

SATELLITE TELEVISION ACCESS REAUTHORIZATION ACT
OF 2014

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JULY 22, 2014.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
—————

Mr. GOODLATTE, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 5036]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 5036) to amend title 17, United States Code, to extend expiring provisions of the Satellite Television Extension and Localism Act of 2010, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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Purpose and Summary

The legislation extends the expiring Section 119 satellite distant into local license by one additional period of 5 years and makes two technical corrections to existing law.

Background and Need for the Legislation

Title 17 contains three compulsory video licenses that are used by satellite and cable companies to obtain video content that is delivered to their customers. For satellite company customers who are able to receive local broadcast channels via an over-the-air antenna, satellite carriers that use these licenses are required by law to deliver only these local broadcast channels, instead of channels from another market. However, not all local television markets have local broadcast channels that serve them, primarily in rural areas. For these areas, the Section 119 license enables satellite carriers to obtain video content from distant network channels (typically New York and Los Angeles) and deliver that content to those customers who do not have access to local broadcast channels.

The Section 119 license was originally created to ensure that satellite carriers could compete with cable systems that already had access to such channels. The growth of the two current satellite carriers indicates that this objective has been met. The Committee has requested and received a study from the Copyright Office on options to phase out one or more of the three compulsory licenses. The Section 302 Report, as it is known, was requested by Congress in Section 302 of P.L. 111–175, the Satellite Television Extension and Localism Act of 2010. The Copyright Office determined that the Section 119 license would be the easiest to phase out due to the declining number of American households that receive video content due to its existence, the limited number of channels that are obtained by it, and the limited number of satellite companies. The Copyright Office report, however, noted that private sector negotiations in lieu of the statutory framework had not occurred and would be unlikely to occur without certainty as to when the compulsory license would terminate. This legislation creates this certainty by setting a termination date of December 31, 2019, which should be more than sufficient time for private sector negotiations to occur over the next 5 years.

Hearings

The Committee’s Subcommittee on Courts, Intellectual Property, and the Internet held 2 separate days of hearings on the issues contained in H.R. 5036 on September 10, 2013 and May 8, 2014.

On September 10, 2013, testimony was received on the topic of “Satellite Television Laws in Title 17” from Mr. James Campbell, Vice-President for Regulatory Affairs, CenturyLink, Inc.; Mr. R. Stanton Dodge, Executive Vice-President, General Counsel and Secretary, DISH Network, LLC; Mr. Paul Donato, Executive Vice-President and Chief Research Officer, the Nielsen Company; Mr. Robert Garrett, Partner, Arnold and Porter, LLP on behalf of the Major League Baseball; Mr. Earle MacKenzie, Executive Vice-President and Chief Operating Officer, Shentel Cable on behalf of the American Cable Association; Mr. Preston Padden, former President, ABC Television Network and former Executive Vice-President, The Walt Disney Company (testifying on his own behalf); and Mr. Gerard J. Waldron, Partner, Covington & Burling, LLP on behalf of the National Association of Broadcasters.

On May 8, 2014, testimony was received on the topic of “Compulsory Video Licenses of Title 17” from Mr. William J. Roberts, Jr.,

Acting Associate Register of Copyrights and former Judge of the Copyright Royalty Board, U.S. Copyright Office; Mr. R. Stanton Dodge, Executive Vice President and General Counsel, DISH Network; Ms. Marci K. Burdick, Senior Vice President of Broadcasting, Schurz Communications, on behalf of the National Association of Broadcasters; and Mr. Matthew M. Polka, President and Chief Executive Officer, American Cable Association.

Committee Consideration

On July 10, 2014 the Committee met in open session and ordered the bill H.R. 5036 favorably reported without amendment, by a voice vote, a quorum being present.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that no rollcall votes occurred during the Committee's consideration of H.R. 5036. One amendment by Mr. Collins was offered and withdrawn.

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

Congressional Budget Office Cost Estimate

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 5036, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 17, 2014.

Hon. BOB GOODLATTE, CHAIRMAN,
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5036, the "Satellite Television Access 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, who can be reached at 226–2860.

Sincerely,

DOUGLAS W. ELMENDORF,
DIRECTOR.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

**H.R. 5036—Satellite Television Access Reauthorization Act
of 2014.**

As ordered reported by the House Committee on the Judiciary on
July 10, 2014.

Based on information from the Copyright Office, CBO estimates that implementing H.R. 5036 would not have a significant effect on the Federal budget. CBO estimates that enacting H.R. 5036 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

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. The statutory license allowing those transmissions is set to expire on December 31, 2014; H.R. 5036 would extend that license through December 31, 2019.

Under the statutory license, satellite carriers pay royalty fees to the Copyright Office for transmission of certain copyrighted broadcasts and the Copyright Office later distributes those fees to the owners of copyrights on the transmitted material. Based on information from the Copyright Office, CBO expects that the additional workload to continue administration of the royalty payments would not be significant. Collections and disbursement of royalty fees are not recorded in the Federal budget; therefore, there would be no budgetary effect, with regard to those fees, to extend the statutory license.

