113TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
113–518

STELA REAUTHORIZATION ACT OF 2014

JULY 11, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. UPTON, from the Committee on Energy and Commerce, submitted the following

REPORT

[To accompany H.R. 4572]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 4572) to amend the Communications Act of 1934 to extend expiring provisions relating to the retransmission of signals of television broadcast stations, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary	3
Background and Need for Legislation	4
Hearings	7
Committee Consideration	8
Committee Votes	8
Committee Oversight Findings	8
Statement of General Performance Goals and Objectives	8
New Budget Authority, Entitlement Authority, and Tax Expenditures	9
Earmark, Limited Tax Benefits, and Limited Tariff Benefits	9
Committee Cost Estimate	9
Congressional Budget Office Estimate	9
Federal Mandates Statement	11
Duplication of Federal Programs	11
Disclosure of Directed Rule Makings	11
Advisory Committee Statement	11
Applicability to Legislative Branch	11
Section-by-Section Analysis of the Legislation	11
Changes in Existing Law Made by the Bill, as Reported	12

The amendment is as follows:

Strike all after the enacting clause and insert the following:

39–006

SECTION 1. SHORT TITLE.

This Act may be cited as the "STELA Reauthorization Act of 2014".

SEC. 2. EXTENSION OF AUTHORITY.

Section 325(b) of the Communications Act of 1934 (47 U.S.C. 325(b)) is amended—

(1) in paragraph (2)(C), by striking "December 31, 2014" and inserting "December 31, 2019"; and

(2) in paragraph (3)(C), by striking "January 1, 2015" each place it appears and inserting "January 1, 2020".

SEC. 3. RETRANSMISSION CONSENT NEGOTIATIONS.

(a) IN GENERAL.—Section 325(b)(3)(C) of the Communications Act of 1934 (47 U.S.C. 325(b)(3)(C)) is amended—

(1) in clause (ii), by striking "and" at the end;

(2) in clause (iii), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iv) prohibit a television broadcast station from coordinating negotiations or negotiating on a joint basis with another television broadcast station in the same local market (as defined in section 122(j) of title 17, United States Code) to grant retransmission consent under this section to a multichannel video programming distributor, unless such stations are directly or indirectly under common de jure control permitted under the regulations of the Commission.".

(b) MARGIN CORRECTION.—Section 325(b)(3)(C) of the Communications Act of 1934 (47 U.S.C. 325(b)(3)(C)) is further amended by moving the margin of clause (iii) 4 ems to the left.

(c) DEADLINE FOR REGULATIONS.—Not later than 9 months after the date of the enactment of this Act, the Commission shall promulgate regulations to implement the amendments made by this section.

SEC. 4. DELAYED APPLICATION OF JSA ATTRIBUTION RULE IN CASE OF WAIVER PETITION.

In the case of a party to a joint sales agreement (as defined in Note 2(k) to section 73.3555 of title 47, Code of Federal Regulations) that is in effect on the effective date of the amendment to Note 2(k)(2) to such section made by the Further Notice of Proposed Rulemaking and Report and Order adopted by the Commission on March 31, 2014 (FCC 14–28), and who, not later than 90 days after the date of the enactment of this Act, submits to the Commission a petition for a waiver of the application to such agreement of the rule in such Note 2(k)(2) (as so amended), such party shall not be considered to be in violation of the ownership limitations of such section by reason of the application of such rule to such agreement until the later of—

(1) the date that is 18 months after the date on which the Commission denies such petition; or

(2) December 31, 2016.

SEC. 5. DELETION OR REPOSITIONING OF STATIONS DURING CERTAIN PERIODS.

(a) IN GENERAL.—Section 614(b)(9) of the Communications Act of 1934 (47 U.S.C. 534(b)(9)) is amended by striking the second sentence.

(b) REVISION OF RULES.—Not later than 90 days after the date of the enactment of this Act, the Commission shall revise section 76.1601 of its rules (47 CFR 76.1601) and any note to such section by removing the prohibition against deletion or repositioning of a local commercial television station during a period in which major television ratings services measure the size of audiences of local television stations.

