

**§ 322. Exchanging radio communications between land and ship stations and from ship to ship**

Every land station open to general public service between the coast and vessels or aircraft at sea shall, within the scope of its normal operations, be bound to exchange radio communications or signals with any ship or aircraft station at sea; and each station on shipboard or aircraft at sea shall, within the scope of its normal operations, be bound to exchange radio communications or signals with any other station on shipboard or aircraft at sea or with any land station open to general public service between the coast and vessels or aircraft at sea: *Provided*, That such exchange of radio communication shall be without distinction as to radio systems or instruments adopted by each station.

(June 19, 1934, ch. 652, title III, § 322, 48 Stat. 1090; May 20, 1937, ch. 229, § 8, 50 Stat. 191.)

AMENDMENTS

1937—Act May 20, 1937, provided for radio communications with aircraft stations.

**§ 323. Interference between Government and commercial stations**

(a) At all places where Government and private or commercial radio stations on land operate in such close proximity that interference with the work of Government stations cannot be avoided when they are operating simultaneously, such private or commercial stations as do interfere with the transmission or reception of radio communications or signals by the Government stations concerned shall not use their transmitters during the first fifteen minutes of each hour, local standard time.

(b) The Government stations for which the above-mentioned division of time is established shall transmit radio communications or signals only during the first fifteen minutes of each hour, local standard time, except in case of signals or radio communications relating to vessels in distress and vessel requests for information as to course, location, or compass direction.

(June 19, 1934, ch. 652, title III, § 323, 48 Stat. 1090.)

**§ 324. Use of minimum power**

In all circumstances, except in case of radio communications or signals relating to vessels in distress, all radio stations, including those owned and operated by the United States, shall use the minimum amount of power necessary to carry out the communication desired.

(June 19, 1934, ch. 652, title III, § 324, 48 Stat. 1091.)

**§ 325. False, fraudulent, or unauthorized transmissions**

**(a) False distress signals; rebroadcasting programs**

No person within the jurisdiction of the United States shall knowingly utter or transmit, or cause to be uttered or transmitted, any false or fraudulent signal of distress, or communication relating thereto, nor shall any broad-

casting station rebroadcast the program or any part thereof of another broadcasting station without the express authority of the originating station.

**(b) Consent to retransmission of broadcasting station signals**

(1) No cable system or other multichannel video programming distributor shall retransmit the signal of a broadcasting station, or any part thereof, except—

(A) with the express authority of the originating station;

(B) under section 534 of this title, in the case of a station electing, in accordance with this subsection, to assert the right to carriage under such section; or

(C) under section 338 of this title, in the case of a station electing, in accordance with this subsection, to assert the right to carriage under such section.

(2) This subsection shall not apply—

(A) to retransmission of the signal of a non-commercial television broadcast station;

(B) to retransmission of the signal of a television broadcast station outside the station's local market by a satellite carrier directly to its subscribers, if—

(i) such station was a superstation on May 1, 1991;

(ii) as of July 1, 1998, such station was retransmitted by a satellite carrier under the statutory license of section 119 of title 17; and

(iii) the satellite carrier complies with any network nonduplication, syndicated exclusivity, and sports blackout rules adopted by the Commission under section 339(b) of this title;

(C) to retransmission of the signals of network stations directly to a home satellite antenna under the statutory license of section 119 of title 17;

(D) to retransmission by a cable operator or other multichannel video provider, other than a satellite carrier, of the signal of a television broadcast station outside the station's local market if such signal was obtained from a satellite carrier and—

(i) the originating station was a superstation on May 1, 1991; and

(ii) as of July 1, 1998, such station was retransmitted by a satellite carrier under the statutory license of section 119 of title 17; or

(E) during the 6-month period beginning on November 29, 1999, to the retransmission of the signal of a television broadcast station within the station's local market by a satellite carrier directly to its subscribers under the statutory license of section 122 of title 17.

For purposes of this paragraph, the terms "satellite carrier" and "superstation" have the meanings given those terms, respectively, in section 119(d) of title 17, as in effect on October 5, 1992.

