

yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Any record vote on the postponed question will be taken later.

#### SATELLITE HOME VIEWER REAUTHORIZATION ACT OF 2009

Mr. CONYERS. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3570) to amend title 17, United States Code, to reauthorize the satellite statutory license, to conform the satellite and cable statutory licenses to all-digital transmissions, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3570

*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 “Satellite Home Viewer Reauthorization Act of 2009”.

#### TITLE I—STATUTORY LICENSES

##### SEC. 101. REFERENCE.

Except as otherwise provided, whenever in this title an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of title 17, United States Code.

##### SEC. 102. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS.

###### (a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 119 is amended by striking “**superstations and network stations for private home viewing**” and inserting “**distant television programming by satellite**”.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 119 and inserting the following:

“119. Limitations on exclusive rights: Secondary transmissions of distant television programming by satellite.”.

(b) UNSERVED HOUSEHOLD DEFINED.—Section 119(d)(10) is amended—

(1) by striking subparagraph (A) and inserting the following:

“(A) cannot receive, through the use of a conventional, stationary, outdoor rooftop receiving antenna, an over-the-air signal containing the primary stream, or, on or after January 1, 2013, the multicast stream, originating in that household’s local market and affiliated with that network of—

“(i) if the signal originates as an analog signal, Grade B intensity as defined by the Federal Communications Commission in section 73.683(a) of title 47, Code of Federal Regulations, as in effect on January 1, 1999; or

“(ii) if the signal originates as a digital signal, intensity defined in the values for digital television noise-limited service contour, as defined in regulations issued by the Federal Communications Commission (section 73.622(e) of title 47, Code of Federal Regulations), as such regulations may be amended from time to time;”;

(2) in subparagraph (B)—

(A) by striking “subsection (a)(14)” and inserting “subsection (a)(13),”; and

(B) by striking “Satellite Home Viewer Extension and Reauthorization Act of 2004” and inserting “Satellite Home Viewer Reauthorization Act of 2009”; and

(3) in subparagraph (D), by striking “(a)(12)” and inserting “(a)(11)”.

(c) FILING FEE.—Section 119(b)(1) is amended—

(1) in subparagraph (A), by striking “and” after the semicolon at the end;

(2) in subparagraph (B), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(C) a filing fee, as determined by the Register of Copyrights pursuant to section 708(a).”.

(d) EMERGENCY MONITORING, PLANNING, OR RESPONDING.—Section 119(a) is amended by adding at the end the following:

“(17) RETRANSMISSION FOR EMERGENCY PREPARATION, RESPONSE, OR RECOVERY.—

“(A) AUTHORITY.—The secondary transmission by a satellite carrier of a performance or display of a work embodied in a primary transmission of a television broadcast station is not an infringement of copyright if such secondary transmission is made—

“(i) to a Federal governmental body designated by the Office of Emergency Communications, in coordination with the Federal Communications Commission, or an organization established with the purpose of carrying out a system of national and international relief efforts and chartered under section 300101 of title 36;

“(ii) to officers or employees of such body or such organization as a part of the official duties or employment of such officers or employees;

“(iii) at the request of the Secretary of Homeland Security; and

“(iv) for the sole purpose of preparing for, responding to, or recovering from an emergency described under subparagraph (B).

“(B) EMERGENCIES.—An emergency is described under this subparagraph if the Secretary of Homeland Security identifies such emergency as a major disaster, a catastrophic incident, an act of terrorism, or a transportation security incident.

“(C) REGULATIONS.—Not later than 6 months after the date of the enactment of this paragraph, the Secretary of Homeland Security, in coordination with the Federal Communications Commission, the National Telecommunications and Information Administration, and the Register of Copyrights, shall issue regulations to protect copyright owners by preventing the unauthorized access to the secondary transmissions described in subparagraph (A).

“(D) REPORTS TO CONGRESSIONAL COMMITTEES.—Not later than one year after the date of the enactment of this paragraph and by September 30 of each year thereafter, the Secretary of Homeland Security, acting through the Office of Emergency Communications, shall submit a report to the Committees on the Judiciary, on Homeland Security, and on Energy and Commerce of the House of Representatives and the Committees on the Judiciary, on Homeland Security, and on Commerce, Science, and Transportation of the Senate describing—

“(i) the manner in which the authority granted under subparagraph (A) is being used, including to whom and for what purposes the secondary transmissions are being provided; and

“(ii) any additional legislative recommendations the Secretary may have.

“(E) DEFINITIONS.—As used in this paragraph:

“(i) TERRORISM.—The term ‘terrorism’ has the meaning given that term in section 2(16) of the Homeland Security Act of 2002 (6 U.S.C. 101(16)).

“(ii) TRANSPORTATION SECURITY INCIDENT.—The term ‘transportation security incident’ has the meaning given that term in section 70101 of title 46.

“(iii) CATASTROPHIC INCIDENT.—The term ‘catastrophic incident’ means any natural disaster, act of terrorism, or other man-made disaster that results in extraordinary levels of casualties or damage or disruption

severely affecting the population (including mass evacuations), infrastructure, the environment, the economy, national morale, or government functions in a geographic area.

“(F) EFFECTIVE DATE.—This paragraph shall apply with respect to secondary transmissions described under subparagraph (A) that are made after the end of the 30-day period beginning on the effective date of the regulations issued by the Secretary of Homeland Security under subparagraph (C).”.

(e) LICENSE PROVIDED FOR CERTAIN NETWORKS OF NONCOMMERCIAL EDUCATIONAL BROADCAST STATIONS.—Section 119(a)(2)(C) is amended by adding at the end the following new clause:

“(vi) NETWORKS OF NONCOMMERCIAL EDUCATIONAL BROADCAST STATIONS.—In the case of a system of three or more noncommercial educational broadcast stations licensed by a single State, public agency, or political, educational, or special purpose subdivision of a State, the statutory license provided for in subparagraph (A) shall apply to the secondary transmission of the primary transmission of such system to any subscriber in any county within such State, if such subscriber is located in a designated market area that is not otherwise eligible to receive the secondary transmission of the primary transmission of a noncommercial educational broadcast station located with the State pursuant to section 122(a).”.

(f) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—Section 119(b) is amended—

(1) by amending the subsection heading to read as follows: “(b) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—”;

(2) in paragraph (1), by striking subparagraph (B) and inserting the following:

“(B) a royalty fee payable to copyright owners pursuant to paragraph (4) for that 6 month period, computed by multiplying the total number of subscribers receiving each secondary transmission of a primary or multicast stream of each non-network station or network station during each calendar year month by the appropriate rate in effect under this subsection”.

(3) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(4) by inserting after paragraph (1) the following:

“(2) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to permit interested parties to verify and audit the statements of account and royalty fees submitted by satellite carriers under this subsection.”;

(5) in paragraph (3), as redesignated, in the first sentence—

(A) by inserting “(including the filing fee specified in paragraph (1)(C))” after “shall receive all fees”; and

(B) by striking “paragraph (4)” and inserting “paragraph (5)”;

(6) in paragraph (4), as redesignated—

(A) by striking “paragraph (2)” and inserting “paragraph (3)”;

(B) by striking “paragraph (4)” each place it appears and inserting “paragraph (5)”;

(7) in paragraph (5), as redesignated, by striking “paragraph (2)” and inserting “paragraph (3)”.

(g) ADJUSTMENT OF ROYALTY FEES.—Section 119(c) is amended as follows:

(1) Paragraph (1) is amended—

(A) in the heading for such paragraph, by striking “ANALOG”;

(B) in subparagraph (A)—

(i) by striking ‘primary analog transmissions’ and inserting ‘primary transmissions’; and

(ii) by striking “July 1, 2004” and inserting “July 1, 2009”;

(C) in subparagraph (B)—

(i) by striking “January 2, 2005, the Librarian of Congress” and inserting “January 4, 2010, the Copyright Royalty Judges”; and

(ii) by striking “primary analog transmission” and inserting “primary transmissions”;

(D) in subparagraph (C), by striking “Librarian of Congress” and inserting “Copyright Royalty Judges”;

(E) in subparagraph (D)—

(i) in clause (i)—

(I) by striking “(i) Voluntary agreements” and inserting the following:

“(i) VOLUNTARY AGREEMENTS; FILING.—Voluntary agreements”; and

(II) by striking “that a parties” and inserting “that are parties”; and

(ii) in clause (ii)—

(I) by striking “(ii)(I) Within” and inserting the following:

“(ii) PROCEDURE FOR ADOPTION OF FEES.—

“(I) PUBLICATION OF NOTICE.—Within”;

(II) in subclause (I), by striking “an arbitration proceeding pursuant to subparagraph (E)” and inserting “a proceeding under subparagraph (F)”;

(III) in subclause (II), by striking “(II) Upon receiving a request under subclause (I), the Librarian of Congress” and inserting the following:

“(II) PUBLIC NOTICE OF FEES.—Upon receiving a request under subclause (I), the Copyright Royalty Judges”; and

(IV) in subclause (III)—

(aa) by striking “(III) The Librarian” and inserting the following:

“(III) ADOPTION OF FEES.—The Copyright Royalty Judges”;

(bb) by striking “an arbitration proceeding” and inserting “the proceeding under subparagraph (F)”;

(cc) by striking “the arbitration proceeding” and inserting “that proceeding”;

(F) in subparagraph (E)—

(i) by striking “Copyright Office” and inserting “Copyright Royalty Judges”; and

(ii) by striking “December 31, 2009” and inserting “December 31, 2014”; and

(G) in subparagraph (F)—

(i) in the heading, by striking “COMPULSORY ARBITRATION” and inserting “COPYRIGHT ROYALTY JUDGES PROCEEDING”;

(ii) in clause (i)—

(I) in the heading, by striking “PROCEEDINGS” and inserting “THE PROCEEDING”;

(II) in the matter preceding subclause (I)—

(aa) by striking “May 1, 2005, the Librarian of Congress” and inserting “May 3, 2010, the Copyright Royalty Judges”;

(bb) by striking “arbitration proceedings” and inserting “a proceeding”;

(cc) by striking “fee to be paid” and inserting “fees to be paid”;

(dd) by striking “primary analog transmission” and inserting “the primary transmissions”; and

(ee) by striking “distributors” and inserting “distributors”;

(III) in subclause (II)—

(aa) by striking “Librarian of Congress” and inserting “Copyright Royalty Judges”; and

(bb) by striking “arbitration”; and

(IV) by amending the last sentence to read as follows: “Such proceeding shall be conducted under chapter 8.”;

(iii) in clause (ii), by amending the matter preceding subclause (I) to read as follows:

“(i) ESTABLISHMENT OF ROYALTY FEES.—In determining royalty fees under this subparagraph, the Copyright Royalty Judges shall establish fees for the secondary transmissions of the primary transmissions of network stations and non-network stations that most clearly represent the fair market value of secondary transmissions, except that the Copyright Royalty Judges shall adjust royalty fees to account for the obliga-

tions of the parties under any applicable voluntary agreement filed with the Copyright Royalty Judges in accordance with subparagraph (D). In determining the fair market value, the Judges shall base their decision on economic, competitive, and programming information presented by the parties, including—

(iv) by amending clause (iii) to read as follows:

“(iii) EFFECTIVE DATE FOR DECISION OF COPYRIGHT ROYALTY JUDGES.—The obligation to pay the royalty fees established under a determination that is made by the Copyright Royalty Judges in a proceeding under this paragraph shall be effective as of January 1, 2010.”; and

(v) in clause (iv)—

(I) in the heading, by striking “FEE” and inserting “FEES”; and

(II) by striking “fee” and inserting “fees”.

(2) Paragraph (2) is amended to read as follows:

“(2) ANNUAL ROYALTY FEE ADJUSTMENT.—Effective January 1 of each year, the royalty fee payable under subsection (b)(1)(B) for the secondary transmission of the primary transmissions of network stations and non-network stations shall be adjusted by the Copyright Royalty Judges to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index (for all consumers and for all items) published by the Secretary of Labor before December 1 of the preceding year. Notification of the adjusted fees shall be published in the Federal Register at least 25 days before January 1.”.

(h) DEFINITIONS.—

(1) SUBSCRIBER.—Section 119(d)(8) is amended to read as follows:

“(8) SUBSCRIBER; SUBSCRIBE.—

“(A) SUBSCRIBER.—The term ‘subscriber’ means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

“(B) SUBSCRIBE.—The term ‘subscribe’ means to elect to become a subscriber.”.

(2) LOW POWER TELEVISION STATION.—Section 119(d)(12) is amended by striking “low power television as” and inserting “low power TV station as”.

(3) LOCAL MARKET.—Section 119(d)(11) is amended to read as follows:

“(11) LOCAL MARKET.—The term ‘local market’ has the meaning given such term under section 122(j).”.

(4) NONCOMMERCIAL EDUCATIONAL BROADCAST STATION.—Section 119(d) is amended—

(A) in paragraph (2)(B), by striking “(as defined in section 397 of the Communications Act of 1934)” and

(B) by adding at the end the following:

“(14) NONCOMMERCIAL EDUCATIONAL BROADCAST STATION.—The term ‘noncommercial educational broadcast station’ means a television broadcast station that—

“(A) under the rules and regulations of the Federal Communications Commission in effect on November 2, 1978, is eligible to be licensed by the Federal Communications Commission as a noncommercial educational television broadcast station and is owned and operated by a public agency or nonprofit private foundation, corporation, or association; or

“(B) is owned and operated by a municipality and transmits only noncommercial programs for education purposes.”.

(5) MULTICAST STREAM.—Section 119(d), as amended by paragraph (4), is further amended by adding at the end the following new paragraph:

“(15) MULTICAST STREAM.—The term ‘multicast stream’ means a digital stream containing programming and program-re-

lated material affiliated with a television network, other than the primary stream.”.

(6) PRIMARY STREAM.—Section 119(d), as amended by paragraph (5), is further amended by adding at the end the following new paragraph:

“(16) PRIMARY STREAM.—The term ‘primary stream’ means—

“(A) the single digital stream of programming as to which a television broadcast station has the right to mandatory carriage with a satellite carrier under the rules of the Federal Communications Commission in effect on July 1, 2009; or

“(B) if there is no such stream, either—

“(i) the single digital stream of programming associated with the network last transmitted by the station as an analog signal; or

“(ii) the single digital stream of programming affiliated with the network that, as of July 1, 2009, had been offered by the television broadcast station for the longest period of time.”.