SEC. 6. REPEAL OF INTEGRATION BAN.

(a) NO FORCE OR EFFECT.—The second sentence of section 76.1204(a)(1) of title 47, Code of Federal Regulations, shall have no force or effect after the date of the enactment of this Act.

(b) REMOVAL FROM RULES.—Not later than 180 days after the date of the enactment of this Act, the Commission shall complete all actions necessary to remove the sentence described in subsection (a) from its rules.

SEC. 7. REPORT ON COMMUNICATIONS IMPLICATIONS OF STATUTORY LICENSING MODIFICATIONS.

(a) STUDY.—The Comptroller General of the United States 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 Commission that would be required or beneficial to consumers, and such other matters as the Comptroller General considers 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 18 months after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate congressional committees a report on the results of the study conducted under subsection (a), including any recommendations for legislative or administrative actions. Such report shall also include a discussion of any differences between such results and the results of the study conducted under section 303 of the Satellite Television Extension and Localism Act of 2010 (124 Stat. 1255).

SEC. 8. LOCAL NETWORK CHANNEL BROADCAST REPORTS.

(a) REQUIREMENT.—

(1) IN GENERAL.—On the 270th day after the date of the enactment of this Act, and on each succeeding anniversary of such 270th day, each satellite carrier shall submit an annual report to the Commission setting forth—

(A) each local market in which it—

(i) retransmits signals of 1 or more television broadcast stations with a community of license in that market;

(ii) has commenced providing such signals in the preceding 1-year period; and

(iii) has ceased to provide such signals in the preceding 1-year period; and

(B) detailed information regarding the use and potential use of satellite capacity for the retransmission of local signals in each local market.

(2) TERMINATION.—The requirement under paragraph (1) shall cease after each satellite carrier has submitted 5 reports under such paragraph.

(b) DEFINITIONS.—In this section—

(1) the terms "local market" and "satellite carrier" have the meaning given such terms in section 339(d) of the Communications Act of 1934 (47 U.S.C. 339(d)); and

(2) the term "television broadcast station" has the meaning given such term in section 325(b)(7) of the Communications Act of 1934 (47 U.S.C. 325(b)(7)).

SEC. 9. REPORT ON DESIGNATED MARKET AREAS.

Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to the appropriate congressional committees a report containing an analysis of—

(1) the extent to which consumers in each local market (as defined in section 122(j) of title 17, United States Code) have access to broadcast programming from television broadcast stations (as defined in section 325(b)(7) of the Communications Act of 1934 (47 U.S.C. 325(b)(7))) located outside their local market, including through carriage by cable operators and satellite carriers of signals that are significantly viewed (within the meaning of section 340 of such Act (47 U.S.C. 340)); and

(2) whether there are technologically and economically feasible alternatives to the use of designated market areas (as defined in section 122(j) of title 17, United States Code) to define markets that would provide consumers with more programming options and the potential impact such alternatives could have on localism and on broadcast television locally, regionally, and nationally.

SEC. 10. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Energy and Commerce and the Committee on the Judiciary of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on the Judiciary of the Senate.

(2) COMMISSION.—The term "Commission" means the Federal Communications Commission.

PURPOSE AND SUMMARY

H.R. 4572, the "STEAL Reauthorization Act of 2014," ("STELAR") amends the Communications Act of 1934 to extend the expiring provisions relating to the retransmission of signals of television broadcast stations and to effect certain reforms to video distribution laws and regulations. The legislation extends for five years the exemption for satellite providers from the requirement to

obtain retransmission consent for distant signals. The legislation also prohibits broadcast stations that are not commonly owned from jointly negotiating retransmission consent agreements in the same local market; extends the deadline required for unwinding joint sales agreements that are not granted a waiver from the Federal Communications Commission's ("FCC" or "Commission") local television ownership rule and related attribution rules; eliminates the prohibition on changing a broadcaster's signal on multi-channel video programming distributor ("MVPD") systems during quarterly Nielsen network ratings periods, also known as "sweeps"; and repeals the FCC's integration ban for operator-leased cable set-top boxes. The legislation also requires a report from the Comptroller General to Congress on the implications to the Communications Act should Congress phase out the current statutory copyright licensing requirements; a report from the satellite carriers to the FCC on the availability of local signals in local markets; and a report from the FCC examining consumer access to broadcast signals outside of the local market and whether there are technologically feasible alternatives to the use of the Nielsen Designated Market Areas to define broadcast media markets that would provide consumers with more programming options.