(3)(A) Within 45 days after October 5, 1992, the Commission shall commence a rulemaking proceeding to establish regulations to govern the exercise by television broadcast stations of the right to grant retransmission consent under this

subsection and of the right to signal carriage under section 534 of this title, and such other regulations as are necessary to administer the limitations contained in paragraph (2). The Commission shall consider in such proceeding the impact that the grant of retransmission consent by television stations may have on the rates for the basic service tier and shall ensure that the regulations prescribed under this subsection do not conflict with the Commission's obligation under section 543(b)(1) of this title to ensure that the rates for the basic service tier are reasonable. Such rulemaking proceeding shall be completed within 180 days after October 5, 1992.

(B) The regulations required by subparagraph (A) shall require that television stations, within one year after October 5, 1992, and every three years thereafter, make an election between the right to grant retransmission consent under this subsection and the right to signal carriage under section 534 of this title. If there is more than one cable system which services the same geographic area, a station's election shall apply to all such cable systems.

(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) establish election time periods that correspond with those regulations adopted under subparagraph (B) of this paragraph;

(ii) 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;

(iii) 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;

(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 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;

(v) prohibit a television broadcast station from limiting the ability of a multichannel video programming distributor to carry into

the local market of such station a television signal that has been deemed significantly viewed, within the meaning of section 76.54 of title 47, Code of Federal Regulations, or any successor regulation, or any other television broadcast signal such distributor is authorized to carry under section 338, 339, 340, or 534 of this title, unless such stations are directly or indirectly under common de jure control permitted by the Commission; and

(vi)<sup>1</sup> not later than 90 days after December 20, 2019, specify that—

(I) a multichannel video programming distributor may satisfy its obligation to negotiate in good faith under clause (iii) with respect to a negotiation for retransmission consent under this section with a large station group by designating a qualified MVPD buying group to negotiate on its behalf, so long as the qualified MVPD buying group itself negotiates in good faith in accordance with such clause;

(II) it is a violation of the obligation to negotiate in good faith under clause (iii) for the qualified MVPD buying group to disclose the prices, terms, or conditions of an ongoing negotiation or the final terms of a negotiation to a member of the qualified MVPD buying group that is not intending, or is unlikely, to enter into the final terms negotiated by the qualified MVPD buying group; and

(III) a large station group has an obligation to negotiate in good faith under clause (ii) with respect to a negotiation for retransmission consent under this section with a qualified MVPD buying group.

(4) If an originating television station elects under paragraph (3)(B) to exercise its right to grant retransmission consent under this subsection with respect to a cable system, the provisions of section 534 of this title shall not apply to the carriage of the signal of such station by such cable system. If an originating television station elects under paragraph (3)(C) to exercise its right to grant retransmission consent under this subsection with respect to a satellite carrier, section 338 of this title shall not apply to the carriage of the signal of such station by such satellite carrier.

(5) The exercise by a television broadcast station of the right to grant retransmission consent under this subsection shall not interfere with or supersede the rights under section 338, 534, or 535 of this title of any station electing to assert the right to signal carriage under that section.

(6) Nothing in this section shall be construed as modifying the compulsory copyright license established in section 111 of title 17 or as affecting existing or future video programming licensing agreements between broadcasting stations and video programmers.

(7) For purposes of this subsection, the term—

(A) "network station" has the meaning given such term under section 119(d) of title 17;

(B) "television broadcast station" means an over-the-air commercial or noncommercial

<sup>1</sup> See Delayed Effective Date of Amendment note below.

television broadcast station licensed by the Commission under subpart E of part 73 of title 47, Code of Federal Regulations, except that such term does not include a low-power or translator television station;

(C)<sup>1</sup> “qualified MVPD buying group” means an entity that, with respect to a negotiation with a large station group for retransmission consent under this section—

(i) negotiates on behalf of two or more multichannel video programming distributors—

(I) none of which is a multichannel video programming distributor that serves more than 500,000 subscribers nationally; and

(II) that do not collectively serve more than 25 percent of all households served by a multichannel video programming distributor in any single local market in which the applicable large station group operates; and

(ii) negotiates agreements for such retransmission consent—

(I) that contain standardized contract provisions, including billing structures and technical quality standards, for each multichannel video programming distributor on behalf of which the entity negotiates; and

