

Union Calendar No. 52

106TH CONGRESS  
1ST Session

**H. R. 1027**

[Report No. 106-86, Part I]

**A BILL**

To provide for the carriage by satellite carriers of local broadcast station signals, and for other purposes.

APRIL 16, 1999

Committee on Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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### IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 1999

Mr. COBLE introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

APRIL 12, 1999

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

APRIL 12, 1999

Referral to the Committee on Commerce extended for a period ending not later than April 16, 1999

APRIL 16, 1999

Committee on Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 8, 1999]

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## A BILL

To provide for the carriage by satellite carriers of local broadcast station signals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Copyright Compulsory*  
 5 *License Improvement Act”.*

6 **SEC. 2. LIMITATIONS ON EXCLUSIVE RIGHTS; SECONDARY**  
 7 **TRANSMISSIONS BY SATELLITE CARRIERS**  
 8 **WITHIN LOCAL MARKETS.**

9 *(a) IN GENERAL.—Chapter 1 of title 17, United States*  
 10 *Code, is amended by adding after section 121 the following*  
 11 *new section:*

12 **“§ 122. Limitations on exclusive rights; secondary**  
 13 **transmissions by satellite carriers within**  
 14 **local markets**

15 **“(a) SECONDARY TRANSMISSIONS OF TELEVISION**  
 16 **BROADCAST STATIONS BY SATELLITE CARRIERS.—A sec-**  
 17 *ondary transmission of a primary transmission of a tele-*  
 18 *vision broadcast station into the station’s local market shall*  
 19 *be subject to statutory licensing under this section if—*

20 *“(1) the secondary transmission is made by a*  
 21 *satellite carrier to the public;*

22 *“(2) the satellite carrier is in compliance with*  
 23 *the rules, regulations, or authorizations of the Federal*  
 24 *Communications Commission governing the carriage*  
 25 *of television broadcast station signals; and*

1           “(3) *the satellite carrier makes a direct or indi-*  
 2           *rect charge for the secondary transmission to—*

3                   “(A) *each subscriber receiving the secondary*  
 4                   *transmission; or*

5                   “(B) *a distributor that has contracted with*  
 6                   *the satellite carrier for direct or indirect delivery*  
 7                   *of the secondary transmission to the public.*

8           “(b) *REPORTING REQUIREMENTS.—*

9                   “(1) *INITIAL LISTS.—A satellite carrier that*  
 10                   *makes secondary transmissions of a primary trans-*  
 11                   *mission made by a network station under subsection*  
 12                   *(a) shall, within 90 days after commencing such sec-*  
 13                   *ondary transmissions, submit to that station a list*  
 14                   *identifying (by name in alphabetical order and street*  
 15                   *address, including county and zip code) only those*  
 16                   *subscribers located in that station’s local market to*  
 17                   *which the satellite carrier currently makes secondary*  
 18                   *transmissions of that primary transmission.*

19                   “(2) *SUBSEQUENT LISTS.—After the list is sub-*  
 20                   *mitted under paragraph (1), the satellite carrier*  
 21                   *shall, on the 15th of each month, submit to the station*  
 22                   *a list identifying (by name and street address, includ-*  
 23                   *ing county and zip code) any subscribers who have*  
 24                   *been added or dropped as subscribers since the last*  
 25                   *submission under this subsection.*

1           “(3) *USE OF SUBSCRIBER INFORMATION.*—Sub-  
 2           scriber information submitted by a satellite carrier  
 3           under this subsection may be used only for the pur-  
 4           poses of monitoring compliance by the satellite carrier  
 5           with this section.

6           “(4) *REQUIREMENTS OF STATIONS.*—The sub-  
 7           mission requirements of this subsection shall apply to  
 8           a satellite carrier only if the station to whom the sub-  
 9           missions are to be made places on file with the Reg-  
 10          ister of Copyrights a document identifying the name  
 11          and address of the person to whom such submissions  
 12          are to be made. The Register shall maintain for pub-  
 13          lic inspection a file of all such documents.

14          “(c) *NO ROYALTY FEE REQUIRED.*—A satellite carrier  
 15          whose secondary transmissions are subject to statutory li-  
 16          censing under subsection (a) shall have no royalty obliga-  
 17          tion for such secondary transmissions.