BACKGROUND AND NEED FOR LEGISLATION

Direct broadcast satellite ("DBS") operators are significant facilities-based competitors in the market for delivering multi-channel video programming. With approximately 33.6 percent of the pay-TV market, DirecTV and DISH Network (the two largest DBS operators) compete directly with cable operators, who represent 55.7 percent of the market, and traditional telephone companies, who recently have entered the video programming distribution market and represent 8.4 percent of the market as of the end of 2011. *See* in re Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, MB Docket No. 12–203, Fifteenth Annual Report, 28 FCC Rcd 10496, at ¶¶ 26–30, Table 7 (2013).

Like other MVPDs, DBS operators retransmit local broadcast programming as part of tiered content packages offered to consumers. Because some consumers have trouble receiving over-the-air television signals due to intervening terrain or distance from the broadcast station, Congress passed the Satellite Home Viewer Act of 1988 ("SHVA"), amending the Communications Act to authorize satellite operators to deliver out-of-market broadcast signals to consumers "unserved" by over-the-air broadcasting. *See* 47 U.S.C. § 339. The compulsory copyright license retransmission consent exemption in SHVA was authorized for six years, with the expectation that the DBS market would grow and competitive forces would eliminate the need for government intervention. *See* House Rpt. 100–87, Pt. 2. Later, in 1999, Congress exempted satellite operators from the obligation to secure retransmission consent to retransmit the distant stations' signals. *See* 47 U.S.C. § 325(b). Together, the exemptions from the obligation to obtain retransmission consent and copyright license for distant signals have been renewed by Congress multiple times. The STELA Reauthorization Act of 2014 ("STELAR") once more renews the law that provides

DBS operators with the legal basis on which they currently offer distant signals to more than 1.5 million subscribers.

Throughout the process of developing SHVA and its successors, Congress sought to achieve the twin goals of providing unserved areas with access to broadcast signals without undermining the localism regime by which television networks and stations serve individual communities with news, weather, and information. Broadcast localism is based on the exclusive territorial rights granted to local affiliate stations by programming networks, which are reinforced by regulatory requirements established by the FCC. As Congress has continued to renew the satellite law it also has encouraged DBS providers to increase the availability of local signals. By November 2013, DirecTV was providing local broadcast programming in 197 markets, and DISH Network was serving all 210 local markets in the United States with local programming.

This legislation continues the work of past Congresses to ensure the availability of distant signals to those that rely on them while protecting local broadcasters' and content providers' rights. As with its predecessors, the provisions of STELAR will expire in five years, at which time Congress can evaluate the effectiveness and continuing need for the exemption from retransmission consent obligations and the compulsory copyright license and determine whether to extend the provisions or let them lapse.

Advocates for retransmission consent reform have argued that programming costs have increased unsustainably because the increase in competition among MVPDs allows content providers to extract higher retransmission consent fees from MVPDs. The Committee discussed the increased number of "blackouts"—periods during which retransmission consent expires and a broadcast station is not carried on an MVPD service—as evidence of the need to reform the retransmission consent regime. Advocates of reform have argued that preventing broadcasters and programming networks from enforcing territorially exclusive rights to programming might ameliorate the market, *e.g.,* effectively allowing MVPDs to select to offer programming from out-of-market networks in order to "shop" for lower retransmission consent fees.

Given the extensive changes in the marketplace, competition between MVPDs (all households in the United States at this point have access to at least two pay-TV providers, and most—over 98 percent—have access to three pay-TV providers. *See* in re Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, MB Docket No. 12–203, Fifteenth Annual Report, 28 FCC Rcd 10496, at ¶¶ 36, Table 2 (2013)) and the advent of online video distributors, some suggested that this legislation would be the appropriate vehicle for retransmission consent reform.