(II) under which the entity assumes liability to remit to the applicable large station group all fees received from the multichannel video programming distributors on behalf of which the entity negotiates;

(D)<sup>1</sup> “large station group” means a group of television broadcast stations that—

(i) are directly or indirectly under common de jure control permitted by the regulations of the Commission;

(ii) generally negotiate agreements for retransmission consent under this section as a single entity; and

(iii) include only television broadcast stations that have a national audience reach of more than 20 percent;

(E)<sup>1</sup> “local market” has the meaning given such term in section 122(j) of title 17; and

(F)<sup>1</sup> “multichannel video programming distributor” has the meaning given such term in section 522 of this title.

**(c) Broadcast to foreign countries for rebroadcast to United States; permit**

No person shall be permitted to locate, use, or maintain a radio broadcast studio or other place or apparatus from which or whereby sound waves are converted into electrical energy, or mechanical or physical reproduction of sound waves produced, and caused to be transmitted or delivered to a radio station in a foreign country for the purpose of being broadcast from any radio station there having a power output of sufficient intensity and/or being so located geographically that its emissions may be received consistently in the United States, without first obtaining a permit from the Commission upon proper application therefor.

**(d) Application for permit**

Such application shall contain such information as the Commission may by regulation pre-

scribe, and the granting or refusal thereof shall be subject to the requirements of section 309 of this title with respect to applications for station licenses or renewal or modification thereof, and the license or permission so granted shall be revocable for false statements in the application so required or when the Commission, after hearings, shall find its continuation no longer in the public interest.

**(e) Enforcement proceedings against satellite carriers concerning retransmissions of television broadcast stations in the respective local markets of such carriers**

**(1) Complaints by television broadcast stations**

If after the expiration of the 6-month period described under subsection (b)(2)(E) a television broadcast station believes that a satellite carrier has retransmitted its signal to any person in the local market of such station in violation of subsection (b)(1), the station may file with the Commission a complaint providing—

(A) the name, address, and call letters of the station;

(B) the name and address of the satellite carrier;

(C) the dates on which the alleged retransmission occurred;

(D) the street address of at least one person in the local market of the station to whom the alleged retransmission was made;

(E) a statement that the retransmission was not expressly authorized by the television broadcast station; and

(F) the name and address of counsel for the station.

**(2) Service of complaints on satellite carriers**

For purposes of any proceeding under this subsection, any satellite carrier that retransmits the signal of any broadcast station shall be deemed to designate the Secretary of the Commission as its agent for service of process. A television broadcast station may serve a satellite carrier with a complaint concerning an alleged violation of subsection (b)(1) through retransmission of a station within the local market of such station by filing the original and two copies of the complaint with the Secretary of the Commission and serving a copy of the complaint on the satellite carrier by means of two commonly used overnight delivery services, each addressed to the chief executive officer of the satellite carrier at its principal place of business, and each marked “URGENT LITIGATION MATTER” on the outer packaging. Service shall be deemed complete one business day after a copy of the complaint is provided to the delivery services for overnight delivery. On receipt of a complaint filed by a television broadcast station under this subsection, the Secretary of the Commission shall send the original complaint by United States mail, postage prepaid, receipt requested, addressed to the chief executive officer of the satellite carrier at its principal place of business.

**(3) Answers by satellite carriers**

Within five business days after the date of service, the satellite carrier shall file an an-

swer with the Commission and shall serve the answer by a commonly used overnight delivery service and by United States mail, on the counsel designated in the complaint at the address listed for such counsel in the complaint.

#### **(4) Defenses**

##### **(A) Exclusive defenses**

The defenses under this paragraph are the exclusive defenses available to a satellite carrier against which a complaint under this subsection is filed.

##### **(B) Defenses**

The defenses referred to under subparagraph (A) are the defenses that—

(i) the satellite carrier did not retransmit the television broadcast station to any person in the local market of the station during the time period specified in the complaint;

(ii) the television broadcast station had, in a writing signed by an officer of the television broadcast station, expressly authorized the retransmission of the station by the satellite carrier to each person in the local market of the television broadcast station to which the satellite carrier made such retransmissions for the entire time period during which it is alleged that a violation of subsection (b)(1) has occurred;

(iii) the retransmission was made after January 1, 2002, and the television broadcast station had elected to assert the right to carriage under section 338 of this title as against the satellite carrier for the relevant period; or

(iv) the station being retransmitted is a noncommercial television broadcast station.