18          “(d) *NONCOMPLIANCE WITH REPORTING REQUIRE-*  
 19          *MENTS.*—Notwithstanding subsection (a), the willful or re-  
 20          peated secondary transmission to the public by a satellite  
 21          carrier into the local market of a television broadcast sta-  
 22          tion of a primary transmission made by that television  
 23          broadcast station and embodying a performance or display  
 24          of a work is actionable as an act of infringement under  
 25          section 501, and is fully subject to the remedies provided

1 *under sections 502 through 506 and 509, if the satellite car-*  
2 *rier has not complied with the reporting requirements of*  
3 *subsection (b).*

4       “(e) *WILLFUL ALTERATIONS.*—Notwithstanding sub-  
5 *section (a), the secondary transmission to the public by a*  
6 *satellite carrier into the local market of a television broad-*  
7 *cast station of a primary transmission made by that tele-*  
8 *vision broadcast station and embodying a performance or*  
9 *display of a work is actionable as an act of infringement*  
10 *under section 501, and is fully subject to the remedies pro-*  
11 *vided by sections 502 through 506 and sections 509 and*  
12 *510, if the content of the particular program in which the*  
13 *performance or display is embodied, or any commercial ad-*  
14 *vertising or station announcement transmitted by the pri-*  
15 *mary transmitter during, or immediately before or after,*  
16 *the transmission of such program, is in any way willfully*  
17 *altered by the satellite carrier through changes, deletions,*  
18 *or additions, or is combined with programming from any*  
19 *other broadcast signal.*

20       “(f) *VIOLATION OF TERRITORIAL RESTRICTIONS ON*  
21 *STATUTORY LICENSE FOR TELEVISION BROADCAST STA-*  
22 *TIONS.*—

23               “(1) *INDIVIDUAL VIOLATIONS.*—*The willful or re-*  
24 *peated secondary transmission to the public by a sat-*  
25 *ellite carrier of a primary transmission made by a*

1     *television broadcast station and embodying a per-*  
2     *formance or display of a work to a subscriber who*  
3     *does not reside in that station’s local market, and is*  
4     *not subject to statutory licensing under section 119,*  
5     *is actionable as an act of infringement under section*  
6     *501 and is fully subject to the remedies provided by*  
7     *sections 502 through 506 and 509, except that—*

8             *“(A) no damages shall be awarded for such*  
9             *act of infringement if the satellite carrier took*  
10            *corrective action by promptly withdrawing serv-*  
11            *ice from the ineligible subscriber; and*

12            *“(B) any statutory damages shall not exceed*  
13            *\$5 for such subscriber for each month during*  
14            *which the violation occurred.*

15            *“(2) PATTERN OF VIOLATIONS.—If a satellite*  
16            *carrier engages in a willful or repeated pattern or*  
17            *practice of secondarily transmitting to the public a*  
18            *primary transmission made by a television broadcast*  
19            *station and embodying a performance or display of a*  
20            *work to subscribers who do not reside in that station’s*  
21            *local market, and are not subject to statutory licens-*  
22            *ing under section 119, then in addition to the rem-*  
23            *edies under paragraph (1)—*

24            *“(A) if the pattern or practice has been car-*  
25            *ried out on a substantially nationwide basis, the*

1       *court shall order a permanent injunction barring*  
2       *the secondary transmission by the satellite car-*  
3       *rier of the primary transmissions of that tele-*  
4       *vision broadcast station (and if such television*  
5       *broadcast station is a network station, all other*  
6       *television broadcast stations affiliated with such*  
7       *network), and the court may order statutory*  
8       *damages not exceeding \$250,000 for each 6-*  
9       *month period during which the pattern or prac-*  
10      *tice was carried out; and*

11               *“(B) if the pattern or practice has been car-*  
12      *ried out on a local or regional basis with respect*  
13      *to more than one television broadcast station*  
14      *(and if such television broadcast station is a net-*  
15      *work station, all other television broadcast sta-*  
16      *tions affiliated with such network), the court*  
17      *shall order a permanent injunction barring the*  
18      *secondary transmission in that locality or region*  
19      *by the satellite carrier of the primary trans-*  
20      *missions of any television broadcast station, and*  
21      *the court may order statutory damages not ex-*  
22      *ceeding \$250,000 for each 6-month period during*  
23      *which the pattern or practice was carried out.*

24      *“(g) BURDEN OF PROOF.—In any action brought*  
25      *under subsection (d), (e), or (f), the satellite carrier shall*



1 *have the burden of proving that its secondary transmission*  
 2 *of a primary transmission by a television broadcast station*  
 3 *is made only to subscribers located within that station's*  
 4 *local market.*

5       “(h) *GEOGRAPHIC LIMITATIONS ON SECONDARY*  
 6 *TRANSMISSIONS.—The statutory license created by this sec-*  
 7 *tion shall apply to secondary transmissions to locations in*  
 8 *the United States, and any commonwealth, territory, or*  
 9 *possession of the United States.*