(7) CLERICAL AMENDMENT.—Section 119(d) is amended in paragraphs (1), (2), and (5) by striking “which” each place it appears and inserting “that”.

(i) SUPERSTATION REDESIGNATED AS NON-NETWORK STATION.—Section 119 is amended—

(1) by striking “superstation” each place it appears in a heading and each place it appears in text and inserting “non-network station”; and

(2) by striking “superstations” each place it appears in a heading and each place it appears in text and inserting “non-network stations”.

(j) LOW POWER TELEVISION STATIONS.—Section 119(a)(15) is amended to read as follows:

“(15) SECONDARY TRANSMISSIONS OF LOW POWER TELEVISION PROGRAMMING.—

“(A) IN GENERAL.—Notwithstanding paragraph (2)(B), and subject to subparagraphs (B) through (D) of this paragraph, the statutory license provided for in paragraph (1) shall apply to the secondary transmission by a satellite carrier of the primary transmission of the programming of a non-network station that is licensed as a low power television station, to a subscriber who resides within the same designated market area as the station that originates the programming signal.

“(B) NO APPLICABILITY TO REPEATERS AND TRANSLATORS.—Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.

“(C) ROYALTY FEES.—A satellite carrier whose secondary transmission of the primary transmission of the programming of a low power television station is subject to statutory licensing under this section shall be subject to royalty payments under subsection (b)(1)(B) for any transmission to a subscriber outside of the local market of the low power television station.

“(D) LIMITATION TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—Secondary transmissions provided for in subparagraph (A) may be made by a satellite carrier only to subscribers who receive secondary transmissions of primary transmissions from that satellite carrier pursuant to the statutory license under section 122.”.

(k) REMOVAL OF SIGNIFICANTLY VIEWED PROVISION.—

(1) REMOVAL OF PROVISION.—Section 119(a), as amended by subsections (d) and (j), is amended by striking paragraph (3) and redesignating paragraphs (4) through (17) as paragraphs (3) through (16), respectively.

(2) CONFORMING AMENDMENTS.—Section 119 is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking “(5), (6), and (8)” and inserting “(4), (5), and (7)”;

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking “paragraphs (5), (6), (7), and (8)” and inserting “paragraphs (4), (5), (6), and (7)”;

(II) in subparagraph (B)(i), by striking the second sentence; and

(III) in subparagraph (D), by striking clauses (i) and (ii) and inserting the following:

“(i) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, not later than 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station a list identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission to subscribers in unserved households.

“(ii) MONTHLY LISTS.—After the submission of the initial lists under clause (i), the satellite carrier shall, not later than the 15th of each month, submit to the network a list identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) any persons who have been added or dropped as subscribers under clause (i) since the last submission under clause (i).”; and

(iii) in subparagraph (E) of paragraph (3) (as redesignated)—

(I) by striking “under paragraph (3) or”; and

(II) by striking “paragraph (12)” and inserting “paragraph (11)”; and

(B) in subsection (b)(1), by striking the final sentence.

(1) MODIFICATIONS TO PROVISIONS FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.—

(I) PREDICTIVE MODEL.—Section 119(a)(2)(B)(ii) is amended by adding at the end the following:

“(III) ACCURATE PREDICTIVE MODEL WITH RESPECT TO DIGITAL SIGNALS.—Notwithstanding subclause (I), in determining presumptively whether a person resides in an unserved household under subsection (d)(10)(A) with respect to digital signals, a court shall rely on a predictive model set forth by the Federal Communications Commission pursuant to a rulemaking as provided in section 339(c)(3) of the Communications Act of 1934 (47 U.S.C. 339(c)(3)), as that model may be amended by the Commission over time under such section to increase the accuracy of that model. Until such time as the Commission sets forth such model, a court shall rely on the predictive model as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket N. 05-182, FCC 05-199 (released December 9, 2005).”.

(2) MODIFICATIONS TO STATUTORY LICENSE WHERE RETRANSMISSIONS INTO LOCAL MARKET AVAILABLE.—Section 119(a)(3) (as redesignated) is amended—

(A) by striking “analog” each place it appears in a heading and text;

(B) by striking subparagraphs (B), (C), and (D), and inserting the following:

“(B) RULES FOR LAWFUL SUBSCRIBERS AS OF DATE OF ENACTMENT OF 2009 ACT.—In the case of a subscriber of a satellite carrier who, on the day before the date of the enactment of the Satellite Home Viewer Reauthorization Act of 2009, was lawfully receiving the secondary transmission of the primary transmission of a network station under the statutory license under paragraph (2) (in this subparagraph referred to as the ‘distant signal’), other than subscribers to whom subparagraph (A) applies, the statutory license

under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber’s household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions.

“(C) RULES FOR NEW SUBSCRIBERS AFTER ENACTMENT OF 2009 ACT.—In the case of a person who first seeks to subscribe with a satellite carrier, on or after the date of the enactment of the Satellite Home Viewer Reauthorization Act of 2009, to receive secondary transmissions of the primary transmission of a network station under the statutory license under paragraph (2) (in this subparagraph referred to as the ‘distant signal’), the following shall apply:

“(i) Except in a case in which clause (ii) applies, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber’s household shall continue to be considered an unserved household with respect to such network, until such time as the satellite carrier makes available to the subscriber and the subscriber receives from the satellite carrier the secondary transmission of the primary transmission of a primary stream or a multicast stream affiliated with that network and located in the subscriber’s local market.

“(ii) If, at the time such person seeks to so subscribe, the satellite carrier does not offer service in the subscriber’s local market pursuant to section 122, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber’s household shall continue to be considered an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions.”;

(C) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively;

(D) in subparagraph (E) (as redesignated), by striking “(C) or (D)” and inserting “(B) or (C)”; and

(E) in subparagraph (F) (as redesignated), by inserting “9-digit” before “zip code”.

(3) STATUTORY DAMAGES FOR TERRITORIAL RESTRICTIONS.—Section 119(a)(6) (as redesignated) is amended—

(A) in subparagraph (A)(ii), by striking “\$5” and inserting “\$250”;

(B) in subparagraph (B)—

(i) in clause (i), by striking “\$250,000 for each 6-month period” and inserting “\$2,500,000 for each 3-month period”; and

(ii) in clause (ii), by striking “\$250,000” and inserting “\$2,500,000”; and

(C) by adding at the end the following flush sentence:

“The court shall direct one half of any statutory damages ordered under clause (i) to be deposited with the Register of Copyrights for distribution to copyright owners pursuant to subsection (b). The Copyright Royalty Judges shall issue regulations establishing procedures for distributing such funds, on a proportional basis, to copyright owners whose works were included in the secondary transmissions that were the subject of the statutory damages.”.

(4) CLERICAL AMENDMENT.—Section 119(a)(2)(B)(iii)(II) is amended by striking “In this clause” and inserting “In this clause.”.

(m) MORATORIUM EXTENSION.—Section 119(e) is amended by striking “2009” and inserting “2014”.

(n) CLERICAL AMENDMENTS.—Section 119 is amended—

(1) by striking “of the Code of Federal Regulations” each place it appears and inserting “, Code of Federal Regulations”; and

(2) in subsection (d)(6), by striking “or the Direct” and inserting “, or the Direct”.

SEC. 103. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS IN LOCAL MARKETS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 122 is amended by striking “by satellite carriers within local markets” and inserting “of local television programming by satellite”.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 122 and inserting the following:

“122. Limitations on exclusive rights: Secondary transmissions of local television programming by satellite.”.

(b) STATUTORY LICENSE.—Section 122(a) is amended to read as follows:

“(a) SECONDARY TRANSMISSIONS INTO LOCAL MARKETS.—

“(1) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS WITHIN A LOCAL MARKET.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station into the station’s local market shall be subject to statutory licensing under this section if—

“(A) the secondary transmission is made by a satellite carrier to the public;

“(B) with regard to secondary transmissions, the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals; and

“(C) the satellite carrier makes a direct or indirect charge for the secondary transmission to—

“(i) each subscriber receiving the secondary transmission; or

“(ii) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

“(2) SIGNIFICANTLY VIEWED STATIONS.—

“(A) IN GENERAL.—The statutory license under paragraph (1) shall apply to the secondary transmission of the primary transmission of a network station or a non-network station to a subscriber who resides outside the station’s local market but within a community in which the signal has been determined by the Federal Communications Commission to be significantly viewed in such community, pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, applicable to determining with respect to a cable system whether signals are significantly viewed in a community.

“(B) LIMITATION.—Subparagraph (A) shall apply only to secondary transmissions of the primary transmissions of network stations or non-network stations to subscribers who receive secondary transmissions from a satellite carrier pursuant to the statutory license under paragraph (1).

“(C) WAIVER.—A subscriber who is denied the secondary transmission of the primary transmission of a network station or a non-network station under subparagraph (B) may request a waiver from such denial by submitting a request, through the subscriber’s satellite carrier, to the network station or non-network station in the local market affiliated with the same network or non-network where the subscriber is located. The network station or non-network station shall accept or reject the subscriber’s request for a waiver within 30 days after receipt of the request.

If the network station or non-network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station or non-network station shall be deemed to agree to the waiver request.

**(3) SECONDARY TRANSMISSION OF LOW POWER PROGRAMMING.—**

**“(A) IN GENERAL.—**Subject to subparagraphs (B) through (D) of this paragraph, the statutory license provided under paragraph (1) shall apply to the secondary transmission by a satellite carrier of the primary transmission of a network station or a non-network station that is licensed as a low power television station, to a subscriber who resides within the same local market as the station that originates the transmission.

**“(B) NO APPLICABILITY TO REPEATERS AND TRANSLATORS.—**Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.

**“(C) LIMITATION TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—**Secondary transmissions by a satellite carrier provided for in subparagraph (A) may be made only to subscribers who receive secondary transmissions of primary transmissions from that satellite carrier pursuant to the statutory license in paragraph (1), and only in conformity with the requirements under section 340(b) of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Home Viewer Reauthorization Act of 2009.

**“(D) NO IMPACT ON OTHER SECONDARY TRANSMISSIONS OBLIGATIONS.—**A satellite carrier that makes secondary transmissions of a primary transmission of a low power television station under a statutory license provided under this section is not required, by reason of such secondary transmissions, to make any other secondary transmissions.”.

**(c) REPORTING REQUIREMENTS.—**Section 122(b) is amended—

(1) in paragraph (1), by striking “station a list” and all that follows through the end and inserting the following: “station—

“(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission under subsection (a); and

“(B) a separate list, aggregated by designated market area (by name and address, including street or rural route number, city, State, and 9-digit zip code), which shall indicate those subscribers being served pursuant to subsection (a)(2), relating to significantly viewed stations.”; and

(2) in paragraph (2), by striking “network a list” and all that follows through the end and inserting the following: “network—

“(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection; and

“(B) a separate list, aggregated by designated market area (by name and street address, including street or rural route number, city, State, and 9-digit zip code), identifying those subscribers whose service pursuant to subsection (a)(2), relating to significantly viewed stations, has been added or dropped since the last submission under this subsection.”.

**(d) VIOLATIONS FOR TERRITORIAL RESTRICTIONS.—**

**(1) MODIFICATION TO STATUTORY DAMAGES.—**Section 122(f) is amended—

(A) in paragraph (1)(B), by striking “\$5” and inserting “\$250”; and

(B) in paragraph (2), by striking “\$250,000” each place it appears and inserting “\$2,500,000”.

**(2) CONFORMING AMENDMENT FOR SIGNIFICANTLY VIEWED STATIONS.—**Section 122 is amended—

(A) in subsection (f), by striking “section 119 or” each place it appears and inserting the following: “section 119, subject to statutory licensing by reason of subsection (a)(2)(A), or subject to”; and

(B) in subsection (g), by striking “section 119 or” and inserting the following: “section 119, subsection (a)(2)(A), or”.

**(e) DEFINITIONS.—**Section 122(j) is amended—

(1) in paragraph (1), by striking “which contracts” and inserting “that contracts”;

(2) by amending paragraph (2)(A) to read as follows:

“(A) IN GENERAL.—The term ‘local market’ means—

“(i) in the case of a television broadcast station that is not a low power television station, the designated market area in which such station is located, and—

“(I) in the case of a commercial television broadcast station, all commercial television broadcast stations licensed to a community within the same designated market area are within the same local market; and

“(II) in the case of a noncommercial educational television broadcast station, any station that is licensed to a community within the same designated market area as the noncommercial educational television broadcast station; and

“(ii) in the case of a low power television broadcast station, the area that is both—

“(I) within the designated market area in which such station is located; and

“(II) within the area within 35 miles of the transmitter site of such station, except that in the case of such a station located in a standard metropolitan statistical area that has 1 of the 50 largest populations of all standard metropolitan statistical areas (based on the 1980 decennial census of population taken by the Secretary of Commerce), the area within 20 miles of the transmitter site of such station.”;

(3) in paragraph (3)—

(A) in the heading of such paragraph, by inserting “NON-NETWORK STATION; NON-COMMERCIAL EDUCATIONAL BROADCAST STATION;” after “NETWORK STATION;”;

(B) by inserting “non-network station; noncommercial educational broadcast station;” after “network station;”;

(4) by amending paragraph (4) to read as follows:

“(4) SUBSCRIBER.—The term ‘subscriber’ means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.”; and

(5) by adding at the end the following:

“(6) LOW POWER TELEVISION STATION.—The term ‘low power television station’ means a low power TV station as defined under section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term ‘low power television station’ includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.”.

**SEC. 104. MODIFICATIONS TO CABLE SYSTEM SECONDARY TRANSMISSION RIGHTS UNDER SECTION 111.**

**(a) HEADING RENAMED.—**

**(1) IN GENERAL.—**The heading of section 111 is amended by inserting at the end the following: “of broadcast programming by cable”.

**(2) TABLE OF CONTENTS.—**The table of contents for chapter 1 is amended by striking the item relating to section 111 and inserting the following:

“111. Limitations on exclusive rights: Secondary transmissions of broadcast programming by cable.”.