#### **(5) Counting of violations**

The retransmission without consent of a particular television broadcast station on a particular day to one or more persons in the local market of the station shall be considered a separate violation of subsection (b)(1).

#### **(6) Burden of proof**

With respect to each alleged violation, the burden of proof shall be on a television broadcast station to establish that the satellite carrier retransmitted the station to at least one person in the local market of the station on the day in question. The burden of proof shall be on the satellite carrier with respect to all defenses other than the defense under paragraph (4)(B)(i).

#### **(7) Procedures**

##### **(A) Regulations**

Within 60 days after November 29, 1999, the Commission shall issue procedural regulations implementing this subsection which shall supersede procedures under section 312 of this title.

##### **(B) Determinations**

###### **(i) In general**

Within 45 days after the filing of a complaint, the Commission shall issue a final

determination in any proceeding brought under this subsection. The Commission's final determination shall specify the number of violations committed by the satellite carrier. The Commission shall hear witnesses only if it clearly appears, based on written filings by the parties, that there is a genuine dispute about material facts. Except as provided in the preceding sentence, the Commission may issue a final ruling based on written filings by the parties.

##### **(ii) Discovery**

The Commission may direct the parties to exchange pertinent documents, and if necessary to take prehearing depositions, on such schedule as the Commission may approve, but only if the Commission first determines that such discovery is necessary to resolve a genuine dispute about material facts, consistent with the obligation to make a final determination within 45 days.

#### **(8) Relief**

If the Commission determines that a satellite carrier has retransmitted the television broadcast station to at least one person in the local market of such station and has failed to meet its burden of proving one of the defenses under paragraph (4) with respect to such retransmission, the Commission shall be required to—

(A) make a finding that the satellite carrier violated subsection (b)(1) with respect to that station; and

(B) issue an order, within 45 days after the filing of the complaint, containing—

(i) a cease-and-desist order directing the satellite carrier immediately to stop making any further retransmissions of the television broadcast station to any person within the local market of such station until such time as the Commission determines that the satellite carrier is in compliance with subsection (b)(1) with respect to such station;

(ii) if the satellite carrier is found to have violated subsection (b)(1) with respect to more than two television broadcast stations, a cease-and-desist order directing the satellite carrier to stop making any further retransmission of any television broadcast station to any person within the local market of such station, until such time as the Commission, after giving notice to the station, that the satellite carrier is in compliance with subsection (b)(1) with respect to such stations; and

(iii) an award to the complainant of that complainant's costs and reasonable attorney's fees.

#### **(9) Court proceedings on enforcement of Commission order**

##### **(A) In general**

On entry by the Commission of a final order granting relief under this subsection—

(i) a television broadcast station may apply within 30 days after such entry to

the United States District Court for the Eastern District of Virginia for a final judgment enforcing all relief granted by the Commission; and

(ii) the satellite carrier may apply within 30 days after such entry to the United States District Court for the Eastern District of Virginia for a judgment reversing the Commission's order.

#### **(B) Appeal**

The procedure for an appeal under this paragraph by the satellite carrier shall supersede any other appeal rights under Federal or State law. A United States district court shall be deemed to have personal jurisdiction over the satellite carrier if the carrier, or a company under common control with the satellite carrier, has delivered television programming by satellite to more than 30 customers in that district during the preceding 4-year period. If the United States District Court for the Eastern District of Virginia does not have personal jurisdiction over the satellite carrier, an enforcement action or appeal shall be brought in the United States District Court for the District of Columbia, which may find personal jurisdiction based on the satellite carrier's ownership of licenses issued by the Commission. An application by a television broadcast station for an order enforcing any cease-and-desist relief granted by the Commission shall be resolved on a highly expedited schedule. No discovery may be conducted by the parties in any such proceeding. The district court shall enforce the Commission order unless the Commission record reflects manifest error and an abuse of discretion by the Commission.