10       “(i) *EXCLUSIVITY WITH RESPECT TO SECONDARY*  
 11 *TRANSMISSIONS OF BROADCAST STATIONS BY SATELLITE*  
 12 *TO MEMBERS OF THE PUBLIC.—No provision of section 111*  
 13 *or any other law (other than this section and section 119)*  
 14 *shall be construed to contain any authorization, exemption,*  
 15 *or license through which secondary transmissions by sat-*  
 16 *ellite carriers of programming contained in a primary*  
 17 *transmission made by a television broadcast station may*  
 18 *be made without obtaining the consent of the copyright*  
 19 *owner.*

20       “(j) *DEFINITIONS.—In this section—*

21               “(1) *DISTRIBUTOR.—The term ‘distributor’*  
 22 *means an entity which contracts to distribute sec-*  
 23 *ondary transmissions from a satellite carrier and, ei-*  
 24 *ther as a single channel or in a package with other*  
 25 *programming, provides the secondary transmission*

1       *either directly to individual subscribers or indirectly*  
2       *through other program distribution entities.*

3               “(2) *LOCAL MARKET.*—*The ‘local market’ of a*  
4       *television broadcast station has the meaning given*  
5       *that term under rules, regulations, and authorizations*  
6       *of the Federal Communications Commission relating*  
7       *to carriage of television broadcast signals by satellite*  
8       *carriers.*

9               “(3) *NETWORK STATION; SATELLITE CARRIER;*  
10       *SECONDARY TRANSMISSION.*—*The terms ‘network sta-*  
11       *tion’, ‘satellite carrier’ and ‘secondary transmission’*  
12       *have the meanings given such terms under section*  
13       *119(d).*

14               “(4) *SUBSCRIBER.*—*The term ‘subscriber’ means*  
15       *an entity that receives a secondary transmission serv-*  
16       *ice by means of a secondary transmission from a sat-*  
17       *ellite and pays a fee for the service, directly or indi-*  
18       *rectly, to the satellite carrier or to a distributor.*

19               “(5) *TELEVISION BROADCAST STATION.*—*The*  
20       *term ‘television broadcast station’ means an over-the-*  
21       *air, commercial or noncommercial television broad-*  
22       *cast station licensed by the Federal Communications*  
23       *Commission under subpart E of part 73 of title 47,*  
24       *Code of Federal Regulations.’’.*

1       (b) *INFRINGEMENT OF COPYRIGHT.*—Section 501 of  
 2 title 17, United States Code, is amended by adding at the  
 3 end the following new subsection:

4       “(f) With respect to any secondary transmission that  
 5 is made by a satellite carrier of a primary transmission  
 6 embodying the performance or display of a work and is ac-  
 7 tionable as an act of infringement under section 122, a tele-  
 8 vision broadcast station holding a copyright or other license  
 9 to transmit or perform the same version of that work shall,  
 10 for purposes of subsection (b) of this section, be treated as  
 11 a legal or beneficial owner if such secondary transmission  
 12 occurs within the local market of that station.”.

13       (c) *TECHNICAL AND CONFORMING AMENDMENTS.*—The  
 14 table of sections for chapter 1 of title 17, United States  
 15 Code, is amended by adding after the item relating to sec-  
 16 tion 121 the following:

“122. Limitations on exclusive rights; secondary transmissions by satellite car-  
 riers within local market.”.

17 **SEC. 3. EXTENSION OF EFFECT OF AMENDMENTS TO SEC-**  
 18 **TION 119 OF TITLE 17, UNITED STATES CODE.**

19       Section 4(a) of the Satellite Home Viewer Act of 1994  
 20 (17 U.S.C. 119 note; Public Law 103–369; 108 Stat. 3481)  
 21 is amended by striking “December 31, 1999” and inserting  
 22 “December 31, 2004”.

1 **SEC. 4. COMPUTATION OF ROYALTY FEES FOR SATELLITE**  
 2 **CARRIERS.**

3 *Section 119(c) of title 17, United States Code, is*  
 4 *amended by adding at the end the following new paragraph:*

5 “(4) *REDUCTION.*—

6 “(A) *SUPERSTATION.*—*The rate of the roy-*  
 7 *alty fee in effect on January 1, 1998, payable in*  
 8 *each case under subsection (b)(1)(B)(i) shall be*  
 9 *reduced by 30 percent.*

10 “(B) *NETWORK.*—*The rate of the royalty fee*  
 11 *in effect on January 1, 1998, payable under sub-*  
 12 *section (b)(1)(B)(ii) shall be reduced by 45 per-*  
 13 *cent.*

14 “(5) *PUBLIC BROADCASTING SERVICE AS*  
 15 *AGENT.*—*For purposes of section 802, with respect to*  
 16 *royalty fees paid by satellite carriers for retransmit-*  
 17 *ting the Public Broadcasting Service satellite feed, the*  
 18 *Public Broadcasting Service shall be the agent for all*  
 19 *public television copyright claimants and all Public*  
 20 *Broadcasting Service member stations.”.*

