

In the Senate of the United States,

May 20, 1999.

Resolved, That the bill from the House of Representatives (H.R. 1554) entitled “An Act to amend the provisions of title 17, United States Code, and the Communications Act of 1934, relating to copyright licensing and carriage of broadcast signals by satellite.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***TITLE I—SATELLITE HOME***
2 ***VIEWERS IMPROVEMENTS ACT***

3 ***SEC. 101. SHORT TITLE.***

4 *This title may be cited as the “Satellite Home Viewers*
5 *Improvements Act”.*

1 **SEC. 102. LIMITATIONS ON EXCLUSIVE RIGHTS; SEC-**
2 **ONDARY TRANSMISSIONS BY SATELLITE CAR-**
3 **RIERS WITHIN LOCAL MARKETS.**

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

7 **“§ 122. Limitations on exclusive rights; secondary**
8 **transmissions by satellite carriers within**
9 **local markets**

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

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

17 *“(2) the secondary transmission is permissible*
18 *under the rules, regulations, or authorizations of the*
19 *Federal Communications Commission; and*

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

22 *“(A) each subscriber receiving the secondary*
23 *transmission; or*

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

1 “(b) *REPORTING REQUIREMENTS.*—

2 “(1) *INITIAL LISTS.*—A satellite carrier that
3 *makes secondary transmissions of a primary trans-*
4 *mission made by a network station under subsection*
5 *(a) shall, within 90 days after commencing such sec-*
6 *ondary transmissions, submit to the network that*
7 *owns or is affiliated with the network station a list*
8 *identifying (by name and street address, including*
9 *county and zip code) all subscribers to which the sat-*
10 *ellite carrier currently makes secondary transmissions*
11 *of that primary transmission.*

12 “(2) *SUBSEQUENT LISTS.*—After the list is sub-
13 *mitted under paragraph (1), the satellite carrier*
14 *shall, on the 15th of each month, submit to the net-*
15 *work a list identifying (by name and street address,*
16 *including county and zip code) any subscribers who*
17 *have been added or dropped as subscribers since the*
18 *last submission under this subsection.*

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

24 “(4) *REQUIREMENTS OF STATIONS.*—The sub-
25 *mission requirements of this subsection shall apply to*

1 *a satellite carrier only if the network to whom the*
2 *submissions are to be made places on file with the*
3 *Register of Copyrights a document identifying the*
4 *name and address of the person to whom such submis-*
5 *sions are to be made. The Register shall maintain for*
6 *public inspection a file of all such documents.*

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

11 *“(d) NONCOMPLIANCE WITH REPORTING REQUIRE-*
12 *MENTS.—Notwithstanding subsection (a), the willful or re-*
13 *peated secondary transmission to the public by a satellite*
14 *carrier into the local market of a television broadcast sta-*
15 *tion of a primary transmission made by that television*
16 *broadcast station and embodying a performance or display*
17 *of a work is actionable as an act of infringement under*
18 *section 501, and is fully subject to the remedies provided*
19 *under sections 502 through 506 and 509, if the satellite car-*
20 *rier has not complied with the reporting requirements of*
21 *subsection (b).*

22 *“(e) WILLFUL ALTERATIONS.—Notwithstanding sub-*
23 *section (a), the secondary transmission to the public by a*
24 *satellite carrier into the local market of a television broad-*
25 *cast station of a primary transmission made by that tele-*

1 *vision broadcast station and embodying a performance or*
2 *display of a work is actionable as an act of infringement*
3 *under section 501, and is fully subject to the remedies pro-*
4 *vided by sections 502 through 506 and sections 509 and*
5 *510, if the content of the particular program in which the*
6 *performance or display is embodied, or any commercial ad-*
7 *vertising or station announcement transmitted by the pri-*
8 *mary transmitter during, or immediately before or after,*
9 *the transmission of such program, is in any way willfully*
10 *altered by the satellite carrier through changes, deletions,*
11 *or additions, or is combined with programming from any*
12 *other broadcast signal.*