#### **(10) Civil action for statutory damages**

Within 6 months after issuance of an order by the Commission under this subsection, a television broadcast station may file a civil action in any United States district court that has personal jurisdiction over the satellite carrier for an award of statutory damages for any violation that the Commission has determined to have been committed by a satellite carrier under this subsection. Such action shall not be subject to transfer under section 1404(a) of title 28. On finding that the satellite carrier has committed one or more violations of subsection (b), the District Court shall be required to award the television broadcast station statutory damages of \$25,000 per violation, in accordance with paragraph (5), and the costs and attorney's fees incurred by the station. Such statutory damages shall be awarded only if the television broadcast station has filed a binding stipulation with the court that such station will donate the full amount in excess of \$1,000 of any statutory damage award to the United States Treasury for public purposes. Notwithstanding any other provision of law, a station shall incur no tax liability of any kind with respect to any amounts so donated. Discovery may be conducted by the parties in any proceeding under this paragraph only if and to the extent necessary to resolve a genuinely disputed issue of fact concerning

one of the defenses under paragraph (4). In any such action, the defenses under paragraph (4) shall be exclusive, and the burden of proof shall be on the satellite carrier with respect to all defenses other than the defense under paragraph (4)(B)(i). A judgment under this paragraph may be enforced in any manner permissible under Federal or State law.

#### **(11) Appeals**

##### **(A) In general**

The nonprevailing party before a United States district court may appeal a decision under this subsection to the United States Court of Appeals with jurisdiction over that district court. The Court of Appeals shall not issue any stay of the effectiveness of any decision granting relief against a satellite carrier unless the carrier presents clear and convincing evidence that it is highly likely to prevail on appeal and only after posting a bond for the full amount of any monetary award assessed against it and for such further amount as the Court of Appeals may believe appropriate.

##### **(B) Appeal**

If the Commission denies relief in response to a complaint filed by a television broadcast station under this subsection, the television broadcast station filing the complaint may file an appeal with the United States Court of Appeals for the District of Columbia Circuit.

#### **(12) Sunset**

No complaint or civil action may be filed under this subsection after December 31, 2001. This subsection shall continue to apply to any complaint or civil action filed on or before such date.

(June 19, 1934, ch. 652, title III, § 325, 48 Stat. 1091; Pub. L. 102-385, § 6, Oct. 5, 1992, 106 Stat. 1482; Pub. L. 106-113, div. B, § 1000(a)(9) [title I, § 1009], Nov. 29, 1999, 113 Stat. 1536, 1501A-537; Pub. L. 108-447, div. J, title IX [title II, §§ 201, 207(a)], Dec. 8, 2004, 118 Stat. 3409, 3428; Pub. L. 111-118, div. B, § 1003(b), Dec. 19, 2009, 123 Stat. 3469; Pub. L. 111-144, § 10(b), Mar. 2, 2010, 124 Stat. 47; Pub. L. 111-151, § 2(b), Mar. 26, 2010, 124 Stat. 1027; Pub. L. 111-157, § 9(b), Apr. 15, 2010, 124 Stat. 1119; Pub. L. 111-175, title II, § 202, May 27, 2010, 124 Stat. 1245; Pub. L. 113-200, title I, §§ 101, 103(a), (b), (d), Dec. 4, 2014, 128 Stat. 2060, 2062; Pub. L. 116-94, div. P, title X, §§ 1002-1003(c), Dec. 20, 2019, 133 Stat. 3198, 3199.)

##### **DELAYED EFFECTIVE DATE OF AMENDMENT**

*For delayed effective date of amendment by section 1003(a)-(c) of Pub. L. 116-94, see Effective Date of 2019 Amendment note below.*

##### **AMENDMENTS**

2019—Subsec. (b)(2). Pub. L. 116-94, § 1003(c)(1), struck out “, and the term ‘local market’ has the meaning given that term in section 122(j) of such title” before period at end of concluding provisions.

Pub. L. 116-94, § 1002(b), struck out “the term ‘unserved household’ has the meaning given that term under section 119(d) of such title” after “October 5, 1992” in concluding provisions.