21 **SEC. 5. PUBLIC BROADCASTING SERVICE SATELLITE FEED;**  
 22 **DEFINITIONS.**

23 (a) *SECONDARY TRANSMISSIONS.*—*Section 119(a)(1)*  
 24 *of title 17, United States Code, is amended—*

1           (1) *by striking the paragraph heading and in-*  
 2           *serting “(1) SUPERSTATIONS AND PBS SATELLITE*  
 3           *FEED.—”;*

4           (2) *by inserting “or by the Public Broadcasting*  
 5           *Service satellite feed” after “superstation”; and*

6           (3) *by adding at the end the following: “In the*  
 7           *case of the Public Broadcasting Service satellite feed,*  
 8           *subsequent to—*

9                     *“(A) the date when a majority of sub-*  
 10                    *scribers to satellite carriers are able to receive the*  
 11                    *signal of at least one noncommercial educational*  
 12                    *television broadcast station from their satellite*  
 13                    *carrier within such stations’ local market, or*

14                    *“(B) 2 years after the effective date of the*  
 15                    *Copyright Compulsory License Improvement Act,*  
 16                    *whichever is earlier, the statutory license created by*  
 17                    *this section shall be conditioned on the Public Broad-*  
 18                    *casting Service certifying to the Copyright Office on*  
 19                    *an annual basis that its membership supports the sec-*  
 20                    *ondary transmission of the Public Broadcasting Serv-*  
 21                    *ice satellite feed, and providing notice to the satellite*  
 22                    *carrier of such certification.”.*

23           (b) *DEFINITIONS.—Section 119(d) of title 17, United*  
 24           *States Code, is amended by adding at the end the following:*

1           “(12) *PUBLIC BROADCASTING SERVICE SAT-*  
 2           *ELLITE FEED.*—*The term ‘Public Broadcasting Serv-*  
 3           *ice satellite feed’ means the national satellite feed dis-*  
 4           *tributed by the Public Broadcasting Service con-*  
 5           *sisting of educational and informational program-*  
 6           *ming intended for private home viewing, to which the*  
 7           *Public Broadcasting Service holds national terrestrial*  
 8           *broadcast rights.*

9           “(13) *LOCAL MARKET.*—*The term ‘local market’*  
 10          *has the meaning given that term in section 122(j)(2).*

11          “(14) *TELEVISION BROADCAST STATION.*—*The*  
 12          *term ‘television broadcast station’ has the meaning*  
 13          *given that term in section 122(j)(5).”.*

14   **SEC. 6. LOCAL TO LOCAL RETRANSMISSIONS.**

15          *Section 119 of title 17, United States Code, is*  
 16          *amended—*

17                 *(1) in subsection (a)—*

18                         *(A) in paragraph (1), by striking “(6)” and*  
 19                         *inserting “(5)”;*

20                         *(B) in paragraph (2)—*

21                                 *(i) by striking*

22          “(2) *NETWORK STATIONS.*—

23                         “(A) *IN GENERAL.*—*Subject to the provi-*  
 24                         *sions of subparagraphs (B) and (C) of this para-*  
 25                         *graph and paragraphs (3), (4), (5), and (6)”*

1 *and inserting*

2 “(2) *NETWORK STATIONS*.—Subject to the provi-  
3 sions of paragraphs (3), (4), and (5)” and running  
4 in the remaining text of the subparagraph;

5 (ii) by adding at the end of paragraph  
6 (2) the following: “Notwithstanding the pre-  
7 ceding provisions of this paragraph, sec-  
8 ondary transmissions of programming con-  
9 tained in a primary transmission made by  
10 a network station and embodying a per-  
11 formance or display of a work shall not be  
12 subject to statutory licensing under this sec-  
13 tion in a local market in which the satellite  
14 carrier, or another satellite carrier, is serv-  
15 ing subscribers in that market with 2 or  
16 more television broadcast stations located in  
17 that market pursuant to section 122.”; and

18 (iii) by striking subparagraphs (B)  
19 and (C);

20 (C) in paragraph (3), by striking “, or has  
21 failed to make the submissions to networks re-  
22 quired by paragraph (2)(C)”; and

23 (D) by striking paragraphs (5), (8), (9),  
24 and (10) and redesignating paragraphs (6) and  
25 (7) as paragraphs (5) and (6), respectively; and

1           (2) in subsection (d), by striking paragraphs  
2           (10) and (11).