13 “(f) *VIOLATION OF TERRITORIAL RESTRICTIONS ON*
14 *STATUTORY LICENSE FOR TELEVISION BROADCAST STA-*
15 *TIONS.—*

16 “(1) *INDIVIDUAL VIOLATIONS.—The willful or re-*
17 *peated secondary transmission to the public by a sat-*
18 *ellite carrier of a primary transmission made by a*
19 *television broadcast station and embodying a per-*
20 *formance or display of a work to a subscriber who*
21 *does not reside in that station’s local market, and is*
22 *not subject to statutory licensing under section 119,*
23 *is actionable as an act of infringement under section*
24 *501 and is fully subject to the remedies provided by*
25 *sections 502 through 506 and 509, except that—*

1 “(A) no damages shall be awarded for such
2 act of infringement if the satellite carrier took
3 corrective action by promptly withdrawing serv-
4 ice from the ineligible subscriber; and

5 “(B) any statutory damages shall not exceed
6 \$5 for such subscriber for each month during
7 which the violation occurred.

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

17 “(A) if the pattern or practice has been car-
18 ried out on a substantially nationwide basis, the
19 court shall order a permanent injunction barring
20 the secondary transmission by the satellite car-
21 rier of the primary transmissions of that tele-
22 vision broadcast station (and if such television
23 broadcast station is a network station, all other
24 television broadcast stations affiliated with such
25 network), and the court may order statutory

1 *damages not exceeding \$250,000 for each 6-*
2 *month period during which the pattern or prac-*
3 *tice was carried out; and*

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

17 “(g) *BURDEN OF PROOF.—In any action brought*
18 *under subsection (d), (e), or (f), the satellite carrier shall*
19 *have the burden of proving that its secondary transmission*
20 *of a primary transmission by a television broadcast station*
21 *is made only to subscribers located within that station’s*
22 *local market.*

23 “(h) *GEOGRAPHIC LIMITATIONS ON SECONDARY*
24 *TRANSMISSIONS.—The statutory license created by this sec-*
25 *tion shall apply to secondary transmissions to locations in*

1 *the United States, and any commonwealth, territory, or*
2 *possession of the United States.*

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

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

14 “(1) *The term ‘distributor’ means an entity*
15 *which contracts to distribute secondary transmissions*
16 *from a satellite carrier and, either as a single channel*
17 *or in a package with other programming, provides the*
18 *secondary transmission either directly to individual*
19 *subscribers or indirectly through other program dis-*
20 *tribution entities.*

21 “(2) *The term ‘local market’ for a television*
22 *broadcast station has the meaning given that term*
23 *under rules, regulations, and authorizations of the*
24 *Federal Communications Commission relating to car-*

1 *riage of television broadcast signals by satellite car-*
2 *riers.*

3 “(3) *The terms ‘network station’, ‘satellite car-*
4 *rier’ and ‘secondary transmission’ have the meaning*
5 *given such terms under section 119(d).*

6 “(4) *The term ‘subscriber’ means an entity that*
7 *receives a secondary transmission service by means of*
8 *a secondary transmission from a satellite and pays a*
9 *fee for the service, directly or indirectly, to the sat-*
10 *ellite carrier or to a distributor.*

11 “(5) *The term ‘television broadcast station’*
12 *means an over-the-air, commercial or noncommercial*
13 *television broadcast station licensed by the Federal*
14 *Communications Commission under subpart E of*
15 *part 73 of title 47, Code of Federal Regulations.”.*

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

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

20 **SEC. 103. EXTENSION OF EFFECT OF AMENDMENTS TO SEC-**
21 **TION 119 OF TITLE 17, UNITED STATES CODE.**

22 *Section 4(a) of the Satellite Home Viewer Act of 1994*
23 *(17 U.S.C. 119 note; Public Law 103–369; 108 Stat. 3481)*

1 *is amended by striking “December 31, 1999” and inserting*
2 *“December 31, 2004”.*

3 **SEC. 104. COMPUTATION OF ROYALTY FEES FOR SATELLITE**
4 **CARRIERS.**

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

7 *“(4) REDUCTION.—*

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

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

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

1 **SEC. 105. DEFINITIONS.**

2 *Section 119(d) of title 17, United States Code, is*
 3 *amended by striking paragraph (10) and inserting the fol-*
 4 *lowing:*

