II

117TH CONGRESS
1ST SESSION

S. 2220

To amend the Communications Act of 1934 to clarify the obligations of licensees under section 331 of that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 24, 2021

Mr. MENENDEZ (for himself and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To amend the Communications Act of 1934 to clarify the obligations of licensees under section 331 of that Act, 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 "Section 331 Obligation Clarification Act".

SEC. 2. LICENSEE REQUIREMENTS.

(a) IN GENERAL.—Section 331 of the Communications Act of 1934 (47 U.S.C. 331) is amended by striking subsection (a) and inserting the following:

"(a) TELEVISION STATIONS IN UNDERSERVED STATES.—

"(1) CHANNEL ALLOCATION.—

"(A) COMMISSION POLICY.—It shall be the policy of the Commission to allocate channels for commercial television broadcasting in a manner which ensures that not less than 1 very high frequency channel and not less than 1 ultra high frequency channel shall be allocated to each State, if technically feasible.

"(B) REALLOCATION OF VERY HIGH FREQUENCY CHANNELS AND ULTRA HIGH FREQUENCY CHANNELS.—In any case in which a licensee of a very high frequency commercial television broadcast station or an ultra high frequency commercial television broadcast station notifies the Commission to the effect that such licensee will agree to the reallocation of its channel to a community within a State in which, at the time of such notification, there is allocated no very high frequency commercial television broadcast channel or ultra high frequency commercial television broadcast channel, as applicable, the Commission shall, notwithstanding any other provision of law, order such reallocation and issue a license to such licensee for that purpose under section 307.

"(2) LICENSEE REQUIREMENTS.—A licensee of a commercial television broadcast station that receives a license under section 307 based on the notification provided under paragraph (1)(B) (or, with respect to a license received before the date of enactment of the Section 331 Obligation Clarification Act, based on the notification provided under the second sentence of this subsection, as in effect before that date of enactment), or to which any such license is transferred, shall—

"(A) broadcast on the channel of the licensee not fewer than 14 hours of common local programming per week, not fewer than 7 hours of which shall be broadcast between the hours of 6:00 p.m. and midnight;

"(B) include as part of the common local programming broadcast under subparagraph (A) a substantial amount of particularized local content;

"(C) maintain a broadcast studio in the station's community of license for each license so received or transferred;

"(D) file with the Commission a regular disclosure of all programming broadcast under subparagraph (A) during the period covered by the disclosure, which—

"(i) shall include a detailed explanation of how that programming satisfies the requirements of that subparagraph; and

"(ii) the Commission shall make publicly available; and

"(E) when developing the programming described in subparagraph (A), including the particularized local content required under subparagraph (B), take steps to determine the programming needs of the community to which the channel is allocated, which may include consulting with community leaders and members of the general public in that community.

"(3) EFFECT OF CHANGES TO ULTRA HIGH FREQUENCY STATION.—If the station of a licensee described in paragraph (2) changes from a very high frequency commercial television broadcast station to an ultra high frequency commercial television broadcast station—

"(A) the licensee shall ensure that the change does not affect any special service obligation imposed on the licensee—

"(i)(I) with respect to a licensee that receives the license before the date of enactment of the Section 331 Obligation Clarification Act, pursuant to the terms of that license; or

"(II) with respect to a licensee that receives the license on or after the date of enactment of the Section 331 Obligation Clarification Act, because of the fact that the licensee received the license pursuant to paragraph (1)(B); and

"(ii) without regard to whether the Commission imposed the obligation—

"(I) by rule or order; or

"(II) as part of the grant or renewal of the license; and

"(B) the Commission may not directly or indirectly reduce or eliminate the special service obligation described in subparagraph (A) because of that change.

"(4) DEFINITION.—In this subsection, the term 'particularized local content' means programming—

"(A) aired on a commercial television broadcast channel by a licensee described in paragraph (2); and

"(B) that—

"(i) has specific, articulable, and particularized appeal for the community to which the channel described in subparagraph (A) is allocated (as described in paragraph (2)) that is separate and distinct from the general national or general local television market appeal;

"(ii) includes news or public affairs information about the State, or the region of the State, in which the community described in clause (i) is located; and

"(iii) is responsive to the unique concerns of the community described in clause (i) as part of a State that lacks a television market that is centered in that State.".