3 **SEC. 7. APPLICATION OF FEDERAL COMMUNICATIONS COM-**  
4 **MISSION REGULATIONS.**

5           Section 119(a) of title 17, United States Code, is  
6 amended—

7           (1) in paragraph (1), by inserting “the satellite  
8           carrier is in compliance with the rules, regulations,  
9           or authorizations of the Federal Communications  
10          Commission governing the carriage of television  
11          broadcast station signals,” after “satellite carrier to  
12          the public for private home viewing,”; and

13          (2) in paragraph (2), by inserting “the satellite  
14          carrier is in compliance with the rules, regulations,  
15          or authorizations of the Federal Communications  
16          Commission governing the carriage of television  
17          broadcast station signals,” after “satellite carrier to  
18          the public for private home viewing,”.

19 **SEC. 8. RETRANSMISSION CONSENT.**

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

22          (1) by striking paragraphs (1) and (2) and in-  
23          serting the following:



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

4               “(A) with the express authority of the station;

5               “(B) pursuant to section 614, in the case of a  
6 station electing, in accordance with this subsection, to  
7 assert the right to carriage under such section; or

8               “(C) pursuant to section 337, in the case of a  
9 station electing, in accordance with this subsection, to  
10 assert the right to carriage under such section.

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

13               “(A) retransmission of the signal of a non-  
14 commercial broadcasting station;

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

18                       “(i) such station was a superstation on May  
19 1, 1991; and

20                       “(ii) as of July 1, 1998, such station was  
21 retransmitted by a satellite carrier under the  
22 statutory license provided in section 119 of title  
23 17, United States Code;

24               “(C) retransmission of the signal of a broad-  
25 casting station that is owned or operated by, or affili-

1        *ated with, a broadcasting network directly to a home*  
2        *satellite antenna, if the household receiving the signal*  
3        *is located in an area in which such station may not*  
4        *assert its rights not to have its signal duplicated*  
5        *under the Commission’s network nonduplication regu-*  
6        *lations; or*

7                *“(D) retransmission by a cable operator or other*  
8        *multichannel video provider of the signal of a tele-*  
9        *vision broadcast station outside the station’s local*  
10       *market if such signal was obtained from a satellite*  
11       *carrier and—*

12                *“(i) the originating station was a supersta-*  
13       *tion on May 1, 1991; and*

14                *“(ii) as of July 1, 1998, such station was*  
15       *retransmitted by a satellite carrier under the*  
16       *statutory license provided in section 119 of title*  
17       *17, United States Code.”;*

18                *(2) by adding at the end of paragraph (3) the*  
19       *following new subparagraph:*

20                *“(C) Within 45 days after the effective date of the Sat-*  
21       *ellite Television Improvement Act, the Commission shall*  
22       *commence a rulemaking proceeding to revise the regulations*  
23       *governing the exercise by television broadcast stations of the*  
24       *right to grant retransmission consent under this subsection,*  
25       *and such other regulations as are necessary to administer*

1 *the limitation contained in paragraph (2). Such regula-*  
 2 *tions shall establish election time periods that correspond*  
 3 *with those regulations adopted under subparagraph (B).*  
 4 *The rulemaking shall be completed within 180 days after*  
 5 *the effective date of the Satellite Television Improvement*  
 6 *Act.”; and*

7 *(3) by adding at the end the following new para-*  
 8 *graph:*

9 *“(7) For purposes of this subsection:*

10 *“(A) The term ‘superstation’ means a television*  
 11 *broadcast station, other than a network station, li-*  
 12 *censed by the Commission that is secondarily trans-*  
 13 *mitted by a satellite carrier.*

14 *“(B) The term ‘satellite carrier’ has the meaning*  
 15 *given that term in section 119(d) of title 17, United*  
 16 *States Code.”.*

17 **SEC. 9. MUST-CARRY FOR SATELLITE CARRIERS RE-**  
 18 **TRANSMITTING TELEVISION BROADCAST SIG-**  
 19 **NALS.**

20 *Title III of the Communications Act of 1934 is amend-*  
 21 *ed by inserting after section 337 the following new section:*

22 **“SEC. 338. CARRIAGE OF LOCAL TELEVISION SIGNALS BY**  
 23 **SATELLITE CARRIERS.**

24 *“(a) CARRIAGE OBLIGATIONS.—Each satellite carrier*  
 25 *providing direct to home service of a television broadcast*

1 *station to subscribers located within the local market of such*  
 2 *station pursuant to section 122 of title 17, United States*  
 3 *Code, shall, not later than January 1, 2002, carry all tele-*  
 4 *vision broadcast stations located within that local market.*  
 5 *Carriage of additional television broadcast stations within*  
 6 *the local market shall be at the discretion of the satellite*  
 7 *carrier, subject to section 325(b).*