Subsec. (b)(2)(C). Pub. L. 116-94, § 1002(a)(1), struck out “until December 31, 2019,” before “to retransmission”

and substituted “antenna under the statutory license of section 119 of title 17;” for “antenna, if the subscriber receiving the signal—

“(i) is located in an area outside the local market of such stations; and

“(ii) resides in an unserved household;”.

Subsec. (b)(3)(C)(ii), (iii). Pub. L. 116-94, §1002(a)(2), struck out “until January 1, 2020;” before “prohibit”.

Subsec. (b)(3)(C)(iv), (v). Pub. L. 116-94, §1003(c)(2), struck out “(as defined in section 122(j) of title 17)” after “local market”.

Subsec. (b)(3)(C)(vi). Pub. L. 116-94, §1003(a), added cl. (vi).

Subsec. (b)(7)(C) to (F). Pub. L. 116-94, §1003(b), added subpars. (C) to (F).

2014—Subsec. (b)(2)(C). Pub. L. 113-200, §101(1), substituted “December 31, 2019” for “December 31, 2014” in introductory provisions.

Subsec. (b)(3)(C)(ii). Pub. L. 113-200, §101(2), substituted “January 1, 2020” for “January 1, 2015”.

Subsec. (b)(3)(C)(iii). Pub. L. 113-200, §§101(2), 103(d)(1), substituted “January 1, 2020” for “January 1, 2015” and realigned margins.

Subsec. (b)(3)(C)(iv). Pub. L. 113-200, §103(a), added cl. (iv).

Subsec. (b)(3)(C)(v). Pub. L. 113-200, §103(b), added cl. (v).

Subsec. (b)(7). Pub. L. 113-200, §103(d)(2), realigned margins.

2010—Subsec. (b)(2)(C). Pub. L. 111-175, §202(1), substituted “December 31, 2014” for “May 31, 2010” in introductory provisions.

Pub. L. 111-157, §9(b)(1), substituted “May 31, 2010” for “April 30, 2010” in introductory provisions.

Pub. L. 111-151, §2(b)(1), substituted “April 30, 2010” for “March 28, 2010” in introductory provisions.

Pub. L. 111-144, §10(b)(1), substituted “March 28, 2010” for “February 28, 2010” in introductory provisions.

Subsec. (b)(3)(C)(ii), (iii). Pub. L. 111-175, §202(2), substituted “January 1, 2015” for “June 1, 2010”.

Pub. L. 111-157, §9(b)(2), substituted “June 1, 2010” for “May 1, 2010”.

Pub. L. 111-151, §2(b)(2), substituted “May 1, 2010” for “March 29, 2010”.

Pub. L. 111-144, §10(b)(2), substituted “March 29, 2010” for “March 1, 2010”.

2009—Subsec. (b)(2)(C). Pub. L. 111-118, §1003(b)(1), substituted “February 28, 2010” for “December 31, 2009” in introductory provisions.

Subsec. (b)(3)(C)(ii), (iii). Pub. L. 111-118, §1003(b)(2), substituted “March 1, 2010” for “January 1, 2010”.

2004—Subsec. (b)(2)(C). Pub. L. 108-447, §201, substituted “December 31, 2009” for “December 31, 2004”.

Subsec. (b)(3)(C). Pub. L. 108-447, §207(a)(1), (2), in introductory provisions, substituted “The” for “Within 45 days after November 29, 1999, the” and struck out second sentence which read “The Commission shall complete all actions necessary to prescribe such regulations within 1 year after November 29, 1999.”

Subsec. (b)(3)(C)(ii). Pub. L. 108-447, §207(a)(4)(A), substituted “January 1, 2010” for “January 1, 2006”.

Subsec. (b)(3)(C)(iii). Pub. L. 108-447, §207(a)(3), (4)(B), (5), added cl. (iii).

1999—Subsec. (b)(1), (2). Pub. L. 106-113, §1000(a)(9) [title I, §1009(a)(1)], amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) read as follows:

“(1) Following the date that is one year after October 5, 1992, no cable system or other multichannel video programming distributor shall retransmit the signal of a broadcasting station, or any part thereof, except—

“(A) with the express authority of the originating station; or

“(B) pursuant to section 534 of this title, in the case of a station electing, in accordance with this subsection, to assert the right to carriage under such section.

