B) the subject of the information is af-
24 forded the opportunity to appear and contest
25 such entity’s claim.

1 “(h) REGULATIONS BY COMMISSION.—The regula-
2 tions prescribed under this section shall include require-
3 ments on satellite carriers that are comparable to the re-
4 quirements on cable operators under section 615(g)(1)
5 and (2).

6 “(i) DEFINITIONS.—As used in this section:

7 “(1) DISTRIBUTOR.—The term ‘distributor’
8 means an entity that contracts to distribute sec-
9 ondary transmissions from a satellite carrier and, ei-
10 ther as a single channel or in a package with other
11 programming, provides the secondary transmission
12 either directly to individual subscribers or indirectly
13 through other program distribution entities.

14 “(2) LOCAL RECEIVE FACILITY.—The term
15 ‘local receive facility’ means the reception point in
16 each local market which a satellite carrier designates
17 for delivery of the signal of the station for purposes
18 of retransmission.

19 “(3) LOCAL MARKET.—

20 “(A) IN GENERAL.—The term ‘local mar-
21 ket’, in the case of a qualified noncommercial
22 educational television station, means the des-
23 ignated market area in which a station is lo-
24 cated and includes any station that is licensed

1 to a community within the same designated
2 market area as such station.

3 “(B) COUNTY OF LICENSE.—In addition to
4 the area described in subparagraph (A), a sta-
5 tion’s local market includes the county in which
6 the station’s community of license is located.

7 “(C) DESIGNATED MARKET AREA.—For
8 purposes of subparagraph (A), the term ‘des-
9 ignated market area’ means a designated mar-
10 ket area, as determined by Nielsen Media Re-
11 search and published in the 1999–2000 Nielsen
12 Station Index Directory and Nielsen Station
13 Index United States Television Household Esti-
14 mates or any successor publication.

15 “(D) CERTAIN AREAS OUTSIDE OF ANY
16 DESIGNATED MARKET AREA.—Any census area,
17 borough, or other area in the State of Alaska
18 that is outside of a designated market area, as
19 determined by Nielsen Media Research, shall be
20 deemed to be part of one of the local markets
21 in the State of Alaska. A satellite carrier may
22 determine which local market in the State of
23 Alaska will be deemed to be the relevant local
24 market in connection with each subscriber in
25 such census area, borough, or other area.

1 “(4) LOW POWER TELEVISION STATION.—The
2 term ‘low power television station’ means a low
3 power television station as defined under section
4 74.701(f) of title 47, Code of Federal Regulations,
5 as in effect on June 1, 2004. For purposes of this
6 paragraph, the term ‘low power television station’ in-
7 cludes a low power television station that has been
8 accorded primary status as a Class A television li-
9 censee under section 73.6001(a) of title 47, Code of
10 Federal Regulations.

11 “(5) QUALIFIED NONCOMMERCIAL EDU-
12 CATIONAL TELEVISION STATION.—The term ‘quali-
13 fied noncommercial educational television station’
14 has the meaning given such term in section 615.

15 “(6) SATELLITE CARRIER.—The term ‘satellite
16 carrier’ means an entity that uses the facilities of a
17 satellite or satellite service licensed by the Commis-
18 sion and operates in the Fixed-Satellite Service
19 under part 25 of title 47, Code of Federal Regula-
20 tions, or the Direct Broadcast Satellite Service
21 under part 100 of title 47, Code of Federal Regula-
22 tions, to establish and operate a channel of commu-
23 nications for point-to-multipoint distribution of tele-
24 vision station signals, and that owns or leases a ca-
25 pacity or service on a satellite in order to provide

1 such point-to-multipoint distribution, except to the
2 extent that such entity provides such distribution
3 pursuant to tariff under this Act, other than for pri-
4 vate home viewing pursuant to this section.

5 “(7) SUBSCRIBER.—The term ‘subscriber’
6 means a person or entity that receives a secondary
7 transmission service from a satellite carrier and pays
8 a fee for the service, directly or indirectly, to the sat-
9 ellite carrier or to a distributor.

10 “(8) TELEVISION BROADCAST STATION.—The
11 term ‘television broadcast station’ means an over-
12 the-air commercial or noncommercial television
13 broadcast station licensed by the Commission under
14 subpart E of part 73 of title 47, Code of Federal
15 Regulations, except that such term does not include
16 a low-power or translator television station.”.