8 “(b) *GOOD SIGNAL REQUIRED.*—

9 “(1) *COSTS.*—*A television broadcast station as-*  
 10 *serting its right to carriage under subsection (a) shall*  
 11 *be required to bear the costs associated with delivering*  
 12 *a good quality signal to the designated local receive*  
 13 *facility of the satellite carrier. The selection of a local*  
 14 *receive facility by a satellite carrier shall not be made*  
 15 *in a manner that frustrates the purposes of this sec-*  
 16 *tion.*

17 “(2) *REGULATIONS.*—*The regulations issued*  
 18 *under subsection (g) shall set forth the obligations*  
 19 *necessary to carry out this subsection.*

20 “(c) *DUPLICATION NOT REQUIRED.*—*Notwithstanding*  
 21 *subsection (a), a satellite carrier shall not be required to*  
 22 *carry the signal of any local television broadcast station*  
 23 *that substantially duplicates the signal of another local tele-*  
 24 *vision broadcast station which is secondarily transmitted*  
 25 *by the satellite carrier, or to carry the signals of more than*

1 *one local television broadcast station affiliated with a par-*  
 2 *ticular broadcast network (as the term is defined by regula-*  
 3 *tion).*

4       “(d) *CHANNEL POSITIONING.*—No satellite carrier  
 5 shall be required to provide the signal of a local television  
 6 broadcast station to subscribers in that station’s local mar-  
 7 ket on any particular channel number or to provide the  
 8 signals in any particular order, except that the satellite car-  
 9 rier shall retransmit the signal of the local television broad-  
 10 cast station to subscribers in that station’s local market on  
 11 contiguous channels and in a nondiscriminatory manner  
 12 on any navigational device, on-screen program guide, or  
 13 menu.

14       “(e) *COMPENSATION FOR CARRIAGE.*—A satellite car-  
 15 rier shall not accept or request monetary payment or other  
 16 valuable consideration in exchange either for carriage of  
 17 local television broadcast stations in fulfillment of the re-  
 18 quirements of this section or for channel positioning rights  
 19 provided to such stations under this section, except that any  
 20 such station may be required to bear the costs associated  
 21 with delivering a good quality signal to the local receive  
 22 facility of the satellite carrier.

23       “(f) *REMEDIES.*—

24               “(1) *COMPLAINTS BY BROADCAST STATIONS.*—

25       Whenever a local television broadcast station believes

1        *that a satellite carrier has failed to meet its obliga-*  
2        *tions under this section, such station shall notify the*  
3        *carrier, in writing, of the alleged failure and identify*  
4        *its reasons for believing that the satellite carrier is ob-*  
5        *ligated to carry the signal of such station or has oth-*  
6        *erwise failed to comply with the channel positioning*  
7        *or repositioning or other requirements of this section.*  
8        *The satellite carrier shall, within 30 days of such*  
9        *written notification, respond in writing to such noti-*  
10       *fication and either commence to carry the signal of*  
11       *such station in accordance with the terms requested or*  
12       *state its reasons for believing that it is not obligated*  
13       *to carry such signal or is in compliance with the*  
14       *channel positioning and repositioning or other re-*  
15       *quirements of this section. A local television broadcast*  
16       *station that is denied carriage or channel positioning*  
17       *or repositioning in accordance with this section by a*  
18       *satellite carrier may obtain review of such denial by*  
19       *filing a complaint with the Commission. Such com-*  
20       *plaint shall allege the manner in which such satellite*  
21       *carrier has failed to meet its obligations and the basis*  
22       *for such allegations.*

23                *“(2) OPPORTUNITY TO RESPOND.—The Commis-*  
24        *sion shall afford such satellite carrier and oppor-*  
25        *tunity to present data and arguments to establish*

1       *that there has been no failure to meet its obligations*  
2       *under this section.*

3               “(3) *REMEDIAL ACTIONS; DISMISSAL.*—*Within*  
4       *120 days after the date a complaint is filed, the Com-*  
5       *mission shall determine whether the satellite carrier*  
6       *has met its obligations under this section. If the Com-*  
7       *mission determines that the satellite carrier has failed*  
8       *to meet such obligations, the Commission shall order*  
9       *the satellite carrier to reposition the complaining sta-*  
10       *tion or, in the case of an obligation to carry a sta-*  
11       *tion, to commence carriage of the station and to con-*  
12       *tinue such carriage for at least 12 months. If the*  
13       *Commission determines that the satellite carrier has*  
14       *fully met the requirements of this section, it shall dis-*  
15       *miss the complaint.*

16               “(g) *REGULATIONS BY COMMISSION.*—*Within 180*  
17       *days after the effective date of this section, the Commission*  
18       *shall, following a rulemaking proceeding, issue regulations*  
19       *implementing the requirements imposed by this section.*

20               “(h) *DEFINITIONS.*—*As used in this section:*

21               “(1) *TELEVISION BROADCAST STATION.*—*The*  
22       *term ‘television broadcast station’ means a full-power*  
23       *television broadcast station, and does not include a*  
24       *low-power or translator television broadcast station.*

1           “(2) *LOCAL MARKET.*—The term ‘local market’  
 2           means the designated market area in which a station  
 3           is located.