**(b) NATIONAL EMERGENCY MONITORING EXEMPTION.—**Section 111 is amended—

(1) in subsection (a)—

(A) in paragraph (4), by striking “; or” and inserting “or section 122;”;

(B) in paragraph (5), by striking the period and inserting “; or”; and

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

“(6) the secondary transmission is made by a cable system for emergency preparation, response, or recovery as described under subsection (g).”; and

(2) by adding at the end the following new subsection:

“(g) RETRANSMISSION FOR EMERGENCY PREPARATION, RESPONSE, OR RECOVERY.—

“(1) AUTHORITY.—For purposes of subsection (a)(6), a secondary transmission by a cable system of a performance or display of a work embodied in a primary transmission by a television broadcast station is made for emergency preparation, response, or recovery if such transmission is made—

“(A) by a cable system to a Federal governmental body designated by the Office of Emergency Communications, in coordination with the Federal Communications Commission, or an organization established with the purpose of carrying out a system of national and international relief efforts and chartered under section 300101 of title 36;

“(B) to officers or employees of such body or such organization as a part of the official duties or employment of such officers or employees;

“(C) at the request of the Secretary of Homeland Security; and

“(D) for the sole purpose of preparing for, responding to, or recovering from an emergency described under paragraph (2).

“(2) EMERGENCIES.—An emergency is described under this paragraph if the Secretary of Homeland Security identifies such emergency as a major disaster, a catastrophic incident, an act of terrorism, or a transportation security incident.

“(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this subsection, the Secretary of Homeland Security, in coordination with the Federal Communications Commission, the National Telecommunications and Information Administration, and the Register of Copyrights, shall issue regulations to protect copyright owners by preventing the unauthorized access to the secondary transmissions described in paragraph (1).

“(4) REPORTS TO CONGRESSIONAL COMMITTEES.—Not later than one year after the date of the enactment of this subsection and by September 30 of each year thereafter, the Secretary of Homeland Security, acting through the Office of Emergency Communications, shall submit a report to the Committees on the Judiciary, on Homeland Security, and on Energy and Commerce of the House of Representatives and the Committees on the Judiciary, on Homeland Security, and on Commerce, Science, and Transportation of the Senate describing—

“(A) the manner in which the authority granted under paragraph (1) is being used, including to whom and for what purposes the secondary transmissions are being provided; and

“(B) any additional legislative recommendations the Secretary may have.

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

“(A) TERRORISM.—The term ‘terrorism’ has the meaning given that term in section 2(16) of the Homeland Security Act of 2002 (6 U.S.C. 101(16)).

“(B) TRANSPORTATION SECURITY INCIDENT.—The term ‘transportation security incident’ has the meaning given that term in section 70101 of title 46.

“(C) CATASTROPHIC INCIDENT.—The term ‘catastrophic incident’ means any natural disaster, act of terrorism, or other man-made disaster that results in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, the environment, the economy, national morale, or government functions in a geographic area.

“(6) EFFECTIVE DATE.—This subsection shall apply with respect to secondary transmissions described under paragraph (1) that are made after the end of the 30-day period beginning on the effective date of the regulations issued by the Secretary of Homeland Security under paragraph (3).”.

(c) STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—Section 111(d) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking “A cable system whose secondary” and inserting the following: “STATEMENT OF ACCOUNT AND ROYALTY FEES.—Subject to paragraph (5), a cable system whose secondary”; and

(ii) by striking “by regulation—” and inserting “by regulation the following:”;

(B) in subparagraph (A)—

(i) by striking “a statement of account” and inserting “A statement of account”; and

(ii) by striking “; and” and inserting a period; and

(C) by striking subparagraphs (B), (C), and (D), and inserting the following:

“(B) Except in the case of a cable system whose royalty fee is specified in subparagraph (E) or (F), a total royalty fee payable to copyright owners pursuant to paragraph (3) for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during such period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

“(i) 1.064 percent of such gross receipts for the privilege of further transmitting, beyond the local service area of such primary transmitter, any non-network programming of a primary transmitter in whole or in part, such amount to be applied against the fee, if any, payable pursuant to clauses (ii) through (iv);

“(ii) 1.064 percent of such gross receipts for the first distant signal equivalent;

“(iii) 0.701 percent of such gross receipts for each of the second, third, and fourth distant signal equivalents; and

“(iv) 0.330 percent of such gross receipts for the fifth distant signal equivalent and each distant signal equivalent thereafter.

“(C) In computing amounts under clauses (ii) through (iv) of subparagraph (B)—

(i) any fraction of a distant signal equivalent shall be computed at its fractional value;

(ii) in the case of any cable system located partly within and partly outside of the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located outside of the local service area of such primary transmitter; and

(iii) if a cable system provides a secondary transmission of a primary transmitter to some but not all communities served by that cable system—

“(I) the gross receipts and the distant signal equivalent values for such secondary transmission shall be derived solely on the basis of the subscribers in those communities where the cable system provides such secondary transmission; and

“(II) the total royalty fee for the period paid by such system shall not be less than the royalty fee calculated under subparagraph (B)(i) multiplied by the gross receipts from all subscribers to the system.

“(D) A cable system that, on a statement submitted before the date of the enactment of the Satellite Home Viewer Reauthorization Act of 2009, computed its royalty fee consistent with the methodology under subparagraph (C)(iii) or that amends a statement filed before such date of enactment to compute the royalty fee due using such methodology shall not be subject to an action for infringement, or eligible for any royalty refund or offset, arising out of its use of such methodology on such statement.

“(E) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are \$263,800 or less—

(i) gross receipts of the cable system for the purpose of this paragraph shall be computed by subtracting from such actual gross receipts the amount by which \$263,800 exceeds such actual gross receipts, except that in no case shall a cable system’s gross receipts be reduced to less than \$10,400; and

(ii) the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be 0.5 percent, regardless of the number of distant signal equivalents, if any.

“(F) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are more than \$263,800 but less than \$527,600, the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be—

(i) 0.5 percent of any gross receipts up to \$263,800, regardless of the number of distant signal equivalents, if any; and

(ii) 1 percent of any gross receipts in excess of \$263,800, but less than \$527,600, regardless of the number of distant signal equivalents, if any.

“(G) A filing fee, as determined by the Register of Copyrights pursuant to section 708(a).”;

(2) in paragraph (2), in the first sentence—

(A) by striking “The Register of Copyrights” and inserting the following “HANDLING OF FEES.—The Register of Copyrights”;

(B) by inserting “(including the filing fee specified in paragraph (1)(G))” after “shall receive”; and

(3) in paragraph (3)—

(A) by striking “The royalty fees” and inserting the following: “DISTRIBUTION OF ROYALTY FEES TO COPYRIGHT OWNERS.—The royalty fees”;

(B) in subparagraph (A)—

(i) by striking “any such” and inserting “Any such”; and

(ii) by striking “; and” and inserting a period;

(C) in subparagraph (B)—

(i) by striking “any such” and inserting “Any such”; and

(ii) by striking the semicolon and inserting a period; and

(D) in subparagraph (C), by striking “any such” and inserting “Any such”;

(4) in paragraph (4), by striking “The royalty fees” and inserting the following: “PROCEDURES FOR ROYALTY FEE DISTRIBUTION.—The royalty fees”; and

(5) by adding at the end the following new paragraphs:

“(5) 3.75 PERCENT RATE AND SYNDICATED EXCLUSIVITY SURCHARGE NOT APPLICABLE TO MULTICAST STREAMS.—The royalty rates specified in sections 256.2(c) and 256.2(d) of title 37, Code of Federal Regulations (commonly referred to as the ‘3.75 percent rate’ and the ‘syndicated exclusivity surcharge’, respectively), as in effect on the date of enactment of the Satellite Home Viewer Reauthorization Act of 2009, as such rates may be adjusted, or such sections redesignated, thereafter by the Copyright Royalty Judges, shall not apply to the secondary transmission of a multicast stream.

“(6) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to provide for the confidential verification and audit of the information reported on the semi-annual statements of account filed after the date of the enactment of the Satellite Home Viewer Reauthorization Act of 2009. The regulations shall provide for a single verification procedure, with respect to the semi-annual statements of account filed by a cable system, to be conducted by a qualified independent auditor on behalf of all copyright owners whose works were the subject of a secondary transmission to the public by a cable system of a performance or display of a work embodied in a primary transmission and for a mechanism to review and cure defects identified by any such audit.

“(7) ACCEPTANCE OF ADDITIONAL DEPOSITS.—Any royalty fee payments received by the Copyright Office from cable systems for the secondary transmission of primary transmissions that are in addition to the payments calculated and deposited in accordance with this subsection shall be deemed to have been deposited for the particular accounting period for which they are received and shall be distributed as specified under this subsection.”.

(d) EFFECTIVE DATE OF NEW ROYALTY FEE RATES.—The royalty fee rates established in section 111(d)(1)(B) of title 17, United States Code, as amended by subsection (c)(1)(C) of this section, shall take effect commencing with the first accounting period occurring in 2010.

(e) DEFINITIONS.—Section 111(f) is amended—

(1) by striking the first undesignated paragraph and inserting the following:

“(1) PRIMARY TRANSMISSION.—A ‘primary transmission’ is a transmission made to the public by a transmitting facility whose signals are being received and further transmitted by a secondary transmission service, regardless of where or when the performance or display was first transmitted. In the case of a television broadcast station, the primary stream and any multicast streams transmitted by the station constitute primary transmissions.”;

(2) in the second undesignated paragraph—

(A) by striking “A ‘secondary transmission’” and inserting the following:

“(2) SECONDARY TRANSMISSION.—A ‘secondary transmission’; and

(B) by striking “‘cable system’” and inserting “‘cable system’”;

(3) in the third undesignated paragraph—

(A) by striking “A ‘cable system’” and inserting the following:

“(3) CABLE SYSTEM.—A ‘cable system’; and

(B) by striking “Territory, Trust Territory, or Possession” and inserting “territory, trust territory, or possession of the United States”;

(4) in the fourth undesignated paragraph, in the first sentence—

(A) by striking “The ‘local service area of a primary transmitter’, in the case of a television broadcast station, comprises the area in which such station is entitled to insist” and inserting the following:

“(4) LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.—The ‘local service area of a primary transmitter’, in the case of both the primary stream and any multicast streams transmitted by a primary transmitter that is a television broadcast station, comprises the area where such primary transmitter could have insisted”;

(B) by striking “76.59 of title 47 of the Code of Federal Regulations” and inserting the following: “76.59 of title 47, Code of Federal Regulations, or within the noise-limited contour as defined in 73.622(e)(1) of title 47, Code of Federal Regulations”;

(C) by striking “as defined by the rules and regulations of the Federal Communications Commission.”;

(5) by amending the fifth undesignated paragraph to read as follows:

“(5) DISTANT SIGNAL EQUIVALENT.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), a ‘distant signal equivalent’—

“(i) is the value assigned to the secondary transmission of any non-network television programming carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programming; and

“(ii) is computed by assigning a value of one to each primary stream and to each multicast stream (other than a simulcast) that is an independent station, and by assigning a value of one-quarter to each primary stream and to each multicast stream (other than a simulcast) that is a network station or a noncommercial educational station.

“(B) EXCEPTIONS.—The values for independent, network, and noncommercial educational stations specified in subparagraph (A) are subject to the following:

“(i) Where the rules and regulations of the Federal Communications Commission require a cable system to omit the further transmission of a particular program and such rules and regulations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, or where such rules and regulations in effect on the date of enactment of the Copyright Act of 1976 permit a cable system, at its election, to effect such omission and substitution of a nonlive program or to carry additional programs not transmitted by primary transmitters within whose local service area the cable system is located, no value shall be assigned for the substituted or additional program.

“(ii) Where the rules, regulations, or authorizations of the Federal Communications Commission in effect on the date of enactment of the Copyright Act of 1976 permit a cable system, at its election, to omit the further transmission of a particular program and such rules, regulations, or authorizations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a fraction that has as its numerator the number of days in the year in which such substitution occurs and as its denominator the number of days in the year.

“(iii) In the case of the secondary transmission of a primary transmitter that is a television broadcast station pursuant to a late-night or specialty programming rules of the Federal Communications Commission, or the secondary transmission of a primary

transmitter that is a television broadcast station on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals that it is authorized to carry, the values for independent, network, and noncommercial educational stations set forth in subparagraph (A), as the case may be, shall be multiplied by a fraction that is equal to the ratio of the broadcast hours of such primary transmitter retransmitted by the cable system to the total broadcast hours of the primary transmitter.

“(iv) No value shall be assigned for the secondary transmission of the primary stream or any multicast streams of a primary transmitter that is a television broadcast station in any community that is within the local service area of the primary transmitter.”;

(6) by striking the sixth undesignated paragraph and inserting the following:

“(6) NETWORK STATION.—

“(A) TREATMENT OF PRIMARY STREAM.—The term ‘network station’ shall be applied to a primary stream of a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of the primary stream’s typical broadcast day.

“(B) TREATMENT OF MULTICAST STREAMS.—The term ‘network station’ shall be applied to a multicast stream on which a television broadcast station transmits all or substantially all of the programming of an interconnected program service that—

“(i) is owned or operated by, or affiliated with, one or more of the television networks described in subparagraph (A); and

“(ii) offers programming on a regular basis for 15 or more hours per week to at least 25 of the affiliated television licensees of the interconnected program service in 10 or more States.”; and

(7) by striking the seventh undesignated paragraph and inserting the following:

“(7) INDEPENDENT STATION.—The term ‘independent station’ shall be applied to the primary stream or a multicast stream of a television broadcast station that is not a network station or a noncommercial educational station.”;

(8) by striking the eighth undesignated paragraph and inserting the following:

“(8) NONCOMMERCIAL EDUCATIONAL STATION.—A ‘noncommercial educational station’ is television station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Home Viewer Reauthorization Act of 2009.”; and

(9) by adding at the end the following:

“(9) PRIMARY STREAM.—A ‘primary stream’ is—

“(A) the single digital stream of programming that prior to June 12, 2009 was substantially duplicating the programming transmitted by the television broadcast station as an analog signal; or

“(B) if there is no such stream, the single digital stream of programming transmitted by the station for the longest period of time.

“(10) PRIMARY TRANSMITTER.—A ‘primary transmitter’ is a television or radio broadcast station licensed by the Federal Communications Commission, or by an appropriate governmental authority of Canada or Mexico, that makes primary transmissions to the public.