(b) RULEMAKING; GAO REPORT.—

(1) DEFINITIONS.—In this subsection—

(A) the term "Commission" means the Federal Communications Commission; and

(B) the term "section 331" means section 331 of the Communications Act of 1934 (47 U.S.C. 331), as amended by subsection (a).

(2) RULES.—Not later than 1 year after the date of enactment of this Act, the Commission shall issue final rules to implement the amendments made by subsection (a).

(3) REQUIREMENTS.—The rules required under paragraph (2) shall—

(A) contain specific procedures and requirements for how an individual who lives in a community to which a commercial television broadcast channel is reallocated in accordance with subsection (a)(1)(B) of section 331 can challenge whether the licensee with respect to that channel has satisfied the requirements of the licensee under section 331, particularly when that licensee seeks to renew the license with respect to that channel;

(B) include guidance regarding what type of evidence the Commission shall accept and review in determining whether a licensee described in subparagraph (A) is satisfying the requirements of the licensee under section 331; and

(C) ensure that the procedure by which an individual described in subparagraph (A) can participate in the review by the Commission of a licensee described in that subparagraph—

(i) is simple and straightforward; and

(ii) includes holding community forums as necessary.

(4) GAO REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date on which the rules issued under paragraph (2) take effect, the Comptroller General of the United States shall submit to Congress a report that examines the process by which the Commission renews broadcast television licenses to determine if that process adequately meets the obligations of the Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.), particularly how that process relates to television broadcast stations that have specific statutory or license obligations to serve the needs of the communities in which the stations are located (and the needs of individuals in those communities), including stations licensed under section 331.

(B) CONTENTS.—In performing the examination required under subparagraph (A), the Comptroller General of the United States shall examine the following issues:

(i) The extent to which the renewal process described in that subparagraph examines the needs of the community that a broadcast station is required to serve.

(ii) The extent to which the Commission considers and weighs any evidence presented demonstrating that a broadcast station has failed to meet any applicable legal obligation.

(iii) Whether the Commission has clarified the types of evidence that a concerned local citizen is required to offer for the Commission to refuse to renew a license of a broadcast station under section 309(k)(1) of the Communications Act of 1934 (47 U.S.C. 309(k)(1)) or section 331, as applicable, based on the inability or refusal of the broadcast station to serve the local community with respect to the station consistent with the obligations of the licensee.

(iv) Whether the Commission has clarified the types of evidence that a broadcast station is required to present to establish that the station is meeting the obligations of the station under the license granted to the station.

(v) Whether the Commission has clarified the circumstances under which the Commission will examine in detail the evidence presented by a broadcast station to confirm that the station is in compliance with section 309(k)(1) of the Communications Act of 1934 (47 U.S.C. 309(k)(1)) and section 331, as applicable.

(vi) Whether the Commission has made clear the circumstances under which the Commission will revoke the license of a station operating under special obligations under section 331.

(vii) What, if any, enforcement actions or other investigations the Commission has undertaken to ensure that broadcast stations satisfy the requirement under section 309(k)(1) of the Communications Act of

1934 (47 U.S.C. 309(k)(1)) to serve the public interest.

(viii) The impact that the elimination of what is commonly referred to as the "Main Studio Rule" could have on the special obligations under section 331.

(ix) Whether the Commission has indicated how the Commission will enforce the obligations under section 309(k)(1) of the Communications Act of 1934 (47 U.S.C. 309(k)(1)) and section 331 in consideration of the fact that the Commission has permitted owners of television broadcast stations to eliminate the main studio of those stations in the community of license.

(c) SEVERABILITY.—If any provision of this section, an amendment made by this section, or the application of that provision or amendment to any person or circumstance is held to be unconstitutional, the other provisions of this section, the amendments made by this section, and the application of those provisions or amendments to any other person or circumstance shall not be affected by that holding.

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