17 (2) SECTION 623.—Section 623 of the Commu-
18 nications Act of 1934 (47 U.S.C. 543) is amended
19 to read as follows:

20 **“SEC. 623. REGULATION OF RATES AND BROADCAST SIG-**
21 **NAL CARRIAGE.**

22 “No Federal agency, State, or franchising authority
23 may regulate—

24 “(1) the rates for the provision of the service of
25 a multichannel video programming distributor; or

1 “(2) the retransmission of television broadcast
2 signals by a multichannel video programming dis-
3 tributor except in accordance with the requirements
4 of sections 338 and 615 related to qualified non-
5 commercial educational television stations.”.

6 (d) CONFORMING AMENDMENTS.—

7 (1) SECTION 336.—Section 336(b)(3) of the
8 Communications Act of 1934 (47 U.S.C. 336(b)(3))
9 is amended by striking “614 or”.

10 (2) SECTION 613.—Section 613 of the Commu-
11 nications Act of 1934 (47 U.S.C. 533) is amended
12 by striking subsection (a).

13 (3) SECTION 615.—Section 615 of the Commu-
14 nications Act of 1934 (47 U.S.C. 535) is amended—

15 (A) in subsection (a) by striking “In addi-
16 tion to the carriage requirements set forth in
17 section 614, each” and inserting “Each”;

18 (B) by striking subsection (f); and

19 (C) in subsection (l), by striking paragraph
20 (1) and inserting the following:

21 “(1) QUALIFIED NONCOMMERCIAL EDU-
22 CATIONAL TELEVISION STATION.—

23 “(A) IN GENERAL.—The term qualified
24 noncommercial educational television station

1 means any full-power television broadcast sta-
2 tion which—

3 “(i) under the rules and regulations of
4 the Commission in effect on March 29,
5 1990, is licensed by the Commission as a
6 noncommercial educational television
7 broadcast station and is owned and oper-
8 ated by a public agency, nonprofit founda-
9 tion, nonprofit corporation, or nonprofit
10 association; or

11 “(ii) is owned and operated by a mu-
12 nicipality and transmits predominantly
13 noncommercial programs for educational
14 purposes.

15 “(B) INCLUSIONS.—Such term includes—

16 “(i) the translator of any noncommer-
17 cial educational television station with five
18 watts or higher power serving the franchise
19 area;

20 “(ii) a full-service station or trans-
21 lator if such station or translator is li-
22 censed to a channel reserved for non-
23 commercial educational use pursuant to
24 section 73.606 of title 47, Code of Federal

1 Regulations, or any successor regulations
2 thereto; and

3 “(iii) such stations and translators op-
4 erating on channels not so reserved as the
5 Commission determines are qualified as
6 noncommercial educational stations.”.

7 (4) SECTION 621.—Section 621(b)(3)(D) of the
8 Communications Act of 1934 (47 U.S.C.
9 541(b)(3)(D)) is amended by striking “sections 611
10 and 612” and inserting “section 611”.

11 (5) SECTION 622.—Section 622(e) of the Com-
12 munications Act of 1934 (47 U.S.C. 542(e)) is
13 amended by striking “pursuant to section 623”.

14 (6) SECTION 625.—Section 625(d) of the Com-
15 munications Act of 1934 (47 U.S.C. 545(d)) is
16 amended by striking “ under section 623”.

17 (7) SECTION 632.—Section 632(e) of the Com-
18 munications Act of 1934 (47 U.S.C. 552(e)) is
19 amended by striking “section 623(b)(6) or”.

20 (8) SECTION 635.—Section 635(e) of the Com-
21 munications Act of 1934 (47 U.S.C. 555(e)) is
22 amended by striking “614 or” each place it appears.

23 (9) SECTION 638.—Section 638 of the Commu-
24 nications Act of 1934 (47 U.S.C. 558) is amended

1 by striking “or on any other channel obtained under
2 section 612 or under similar arrangements”.