4           “(3) *DESIGNATED MARKET AREA.*—The term  
 5           ‘designated market area’ means a designated market  
 6           area, as determined by the Nielsen Media Research  
 7           and published in the DMA Market and Demographic  
 8           Report or, if no longer published, as determined by  
 9           another commercial publication that delineates tele-  
 10          vision markets based on viewing patterns.

11          “(4) *LOCAL RECEIVE FACILITY.*—The term local  
 12          receive facility means the reception point in the local  
 13          market of a television broadcast station or in a mar-  
 14          ket contiguous to the local market of a television  
 15          broadcast station at which a satellite carrier initially  
 16          receives the signal of the station for purposes of trans-  
 17          mission of such signals to the facility which uplinks  
 18          the signals to the carrier’s satellites for secondary  
 19          transmission to the satellite carrier’s subscribers. The  
 20          designation of a local receive facility by a satellite  
 21          carrier shall not be used to undermine or evade the  
 22          carriage requirements imposed by this section.”.

23   **SEC. 10. NETWORK NONDUPLICATION; SYNDICATED EXCLU-**  
 24                           **SIVITY AND SPORTS BLACKOUT.**

25          (a) *REGULATIONS.*—



1           (1) *IN GENERAL.*—Within 45 days after the effec-  
2       *tive date of this Act, the Federal Communications*  
3       *Commission shall commence a rulemaking to establish*  
4       *regulations that apply network nonduplication pro-*  
5       *tection, syndicated exclusivity protection, and sports*  
6       *blackout protection to the retransmission of broadcast*  
7       *signals by satellite carriers to subscribers. To the ex-*  
8       *tent possible, and where technologically feasible and*  
9       *economically reasonable, such regulations shall, sub-*  
10      *ject to paragraph (2), include the same level of protec-*  
11      *tion accorded retransmissions of television broadcast*  
12      *signals by cable systems for network nonduplication*  
13      *(47 C.F.R. 76.92), syndicated exclusivity (47 C.F.R.*  
14      *151), and sports blackout (47 C.F.R. 76.67). The*  
15      *Commission shall complete all action necessary to*  
16      *prescribe the regulations required by this section so*  
17      *that the regulations shall become effective within 1*  
18      *year after the date of the enactment of this Act.*

19           (2) *NETWORK NONDUPLICATION.*—The network  
20      *nonduplication regulations required under paragraph*  
21      *(1) shall allow a network television broadcast station*  
22      *to assert nonduplication rights—*

23           (A) *against a satellite carrier throughout*  
24           *that station's local market if that satellite carrier*  
25           *is retransmitting that station pursuant to sec-*

tion 122 of title 17, United States Code, or other television broadcast stations located in the same local market pursuant to section 122 of title 17, United States Code, except for television broadcast stations located in that same market that are affiliated with the same network as the station, to subscribers located in that station's local market; or

(B) against a satellite carrier retransmitting television broadcast stations pursuant to section 119 of title 17, United States Code, in the geographic area in which the signal of that television broadcast station is of Grade B intensity as defined by the Federal Communications Commission on March 1, 1999, in section 73.683(a) of title 47, Code of Federal Regulations, based upon the Individually Located Longley-Rice methodology described by the Federal Communications Commission in its Docket No. 98–201, but such geographic area shall not extend beyond the local market of such station.

If a subscriber's network service is terminated as a result of network nonduplication protection asserted by a local network television broadcast station under subparagraph (B), or as a result of the provisions of

1      *section 119 of title 17, United States Code, the sat-*  
2      *ellite carrier shall provide to the subscriber free of*  
3      *charge an over-the-air television broadcast receiving*  
4      *antenna that will provide the subscriber with an over-*  
5      *the-air signal of Grade B intensity for those network*  
6      *stations that were terminated as a result of subpara-*  
7      *graph (B).*