“(2) The provisions of this subsection shall not apply to—

“(A) retransmission of the signal of a noncommercial broadcasting station;

“(B) retransmission directly to a home satellite antenna of the signal of a broadcasting station that is not owned or operated by, or affiliated with, a broadcasting network, if such signal was retransmitted by a satellite carrier on May 1, 1991;

“(C) retransmission of the signal of a broadcasting station that is owned or operated by, or affiliated with, a broadcasting network directly to a home satellite antenna, if the household receiving the signal is an unserved household; or

“(D) retransmission by a cable operator or other multichannel video programming distributor of the signal of a superstation if such signal was obtained from a satellite carrier and the originating station was a superstation on May 1, 1991.

For purposes of this paragraph, the terms ‘satellite carrier’, ‘superstation’, and ‘unserved household’ have the meanings given those terms, respectively, in section 119(d) of title 17 as in effect on October 5, 1992.”

Subsec. (b)(3)(C). Pub. L. 106-113, §1000(a)(9) [title I, §1009(a)(2)], added subpar. (C).

Subsec. (b)(4). Pub. L. 106-113, §1000(a)(9) [title I, §1009(a)(3)], inserted at end “If an originating television station elects under paragraph (3)(C) to exercise its right to grant retransmission consent under this subsection with respect to a satellite carrier, section 338 of this title shall not apply to the carriage of the signal of such station by such satellite carrier.”

Subsec. (b)(5). Pub. L. 106-113, §1000(a)(9) [title I, §1009(a)(4)], substituted “338, 534, or 535 of this title” for “534 or 535 of this title”.

Subsec. (b)(7). Pub. L. 106-113, §1000(a)(9) [title I, §1009(a)(5)], added par. (7).

Subsec. (e). Pub. L. 106-113, §1000(a)(9) [title I, §1009(b)], added subsec. (e).

1992—Subsecs. (b) to (d). Pub. L. 102-385 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

#### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-94, div. P, title X, §1003(d), Dec. 20, 2019, 133 Stat. 3200, provided that: “The amendments made by this section [amending this section], and the regulations promulgated by the Federal Communications Commission under such amendments, shall not take effect before January 1 of the calendar year after the calendar year in which this Act [probably means “this title”, which is title X of div. P of Pub. L. 116-94, approved Dec. 20, 2019] is enacted.”

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-175 effective Feb. 27, 2010, see section 307(a) of Pub. L. 111-175, set out as a note under section 111 of Title 17, Copyrights.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-385, §28, Oct. 5, 1992, 106 Stat. 1503, provided that: “Except where otherwise expressly provided, the provisions of this Act [enacting sections 334, 335, 534 to 537, 544a, 548, and 555a of this title, amending this section and sections 332, 522, 532, 533, 541 to 544, 546, 551 to 555, and 558 of this title, and enacting provisions set out as notes under sections 521, 531, 543, and 554 of this title] and the amendments made thereby shall take effect 60 days after the date of enactment of this Act [Oct. 5, 1992].”

#### REGULATIONS

Pub. L. 113-200, title I, §103(e), Dec. 4, 2014, 128 Stat. 2062, provided that: “Not later than 9 months after the date of the enactment of this Act [Dec. 4, 2014], the [Federal Communications] Commission shall promulgate regulations to implement the amendments made by this section [amending this section].”

Pub. L. 108-447, div. J, title IX [title II, §207(b)], Dec. 8, 2004, 118 Stat. 3428, provided that: “The Federal Communications Commission shall prescribe regulations to implement the amendment made by subsection (a)(5) [amending this section] within 180 days after the date of enactment of this Act [Dec. 8, 2004].”