5 “(10) *UNSERVED HOUSEHOLD.*—*The term*
 6 *‘unserved household’, with respect to a particular tele-*
 7 *vision network, means a household that cannot re-*
 8 *ceive, through the use of a conventional outdoor roof-*
 9 *top receiving antenna, an over-the-air signal of grade*
 10 *B intensity (as defined by the Federal Communica-*
 11 *tions Commission) of a primary network station af-*
 12 *filiated with that network or is not otherwise eligible*
 13 *to receive directly from a satellite carrier a signal of*
 14 *that television network (other than a signal provided*
 15 *under section 122) in accordance with section 338 of*
 16 *the Communications Act of 1934.”.*

17 **SEC. 106. PUBLIC BROADCASTING SERVICE SATELLITE**
 18 **FEED.**

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

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

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

1 (3) *by adding at the end the following: “In the*
2 *case of the Public Broadcasting Service satellite feed,*
3 *the compulsory license shall be effective until January*
4 *1, 2002.”.*

5 (b) *DEFINITIONS.—Section 119(d) of title 17, United*
6 *States Code, is amended—*

7 (1) *by amending paragraph (9) to read as fol-*
8 *lows:*

9 “(9) *SUPERSTATION.—The term ‘superstation’—*

10 “(A) *means a television broadcast station,*
11 *other than a network station, licensed by the*
12 *Federal Communications Commission that is*
13 *secondarily transmitted by a satellite carrier;*
14 *and*

15 “(B) *includes the Public Broadcasting Serv-*
16 *ice satellite feed.”; and*

17 (2) *by adding at the end the following:*

18 “(12) *PUBLIC BROADCASTING SERVICE SAT-*
19 *ELLITE FEED.—The term ‘Public Broadcasting Serv-*
20 *ice satellite feed’ means the national satellite feed dis-*
21 *tributed by the Public Broadcasting Service con-*
22 *sisting of educational and informational program-*
23 *ming intended for private home viewing, to which the*
24 *Public Broadcasting Service holds national terrestrial*
25 *broadcast rights.”.*

1 **SEC. 107. APPLICATION OF FEDERAL COMMUNICATIONS**
2 **COMMISSION REGULATIONS.**

3 *Section 119(a) of title 17, United States Code, is*
4 *amended—*

5 *(1) in paragraph (1), by inserting “is permis-*
6 *sible under the rules, regulations, and authorizations*
7 *of the Federal Communications Commission,” after*
8 *“satellite carrier to the public for private home view-*
9 *ing,”;*

10 *(2) in paragraph (2), by inserting “is permis-*
11 *sible under the rules, regulations, and authorizations*
12 *of the Federal Communications Commission,” after*
13 *“satellite carrier to the public for private home view-*
14 *ing,”; and*

15 *(3) by adding at the end the following:*

16 *“(11) STATUTORY LICENSE CONTINGENT ON COM-*
17 *PLIANCE WITH FCC RULES AND REMEDIAL STEPS.—*
18 *The willful or repeated secondary transmission to the*
19 *public by a satellite carrier of a primary trans-*
20 *mission made by a broadcast station licensed by the*
21 *Federal Communications Commission is actionable as*
22 *an act of infringement under section 501, and is fully*
23 *subject to the remedies provided by sections 502*
24 *through 506 and 509, if, at the time of such trans-*
25 *mission, the satellite carrier is not in compliance*
26 *with the rules, regulations, and authorizations of the*

1 *Federal Communications Commission concerning the*
2 *carriage of television broadcast station signals.”.*

3 **SEC. 108. TELEVISION BROADCAST STATION STANDING.**

4 *Section 501 of title 17, United States Code, is amended*
5 *by adding at the end the following:*

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

15 **SEC. 109. MORATORIUM ON COPYRIGHT LIABILITY.**

16 *Until December 31, 1999, no subscriber, as defined*
17 *under section 119(d)(8) of title 17, United States Code, lo-*
18 *cated within the predicted Grade B contour of a local net-*
19 *work television broadcast station shall have satellite service*
20 *of a distant network signal affiliated with the same network*
21 *terminated, if that subscriber received satellite service of*
22 *such network signal before July 11, 1998, as a result of sec-*
23 *tion 119 of title 17, United States Code.*

1 **SEC. 110. EFFECTIVE DATE.**

2 *This title and the amendments made by this title shall*
3 *take effect on January 1, 1999, except the amendments*
4 *made by section 104 shall take effect on July 1, 1999.*