3 (10) SECTION 653.—Section 653 of the Commu-
4 nications Act of 1934 (47 U.S.C. 573(e)(1)) is
5 amended—

6 (A) in subsection (b)(1)(D) by striking
7 “(47 C.F.R. 76.67), network nonduplication
8 (47 C.F.R. 76.92 et seq.), and syndicated exclu-
9 sivity (47 C.F.R. 76.151 et seq.)”; and

10 (B) in subsection (c)(1)—

11 (i) in subparagraph (A) by striking
12 “623(f),”;

13 (ii) in subparagraph (B)—

14 (I) by striking “, 614,”; and

15 (II) by striking “, and section
16 325 of title III,”; and

17 (iii) in subparagraph (C)—

18 (I) by striking “sections 612 and
19 617” and inserting “section 617”;

20 and

21 (II) by striking “623(f),”.

1 **SEC. 3. REPEAL OF REGULATORY INTERVENTION IN THE**
2 **TELEVISION MARKETPLACE UNDER THE**
3 **COPYRIGHT ACT.**

4 (a) IN GENERAL.—The following sections of chapter
5 1 of title 17, United States Code, are hereby repealed:

6 (1) Section 119.

7 (2) Section 122.

8 (b) AMENDMENT.—Section 111 of title 17, United
9 States Code, is amended—

10 (1) in subsection (a)—

11 (A) in paragraph (1)—

12 (i) by striking “local service area of
13 such station” and inserting “designated
14 market area (as defined in section
15 501(f)(2))”; and

16 (ii) by striking “or” after the semi-
17 colon;

18 (B) in paragraph (2) by striking “or” after
19 the semicolon; and

20 (C) by amending paragraph (4) to read as
21 follows:

22 “(4) the secondary transmission—

23 “(A) is made by—

24 “(i) a cable system in accordance with
25 section 615 of the Communications Act of
26 1934; or

1 “(ii) a satellite carrier in accordance
2 with section 338 of the Communications
3 Act of 1934; and

4 “(B) is consistent with the rules, regula-
5 tions, and authorizations of the Federal Com-
6 munications Commission; or”;

7 (2) in subsection (b) by striking “subsections
8 (a) and (c)” and inserting “subsection (a)”;

9 (3) by striking subsections (c), (d), and (e);

10 (4) by redesignating subsection (f) as sub-
11 section (c); and

12 (5) in subsection (c), as so redesignated—

13 (A) in paragraph (3), by striking the sec-
14 ond sentence;

15 (B) by striking paragraphs (4) through
16 (13); and

17 (C) by adding at the end the following new
18 paragraph:

19 “(4) SATELLITE CARRIER.—The term ‘satellite
20 carrier’ means an entity that uses the facilities of a
21 satellite or satellite service licensed by the Federal
22 Communications Commission and operates in the
23 Fixed-Satellite Service under part 25 of title 47,
24 Code of Federal Regulations, or the Direct Broad-
25 cast Satellite Service under part 100 of title 47,

1 Code of Federal Regulations, to establish and oper-
2 ate a channel of communications for point-to-
3 multipoint distribution of television station signals,
4 and that owns or leases a capacity or service on a
5 satellite in order to provide such point-to-multipoint
6 distribution, except to the extent that such entity
7 provides such distribution pursuant to tariff under
8 the Communications Act of 1934, other than for pri-
9 vate home viewing pursuant to this section.”.

10 (c) CONFORMING AMENDMENTS.—Title 17, United
11 States Code, is amended—

12 (1) in chapter 1, by amending the table of con-
13 tents of such chapter—

14 (A) by striking the item relating to section
15 119; and

16 (B) by striking the item relating to section
17 122;

18 (2) in section 106, by striking “122” and in-
19 serting “121”;

20 (3) in section 110(8), by striking “section
21 111(f)” and inserting “section 111(c)”;

22 (4) in section 114(d)(1)(B)(iii), by striking
23 “section 111(f)” and inserting “section 111(c)”;

1 (5) in chapter 5, by amending the table of con-
2 tents of such chapter by striking the item relating
3 to section 510;

4 (6) in section 501—

5 (A) in subsection (a), by striking “122”
6 and inserting “121”;

7 (B) by striking subsections (c), (d), and
8 (e); and

9 (C) by amending subsection (f) to read as
10 follows:

11 “(f)(1) With respect to any secondary transmission
12 that is made by a cable system or by a satellite carrier
13 of a performance or display of a work embodied in a pri-
14 mary transmission and is actionable as an act of infringe-
15 ment under section 111, a television broadcast station
16 holding a copyright or other license to transmit or perform
17 the same version of that work shall, for purposes of sub-
18 section (b), be treated as a legal or beneficial owner if such
19 secondary transmission occurs within the designated mar-
20 ket area of that station.