Ultimately, however, the legislation makes targeted changes to the laws governing video distribution and defers wholesale reform for later consideration. Consistent with the history of localism, this legislation includes certain changes to the retransmission consent regime that governs carriage negotiations between local broadcasters and MVPDs. Specifically, STELAR modifies Section 325 of the Communications Act to prohibit the practice of independently owned broadcasters jointly negotiating with a single MVPD. Critics argue that such arrangements could give broadcasters an unfair

advantage in negotiations, because a negotiating impasse would result in the loss of two local programming streams rather than one and may give the broadcaster the ability to demand retransmission fees above the market value each broadcaster could command alone. The legislation also addresses joint sales agreements ("JSAs"), which are arrangements between broadcasters in a single market that allow broadcasters to broker advertising time for a second station in the market. The bill ensures that broadcasters have sufficient time to seek a waiver of the FCC's recent order on JSAs and to unwind arrangements the FCC deems ineligible for a waiver. *See* in re 2014 Quadrennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, MB Docket No. 14–50, Report & Order, Notice of Proposed Rulemaking, and Order, 79 Fed. Reg. 28995 (2014) at ¶¶ 340, 366, 367. Specifically, STELAR ensures that broadcasters with JSAs, who unsuccessfully sought a waiver and must unwind non-compliant JSAs, will have 18 months from the date that the FCC disposes of its waiver application or until the end of 2016, whichever is later.

STELAR also eliminates the "sweeps" week prohibition in Section 614 of the Communications Act. Under current law, cable operators are not permitted to drop broadcast signals during the weeks when Nielsen Media Research does its major audience measurements (so called "sweeps" weeks). This ensures broadcasters' carriage on cable systems during the time when Nielsen measures audiences, ensuring that a retransmission consent dispute does not impact Nielsen ratings and thus advertising rates. However, stations that have elected to seek retransmission consent have foregone mandatory carriage in favor of retransmission consent fees. Inconsistently, the sweeps week rule allows retransmission consent broadcasters to take advantage of must-carry rules selectively during a sweeps week carriage dispute. Since cable providers do not have a corresponding right to demand access to programming during a retransmission consent dispute and because satellite providers are not subject to the rule, this deregulatory action will provide greater parity between cable and satellite operators.

This legislation also repeals the integration ban as adopted by the FCC to implement Section 629 of the Communications Act. The Commission requires that the portion of the cable set-top box that decrypts the cable signal physically be separated from the other functions of the box ("the separable security requirement"). The consumer electronics ("CE") and cable industries developed the CableCARD, a module that could be deployed in third-party electronics—televisions or retail set-top boxes—to decrypt the cable signal for viewing via a third-party set-top box. To incentivize cable companies to facilitate the CableCARD regime, the FCC required common reliance on CableCARDs by both third-party boxes and those leased from a cable provider. As a result, cable operators were required to deploy CableCARDS, *i.e.,* separable security, in their own set top boxes in addition to supporting third party use of CableCARDs ("the integration ban"). The cable industry estimates that it has spent as much as $1 billion on CableCARDs in leased boxes since the integration ban went into effect in 2007. There is also significant energy usage associated with the CableCARD slot, which the cable industry and energy experts as-

sert has hindered the development of more energy efficient set top boxes. Advocates of the integration ban were also concerned that the legislation, as originally drafted, could negatively impact the FCC's efforts to promote competition and innovation in the set-top box market. This legislation relieves the cable industry of regulation that has failed to generate the market it was intended to foster, but preserves the FCC's authority to assure the commercial availability of converter boxes and other customer premises equipment used to access MVPD services.

The legislation also requires three reports. The first requires the Comptroller General to evaluate a transition away from compulsory licensing schemes to a market-based mechanism and to discuss the impact on the carriage requirements currently imposed on MVPDs. The second report requires DBS operators to report annually to the FCC on the availability of local signals in local markets. The third report requires the FCC to review the availability of out-of-market signals to consumers and to explore alternatives to the use of the Nielsen Designated Market Area ("DMA") system and the impact of such alternatives on localism.