“(11) MULTICAST STREAM.—A ‘multicast stream’ is a digital stream of programming transmitted by a television broadcast sta-

tion that is not the station’s primary stream.

“(12) SIMULCAST.—A ‘simulcast’ is a multicast stream of a television broadcast station that duplicates the programming transmitted by the primary stream or another multicast stream of such station.

“(13) SUBSCRIBER; SUBSCRIBE.—

“(A) SUBSCRIBER.—The term ‘subscriber’ means a person or entity that receives a secondary transmission service from a cable system and pays a fee for the service, directly or indirectly, to the cable system.

“(B) SUBSCRIBE.—The term ‘subscribe’ means to elect to become a subscriber.”.

(f) TIMING OF SECTION 111 PROCEEDINGS.—Section 804(b)(1) is amended by striking “2005” each place it appears and inserting “2015”.

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CORRECTIONS TO FIX LEVEL DESIGNATIONS.—Section 111 is amended—

(A) in subsections (a), (c), and (e), by striking “clause” each place it appears and inserting “paragraph”;

(B) in subsection (c)(1), by striking “clauses” and inserting “paragraphs”;

(C) in subsection (e)(1)(F), by striking “subclause” and inserting “subparagraph”.

(2) CONFORMING AMENDMENT TO HYPHENATE NONNETWORK.—Section 111 is amended by striking “nonnetwork” each place it appears and inserting “non-network”.

(3) PREVIOUSLY UNDESIGNATED PARAGRAPH.—Section 111(e)(1) is amended by striking “second paragraph of subsection (f)” and inserting “subsection (f)(2)”.

(4) REMOVAL OF SUPERFLUOUS ANDS.—Section 111(e) is amended—

(A) in paragraph (1)(A), by striking “and” at the end;

(B) in paragraph (1)(B), by striking “and” at the end;

(C) in paragraph (1)(C), by striking “and” at the end;

(D) in paragraph (1)(D), by striking “and” at the end; and

(E) in paragraph (2)(A), by striking “and” at the end;

(5) REMOVAL OF VARIANT FORMS REFERENCES.—Section 111 is amended—

(A) in subsection (e)(4), by striking “, and each of its variant forms,”; and

(B) in subsection (f), by striking “and their variant forms”.

(6) CORRECTION TO TERRITORY REFERENCE.—Section 111(e)(2) is amended in the matter preceding subparagraph (A) by striking “three territories” and inserting “five entities”.

(h) EFFECTIVE DATE WITH RESPECT TO MULTICAST STREAMS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by this section, to the extent such amendments assign a distant signal equivalent value to the secondary transmission of the multicast stream of a primary transmitter, shall take effect on the date of the enactment of this Act.

(2) DELAYED APPLICABILITY.—

(A) SECONDARY TRANSMISSIONS OF A MULTICAST STREAM BEYOND THE LOCAL SERVICE AREA OF ITS PRIMARY TRANSMITTER BEFORE 2009 ACT.—In any case in which a cable system was making secondary transmissions of a multicast stream beyond the local service area of its primary transmitter before the date of the enactment of this Act, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream that are made on or before June 30, 2010.

(B) MULTICAST STREAMS SUBJECT TO PRE-EXISTING WRITTEN AGREEMENTS FOR THE SECONDARY TRANSMISSION OF SUCH STREAMS.—In

any case in which the secondary transmission of a multicast stream of a primary transmitter is the subject of a written agreement entered into on or before June 30, 2009, between a cable system or an association representing the cable system and a primary transmitter or an association representing the primary transmitter, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream beyond the local service area of its primary transmitter that are made on or before the date on which such written agreement expires.

(C) NO REFUNDS OR OFFSETS FOR PRIOR STATEMENTS OF ACCOUNT.—A cable system that has reported secondary transmissions of a multicast stream beyond the local service area of its primary transmitter on a statement of account deposited under section 111 of title 17, United States Code, before the date of the enactment of this Act shall not be entitled to any refund, or offset, of royalty fees paid on account of such secondary transmissions of such multicast stream.

(3) DEFINITIONS.—In this subsection, the terms “cable system”, “secondary transmission”, “multicast stream”, and “local service area of a primary transmitter” have the meanings given those terms in section 111(f) of title 17, United States Code, as amended by this section.

**SEC. 105. CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE FOR ALL DMAS.**

Section 119 is amended by adding at the end the following new subsection:

“(g) CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

“(1) INJUNCTION WAIVER.—A court that issued an injunction pursuant to subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction if the court recognizes the entity against which the injunction was issued as a qualified carrier.

“(2) LIMITED TEMPORARY WAIVER.—

“(A) IN GENERAL.—Upon a request made by a satellite carrier, a court that issued an injunction against such carrier under subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction with respect to the statutory license provided under subsection (a)(2) to the extent necessary to allow such carrier to make secondary transmissions of primary transmissions made by a network station to unserved households located in short markets in which such carrier was not providing local service pursuant to the license under section 122 as of December 31, 2009.

“(B) EXPIRATION OF TEMPORARY WAIVER.—A temporary waiver of an injunction under subparagraph (A) shall expire after the end of the 120-day period beginning on the date such temporary waiver is issued unless extended for good cause by the court making the temporary waiver.

“(C) FAILURE TO MAKE GOOD FAITH EFFORT TO PROVIDE LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

“(i) WILLFUL FAILURE.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to make a good faith effort to provide local-into-local service to all DMAs and determines that such failure was willful, such failure—

“(I) is actionable as an act of infringement under section 501 and the court may in its discretion impose the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

“(II) shall result in the termination of the waiver issued under subparagraph (A).

“(ii) NONWILLFUL FAILURE.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to make a good faith effort to provide local-into-local service to all DMAs and determines that such failure was nonwillful, the court may in its discretion impose financial penalties that reflect—

“(I) the degree of control the carrier had over the circumstances that resulted in the failure;

“(II) the quality of the carrier’s efforts to remedy the failure; and

“(III) the severity and duration of any service interruption.

“(D) SINGLE TEMPORARY WAIVER AVAILABLE.—An entity may only receive one temporary waiver under this paragraph.

“(E) SHORT MARKET DEFINED.—For purposes of this paragraph, the term “short market” means a local market in which programming of one or more of the four most widely viewed television networks nationwide as measured on the date of enactment of this subsection is not offered on the primary stream transmitted by any local television broadcast station.

“(3) ESTABLISHMENT OF QUALIFIED CARRIER RECOGNITION.—

“(A) STATEMENT OF ELIGIBILITY.—An entity seeking to be recognized as a qualified carrier under this subsection shall file a statement of eligibility with the court that imposed the injunction. A statement of eligibility must include—

“(i) an affidavit that the entity is providing local-into-local service to all DMAs;

“(ii) a request for a waiver of the injunction; and

“(iii) a certification issued pursuant to section 342(a) of Communications Act of 1934.

“(B) GRANT OF RECOGNITION AS A QUALIFIED CARRIER.—Upon receipt of a statement of eligibility, the court shall recognize the entity as a qualified carrier and issue the waiver under paragraph (1).

“(C) VOLUNTARY TERMINATION.—At any time, an entity recognized as a qualified carrier may file a statement of voluntary termination with the court certifying that it no longer wishes to be recognized as a qualified carrier. Upon receipt of such statement, the court shall reinstate the injunction waived under paragraph (1).

“(D) LOSS OF RECOGNITION PREVENTS FUTURE RECOGNITION.—No entity may be recognized as a qualified carrier if such entity had previously been recognized as a qualified carrier and subsequently lost such recognition or voluntarily terminated such recognition under subparagraph (C).

“(4) QUALIFIED CARRIER OBLIGATIONS AND COMPLIANCE.—

“(A) CONTINUING OBLIGATIONS.—

“(i) IN GENERAL.—An entity recognized as a qualified carrier shall continue to provide local-into-local service to all DMAs.

“(ii) COOPERATION WITH GAO EXAMINATION.—An entity recognized as a qualified carrier shall fully cooperate with the Comptroller General in the examination required by subparagraph (B).

“(B) QUALIFIED CARRIER COMPLIANCE EXAMINATION.—

“(i) EXAMINATION AND REPORT.—The Comptroller General shall conduct an examination and publish a report concerning the qualified carrier’s compliance with the royalty payment and household eligibility requirements of the license under this section. The report shall address the qualified carrier’s conduct during the period beginning on the date on which the qualified carrier is recognized as such under paragraph (3)(B) and ending on December 31, 2011.

“(ii) RECORDS OF QUALIFIED CARRIER.—Beginning on the date that is one year after the

date on which the qualified carrier is recognized as such under paragraph (3)(B), the qualified carrier shall provide the Comptroller General with all records that the Comptroller General, in consultation with the Register of Copyrights, considers to be directly pertinent to the following requirements under this section:

“(I) Proper calculation and payment of royalties under the statutory license under this section.

“(II) Provision of service under this license to eligible subscribers only.

“(iii) SUBMISSION OF REPORT.—The Comptroller General shall file the report required by clause (i) not later than March 1, 2012, with the court referred to in paragraph (1) that issued the injunction, the Register of Copyrights, and the Committees on the Judiciary of the House of Representatives and the Senate.

“(iv) EVIDENCE OF INFRINGEMENT.—The Comptroller General shall include in the report a statement of whether the examination by the Comptroller General indicated that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement. The Comptroller General shall consult with the Register of Copyrights in preparing such statement.

“(v) SUBSEQUENT EXAMINATION.—If the report includes the Comptroller General’s statement that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement, the Comptroller General shall, not later than 6 months after the report under clause (i) is published, initiate another examination of the qualified carrier’s compliance with the royalty payment and household eligibility requirements of the license under this section since the last report was filed under clause (iii). The Comptroller General shall file a report on such examination with the court referred to in paragraph (1) that issued the injunction, the Register of Copyrights, and the Committees on the Judiciary of the House of Representatives and the Senate. The report shall include a statement described in clause (iv), prepared in consultation with the Register of Copyrights.

“(C) AFFIRMATION.—A qualified carrier shall file an affidavit with the district court and the Register of Copyrights 30 months after such status was granted stating that, to the best of the affiant’s knowledge, it is in compliance with the requirements for a qualified carrier.

“(D) COMPLIANCE DETERMINATION.—Upon the motion of an aggrieved television broadcast station, the court recognizing an entity as a qualified carrier may make a determination of whether the entity is providing local-into-local service to all DMAs.

“(E) PLEADING REQUIREMENT.—In any motion brought under subparagraph (D), the party making such motion shall specify one or more designated market areas (as such term is defined in section 122(j)(2)(C)) for which the failure to provide service is being alleged, and, for each such designated market area, shall plead with particularity the circumstances of the alleged failure.

“(F) BURDEN OF PROOF.—In any proceeding to make a determination under subparagraph (D), and with respect to a designated market area for which failure to provide service is alleged, the entity recognized as a qualified carrier shall have the burden of proving that the entity provided local-into-local service with a good quality satellite signal to at least 90 percent of the households in such designated market area (based on the most recent census data released by the United States Census Bureau) at the time and place alleged.

“(G) ENFORCEMENT.—Upon motion filed by an interested party, the court recognizing an entity as a qualified carrier shall terminate such designation upon finding that the entity has failed to meet the requirements imposed on the entity under this paragraph.

“(5) FAILURE TO PROVIDE SERVICE.—

“(A) PENALTIES.—If the court recognizing an entity as a qualified carrier finds that such entity has willfully failed to provide local-into-local service to all DMAs, such finding shall result in the loss of recognition of the entity as a qualified carrier and the termination of the waiver provided under paragraph (1), and the court may, in its discretion—

“(i) treat such failure as an act of infringement under section 501, and subject such infringement to the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

“(ii) impose a fine of not more than \$250,000.

“(B) EXCEPTION FOR NONWILLFUL VIOLATION.—If the court determines that the failure to provide local-into-local service to all DMAs is nonwillful, the court may in its discretion impose financial penalties for non-compliance that reflect—

“(i) the degree of control the entity had over the circumstances that resulted in the failure;

“(ii) the quality of the entity’s efforts to remedy the failure and restore service; and

“(iii) the severity and duration of the service interruption.

“(6) PENALTIES FOR VIOLATIONS OF LICENSE.—A court that finds, under subsection (a)(6)(A), that an entity recognized as a qualified carrier has willfully made a secondary transmission of a primary transmission made by a network station and embodying a performance or display of a work to a subscriber who is not eligible to receive the transmission under this section shall reinstate the injunction waived under paragraph (1), and the court may order statutory damages of not more than \$2,500,000.

“(7) LOCAL-INTO-LOCAL SERVICE TO ALL DMAS DEFINED.—For purposes of this subsection:

“(A) IN GENERAL.—An entity provides ‘local-into-local service to all DMAs’ if the entity provides local service in all designated market areas (as such term is defined in section 122(j)(2)(C)) pursuant to the license under section 122.

“(B) HOUSEHOLD COVERAGE.—For purposes of subparagraph (A), an entity that makes available local-into-local service with a good quality satellite signal to at least 90 percent of the households in a designated market area based on the most recent census data released by the United States Census Bureau shall be considered to be providing local service to such designated market area.

“(C) GOOD QUALITY SATELLITE SIGNAL DEFINED.—The term ‘good quality signal’ has the meaning given such term under section 342(e)(2) of Communications Act of 1934.”

#### SEC. 106. TERMINATION OF LICENSE.

(a) TERMINATION.—Section 119, as amended by this title, shall cease to be effective on December 31, 2014.

(b) CONFORMING AMENDMENT.—Section 4(a) of the Satellite Home Viewer Act of 1994 (17 U.S.C. 119 note; Public Law 103-369) is repealed.

#### SEC. 107. SURCHARGE ON STATUTORY LICENSES.

(a) SURCHARGES.—The Copyright Royalty Judges shall establish a surcharge or surcharges to be paid, in accordance with subsection (b), by cable systems subject to statutory licensing under section 111(c) of title 17, United States Code, and satellite carriers whose secondary transmissions are subject to statutory licensing under section 119(a) of

such title, in addition to the royalty fees paid by such cable systems under section 111(d)(1) of such title and by such satellite carriers under section 119(b)(1) of such title.