21 “(2) For purposes of this subsection, the term ‘des-
22 ignated market area’ means a designated market area, as
23 determined by Nielsen Media Research and published in
24 the 1999–2000 Nielsen Station Index Directory and

1 Nielsen Station Index United States Television Household
2 Estimates or any successor publication.”.

3 (7) by striking section 510;

4 (8) in section 511(a), by striking “122” and in-
5 serting “121”;

6 (9) in section 708(a)—

7 (A) by striking paragraphs (10) and (11);

8 and

9 (B) by striking “Fees established under
10 paragraphs (10) and (11) shall be reasonable
11 and may not exceed one-half of the cost nec-
12 essary to cover reasonable expenses incurred by
13 the Copyright Office for the collection and ad-
14 ministration of the statements of account and
15 any royalty fees deposited with such state-
16 ments.”;

17 (10) in section 801—

18 (A) in subsection (b)—

19 (i) in paragraph (1) by striking
20 “119,”;

21 (ii) by striking paragraph (2);

22 (iii) by redesignating paragraphs (3),
23 (4), (5), (6), (7), and (8) as paragraphs
24 (2), (3), (4), (5), (6), and (7), respectively;

25 and

1 (iv) in paragraph (2), as so redesignated—
2

3 (I) in subparagraph (B), by
4 striking “, as the case may be”; and

5 (II) in subparagraph (C), by
6 striking “section 804(b)(8)” and inserting
7 “section 804(b)(7)”;

8 (B) by striking “sections 111, 119, and”
9 each place such term appears and inserting
10 “section”; and

11 (C) by striking “111, 119, or” each place
12 such term appears;

13 (11) in section 803—

14 (A) in subsection (b)(1)(A)(i)—

15 (i) by striking “111,”;

16 (ii) by striking “119,”; and

17 (iii) in subclause (V), by striking “,
18 except that the publication of notice re-
19 quirement shall not apply in the case of
20 proceedings under section 111 that are
21 scheduled to commence in 2005”;

22 (B) in subsection (d)(2)(C)(i)—

23 (i) by striking “111,”; and

24 (ii) by striking “119,”; and

25 (C) in subsection (e)(2)—

- 1 (i) by striking “111,”; and
2 (ii) by striking “119,”; and
3 (12) in section 804—
4 (A) in subsection (a)—
5 (i) by striking “paragraphs (1) and
6 (2)” and inserting “paragraph (1)”;
7 (ii) by striking “111,”; and
8 (iii) by striking “119,”; and
9 (B) in subsection (b)—
10 (i) by striking paragraph (1);
11 (ii) by redesignating paragraphs (2),
12 (3), (4), (5), (6), (7), and (8) as para-
13 graphs (1), (2), (3), (4), (5), (6), and (7),
14 respectively; and
15 (iii) in paragraph (7), as so redesign-
16 nated—
17 (I) by striking “section
18 801(b)(2)” and inserting “section
19 801(b)(1)”; and
20 (II) by striking “111, 119, or”.

21 **SEC. 4. REPEAL OF COMMISSION’S RULES RELATED TO**
22 **REGULATORY INTERVENTION.**

23 The Federal Communications Commission shall take
24 all actions necessary to—

1 (1) repeal section 73.658 of the Commission's
2 rules (47 CFR 73.658);

3 (2) repeal subpart D of part 76 of the Commis-
4 sion's rules;

5 (3) repeal subpart F of part 76 of the Commis-
6 sion's rules; and

7 (4) modify the broadcast ownership limitations
8 set forth in section 73.3555 of the Commission's
9 rules (47 CFR 73.3555) by eliminating—

10 (A) the restrictions on the number of
11 broadcast television stations that a person or
12 entity may directly or indirectly own, operate,
13 or control in the same designated market area
14 (as such term is defined under section 501(f)(2)
15 of title 17, United States Code), as described in
16 subsection (b) of such section 73.3555;

17 (B) the radio-television cross-ownership
18 rule, as described in subsection (c) of such sec-
19 tion 73.3555; and

20 (C) the limitations on the direct or indirect
21 ownership, operation, or control of a broadcast
22 television station by a person or entity that di-
23 rectly or indirectly owns, operates, or controls a
24 daily newspaper, as that term was defined in
25 note 6 to section 73.3555 of the Commission's

1 rules (47 CFR 73.3555) in effect on October 1,
2 2011, as described in subsection (d) of such
3 section 73.3555.