5 **TITLE II—SATELLITE**
6 **TELEVISION ACT OF 1999**

7 **SEC. 201. SHORT TITLE.**

8 *This title may be cited as the “Satellite Television Act*
9 *of 1999”.*

10 **SEC. 202. FINDINGS.**

11 *The Congress makes the following findings:*

12 *(1) In the Cable Television Consumer Protection*
13 *and Competition Act of 1992, Congress stated its pol-*
14 *icy of promoting competition in cable services and*
15 *making available to the public a diversity of views*
16 *and information through cable television and other*
17 *video media.*

18 *(2) In the Telecommunications Act of 1996, Con-*
19 *gress stated its policy of securing lower prices and*
20 *higher quality service for American telecommuni-*
21 *cations consumers and encouraging the rapid deploy-*
22 *ment of new telecommunications technologies.*

23 *(3) In most places throughout America, cable tel-*
24 *evision system operators still do not face effective*
25 *competition from other providers of multichannel*
26 *video service.*

1 (4) *Absent effective competition, the market*
2 *power exercised by cable television operators enables*
3 *them to raise the price of cable service to consumers,*
4 *and to control the price and availability of cable pro-*
5 *gramming services to other multichannel video service*
6 *providers. Current Federal Communications Commis-*
7 *sion rules have been inadequate in constraining cable*
8 *price increases.*

9 (5) *Direct-to-home satellite service has over 8*
10 *million subscribers and constitutes the most signifi-*
11 *cant competitive alternative to cable television service.*

12 (6) *Direct-to-home satellite service currently suf-*
13 *fers from a number of statutory, regulatory, and tech-*
14 *nical barriers that keep it from being an effective*
15 *competitor to cable television in the provision of mul-*
16 *tichannel video services.*

17 (7) *The most prominent of these barriers is the*
18 *inability to provide subscribers with local television*
19 *broadcast signals by satellite.*

20 (8) *Permitting providers of direct-to-home sat-*
21 *ellite service to retransmit local television signals to*
22 *their subscribers would greatly enhance the ability of*
23 *direct-to-home satellite service providers to compete*
24 *more effectively in the provision of multichannel video*
25 *services.*

1 (9) *Due to capacity limitations and in the inter-*
2 *est of providing service in as many markets as pos-*
3 *sible, providers of direct-to-home satellite service, un-*
4 *like cable television systems, cannot at this time carry*
5 *all local television broadcast signals in all the local*
6 *television markets they seek to serve.*

7 (10) *It would be in the public interest for pro-*
8 *viders of direct-to-home satellite service to fully com-*
9 *ply with the mandatory signal carriage rules at the*
10 *earliest possible date. In the interim, requiring full*
11 *compliance with the mandatory signal carriage rules*
12 *would substantially limit the ability of direct-to-home*
13 *satellite service providers to compete in the provision*
14 *of multichannel video services and would not serve the*
15 *public interest.*

16 (11) *Maintaining the viability of free, local,*
17 *over-the-air television service is a matter of pre-*
18 *eminent public interest.*

19 (12) *All subscribers to multichannel video serv-*
20 *ices should be able to receive the signal of at least one*
21 *station affiliated with each of the major broadcast tel-*
22 *evision networks.*

23 (13) *Millions of subscribers to direct-to-home sat-*
24 *ellite service currently receive the signals of network-*
25 *affiliated stations not located in these subscribers'*

1 *local television markets. Where conventional rooftop*
2 *antennas cannot provide satisfactory reception of*
3 *local stations, distant network signals may be these*
4 *subscribers' only source of network television service.*

5 *(14) The widespread carriage of distant network*
6 *stations in local network affiliates' markets could*
7 *harm the local stations' ability to serve their local*
8 *community.*

9 *(15) Abrupt termination of satellite carriers'*
10 *provision of distant network signals could have a neg-*
11 *ative impact on the ability of direct-to-home satellite*
12 *service to compete effectively in the provision of mul-*
13 *tichannel video services.*

14 *(16) The public interest would be served by per-*
15 *mitting direct-to-home satellite service providers to*
16 *continue existing carriage of a distant network affil-*
17 *iate station's signal where—*

18 *(A) there is no local network affiliate;*

19 *(B) the local network affiliate cannot be*
20 *adequately received off-air; or*