(b) AMOUNT AND TIMING OF SURCHARGES.—Surcharges under subsection (a) shall be assessed, during fiscal years 2009 through 2019, in amounts that, in the aggregate, will equal at least \$92,000,000.

(c) FUNDS UNAVAILABLE FOR OBLIGATION.—Surcharges collected under this section shall be deposited in the Treasury of the United States and shall not be available for obligation.

(d) AUTHORITIES.—The Copyright Royalty Judges may exercise the authorities such Judges have under chapter 8 of title 17, United States Code, to carry out this section.

#### SEC. 108. CONSTRUCTION.

Nothing in section 111, 119, or 122 of title 17, United States Code, including the amendments made to such sections by this title, shall be construed to affect the meaning of any terms under the Communications Act of 1934, except to the extent that such sections are specifically cross-referenced in such Act or the regulations issued thereunder.

### TITLE II—COMMUNICATIONS PROVISIONS

#### SEC. 201. REFERENCE.

Except as otherwise provided, whenever in this title an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

#### SEC. 202. EXTENSION OF AUTHORITY.

Section 325(b) is amended—

(1) in paragraph (2)(C), by striking “December 31, 2009” and inserting “December 31, 2014”; and

(2) in paragraph (3)(C), by striking “January 1, 2010” each place it appears in clauses (ii) and (iii) and inserting “January 1, 2015”.

#### SEC. 203. SIGNIFICANTLY VIEWED STATIONS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 340(b) are amended to read as follows:

“(1) SERVICE LIMITED TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—This section shall apply only to retransmissions to subscribers of a satellite carrier who receive retransmissions of a signal from that satellite carrier pursuant to section 338.

“(2) SERVICE LIMITATIONS.—A satellite carrier may retransmit to a subscriber in high definition format the signal of a station determined by the Commission to be significantly viewed under subsection (a) only if such carrier also retransmits in high definition format the signal of a station located in the local market of such subscriber and affiliated with the same network whenever such format is available from such station.”

(b) RULEMAKING REQUIRED.—Within 180 days after the date of the enactment of this Act, the Federal Communications Commission shall take all actions necessary to promulgate a rule to implement the amendments made by subsection (a).

#### SEC. 204. DIGITAL TELEVISION TRANSITION CONFORMING AMENDMENTS.

(a) SECTION 338.—Section 338 is amended—

(1) in subsection (a), by striking “(3) EFFECTIVE DATE.—No satellite” and all that follows through “until January 1, 2002.”; and

(2) by amending subsection (g) to read as follows:

“(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE RECEPTION ANTENNA.—

“(1) SINGLE RECEPTION ANTENNA.—Each satellite carrier that retransmits the signals of local television broadcast stations in a local market shall retransmit such stations in such market so that a subscriber may receive such stations by means of a single reception antenna and associated equipment.

“(2) ADDITIONAL RECEPTION ANTENNA.—If the carrier retransmits the signals of local television broadcast stations in a local market in high definition format, the carrier shall retransmit such signals in such market so that a subscriber may receive such signals by means of a single reception antenna and associated equipment, but such antenna and associated equipment may be separate from the single reception antenna and associated equipment used to comply with paragraph (1).”

(b) SECTION 339.—Section 339 is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B), by striking “Such two network stations” and all that follows through “more than two network stations.”; and

(B) in paragraph (2)—

(i) in the heading for subparagraph (A), by striking “TO ANALOG SIGNALS”;

(ii) in subparagraph (A)—

(I) in the heading for clause (i), by striking “ANALOG”;

(II) in clause (i)—

(aa) by striking “analog” each place it appears; and

(bb) by striking “October 1, 2004” and inserting “October 1, 2009”;

(III) in the heading for clause (ii), by striking “ANALOG”;

(IV) in clause (ii)—

(aa) by striking “analog” each place it appears; and

(bb) by striking “2004” and inserting “2009”;

(iii) by amending subparagraph (B) to read as follows:

“(B) RULES FOR OTHER SUBSCRIBERS.—

“(i) IN GENERAL.—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station under this section (in this subparagraph referred to as a ‘distant signal’), other than subscribers to whom subparagraph (A) applies, the following shall apply:

“(I) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the signal of a local network station affiliated with the same television network pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if the subscriber’s satellite carrier, not later than March 1, 2005, submits to that television network the list and statement required by subparagraph (F)(i).

“(II) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the signal of a local network station pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if—

“(aa) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to carry pursuant to section 338 the signals of stations from the local market of such local network station; and

“(bb) the satellite carrier, within 60 days after such date, submits to each television network the list and statement required by subparagraph (F)(ii).

“(ii) SPECIAL CIRCUMSTANCES.—A subscriber of a satellite carrier who was lawfully receiving the distant signal of a network station on the day before the date of enactment of the Satellite Home Viewer Reauthorization Act of 2009 may receive both such distant signal and the local signal of a network station affiliated with the same network until such subscriber chooses to no longer receive such distant signal from such carrier.”;

(iv) in subparagraph (C)—

(I) by striking “analog”;

(II) in clause (i), by striking “the Satellite Home Viewer Extension and Reauthorization Act of 2004” and inserting “the Satellite Home Viewer Reauthorization Act of 2009”; and

(III) by amending clause (ii) to read as follows:

“(ii) either—

“(I) at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338, and the retransmission of such signal by such carrier can reach such subscriber; or

“(II) receives from the satellite carrier the programming of a network station affiliated with the same network that is broadcast by a local station in the market where the subscriber resides, but such programming is not contained within the local station’s primary video.”;

(v) in subparagraph (D)—

(I) in the heading, by striking “DIGITAL”;

(II) by striking clauses (i), (iii) through (v), (vii) through (ix), and (xi);

(III) by redesignating clause (vi) as clause (i) and transferring such clause to appear before clause (ii);

(IV) by amending such clause (i) (as so redesignated) to read as follows:

“(i) SIGNAL TESTING.—A subscriber shall be eligible to receive a distant signal of a distant network station affiliated with the same network under this section if such subscriber is determined, based on a test conducted in accordance with section 73.686(d) of title 47, Code of Federal Regulations, or any successor regulation, not to be able to receive a signal that exceeds the signal intensity standard in section 73.622(e)(1) of title 47, Code of Federal Regulations.”;

(V) in clause (ii)—

(aa) by striking “DIGITAL” in the heading;

(bb) by striking “digital” the first two places such term appears;

(cc) by striking “Satellite Home Viewer Extension and Reauthorization Act of 2004” and inserting “Satellite Home Viewer Reauthorization Act of 2009”; and

(dd) by striking “, whether or not such subscriber elects to subscribe to local digital signals”;

(VI) by inserting after clause (ii) the following new clause:

“(iii) TIME-SHIFTING PROHIBITED.—In a case in which the satellite carrier makes available to an eligible subscriber under this subparagraph the signal of a local network station pursuant to section 338, the carrier may only provide the distant signal of a station affiliated with the same network to that subscriber if, in the case of any local market in the 48 contiguous States of the United States, the distant signal is the secondary transmission of a station whose prime time network programming is generally broadcast simultaneously with, or later than, the prime time network programming of the affiliate of the same network in the local market.”; and

(VII) by redesignating clause (x) as clause (iv); and

(vi) in subparagraph (E), by striking “distant analog signal or” and all that follows through “(B), or (D))” and inserting “distant signal”;

(2) in subsection (c)—

(A) by amending paragraph (3) to read as follows:

“(3) ESTABLISHMENT OF IMPROVED PREDICTIVE MODEL AND ON-LOCATION TESTING REQUIRED.—

“(A) PREDICTIVE MODEL.—Within 180 days after the date of the enactment of the Sat-

ellite Home Viewer Reauthorization Act of 2009, the Commission shall take all actions necessary to develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations, through the use of a conventional, stationary, outdoor rooftop receiving antenna, to receive signals in accordance with the signal intensity standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, including to account for the continuing operation of translator stations and low power television stations. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Commission in CS Docket No. 98-201, as previously revised with respect to analog signals, and as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05-182, FCC 05-199 (released December 9, 2005). The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.

“(B) ON-LOCATION TESTING.—The Commission shall issue an order completing its rulemaking proceeding in ET Docket No. 06-94 within 180 days after the date of enactment of the Satellite Home Viewer Reauthorization Act of 2009.

“(C) STUDY OF TYPES OF ANTENNAS AVAILABLE TO RECEIVE DIGITAL SIGNALS.—

“(i) STUDY REQUIRED.—Not later than 1 year after the date of enactment of the Satellite Home Viewer Reauthorization Act of 2009, the Commission shall complete a study regarding whether, for purposes of identifying if a household is unserved by an adequate digital signal under section 119(d)(10) of title 17, United States Code, the digital signal strength standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, or the testing procedures in section 73.686 of title 47, Code of Federal Regulations, such statutes or regulations should be revised to take into account the types of antennas that are available to and used by consumers.

“(ii) STUDY CONSIDERATION.—In conducting the study under clause (i), the Commission shall consider whether to account for the fact that an antenna can be mounted on a roof or placed in a home and can be fixed or capable of rotating.

“(iii) REPORT.—Not later than 1 year after the date of enactment of the Satellite Home Viewer Reauthorization Act of 2009, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

“(I) the results of the study conducted under clause (i); and

“(II) recommendations, if any, regarding changes to be made to Federal statutes or regulations.”;

(B) by amending paragraph (4)(A) to read as follows:

“(A) IN GENERAL.—If a subscriber’s request for a waiver under paragraph (2) is rejected and the subscriber submits to the subscriber’s satellite carrier a request for a test verifying the subscriber’s inability to receive a signal of the signal intensity referenced in clause (i) of subsection (a)(2)(D), the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct the test referenced in such clause. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such clause demonstrate that the

subscriber does not receive a signal that meets or exceeds the requisite signal intensity standard in such clause, the subscriber shall not be denied the retransmission of a signal of a network station under section 119(d)(10)(A) of title 17, United States Code.”;

(C) in paragraph (4)(B), by striking “the signal intensity” and all that follows through “United States Code” and inserting “such requisite signal intensity standard”; and

(D) in paragraph (4)(E), by striking “Grade B intensity”.

(c) SECTION 340.—Section 340(i) is amended by striking paragraph (4).

**SEC. 205. APPLICATION PENDING COMPLETION OF RULEMAKINGS.**

(a) IN GENERAL.—During the period beginning on the date of the enactment of this Act and ending on the date on which the Federal Communications Commission adopts rules pursuant to the amendments to the Communications Act of 1934 made by sections 203 and 204 of this Act, the Federal Communications Commission shall follow its rules and regulations promulgated pursuant to sections 338, 339, and 340 of the Communications Act of 1934 as in effect on the day before the date of enactment of this Act.

(b) TRANSLATOR STATIONS AND LOW POWER TELEVISION STATIONS.—Notwithstanding subsection (a), for purposes of determining whether a subscriber within the local market served by a translator station or a low power television station affiliated with a television network is eligible to receive distant signals under section 339 of the Communications Act of 1934, the Federal Communications Commission shall follow its rules and regulations for determining such subscriber’s eligibility as in effect on the day before the date of enactment of this Act until the date on which the translator station or low power television station is licensed to broadcast a digital signal.

(c) DEFINITIONS.—As used in this title:

(1) LOCAL MARKET; LOW POWER TELEVISION STATION; SATELLITE CARRIER; SUBSCRIBER; TELEVISION BROADCAST STATION.—The terms “local market”, “low power television station”, “satellite carrier”, “subscriber”, and “television broadcast station” have the meanings given such terms in section 338(k) of the Communications Act of 1934.

(2) NETWORK STATION; TELEVISION NETWORK.—The terms “network station” and “television network” have the meanings given such terms in section 339(d) of such Act.

**SEC. 206. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.**

Part I of title III is amended by adding at the end the following new section:

**“SEC. 342. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.**

“(a) CERTIFICATION.—The Commission shall issue a certification for the purposes of section 119(g)(3)(A)(iii) of title 17, United States Code, if the Commission determines that—

“(1) a satellite carrier is providing local service pursuant to the statutory license under section 122 of such title in each designated market area; and

“(2) with respect to each designated market area in which such satellite carrier was not providing such local service as of the date of enactment of the Satellite Home Viewer Reauthorization Act of 2009—

“(A) the satellite carrier’s satellite beams are designed, and predicted by the satellite manufacturer’s pre-launch test data, to provide a good quality satellite signal to at least 90 percent of the households in each such designated market area based on the most recent census data released by the United States Census Bureau; and

“(B) there is no material evidence that there has been a satellite or sub-system failure subsequent to the satellite’s launch that

precludes the ability of the satellite carrier to satisfy the requirements of subparagraph (A).

“(b) INFORMATION REQUIRED.—Any entity seeking the certification provided for in subsection (a) shall submit to the Commission the following information:

“(1) An affidavit stating that, to the best of the affiant’s knowledge, the satellite carrier provides local service in all designated market areas pursuant to the statutory license provided for in section 122 of title 17, United States Code, and listing those designated market areas in which local service was provided as of the date of enactment of the Satellite Home Viewer Reauthorization Act of 2009.

“(2) For each designated market area not listed in paragraph (1):

“(A) Identification of each such designated market area and the location of its local receive facility.

“(B) Data showing the number of households, and maps showing the geographic distribution thereof, in each such designated market area based on the most recent census data released by the United States Census Bureau.

“(C) Maps, with superimposed effective isotropically radiated power predictions obtained in the satellite manufacturer’s pre-launch tests, showing that the contours of the carrier’s satellite beams as designed and the geographic area that the carrier’s satellite beams are designed to cover are predicted to provide a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

“(D) For any satellite relied upon for certification under this section, an affidavit stating that, to the best of the affiant’s knowledge, there have been no satellite or sub-system failures subsequent to the satellite’s launch that would degrade the design performance to such a degree that a satellite transponder used to provide local service to any such designated market area is precluded from delivering a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

“(E) Any additional engineering, designated market area, or other information the Commission considers necessary to determine whether the Commission shall grant a certification under this section.

“(c) CERTIFICATION ISSUANCE.—

“(1) PUBLIC COMMENT.—The Commission shall provide 30 days for public comment on a request for certification under this section.