## SAVINGS CLAUSE REGARDING DEFINITIONS

Pub. L. 111-175, title II, §208, May 27, 2010, 124 Stat. 1254, provided that: “Nothing in this title [enacting section 342 of this title, amending this section and sections 335 and 338 to 340 of this title, and enacting provisions set out as notes under sections 338 and 340 of 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 [47 U.S.C. 151 et seq.]; or

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

## SEVERABILITY

Pub. L. 106-113, div. B, §1000(a)(9) [title I, §1010], Nov. 29, 1999, 113 Stat. 1536, 1501A-543, provided that: “If any provision of section 325(b) of the Communications Act of 1934 (47 U.S.C. 325(b)), or the application of that provision to any person or circumstance, is held by a court of competent jurisdiction to violate any provision of the Constitution of the United States, then the other provisions of that section, and the application of that provision to other persons and circumstances, shall not be affected.”

## GOOD FAITH

Pub. L. 113-200, title I, §103(c), Dec. 4, 2014, 128 Stat. 2062, provided that: “Not later than 9 months after the date of the enactment of this Act [Dec. 4, 2014], the [Federal Communications] Commission shall commence a rulemaking to review its totality of the circumstances test for good faith negotiations under clauses (ii) and (iii) of section 325(b)(3)(C) of the Communications Act of 1934 (47 U.S.C. 325(b)(3)(C)).”

## DIGITAL TRANSITION SAVINGS PROVISION

Pub. L. 108-447, div. J, title IX [title II, §212], Dec. 8, 2004, 118 Stat. 3431, provided that: “Nothing in the dates by which requirements or other provisions are effective under this Act [probably means title IX of div. J of Pub. L. 108-447, see Short Title of 2004 Amendment note set out under section 101 of Title 17, Copyrights] or the amendments made by this Act shall be construed—

“(1) to impair the authority of the Federal Communications Commission to take any action with respect to the transition by television broadcasters to the digital television service; or

“(2) to require the Commission to take any such action.”

## § 326. Censorship

Nothing in this chapter shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication.

(June 19, 1934, ch. 652, title III, §326, 48 Stat. 1091; June 25, 1948, ch. 645, §21, 62 Stat. 862.)

## REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

## AMENDMENTS

1948—Act June 25, 1948, repealed last sentence relating to use of indecent language. See section 1464 of Title 18, Crimes and Criminal Procedure.

## EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act June 25, 1948, effective as of Sept. 1, 1948, see section 20 of that act.

## § 327. Naval stations; use for commercial messages; rates

The Secretary of the Navy is authorized, unless restrained by international agreement, under the terms and conditions and at rates prescribed by him, which rates shall be just and reasonable, and which, upon complaint, shall be subject to review and revision by the Commission, to use all radio stations and apparatus, wherever located, owned by the United States and under the control of the Navy Department, (a) for the reception and transmission of press messages offered by any newspaper published in the United States, its Territories or possessions, or published by citizens of the United States in foreign countries, or by any press association of the United States, and (b) for the reception and transmission of private commercial messages between ships, between ship and shore, between localities in Alaska and between Alaska and the continental United States: *Provided*, That the rates fixed for the reception and transmission of all such messages, other than press messages between the Pacific coast of the United States, Hawaii, Alaska, Guam, American Samoa, the Philippine Islands, and the Orient, and between the United States and the Virgin Islands, shall not be less than the rates charged by privately owned and operated stations for like messages and service: *Provided further*, That the right to use such stations for any of the purposes named in this section shall terminate and cease as between any countries or localities or between any locality and privately operated ships whenever privately owned and operated stations are capable of meeting the normal communication requirements between such countries or localities or between any locality and privately operated ships, and the Commission shall have notified the Secretary of the Navy thereof.

(June 19, 1934, ch. 652, title III, §327, 48 Stat. 1091.)

## REFERENCES IN TEXT

The Philippine Islands, referred to in text, were granted their independence by Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352, issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, and set out under that section. They are now known as the Republic of the Philippines.

## § 328. Repealed. Pub. L. 103-414, title III, § 304(a)(10), Oct. 25, 1994, 108 Stat. 4297

Section, act June 19, 1934, ch. 652, title III, §328, 48 Stat. 1092; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352, related to representation of Canal Zone in international radio matters by Secretary of State.

## § 329. Administration of radio laws in Territories and possessions

The Commission is authorized to designate any officer or employee of any other department of the Government on duty in any Territory or possession of the United States to render therein such service in connection with the administration of this chapter as the Commission may pre-