HEARINGS

The Communications and Technology Subcommittee held four hearings to consider issues at stake in the reauthorization of the satellite video legislation.

The Subcommittee on Communications and Technology held a hearing on February 13, 2013, entitled "Satellite Video 101." The Subcommittee received testimony from Eloise Gore, Associate Bureau Chief, Enforcement Bureau, Federal Communications Commission; R. Stanton Dodge, Executive Vice President and General Counsel, DISH Network, LLC; Jane Mago, Executive Vice President and General Counsel, Legal and Regulatory Affairs, National Association of Broadcasters; Lonna Thompson, Executive Vice President, Chief Operating Officer and General Counsel, Association of Public Television Stations; and Michael O'Leary, Senior Executive Vice President, Global Policy and External Affairs, Motion Picture Association of America.

The Subcommittee on Communications and Technology held a hearing on June 12, 2013, entitled "The Satellite Television Law: Repeal, Reauthorize, or Revise." The Subcommittee received testimony from Marci Burdick, Senior Vice President of Broadcasting, Schurz Communications, Inc.; Geoffrey Manne, Senior Fellow, TechFreedom; Mike Palkovic, Executive Vice President, Services and Operations, DirecTV; Ben Pyne, President, Global Distribution, Disney Media Networks; Hal Singer, Managing Director, Navigant Economics; and Amy Tykeson, CEO, Bend Broadband.

The Subcommittee on Communications and Technology held a hearing on September 11, 2013, entitled "Innovation Versus Regulation in the Video Marketplace." The Subcommittee received testimony from R. Stanton Dodge, Executive Vice President and General Counsel, DISH Network, LLC; Edward L. Munson, Jr., Vice President and General Manager, KPHO-TV; David Rozzelle, Executive Vice President, Suddenlink Communications; James Campbell, Vice President of Regulatory and Legislative Affairs, Midwest Region, CenturyLink, Inc.; Sandra Aistars, Executive Director, Copy-

right Alliance; and John Bergmayer, Senior Staff Attorney, Public Knowledge.

The Subcommittee on Communications and Technology held a legislative hearing on March 12, 2014 to review a discussion draft of the legislation. The hearing was entitled "Reauthorization of the Satellite Television Extension and Localism Act." The Subcommittee received testimony from Mike Palkovic, Executive Vice President, Services and Operations, DirecTV; Marci Burdick, Senior Vice President of Broadcasting, Schurz Communications, Inc.; Michael Powell, President and CEO, National Cable and Telecommunications Association; Matt Zinn, Senior Vice President, General Counsel and Chief Privacy Officer, TiVo; and Matt Wood, Policy Director, Free Press.

COMMITTEE CONSIDERATION

On March 25, 2014, the Subcommittee on Communications and Technology met in open markup session. Representative Greg Walden and Rep. Anna Eshoo offered an amendment to the discussion draft that was accepted by voice vote. The discussion draft, as amended, a bill to amend the Communications Act of 1934 to extend expiring provisions relating to the retransmission of signals of television broadcast stations, and for other purposes, was forwarded to the full Committee by voice vote.

Representative Greg Walden, together with Rep. Fred Upton, Rep. Henry Waxman, and Rep. Anna Eshoo, introduced H.R. 4572 on May 6, 2014.

On May 8, 2014, the Committee on Energy and Commerce met in open markup session, to consider H.R. 4572. An amendment was offered by Rep. Ben Ray Luján and Rep. Cory Gardner and was agreed to by voice vote. H.R. 4572 was ordered favorably reported to the House, as amended, by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 4572 reported. A motion by Mr. Upton to order H.R. 4572 reported to the House, with amendment, was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held hearings and made findings that are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal and objective of H.R. 4572, the "STELA Reauthorization Act," is to extend the expiring provisions in the Communications Act relating to the retransmission of signals of television broadcast stations and to effect certain reforms to the video distribution regime. The legislation does this by extending for five years the exemption from the requirement to seek retransmission consent for distant signals. Reforms to the video distribution regime in the leg-

islation are as follows: a prohibition on joint retransmission consent negotiation by two or more independently owned broadcasters; elimination of the prohibition against changing broadcast signals during the quarterly Nielsen ratings period ("sweeps"); extension of the deadline to unwind joint sales agreements for which broadcasters seek a waiver and are found non-compliant under the FCC's attribution rules adopted on March 31, 2014; and repeal of the FCC's integration ban for cable set-top boxes.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 4572 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives, the Committee finds that H.R. 4572 contains no earmarks, limited tax benefits, or limited tariff benefits.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 3, 2014.