“(2) DEADLINE FOR DECISION.—The Commission shall grant or deny a request for certification within 90 days after the date on which such request is filed.

“(d) SUBSEQUENT AFFIRMATION.—An entity granted qualified carrier status pursuant to section 119(g) of title 17, United States Code, shall file an affidavit with the Commission 30 months after such status was granted stating that, to the best of the affiant’s knowledge, it is in compliance with the requirements for a qualified carrier.

“(e) DEFINITIONS.—For the purposes of this section:

“(1) DESIGNATED MARKET AREA.—The term ‘designated market area’ has the meaning given such term in section 122(j)(2)(C) of title 17, United States Code.

“(2) GOOD QUALITY SATELLITE SIGNAL.—

“(A) IN GENERAL.—The term ‘good quality satellite signal’ means—

“(i) a satellite signal whose power level as designed shall achieve reception and demodulation of the signal at an availability level of at least 99.7 percent using—

“(I) models of satellite antennas normally used by the satellite carrier’s subscribers; and

“(II) the same calculation methodology used by the satellite carrier to determine predicted signal availability in the top 100 designated market areas; and

“(ii) taking into account whether a signal is in standard definition format or high definition format, compression methodology, modulation, error correction, power level, and utilization of advances in technology that do not circumvent the intent of this section to provide for non-discriminatory treatment with respect to any comparable television broadcast station signal, a video signal transmitted by a satellite carrier such that—

“(I) the satellite carrier treats all television broadcast stations’ signals the same with respect to statistical multiplexer prioritization; and

“(II) the number of video signals in the relevant satellite transponder is not more than the then current greatest number of video signals carried on any equivalent transponder serving the top 100 designated market areas.

“(B) DETERMINATION.—For the purposes of subparagraph (A), the top 100 designated market areas shall be as determined by Nielsen Media Research and published in the Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication as of the date of a satellite carrier’s application for certification under this section.”

**SEC. 207. NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION DIGITAL SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.**

(a) IN GENERAL.—Section 338(a) is amended by adding at the end the following new paragraph:

“(5) NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.—

“(A) EXISTING CARRIAGE OF HIGH DEFINITION SIGNALS.—If, prior to the date of enactment of the Satellite Home Viewer Reauthorization Act of 2009, an eligible satellite carrier is providing, under section 122 of title 17, United States Code, any secondary transmissions in high definition to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the high-definition signals of qualified noncommercial educational television stations located within that local market in accordance with the following schedule:

“(i) By December 31, 2010, in at least 50 percent of the markets in which such satellite carrier provides such secondary transmissions in high definition.

“(ii) By December 31, 2011, in every market in which such satellite carrier provides such secondary transmissions in high definition.

“(B) NEW INITIATION OF SERVICE.—If, after the date of enactment of the Satellite Home Viewer Reauthorization Act of 2009, an eligible satellite carrier initiates the provision, under section 122 of title 17, United States Code, of any secondary transmissions in high definition to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, the such satellite carrier shall carry the high-definition signals of all qualified noncommercial educational television stations located within that local market.”

(b) DEFINITIONS.—Section 338(k) is amended—

(1) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

“(2) ELIGIBLE SATELLITE CARRIER.—The term ‘eligible satellite carrier’ means any satellite carrier that is not a party to a carriage contract with a qualified noncommercial educational television station, or its representative, that is in force and effect as of the date of enactment of the Satellite Home Viewer Reauthorization Act of 2009.”

(3) by redesignating paragraphs (6) through (9) (as previously redesignated) as paragraphs (7) through (10), respectively; and

(4) by inserting after paragraph (5) (as so redesignated) the following new paragraph:

“(6) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term ‘qualified noncommercial educational television station’ has the meaning given such term in section 615(1)(I) of this Act.”

**SEC. 208. SAVINGS CLAUSE REGARDING USE OF NON-COMPULSORY LICENSES.**

(a) IN GENERAL.—Nothing in this title, the Communications Act of 1934, or regulations promulgated by the Federal Communications Commission under this title or the Communications Act of 1934 shall be construed to prevent a multichannel video programming distributor from retransmitting a performance or display of a work pursuant to an authorization granted by the copyright owner or, if within the scope of its authorization, its licensee.

(b) LIMITATION.—Nothing in subsection (a) shall be construed to affect any obligation of a multichannel video programming distributor under section 325(b) of the Communications Act of 1934 to obtain the authority of a television broadcast station before retransmitting that station’s signal.

**SEC. 209. SAVINGS CLAUSE REGARDING DEFINITIONS.**

Nothing in this title or the amendments made by this title shall be construed to affect—

(1) the meaning of the terms “program related” and “primary video” under the Communications Act of 1934; or

(2) the meaning of the term “multicast” in any regulations issued by the Federal Communications Commission.

**TITLE III—REPORTS**

**SEC. 301. DEFINITION.**

In this title, the term “appropriate Congressional committees” means the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate and the Committees on the Judiciary and on Energy and Commerce of the House of Representatives.

**SEC. 302. REPORT ON MARKET BASED ALTERNATIVES TO STATUTORY LICENSING.**

Not later than 1 year after the date of the enactment of this Act, and after consultation with the Federal Communications Commission, the Register of Copyrights shall submit to the appropriate Congressional committees a report containing—

(1) proposed mechanisms, methods, and recommendations on how to implement a phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code, by making such sections inapplicable to the secondary transmission of a performance or display of a work embodied in a primary transmission of a broadcast station that is authorized to license the same secondary transmission directly with respect to all of the performances and displays embodied in such primary transmission;

(2) any recommendations for alternative means to implement a timely and effective phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code; and

(3) any recommendations for legislative or administrative actions as may be appropriate to achieve such a phase-out.

**SEC. 303. REPORT ON COMMUNICATIONS IMPLICATIONS OF STATUTORY LICENSING MODIFICATIONS.**

(a) **STUDY.**—The Comptroller General shall conduct a study that analyzes and evaluates the changes to the carriage requirements currently imposed on multichannel video programming distributors under the Communications Act of 1934 (47 U.S.C. 151 et seq.) and the regulations promulgated by the Federal Communications Commission that would be required or beneficial to consumers, and such other matters as the Comptroller General deems appropriate, if Congress implemented a phase-out of the current statutory licensing requirements set forth under sections 111, 119, and 122 of title 17, United States Code. Among other things, the study shall consider the impact such a phase-out and related changes to carriage requirements would have on consumer prices and access to programming.

(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall report to the appropriate Congressional committees the results of the study, including any recommendations for legislative or administrative actions.

**SEC. 304. REPORT ON IN-STATE BROADCAST PROGRAMMING.**

Not later than 1 year after the date of enactment of this Act, the Federal Communications Commission shall submit to the appropriate Congressional committees a report containing an analysis of—

(1) the number of households in a State that receive local broadcast stations from a station of license that is located in a different State;

(2) the extent to which consumers have access to in-state broadcast programming; and

(3) whether there are alternatives to the use of designated market areas, as defined in section 122 of title 17, United States Code, to define local markets that would provide more consumers with in-state broadcast programming.

**TITLE IV—SEVERABILITY**

**SEC. 401. SEVERABILITY.**

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of such provision or amendment to any person or circumstance shall not be affected thereby.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Texas (Mr. SMITH) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

**GENERAL LEAVE**

Mr. CONYERS. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. I also further ask unanimous consent that the gentleman from Virginia (Mr. BOUCHER) be yielded 10 minutes of my time and that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. I yield myself such time as I may consume.

Madam Speaker and Members, H.R. 3570 extends the compulsory copyright license for satellite television providers for another 5 years, as Congress has done in each of the last two other cycles that this measure has been reauthorized.

□ 1715

This is an important intellectual property law and will also make a number of critical updates and much-needed clarifications to the compulsory copyright licenses for both satellite and cable television. Passage of this legislation before the end of the year is crucial. We must pass this bill in both bodies by December 31. If we don't pass this bill, thousands upon thousands of satellite television subscribers will lose their signals.

In addition to simply reauthorizing the license, the bill ambitiously tackles several other issues for consumers, for content owners, and for cable and satellite companies as well. For example, this bill restores the section 119 license to DISH Satellite Network if they serve every market in the United States, even neglected rural markets. The bill also resolves the phantom signal problem that has caused instability and confusion for the cable and content industries, to the detriment of consumers.

In addition, the bill provides an audit right to content owners so they can be sure that they are being fairly compensated for the use of their intellectual property. It significantly increases penalties for copyright infringement under the licenses and updates the licenses to reflect the national digital television transition.

The Judiciary Committee marked this bill up in September and reported it with a unanimous vote of 34-0. Since the markup, we have worked with the Energy and Commerce Committee, which has jurisdiction over communications policy. The bill that we vote on today is a combined Judiciary and Commerce bill. Title I contains the Judiciary piece on copyright. Title II contains the Commerce piece on communications. The committees have done their best to respect each other's jurisdiction, and I thank the chairman of the committee for his cooperation.

Since the markup, we have made further improvements to the language. We've attempted to address some concerns expressed by members of the committee. The changes include: harmonizing the so-called "grandfathering" provisions in the bill with those in the Energy and Commerce bill to ensure that consumers who lawfully receive certain kinds of programming are not abruptly cut off because of changes in the law; providing a method for calculating the value of multicast pro-

gramming schemes under the section 111 license; strengthening the protections for copyright owners in the qualified carrier provision, which provides an incentive for a satellite carrier to serve every market in the United States; increasing the effectiveness of the national emergency provisions; and authorizing a study of how the compulsory licenses may be phased out in favor of direct negotiation for copyrights over time without disrupting the television marketplace.

Title I also includes a savings clause to make absolutely clear that the changes we make and issues we address have no application to communications law unless specifically mentioned. The committee is amending the cable and satellite licenses to reflect the digital transition—something new—and multicasting, in particular, as it pertains to copyright law only. Nothing in this title should be used as a basis for conclusions concerning cable and satellite regulation in areas where Congress has not yet spoken.

Among the many Members who contributed to this progress, I would like to single out in particular my good friend from Virginia, RICK BOUCHER, who serves in the dual role as a senior member of the Judiciary Committee and the Chair of the Telecommunications Subcommittee. I also must thank LAMAR SMITH, the ranking member of the Judiciary Committee, for helping work to improve the bill in several ways. Of course the distinguished chairman of Energy and Commerce, Chairman HENRY WAXMAN, and Ranking Member BARTON for all their counsel and cooperation which made this legislation possible.

We've been working on these issues for more than a year now, and the result is a consensus bill among just about all of the industry stakeholders, including satellite and cable companies, studios, sports leagues, public television and several others. Most importantly, it's a bill that improves service to television consumers and fosters efficiency and competition between cable, satellite, and broadcasters. The satellite license expires in less than a month, December 31, and we must have this reauthorized without delay to avoid the immediate loss of service to tens of thousands of satellite consumers.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOMELAND SECURITY,  
Washington, DC, October 28, 2009.

Hon. JOHN CONYERS, Jr.,  
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR CHAIRMAN CONYERS: I write to you regarding H.R. 3570, the "Satellite Home Viewer Update and Reauthorization Act of 2009."

H.R. 3570 contains provisions that fall within the jurisdiction of the Committee on Homeland Security. I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner and, accordingly, I will not seek a sequential referral of the bill. However, agreeing to waive consideration of this bill should not be construed as the Committee on Homeland Security waiving, altering, or otherwise affecting

its jurisdiction over subject matters contained in the bill which fall within its Rule X jurisdiction.

Further, I request your support for the appointment of an appropriate number of Members of the Committee on Homeland Security to be named as conferees during any House-Senate conference convened on H.R. 3570 or similar legislation. I also ask that a copy of this letter and your response be included in the legislative report on H.R. 3570 and in the Congressional Record during floor consideration of this bill.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

BENNIE G. THOMPSON,  
*Chairman.*

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
Washington, DC, October 28, 2009.

Hon. BENNIE G. THOMPSON,  
*Chairman, Committee on Homeland Security,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter regarding your Committee's jurisdictional interest in H.R. 3570, the Satellite Home Viewer Update and Reauthorization Act of 2009.

I appreciate your willingness to support expediting floor consideration of this important legislation today. I understand and agree that this is without prejudice to your Committee's jurisdictional interests in this or similar legislation in the future. In the event a House-Senate conference on this or similar legislation is convened, I would support your request for an appropriate number of conferees.

Per your request, I will include a copy of your letter and this response in the Committee report, as well as in the Congressional Record in the debate on the bill. Thank you for your cooperation as we work towards enactment of this legislation.

Sincerely,

JOHN CONYERS, Jr.,  
*Chairman.*

I urge my colleagues to support this important legislation, and I reserve the balance of my time.

Mr. SMITH of Texas. Madam Speaker, I yield myself as much time as I may consume.

H.R. 3570, the Satellite Home Viewer Reauthorization Act of 2009, in my judgment, is the single most important copyright bill Congress will consider this year. The legislation combines two separate bills: H.R. 3570, which was introduced by Chairman CONYERS and reported by the Judiciary Committee on September 16, 2009, and H.R. 2994, which is the Energy and Commerce Committee's related measure that contains amendments to the Communications Act.

The combined bill extends the compulsory license in section 119 of the Copyright Act that authorizes satellite carriers to deliver distant network programming to subscribers. Far fewer consumers rely upon this license to receive network programming than in past years, but there still remain about 1 million households that will lose such programming if the license is not extended beyond the end of this year, which is when it is currently due to expire. To avoid this outcome, the bill extends the compulsory license an additional 5 years to December 31, 2014. My

hope is that this will be the last time Congress needs to reauthorize what was originally envisioned to be a temporary license.

H.R. 3570 also contains a number of significant amendments to the cable license in section 111 of the Copyright Act governing the retransmission of both local and distant programming, and the local programming license in section 122 that governs the satellite retransmission of local-into-local programming. The most significant immediate change to the cable license is a negotiated resolution of the phantom signal liability issue that I appreciate the chairman including in this bill.

I commend Chairman CONYERS for his decision to expand this reauthorization beyond the narrow limits of the expiring section 119 provisions. While circumstances prevented us from being able to iron out all the wrinkles from these related licenses, I'm pleased we were able to make substantial improvements and address some of the most urgent concerns. Among the elements for which there was bipartisan support to include in this bill are provisions that, one, modernize a license to account for digital broadcasting; two, preserve the ability of consumers to continue to receive lifeline network programming; three, make clear that copyright owners are generally entitled to a royalty for each stream of multicast programming; and four, establish a new audit right to permit copyright owners to make sure they are being paid the royalties they are entitled to.