21 *(C) continued carriage would not harm the*
22 *local network station.*

23 **SEC. 203. PURPOSE.**

24 *The purpose of this title is to promote competition in*
25 *the provision of multichannel video services while protecting*

1 *the availability of free, local, over-the-air television, par-*
 2 *ticularly for the 22 percent of American television house-*
 3 *holds that do not subscribe to any multichannel video pro-*
 4 *gramming service.*

5 **SEC. 204. MUST-CARRY FOR SATELLITE CARRIERS RE-**
 6 **TRANSMITTING TELEVISION BROADCAST SIG-**
 7 **NALS.**

8 *Part I of title III of the Communications Act of 1934*
 9 *(47 U.S.C. 301 et seq.) is amended by adding at the end*
 10 *thereof the following:*

11 **“SEC. 338. CARRIAGE OF LOCAL TELEVISION STATIONS BY**
 12 **SATELLITE CARRIERS.**

13 *“(a) APPLICATION OF MANDATORY CARRIAGE TO SAT-*
 14 *ELLITE CARRIERS.—The mandatory carriage provisions of*
 15 *sections 614 and 615 of this Act will apply in a local mar-*
 16 *ket no later than January 1, 2002, to satellite carriers re-*
 17 *transmitting any television broadcast station in that local*
 18 *market pursuant to the compulsory license provided by sec-*
 19 *tion 122 of title 17, United States Code.*

20 *“(b) GOOD SIGNAL REQUIRED.—*

21 *“(1) COSTS.—A television broadcast station eli-*
 22 *gible for carriage under subsection (a) may be re-*
 23 *quired to bear the costs associated with delivering a*
 24 *good quality signal to the designated local receive fa-*
 25 *cility of the satellite carrier. The selection of a local*

1 *receive facility by a satellite carrier shall not be made*
2 *in a manner that frustrates the purposes of this Act.*
3 *The Commission shall implement the requirements of*
4 *this section without imposing any undue economic*
5 *burden on any party.*

6 *“(2) RULEMAKING REQUIRED.—The Commission*
7 *shall adopt rules implementing paragraph (1) within*
8 *180 days after the date of enactment of the Satellite*
9 *Television Act of 1999.*

10 *“(c) CABLE TELEVISION SYSTEM DIGITAL SIGNAL*
11 *CARRIAGE NOT COVERED.—Nothing in this section applies*
12 *to the carriage of the digital signals of television broadcast*
13 *stations by cable television systems.*

14 *“(d) DEFINITIONS.—In this section:*

15 *“(1) TELEVISION BROADCAST STATION.—The*
16 *term ‘television broadcast station’ means a full power*
17 *local television broadcast station, but does not include*
18 *a low-power or translator television broadcast station.*

19 *“(2) NETWORK STATION.—The term ‘network*
20 *station’ means a television broadcast station that is*
21 *owned or operated by, or affiliated with, a broad-*
22 *casting network.*

23 *“(3) BROADCASTING NETWORK.—The term*
24 *‘broadcasting network’ means a television network in*
25 *the United States which offers an interconnected pro-*

1 *gram service on a regular basis for 15 or more hours*
2 *per week to at least 25 affiliated broadcast stations in*
3 *10 or more States.*

4 “(4) *DISTANT TELEVISION STATION.*—*The term*
5 *‘distant television station’ means any television*
6 *broadcast station that is not licensed and operating*
7 *on a channel regularly assigned to the local television*
8 *market in which a subscriber to a direct-to-home sat-*
9 *ellite service is located.*

10 “(5) *LOCAL MARKET.*—*The term ‘local market’*
11 *means the designated market area in which a station*
12 *is located. For a noncommercial educational tele-*
13 *vision broadcast station, the local market includes*
14 *any station that is licensed to a community within*
15 *the same designated market area as the noncommer-*
16 *cial educational television broadcast station.*

17 “(6) *SATELLITE CARRIER.*—*The term ‘satellite*
18 *carrier’ has the meaning given it by section 119(d) of*
19 *title 17, United States Code.*

20 **“SEC. 339. CARRIAGE OF DISTANT TELEVISION STATIONS**
21 **BY SATELLITE CARRIERS.**

22 “(a) *PROVISIONS RELATING TO NEW SUBSCRIBERS.*—
23 “(1) *IN GENERAL.*—*Except as provided in sub-*
24 *section (d), direct-to-home satellite service providers*
25 *shall be permitted to provide the signals of 1 affiliate*

1 of each television network to any household that ini-
2 tially subscribed to direct-to-home satellite service on
3 or after July 10, 1998.