8            (3) *WAIVERS.—(A) The network nonduplication*  
9      *protection described in paragraph (2)(b) shall not*  
10     *apply to a subscriber located in the geographic area*  
11     *that is identified by the Individually Located*  
12     *Longley-Rice methodology described by the Federal*  
13     *Communications Commission in its Docket No. 98–*  
14     *201 who files with the satellite carrier a written*  
15     *waiver with respect to that subscriber’s household ob-*  
16     *tained from the network station whose local market is*  
17     *in that geographic area, allowing the subscriber to re-*  
18     *ceive satellite service of another network station affili-*  
19     *ated with that same network. The local network sta-*  
20     *tion and the satellite carrier shall maintain a file*  
21     *available to the public that contains such waiver.*

22            (B) *If a subscriber within the local market of a*  
23     *network station petitions the Federal Communica-*  
24     *tions Commission with the written findings and con-*  
25     *clusions of a test conducted in accordance with the*

1       provisions of section 73.686(d) of title 47, Code of  
2       Federal Regulations, as in effect on March 1, 1999,  
3       demonstrating that the household in which the sub-  
4       scriber resides does not receive an over-the-air signal  
5       of the network station of Grade B intensity, the net-  
6       work station shall have 30 days in which to file with  
7       the Commission an objection to the petition. If the  
8       network station does not file a timely objection, then  
9       the station may not assert network nonduplication  
10      protection described in paragraph (2)(B) with respect  
11      to that subscriber's household. If the station does file  
12      a timely objection, then the Commission shall have  
13      120 days in which to determine the sufficiency of the  
14      subscriber's petition. If the Commission determines  
15      that the petition is sufficient, then The network non-  
16      duplication protection described in paragraph (2)(B)  
17      shall not apply to that subscriber's household.

18           (4) *INTERIM PROVISIONS.*—Until the Federal  
19      Communications Commission issues regulations  
20      under paragraphs (1) and (3), no subscriber whose  
21      household is located outside the Grade A contour of a  
22      network station shall have his or her satellite service  
23      of another network station affiliated with that same  
24      network terminated as a result of the provisions of  
25      section 119 of title 17, United States Code.

1           (5) *LOCAL MARKET DEFINED.*—*The term “local*  
 2           *market” has the meaning provided in section 337(h)*  
 3           *of the Communications Act of 1934, as added by sec-*  
 4           *tion 3 of this Act.*

5           (b) *DEFERRED APPLICABILITY OF AMENDMENTS TO*  
 6           *SECTION 119 OF TITLE 17, UNITED STATES CODE.*—*Not-*  
 7           *withstanding the amendments to section 119 of title 17,*  
 8           *United States Code, made by this Act, until the regulations*  
 9           *regarding network nonduplication protection are estab-*  
 10          *lished under subsection (a), the statutory license under sub-*  
 11          *section (a) of such section 119 for secondary transmissions*  
 12          *of primary transmissions of programming contained in a*  
 13          *primary transmission made by a network station (as de-*  
 14          *finied in section 119(d) of title 17, United States Code, as*  
 15          *in effect on the day before the effective date of this Act) shall*  
 16          *be limited to secondary transmissions to persons who reside*  
 17          *in unserved households (as defined in section 119(d) of title*  
 18          *17, United States Code, as in effect on the day before the*  
 19          *effective date of this Act).*

20   **SEC. 11. STUDY ON TECHNICAL AND ECONOMIC IMPACT OF**  
 21                   **MUST-CARRY ON DELIVERY OF LOCAL SIG-**  
 22                   **NALS.**

23          *Not later than July 1, 2000, the Register of Copyrights*  
 24          *and the Federal Communications Commission shall submit*  
 25          *to the Congress a joint report that sets forth in detail their*

1 *findings and conclusions with respect to the technical feasi-*  
2 *bility of imposing the requirements of section 337 of the*  
3 *Communications Act of 1934 on satellite carriers that de-*  
4 *liver local signals, and the technical and economic impact*  
5 *of such section on the ability of satellite carriers to serve*  
6 *multiple television markets with retransmission of local tel-*  
7 *evision broadcast stations. In preparing this report, the*  
8 *Register of Copyrights and the Commission shall give par-*  
9 *ticular consideration to how section 337 of the Communica-*  
10 *tions Act of 1934 affects the technical limitations and eco-*  
11 *nomie incentives for satellite retransmissions of local tele-*  
12 *vision broadcast signals in television markets other than the*  
13 *100 largest television markets in the United States (as de-*  
14 *termined by the Nielsen Media Research and published in*  
15 *the DMA Market and Demographic Report).*

16 **SEC. 12. EFFECTIVE DATE.**

17 *This Act and the amendments made by this Act shall*  
18 *take effect on July 1, 1999, except that—*

19 *(1) the amendments made by section 5 shall take*  
20 *effect on the date of the enactment of this Act; and*

21 *(2) the amendment made by section 6(1)(B)(ii)*  
22 *shall take effect on the date that is 1 year after the*  
23 *date of the enactment of this Act.*