Madam Speaker, I have strong reservations about the decision to permit DISH Network to again benefit from section 119's distant signal license in light of its prior record of willful infringement. However, I share the goal of making sure more Americans can benefit from satellite delivery of local-into-local programs. I'm grateful for Chairman CONYERS' recognition of the seriousness of these concerns and his willingness to work with me and Chairman BERMAN to strengthen the deterrence and enforcement provisions in the bill. The enhanced penalties we've included for any future violation, along with provisions that require the GAO to audit DISH for its compliance with the law and DISH to certify its compliance to the Federal District Court, reflects substantial improvements from previous versions of the bill. The incorporation of these provisions reflect a carefully negotiated and fair compromise.

Madam Speaker, I urge my colleagues to support H.R. 3570, the Satellite Home Viewer Reauthorization Act. When enacted, this bill will both preserve and expand the ability of Americans to view vital network and independent station programming without interruption.

Madam Speaker, again, I want to thank the chairman for working with us to come up with a good bipartisan product. And this bipartisan effort, by

the way, has gone on since last February.

I would now like to recognize several staff members on both sides of the aisle who have contributed so much to the success of this legislation. Those staff members would include David Whitney, sitting to my left here on the House floor on our side; and on the majority's side it would be Stacey Dansky, the chief copyright counsel, and Elizabeth Kendall, counsel as well. I thank Chairman CONYERS again for his cooperative efforts in getting this House bill to the floor today.

I ask unanimous consent that the gentleman from Florida (Mr. STEARNS), a senior member of the Commerce Committee, be able to control the remainder of the time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. With that, I will reserve the balance of the time.

Mr. CONYERS. Madam Speaker, I would like to insert into the RECORD at this point a more detailed description of the changes that have been made in the bill since it was reported.

#### EXPLANATION OF CHANGES TO SHVRA

##### INTRODUCTION

The Committee believes that the licenses in Sections 111 and 119 should be updated to accommodate the growing practice of multicast broadcasting, by which television stations transmit multiple streams of digital television programming over a single broadcast signal. While the Committee has endeavored to avoid including in the bill any provisions that would interfere with existing communications law and regulation, the Committee has been cognizant of the interplay between the copyright and the communications elements of the legislation and intends to confine its amendments to the copyright licenses only.

In addition to addressing issues raised by multicasting in the 111 and 119 licenses, this bill addresses important concerns raised by Members at markup.

The penalties for willful and large-scale infringement of the license have been increased, and some damages now go directly to the pool of copyright owners.

The qualified carrier provisions have also been clarified and strengthened. While nothing in the qualified carrier provisions reported by the Committee lessened the qualified carrier's obligation to comply with all aspects of the Section 119 license, the Committee recognizes that the royalty and household eligibility requirements of the Section 119 license should not be overshadowed by the qualified carrier's unique commitment to provide local-into-local service to all 210 markets. Therefore, the bill provides for at least one compliance examination and a certification requirement for the qualified carrier.

Finally, the bill responds to some Members' concerns about the continued necessity of these compulsory copyright licenses by providing for a study of policy alternatives that may enable Congress to phase out the licenses without unfairly altering the television market or diminishing the value of the copyrights involved.

##### I. SECTION 111 MULTICASTING

With the transition from analog to digital technology, questions have arisen as to how digital streams shall be treated for cable

royalty purposes. The definitions in Section 111 have been amended to address the multiple digital streams that television stations are now able to transmit. The definition of "primary transmission" now includes both the primary stream and any multicast streams transmitted by a television station. The "local service area" definition has been amended to clarify that the primary stream of a television broadcast station and any multicast streams of that station have the same local service area. For example, if the FCC has determined that a television broadcast station is "significantly viewed" in a particular area, that area will be part of the local service area of all of the station's digital streams for purposes of section 111. This definition is relevant to the Copyright Act only, and is not intended to create any inference in favor or against carriage obligations for cable multicast streams, which are the exclusive jurisdiction of the Communications Act and the Federal Communications Commission.

The calculation of royalties under the cable license has been amended to value multicast signals. The "distant signal equivalent" definition now specifies that each non-simulcast primary and multicast stream carried outside of its local service area will be subject to a separate royalty payment calculation by cable operators and should be evaluated separately to determine its distant signal equivalent value assignment.

Section 111 allows cable systems to pay less than full DSE rates where FCC rules permit only a portion of a distant signal to be carried. This amendment gives the same treatment to multicast streams. The significantly viewed status of a primary stream under the FCC rules and regulations also applies to the multicast streams of the same television stations, to determine distant or local status for royalty purposes. However, the 3.75 percent "market quota rate" and the "syndicated exclusivity" surcharge royalty rates are only payable for retransmission of primary streams, and are not applicable to secondary transmission of multicast streams.

In order to clarify the different types of digital streams that may be offered by television stations, definitions for "primary stream," and "multicast stream" have been slightly altered and a definition has been added for "simulcast stream," in Section 111. A "primary stream" is the digital stream that a television station is entitled to demand be carried by cable systems located within the station's local service area under the FCC's rules in effect on July 1, 2009. A "multicast stream" is any digital stream transmitted by a television station other than the primary stream.

The Committee recognizes that some broadcasters may use their multicast streams to create "simulcast" streams—i.e., streams that duplicate the programming on the broadcaster's primary stream or on other multicast streams. For example, a broadcaster may transmit the same content on two streams, but one stream will be in high definition format and the other will be in standard definition. In such instances, a DSE value will be assigned only to one of the duplicating streams. The Copyright Office may, as multicasting evolves, determine whether there are other circumstances in which two streams should be considered duplicating.

The definitions of "network station," "independent station," and "noncommercial station" have all been expanded to include a television station's multicast streams as well as its primary stream. The "network station" definition incorporates the conditions under which a multicast stream may be deemed a network station for royalty purposes. Thus, to be considered a network sta-

tion for royalty purposes, a multicast stream must transmit all or substantially all of the programming from an interconnected program service that (a) is owned and operated by one or more of the networks that supply nationwide programming for a substantial part of the typical broadcast day and (b) offers programming on a regular basis for 15 or more hours per week to at least 25 affiliated television station licensees located in at least 10 states. These revisions do not alter the statutory definition of "network station" as it applies to a primary stream.

DSE values are applied to individual multicast streams as of the date of enactment, except where a cable system was retransmitting a distant multicast stream prior to that date, in which case the assignment of a DSE value to that multicast stream shall commence on July 1, 2010. Separately, a multicast stream retransmitted by a cable system subject to an agreement requiring carriage of multicast streams that was entered into prior to July 1, 2009 will not be assigned a DSE value for royalty purposes until the first accounting period after the expiration of the agreement.

While cable operators that did not account for multicast streams in their royalty calculations prior to the effective date are not retroactively liable for royalties for such carriage, cable operators that did not seek refunds or offsets of any royalties paid on account of such secondary transmissions.

The Committee does not intend that any of its audit provisions in this bill alter existing liability and related damages for copyright infringements.

#### II. SECTION 119 GRANDFATHERING

The Committee also believes that simply because Congress changes the law, law-abiding consumers should not be deprived of programming they have become accustomed to receiving without fair warning. In Section 119, where changes to the law that govern the treatment of multicast streams have the potential to render certain consumers ineligible for distant signals that consumers are currently receiving, grandfathering provisions have been added to facilitate a smooth transition to the changed compulsory license system.

Households classified as "unserved" with respect to a particular network station are the only households eligible to receive secondary transmissions of an affiliate of that network station under the Section 119 license. The advent of multicasting has introduced confusion about whether a "multicast stream" of a particular network renders a household served, which would force the satellite carrier to stop providing distant signal programming to the household for that network.

The bill harmonizes the preexisting grandfathering provisions with those in the Energy and Commerce bill to ensure a smooth transition to a new regime in which, in three years' time, any stream of local programming, primary or multicast, will render a household served. Specifically, the bill provides that households that subscribed to distant signals before the date of enactment who were lawfully receiving them can keep those distant signals until the subscriber elects to no longer receive those signals.

A household that requests a network's distant signal from a satellite carrier after enactment can receive such a signal if: (1) the household is in a market where the satellite carrier offers local service, but does not yet receive from the satellite carrier the primary stream of an affiliate of that network that originates within its local market (in which case the subscriber can keep the distant signal until he or she does receive such stream from the satellite carrier); or (2) the

household is in a market where the satellite operator does not yet offer local service (in which case the subscriber can keep the distant signal until he or she decides to discontinue it).

#### III. INCREASED PROTECTIONS FOR COPYRIGHT OWNERS IN SECTION 119

The bill also responds to concerns expressed by Committee Members at the markup by increasing transparency and accountability by the qualified carrier concerning its obligations to copyright owners. A certification provision similar to the one passed by the Committee on Energy and Commerce has been added. It requires the satellite carrier to certify to the district court and the Copyright Office that it remains compliant with the license 30 months after the district court initially recognized the satellite company as a qualified carrier.

The bill provides for at least one Qualified Carrier Compliance Examination. This examination is not intended to be punitive. The Committee anticipates that the Comptroller General will take precautions to ensure that compliance with its examination does not burden the qualified carrier any more than is necessary to examine the qualified carrier's observance of the proper royalty calculation, payment and adherence to the license's standards for eligible households. Only if the Comptroller General, in consultation with the Register of Copyrights, determines that there is a substantial likelihood that a copyright owner could bring a successful infringement action will a second examination be initiated.

The report does not replace the judgment of the district court, which retains exclusive jurisdiction over the waiver of the injunction and assessment of damages against the qualified carrier.

The Committee has taken one other additional step to strengthen protections for content-owners. The Committee has increased the damages available for infringement of copyright by any satellite carrier who engages in a pattern or practice of wrongful provision of distant signals on a substantially national basis. Statutory damages of up to \$2,500,000 are now available for each 3-month period of infringement. Furthermore, these vastly increased damages will be split between the plaintiff and the pool of copyright holders whose funds are distributed by the United States Copyright Office, to compensate copyright owners who may have been unaware of the infringement.

#### IV. STUDY OF ALTERNATIVES TO COMPULSORY LICENSES

Despite these improvements, the Committee is aware that the compulsory license is not a perfect system. It is, however, deeply entrenched in the current cable and satellite television industries, and cannot be eliminated at the present moment without causing serious disruption for both the industries and the consumers. The compulsory license expires at the end of the year and must be reauthorized, but we know that the television marketplace and broadcast technology will continue to evolve. This legislation provides for a study of whether the licenses can be eliminated in the future, and how the marketplace could and should transition away from the licenses.

Madam Speaker, I yield with pleasure to Chairman BOUCHER.

Mr. BOUCHER. Madam Speaker, I thank the gentleman from Michigan for yielding the customary 10 minutes to the Energy and Commerce Committee.

At this time, I would like to yield such time as he may consume to the

gentleman from the State of California (Mr. WAXMAN), the chairman of the full Energy and Commerce Committee.

Mr. WAXMAN, Madam Speaker, I rise in support of H.R. 3570, the Satellite Home Viewer Update and Reauthorization Act of 2009. I want to commend Mr. BOUCHER, the chairman of the Subcommittee on Communications, Technology, and the Internet as well as Subcommittee Ranking Member STEARNS for their hard work on this bill. Mr. BOUCHER has been working on these issues since the first satellite TV bill in 1988, and he and his staff have been a tremendous resource for all of us as this bill has moved forward. Of course I also want to thank and recognize Mr. BARTON and his staff for their work on this legislation. This has been a bipartisan effort from the start of the 111th Congress, and I appreciate the cooperative manner in which this legislation was processed.

This bill is an important step forward for consumers. The communication provisions of this bill update the Communications Act to take account of the transition to digital television. The bill makes changes to the existing rules on "significantly viewed" signals in an effort to promote competition between satellite and cable companies. It directs the FCC to study issues that directly impact consumers, and it establishes a regime that should bring for the first time satellite-delivered local television programming, so-called "local-into-local" service, to communities throughout the country that currently lack such service.

These can be arcane issues, but they determine the availability of satellite-delivered video programming to American households. It involves communications and copyright law, and we need, as technology evolves, to revisit the issues and strike the right policy balance.

The task of combining separate Energy and Commerce and Judiciary Committee bills into a single product was complex and time consuming, but the final product is a balanced, bipartisan measure. I would like to commend Chairman CONYERS, Ranking Member SMITH and Judiciary Committee staff for working cooperatively with the Energy and Commerce Committee to produce a final bill. I note that the bill before us incorporates the language of H.R. 3570 as well as H.R. 2994. H.R. 3570 was referred solely to the Committee on the Judiciary, while H.R. 2994 was referred solely to the Committee on Energy and Commerce. The members of both committees worked diligently on their respective bills to address issues within the jurisdiction of each committee, and both committees filed reports on their separate bills.

Accordingly, the legislative history of H.R. 3570 incorporates the legislative history of H.R. 2994. The Judiciary Committee's title of this bill concerns the use of compulsory copyright licenses by cable and satellite companies

to retransmit broadcast television programming.

□ 1730

The reauthorization and refinement of these provisions will serve to promote competition for pay television services and to ensure that consumers can continue to benefit from this competition.

The Judiciary Committee wisely chose to address for the first time the existence of the so-called "multicast" signals and how these signals are being treated with respect to the compulsory copyright license. It is important to note, however, that the Judiciary Committee's treatment of multicast signals does not, and should not, have any bearing on the treatment of multicast signals in other regulatory or statutory contexts.

Simply put, the treatment of multicast in title I of this bill is limited in application to copyright law. It is imperative that the way multicast signals are treated under copyright law cannot be confused with the way multicast signals are treated under communications law. Similarly, it's important that the communications law provisions of this bill do not affect copyright law beyond what is explicitly intended by the act.

To address this concern, the legislation includes savings clauses that make clear that the melding of two complicated statutes should not lead to changes in title 47 or title 17 beyond the scope of this reauthorization. These clauses are important provisions designed to avoid unintended consequences.