H.R. 5036 would extend existing intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on satellite carriers and copyright holders (including public entities). The bill would extend through December 31, 2019, the royalty rates satellite carriers are required to pay for transmitting some copyrighted material. If this requirement were to expire, royalty rates would be negotiated privately between copyright owners and satellite carriers. The cost of the mandate would equal the difference between the royalties that would be set in the absence of the bill and the royalties set under current law. Based on information from industry sources and the Copyright Office, CBO expects that those rates would not differ significantly. Consequently, CBO estimates that the cost of complying with the mandates would be small and would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$76 million and \$152 million in 2014, respectively, adjusted annually for inflation).

On June 13, 2014, CBO transmitted a cost estimate for H.R. 4572, the STELA Reauthorization Act of 2014, as ordered reported by the House Committee on Energy and Commerce on May 9, 2014. H.R. 4572 would extend provisions of current law that allow satellite carriers to transmit copyrighted material but would not extend the license that allows such transmission without permission from the copyright holders. CBO estimates that implementing H.R. 4572 would cost about \$1 million over the 2015–2019 period, assuming appropriation of the necessary amounts, for reports and regulatory actions by the Federal Communications Commission.

The CBO staff contacts for this estimate are Susan Willie (for Federal costs), Melissa Merrell (for the state and local impact), Tristan Hanon, and Patrice Gordon (for the private-sector impact). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

Duplication of Federal Programs

No provision of H.R. 5036 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 H.R. 5036 does not direct any rule makings proceeding within the meaning of 5 U.S.C. 551.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 5036, extends an existing compulsory license in Section 119 of Title 17 for an additional 5 years, and makes two technical corrections within existing law.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 5036 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

Sec. 1. Short title. Section 1 sets forth the short title of the bill as the “Satellite Television Access Reauthorization Act of 2014.”

Sec. 2. Reauthorization. Section 2 makes two technical corrections to existing law in Section 111(d)(3) and changes the date “2014” to the date “2019” in two provisions of existing Section 119 to effectuate the extension.

Sec. 3. Termination of License. Subsection 3(a) creates a new paragraph (h) in Section 119 to make clear that the Section 119 li-

cense expires on December 31, 2019. Subsection 3(b) makes one conforming amendment in Section 107(a).

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 italics, existing law in which no change is proposed is shown in roman):

TITLE 17, UNITED STATES CODE

* * * * *

CHAPTER 1—SUBJECT MATTER AND SCOPE OF COPYRIGHT

* * * * *

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

(a) * * *

* * * * *

(d) STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—

(1) * * *

* * * * *

(3) DISTRIBUTION OF ROYALTY FEES TO COPYRIGHT OWNERS.—The royalty fees thus deposited shall, in accordance with the procedures provided by [clause] *paragraph* (4), be distributed to those among the following copyright owners who claim that their works were the subject of secondary transmissions by cable systems during the relevant semiannual period:

(A) * * *

(B) Any such owner whose work was included in a secondary transmission identified in a special statement of account deposited under [clause] *paragraph* (1)(A).

* * * * *

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

(a) * * *

* * * * *

(c) ADJUSTMENT OF ROYALTY FEES.—

(1) APPLICABILITY AND DETERMINATION OF ROYALTY FEES FOR SIGNALS.—

(A) * * *

* * * * *

(E) PERIOD AGREEMENT IS IN EFFECT.—The obligation to pay the royalty fees established under a voluntary

agreement which has been filed with the Copyright Royalty Judges in accordance with this paragraph shall become effective on the date specified in the agreement, and shall remain in effect until December 31, ~~2014~~ 2019, or in accordance with the terms of the agreement, whichever is later.

* * * * *

(e) **MORATORIUM ON COPYRIGHT LIABILITY.**—Until December 31, ~~2014~~ 2019, a subscriber who does not receive a signal of Grade A intensity (as defined in the regulations of the Federal Communications Commission under section 73.683(a) of title 47, Code of Federal Regulations, as in effect on January 1, 1999, or predicted by the Federal Communications Commission using the Individual Location Longley-Rice methodology described by the Federal Communications Commission in Docket No. 98-201) of a local network television broadcast station shall remain eligible to receive signals of network stations affiliated with the same network, if that subscriber had satellite service of such network signal terminated after July 11, 1998, and before October 31, 1999, as required by this section, or received such service on October 31, 1999.

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(h) **TERMINATION OF LICENSE.**—*This section shall cease to be effective on December 31, 2019.*

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SATELLITE TELEVISION EXTENSION AND LOCALISM ACT OF 2010

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TITLE I—STATUTORY LICENSES

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SEC. 107. TERMINATION OF LICENSE.

[(a) **TERMINATION.**—Section 119 of title 17, United States Code, as amended by this Act, shall cease to be effective on December 31, 2014.]

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