Hon. FRED UPTON,
Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4572, the STELA Reauthorization Act of 2014.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 4572—STELA Reauthorization Act of 2014

Under current law, satellite carriers pay royalty fees for the right to transmit certain television signals to their subscribers without obtaining permission from copyright holders. H.R. 4572 would extend provisions of current law that allow satellite carriers to trans-

mit copyrighted material but would not extend the license that allows transmission without specific permission from the copyright holders. That license will expire on December 31, 2014. The bill also would direct the Federal Communications Commission (FCC) to delay or amend certain regulations affecting television stations and cable carriers. Finally, H.R. 4572 would require the Government Accountability Office and the FCC to prepare several reports for the Congress concerning copyright issues and access to non-local programming.

Based on information from the FCC, CBO estimates that implementing H.R. 4572 would cost about $1 million over the 2015–2019 period, assuming the availability of appropriated funds, for the required reports and regulatory actions. Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

H.R. 4572 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

H.R. 4572 contains private-sector mandates, as defined in UMRA, on television broadcasters and satellite carriers. It would extend two mandates on television broadcasters that are set to expire under current law and impose new mandates on television broadcasters and satellite carriers. Based on information from the FCC and industry sources, CBO estimates that the aggregate cost of complying with the mandates in the bill would fall below the annual threshold established in UMRA for private-sector mandates ($152 million in 2014, adjusted annually for inflation).

The bill would extend for five years two existing mandates regarding the retransmission of broadcast programs by distributors of video programming services (pay television providers such as cable and satellite carriers). It would extend the mandate on television broadcasters that prohibits them from entering certain exclusive contracts with distributors of video programming services for the rights to carry (retransmit) their broadcast programs. That is, broadcast television stations must provide an opportunity to all distributors of video programming in the same market to negotiate an agreement to retransmit their broadcast programs. Second, it would extend the mandate on television broadcasters that prohibits them from receiving compensation from satellite carriers for retransmitting distant (non-local) broadcast programs to subscribers who live in areas that do not receive those broadcast signals. The cost of those mandates for broadcasters would be the net income forgone as a result of compliance with the prohibitions. Based on information from industry sources, CBO expects that the cost of extending those mandates would be small.

The bill also would prohibit television broadcasters from negotiating agreements on a joint basis with another television broadcaster in the same local market for re-transmission of their broadcast programs by distributors of video programming services. The prohibition would not apply to broadcast stations in the same market under common control. The cost of the mandate for broadcasters would be the loss of income as a result of the ban on joint negotiations. Under current law, a FCC rule that is scheduled to be in effect in June would ban such negotiations for the top four broadcast stations in a local market. The bill would broaden the

ban to cover all television broadcasters in a local market. According to available studies, such joint negotiations are mostly done by the top broadcast stations. Therefore, CBO expects that the incremental cost to television broadcasters of the broader ban in the bill would not be large.

Lastly, the bill would impose a mandate on satellite carriers by requiring them to submit a report to the FCC containing certain information about the markets in which they provide local service. According to industry sources, satellite carriers already keep track of the information required to compile the report. Therefore, CBO estimates that the cost of preparing the data for the report would be minimal.

The CBO staff contacts for this estimate are Susan Willie (for federal costs) and Marin Burnett (for private-sector mandates). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 4572 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting H.R. 4572 specifically directs to be completed 3 rule makings within the meaning of 5 U.S.C. 551.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 2. Section 2 extends the exemption from retransmission consent for distant signals, the prohibition on exclusive retransmission consent deals, and the requirement for good faith retransmission consent negotiations.