In sum, I believe we have before us a carefully crafted bill that strikes the right balance among an array of complicated legal and policy matters. The bill is good for consumers, and I urge my colleagues to vote to approve this legislation.

Mr. STEARNS, Madam Speaker, I yield myself such time as I may consume.

My colleagues, this bill is about a hundred pages, and the Judiciary Committee had probably the majority of this bill. We start at page 74 in title II, and the preponderance is in the Judiciary. But the bill is critical in the sense that this act itself is going to expire at the end of this month and we need to make sure that this passes.

This has been a great display of bipartisanship. You had two committees. The Judiciary Committee and the Energy and Commerce Committee had separate bills just like they have in the Senate. The Senate has a separate bill in their Commerce Committee and also in the Judiciary. But we've come together, and it's a tribute to Mr. BOUCHER and Mr. WAXMAN as well as Mr. BARTON that we came together here in the House of Representatives with a bipartisan bill, and we now have it on the floor. And we're hopeful that the Senate will do the same thing, because at this point, they haven't, and we might

have to have an extension. I hope not. But I think it's been outlined pretty much, some of the aspects about it, so I'm going to concentrate in the areas that deal with telecommunications, a committee I serve as the ranking member.

The Communications Act provisions make clerical and substantive changes to reflect the end of analog broadcasting. That's a statement in itself with the new digital spectrum.

They also require an FCC report on whether the signal strength and antenna standards for distant signal eligibility should be modified in light of the DTV transition. They implement the deal DISH has struck with broadcasters to regain authority to provide distant signals if they offer local-into-local service in all 210 markets. They clarify that nothing in this act affects must-carry rights. They clarify that if a subscriber starts receiving from their satellite operator the network programming from a local station's multicast stream, the subscriber shall no longer receive a distant signal carrying that network's programming. They include language clarifying that restrictions on use of compulsory licenses do not limit private deals negotiated without compulsory licenses, such as to provide in-State programming to orphan counties. It requires an FCC report analyzing, one, the number of households that receive out-of-State signals; two, the extent to which consumers have access to in-State programming; and, three, whether there are alternatives to use of the existing Nielsen-defined markets.

Earlier, LAMAR SMITH, the gentleman from Texas, mentioned there are some things that have to be ironed out, and I think that's true.

While it still contains, in this bill, a provision we opposed in the committee during the markup that tries to twist DISH's arm into carrying public broadcasting stations in high-definition format, and I was the one that spoke against this, the additional views in the committee report reflect our concerns, and there is a chance that provision will become moot since, obviously, the parties are in negotiation, and we're hoping for a favorable negotiation so that will work itself out.

Madam Speaker, I reserve the balance of my time.

Mr. BOUCHER, Madam Speaker, I yield myself such time as I may consume.

(Mr. BOUCHER asked and was given permission to revise and extend his remarks.)

Mr. BOUCHER, Madam Speaker, in a collaborative process, the House Energy and Commerce and Judiciary Committees are presenting to the House this afternoon a renewal of the Satellite Home Viewer Act, provisions of which are scheduled to expire at the end of this year. The act enables the delivery by satellite of distant network signals to homes that cannot receive network programming from a local television station.

We're taking the opportunity of this reauthorization to achieve a long-held goal of having all 210 local television markets across the Nation uplinked by satellite for retransmission of those local stations back into the market of their origination. The goal is to ensure that satellite TV subscribers everywhere will be able to receive both national television programs and local TV stations that serve their area.

At the present time, there are 28 local television markets in rural areas in various places of the Nation that do not have local television signals delivered by either of the major satellite television carriers, and much of our effort this year has been directed toward finding a way to obtain satellite carriage of these 28 rural markets for local television signals.

Earlier this year, following extensive discussions with the company, I received a letter from EchoStar, a company commonly known in the trade as the DISH Network, agreeing to uplink for local retransmission all 210 local television markets upon certain conditions. One condition is that the company receive the ability in our legislation to import into the markets distant network signals in order to supply the missing networks in the markets that do not have a full complement of the networks represented by local affiliates. The bill that we're presenting today grants that permission if EchoStar, in fact, provides local TV service in all 210 television markets nationwide.

Another condition of the company's willingness to serve all 210 markets is that the law not impose new carriage obligations that the company would have to devote its satellite capacity in order to meet. While the bill does impose some new carriage obligations, I'm optimistic that they will not be so extreme as to prevent EchoStar from launching local TV service in all 210 local markets over the coming year.

Providing local TV service in the 28 currently unserved local markets will make local TV news, sports, weather, essential emergency information, and locally originated programs available in every part of the Nation, a goal that we're now very close to achieving. Serving the 28 now unserved local TV markets involves a major expenditure by EchoStar for ground-based facilities in each of the currently unserved markets and for the launch, in 2010, of a new satellite that itself will cost hundreds of millions of dollars.

I want to commend EchoStar for expressing a willingness to make these very substantial investments if we pass legislation that meets the conditions I have previously described, and I think our legislation does. I also commend television broadcasters and DirecTV, the other major satellite television provider, both of which groups played highly constructive roles as our negotiations proceeded. And I want to thank the gentleman from Michigan (Mr. STUPAK), a member of our Com-

merce Committee, for bringing to our attention in very forceful terms the need to serve all of the 28 currently unserved local television markets across our Nation.

The bill before us makes other changes needed to harmonize the satellite carriage licenses with the transition from analog to digital television broadcasting, and it will result in more high-definition carriage of public broadcasting television under the terms of an amendment that was offered by the gentlewoman from California (Ms. ESHOO) and adopted during Commerce Committee consideration of our bill.

I want to say thank you this afternoon to Chairman CONYERS and his excellent staff for the cooperation with my staff and with me as our two committees structured the bill that we present to the House this afternoon. And I want to say thank you to the gentleman from Texas (Mr. SMITH) and the gentleman from Florida (Mr. STEARNS) for the highly constructive and cooperative bipartisan role that they have played in helping us move this measure through our two committees.

Madam Speaker, I urge approval of the bill, and I reserve any time I may have remaining.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. STEARNS. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BARTON), the distinguished ranking member of the Energy and Commerce Committee.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. I thank the gentleman from Florida for yielding.

Madam Speaker, I rise in support of the Satellite Home Viewer Update and Reauthorization Act of 2009. I want to thank the majority in both the Energy and Commerce Committee and the Judiciary Committee for working with the minority. This is one of those rare instances in this Congress when there has been bipartisan cooperation and the result is a bill that both sides can support.

The bill itself is an example of what Congress should be about. It is an authorization bill with a finite authorization—in this case, 5 years—that authorizes the transfer of satellite signals to home viewers who cannot get cable or over-the-air broadcast signals. The industry today is much different than it was 20 years ago when we first authorized the Satellite Home Viewer Act, and this bill reflects that. As we are transitioning to digital television and high-definition television, this bill takes those technical advances into consideration, which I think is a good thing.

There is one provision in the legislation that is nettlesome from my point of view. We have adopted a provision that I opposed in committee that forces the DISH Network to carry high-

definition signals for public broadcast stations. I'm not opposed to public television being broadcast in high definition, but I don't think it's the end of the world if DISH chooses for right now not to carry those signals because they're engaged in an upgrade of their base and won't be able to do so in their business model until 2013. So congressional intervention in this bill in that case is something that I wish was not in the bill. There is a chance, however, that the parties will negotiate and this provision of the bill will become moot by the time the bill moves to the other body.

With that said, Madam Speaker, this is a good piece of legislation. I want to compliment Ranking Member STEARNS, who's worked very hard on it, and the staffs on both sides of the aisle for their hard work, and I would hope the House will pass this bill at the appropriate time.

Mr. CONYERS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

□ 1745

Mr. STEARNS. Madam Speaker, it is my pleasure to yield as much time as she may consume to the gentle lady from Tennessee, MARSHA BLACKBURN.

Mrs. BLACKBURN. Madam Speaker, I do rise in support of SHVERA, as we call it. And for those individuals that live in rural areas like my Seventh District in Tennessee, fixing a short market problem, which we have heard discussed on this floor tonight, is much more than just a convenience or an "I want to see TV" issue. For us, it is an issue of health and security and public safety. And by working to expand the definition of the unserved customer, which we have done on a bipartisan basis in this bill, my constituents in rural west Tennessee counties like Hardin and Hardeman and Chester are now going to be able to get that distant satellite signal that we've discussed.

The reason it is important for us is because a couple of years ago, we had a devastating tornado that swept through west Tennessee and touched down in our district. Nearly three dozen Tennesseans were killed and 150 people were seriously injured. Communities were paralyzed and had significant difficulty in receiving news alerts and communicating.

By fixing this short market, we will all rest a little better knowing that should we be faced with any other such disaster of this magnitude, that we will be better prepared and able to respond and to persevere.

I do want to take a moment to thank Chairman CONYERS, Chairman BOUCHER, Ranking Member BARTON, and Ranking Member STEARNS for all of their hard work in fixing this short market issue and helping to resolve this issue for my constituents in Tennessee.

As has been said, the bill's not perfect, and there is an area that has been mentioned mandating that a private

company like DISH Network carry public broadcasting in high def. It really does go against free market principles. I do know that is going to continue to be worked on. We are looking forward to getting that issue resolved.

I thank the gentleman from Florida.

Mr. STEARNS. Madam Speaker, how much time do I have left?

The SPEAKER pro tempore. The gentleman from Florida has 7½ minutes.

Mr. STEARNS. I yield such time as she may consume to the gentlelady from Wyoming (Mrs. LUMMIS).

(Mrs. LUMMIS asked and was given permission to revise and extend her remarks.)

Mrs. LUMMIS. I would like to thank the chairman and ranking member of the Judiciary Committee for the inclusion of language from my bill on statewide public television. Passage of this legislation will remove the legal obstacles for satellite carriers to offer statewide public television in Wyoming and other States. I don't care whether it's in high def or not. I just want public television carried in Wyoming and other States, and that's been achieved. So thank you kindly.

I also thank the gentleman from Georgia (Mr. DEAL) who worked diligently to address the problem of local television market areas. Despite his good work, I rise today to express regret for the missed opportunity the passage of this bill represents.

The decision to put off for another 5 years any real reform to the system of designated market areas carries with it very negative consequences for the citizens of my State. Out of Wyoming's 23 counties, 16 do not have satellite access to Wyoming-based stations. Over half of all television households in Wyoming do not have access to local television.

For a rural State like Wyoming, satellite sometimes represents the only viable option to receiving television programming. The inability to receive local stations restricts access to local content and severely limits the reach of emergency notifications.

Emergency situations, like the butane tank truck that recently overturned on an icy highway during a blizzard, should serve as proof that the availability of local stations on satellite television is not just an entertainment issue. The DMA system may make sense for the densely populated areas in the East, but it has created an absurdity in the sparsely populated areas of the West. I am grateful for the inclusion of a study to find a better way to determine what the local market is.

But, Madam Speaker, people in Wyoming do not need a study to tell them that when their network TV station originates 400 miles away from a different State, they are not receiving the local content they need. For this reason, I cannot support passage of this bill despite its tremendous improvements.

Mr. JOHNSON of Georgia. Madam Speaker, I rise today in support of H.R. 3570, the Sat-

ellite Home Viewer Update and Reauthorization Act of 2009. I strongly support this important piece of satellite television reauthorization legislation.

H.R. 3570 reauthorizes satellite operators' licenses to import distant network affiliate television signals to viewers who cannot receive a viewable signal from their local affiliate. This is important as it allows satellite and cable television providers to carry out-of-market television signals to households that cannot receive stations in their own local markets. This allows state public television networks to reach all their state's residents with important news and public affairs programming.

Alongside the chairman, I worked hard to get the phantom signal language included in the bill. I am proud of the final product and believe it is something about which all Americans can be proud.

Previously, due to flaws in existing law, broadcasters sometimes paid royalties to content producers even when programming was not actually delivered to subscribers. Royalties for the transmission of broadcast signals to cable systems were paid as if the entire cable system received the transmission, even if it was only received by some subscribers within the cable system. This has been known as the phantom signal problem. The cost of this flaw was passed down to consumers. With the passage of this reauthorization, including my phantom signal language, the American people will no longer be forced to pay for programming they have not received.

I join the chairman in urging my colleagues to support this bill. As a result of this legislation, constituents in my district will not be forced to pay for satellite and cable programming they have not received and, as a result, save money in this economy.

Mr. STEARNS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and pass the bill, H.R. 3570, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the yeas have it.

Mr. CONYERS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### COMMUNICATION FROM THE CHIEF ADMINISTRATIVE OFFICER OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Chief Administrative Officer of the House of Representatives:

OFFICE OF THE  
CHIEF ADMINISTRATIVE OFFICER,  
Washington, DC, December 1, 2009.

Hon. NANCY PELOSI,  
Speaker, House of Representatives, Washington,  
DC.

DEAR MADAME SPEAKER: This is to notify you formally, pursuant to Rule VIII of the

Rules of the House of Representatives, that I have been served with a subpoena for production of documents issued by the U.S. District Court for the District of Connecticut, in connection with a criminal matter now pending in the same court.

After consultation with the Office of the General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

DANIEL P. BEARD.

#### CONGRATULATING THE DETROIT CATHOLIC CENTRAL SHAMROCKS

(Mr. MCCOTTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCCOTTER. Madam Speaker, today I rise to recognize the Michigan Division 1 State High School Football champions, the Detroit Catholic Central Shamrocks. On November 27, 2009, the Shamrocks defeated a fine Sterling Heights Stevenson team 31–21.

The victory earned head coach Tom Mach his 10th State championship in his 34 seasons leading the Shamrocks. The team's hard work, mental toughness, and burning desire epitomizes what it means to be a Shamrock molded by the Basilian Fathers and their mission to teach young men goodness, discipline, and knowledge. Truly this accomplishment is shared by the entire CC family.

Madam Speaker, meeting the challenge with an undefeated record of 14–0, I ask my colleagues to join me in congratulating the Detroit Catholic Central Shamrocks upon winning their Michigan State football championship and for proving they are indeed men of Mary, Alma Mater, who inspires us evermore.

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. WOLF) is recognized for 5 minutes.

(Mr. WOLF addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. LEE) is recognized for 5 minutes.

(Ms. LEE of California addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

#### THE WRONG DECISION ON AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MCGOVERN) is recognized for 5 minutes.