4 **SEC. 5. EFFECTIVE DATE.**

5 Except as provided in section 6, this Act, and the
6 amendments made by this Act, shall take effect on July
7 1, 2014.

8 **SEC. 6. TRANSITIONAL PROVISIONS.**

9 (a) CONGRESSIONAL FINDING.—The Congress finds
10 and declares the enactment of this Act will change laws
11 that have provided the basis for certain contracts, under-
12 standings, and arrangements related to retransmission
13 consent and the distribution of video programming entered
14 into prior to the enactment of this Act and that, accord-
15 ingly, certain transitional measures are necessary to pre-
16 serve an orderly marketplace for the provision of video
17 programming to consumers.

18 (b) RETRANSMISSION CONSENT.—

19 (1) NO NEW CONTRACTS.—No contract, under-
20 standing, or arrangement for retransmission consent
21 shall be entered into pursuant to section 325(b) of
22 the Communications Act of 1934 after the date of
23 enactment of this Act.

24 (2) EXTENSION OF PRIOR CONTRACTS.—Any
25 contract, understanding, or arrangement for retrans-

1 mission consent entered into pursuant to such sec-
2 tion prior to the date of enactment of this Act that
3 by its terms expires prior to July 1, 2014, shall be
4 deemed extended through July 1, 2014, based on the
5 terms of said agreement in effect on the day before
6 its scheduled expiration date.

7 (3) EXPIRATION OF PRIOR CONTRACTS.—No
8 contract, understanding, or arrangement for retrans-
9 mission consent entered into pursuant to such sec-
10 tion prior to the date of enactment of this Act shall
11 be enforceable by any person or entity after July 1,
12 2014.

13 (4) APPLICABILITY.—All references to section
14 325(b) of the Communications Act of 1934 in this
15 subsection refer to such subsection as in effect on
16 the day before the date of enactment of this Act.

17 (c) RESTRICTIVE AGREEMENTS.—

18 (1) ENFORCEMENT OF PRIOR RESTRICTIVE
19 CONTRACTS.—After July 1, 2014, no person or enti-
20 ty may enforce the provisions of any contract, un-
21 derstanding, or arrangement entered into prior to
22 the date of enactment of this Act that prevents a
23 multichannel video programming distributor from
24 obtaining the rights under title 17, United States
25 Code, to engage in the secondary transmission of a

1 performance or display of any or all of the works
2 embodied in a primary transmission made by a
3 broadcast television station licensed by the Federal
4 Communications Commission.

5 (2) TEMPORARY MORATORIUM ON NEW RE-
6 STRICTIVE CONTRACTS.—

7 (A) IN GENERAL.—No person or entity
8 may enter into any contract, understanding, or
9 arrangement after the date of enactment of this
10 Act that prevents a multichannel video pro-
11 gramming distributor from obtaining the rights
12 under title 17, United States Code, to engage
13 in the secondary transmission of a performance
14 or display of any or all of the works embodied
15 in a primary transmission made by a broadcast
16 television station licensed by the Federal Com-
17 munications Commission.

18 (B) APPLICABILITY.—The prohibition con-
19 tained in subparagraph (A) shall not apply
20 after July 1, 2016, unless the Federal Commu-
21 nications Commission finds, in a proceeding
22 conducted during the final year of such prohibi-
23 tion, that such prohibition continues to be nec-
24 essary to preserve and protect competition and

1 diversity in the distribution of video program-
2 ming.

3 (d) CONTINUED COLLECTION AND DISTRIBUTION OF
4 PREVIOUSLY DUE ROYALTIES.—Notwithstanding section
5 5, the collection and distribution of royalties due for sec-
6 ondary transmissions made pursuant to sections 111 and
7 119 of title 17, United States Code, prior to July 1, 2014,
8 shall continue to be governed by such title and the rules
9 of the Register of Copyrights and Copyright Royalty
10 Judges as in effect prior to the date of enactment of this
11 Act until such time as the Register certifies that all royal-
12 ties collected pursuant to such provisions have been dis-
13 tributed.

○