Section 3. Section 3 prohibits multiple broadcast stations from negotiating retransmission consent jointly unless the stations are directly or indirectly under common de jure control approved by the Commission.

Section 4. Section 4 permits broadcasters seeking a waiver of the FCC's rules on attribution or local ownership of television JSAs adopted on March 31, 2014 at least 18 months to unwind such non-compliant arrangements. Should the FCC deny an applicant's waiver, the broadcaster has 18 months or until December 31, 2016 to unwind the agreement, whichever is later.

Section 5. Section 5 eliminates the "sweeps week" provision that prohibits cable operators from dropping broadcast signals during the weeks when Nielsen Media Research does its major audience measurements.

Section 6. Section 6 eliminates the FCC's integration ban for cable set-top boxes.

Section 7. Section 7 requires the Government Accountability Office to conduct a study and issue a report on necessary changes to the Code of Federal Regulations and the impact on consumers should Congress repeal the statutory compulsory copyright regime that governs broadcast content.

Section 8. Section 8 requires each satellite direct broadcast service provider to report the local signals that it provides for each market in which it broadcasts such services and also report on the potential use of its technology for the retransmission of local signals in each market.

Section 9. Section 9 requires the FCC to conduct a study and issue a report on the extent to which consumers can access broadcast signals originating outside of the consumers' local markets and on feasible alternatives to the use of designated market areas to define markets in a manner that would allow more programming options.

Section 10. Section 10 defines the terms "appropriate congressional committees" and "Commission."

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

* * * * * * *

TITLE III—SPECIAL PROVISIONS RELATING TO RADIO

PART I—GENERAL PROVISIONS

* * * * * * *

SEC. 325. FALSE DISTRESS SIGNALS; REBROADCASTING; STUDIOS OF FOREIGN STATIONS.

(a) * * *

(b)(1) * * *

(2) This subsection shall not apply—

(A) * * *

* * * * * * *

(C) until [December 31, 2014] *December 31, 2019*, to retransmission of the signals of network stations directly to a home satellite antenna, if the subscriber receiving the signal—

(i) * * *

* * * * * * *

(3)(A) * * *

* * * * * * *

(C) The Commission shall commence a rulemaking proceeding to revise the regulations governing the exercise by television broadcast stations of the right to grant retransmission consent under this subsection, and such other regulations as are necessary to administer the limitations contained in paragraph (2). Such regulations shall—

(i) * * *

(ii) until [January 1, 2015] *January 1, 2020*, prohibit a television broadcast station that provides retransmission consent from engaging in exclusive contracts for carriage or failing to negotiate in good faith, and it shall not be a failure to negotiate in good faith if the television broadcast station enters into retransmission consent agreements containing different terms and conditions, including price terms, with different multichannel video programming distributors if such different terms and conditions are based on competitive marketplace considerations; [and]

(iii) until [January 1, 2015] *January 1, 2020*, prohibit a multichannel video programming distributor from failing to negotiate in good faith for retransmission consent under this section, and it shall not be a failure to negotiate in good faith if the distributor enters into retransmission consent agreements containing different terms and conditions, including price terms, with different broadcast stations if such different terms and conditions are based on competitive marketplace considerations[.]*; and*

(iv) prohibit a television broadcast station from coordinating negotiations or negotiating on a joint basis with another television broadcast station in the same local market (as defined in section 122(j) of title 17, United States Code) to grant retransmission consent under this section to a multichannel video programming distributor, unless such stations are directly or indirectly under common de jure control permitted under the regulations of the Commission.

* * * * * * *

TITLE VI—CABLE COMMUNICATIONS

* * * * * * *

PART II—USE OF CABLE CHANNELS AND CABLE OWNERSHIP RESTRICTIONS

* * * * * * *

SEC. 614. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

(a) * * *

(b) SIGNALS REQUIRED.—

(1) * * *

* * * * * * *

(9) NOTIFICATION.—A cable operator shall provide written notice to a local commercial television station at least 30 days prior to either deleting from carriage or repositioning that station. [No deletion or repositioning of a local commercial television station shall occur during a period in which major television ratings services measure the size of audiences of local television stations.] The notification provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

* * * * * * *