4 “(2) *ELIGIBILITY DETERMINATION.*—The deter-
5 mination of a new subscriber’s eligibility to receive
6 the signals of one or more distant network stations as
7 a component of the service provided pursuant to
8 paragraph (a) shall be made by ascertaining whether
9 the subscriber resides within the predicted Grade B
10 service area of a local network station. The Individual
11 Location Longley-Rice methodology described by the
12 Commission in Docket 98-201 shall be used to make
13 this determination. A direct-to-home satellite service
14 provider may provide the signal of a distant network
15 station to any subscriber determined by this method
16 to be unserved by a local station affiliated with that
17 network.

18 “(3) *RULEMAKING REQUIRED.*—

19 “(A) Within 90 days after the date of enact-
20 ment of the Satellite Television Act of 1999, the
21 Commission shall adopt procedures that shall be
22 used by any direct-to-home satellite service sub-
23 scriber requesting a waiver to receive one or
24 more distant network signals. The waiver proce-
25 dures adopted by the Commission shall—

1 “(i) impose no unnecessary burden on
2 the subscriber seeking the waiver;

3 “(ii) allocate responsibilities fairly be-
4 tween direct-to-home satellite service pro-
5 viders and local stations;

6 “(iii) prescribe mandatory time limits
7 within which direct-to-home satellite service
8 providers and local stations shall carry out
9 the obligations imposed upon them; and

10 “(iv) prescribe that all costs of con-
11 ducting any measurement or testing shall be
12 borne by the direct-to-home satellite service
13 provider, if the local station’s signal meets
14 the prescribed minimum standards, or by
15 the local station, if its signal fails to meet
16 the prescribed minimum standards.

17 “(4) PENALTY FOR VIOLATION.—Any direct-to-
18 home satellite service provider that knowingly and
19 willfully provides the signals of 1 or more distant tel-
20 evision stations to subscribers in violation of this sec-
21 tion shall be liable for forfeiture in the amount of
22 \$50,000 per day per violation.

23 “(b) PROVISIONS RELATING TO EXISTING SUB-
24 SCRIBERS.—

1 “(1) *MORATORIUM ON TERMINATION.*—Until De-
2 *cember 31, 1999, any direct-to-home satellite service*
3 *may continue to provide the signals of distant tele-*
4 *vision stations to any subscriber located within pre-*
5 *dicted Grade A and Grade B contours of a local net-*
6 *work station who received those distant network sig-*
7 *nals before July 11, 1998.*

8 “(2) *CONTINUED CARRIAGE.*—*Direct-to-home sat-*
9 *ellite service providers may continue to provide the*
10 *signals of distant television stations to subscribers lo-*
11 *cated between the outside limits of the predicted*
12 *Grade A contour and the predicted Grade B contour*
13 *of the corresponding local network stations after De-*
14 *cember 31, 1999, subject to any limitations adopted*
15 *by the Commission under paragraph (3).*

16 “(3) *RULEMAKING REQUIRED.*—

17 “(A) *Within 180 days after the date of en-*
18 *actment of the Satellite Television Act of 1999,*
19 *the Commission shall conclude a single rule-*
20 *making, compliant with subchapter II of chapter*
21 *5 of title 5, United States Code, to examine the*
22 *extent to which any existing program exclusivity*
23 *rules should be imposed on distant network sta-*
24 *tions provided to subscribers under paragraph*
25 *(2).*

1 “(B) *The Commission shall not impose any*
2 *program exclusivity rules on direct-to-home sat-*
3 *ellite service providers pursuant to subparagraph*
4 *(A) unless it finds that it would be both tech-*
5 *nically and economically feasible and otherwise*
6 *in the public interest to do so.*

7 “(c) *WAIVERS NOT PRECLUDED.—Notwithstanding*
8 *any other provision in this section, nothing shall preclude*
9 *any network stations from authorizing the continued provi-*
10 *sion of distant network signals in unaltered form to any*
11 *direct-to-home satellite service subscriber currently receiv-*
12 *ing them.*

13 “(d) *CERTAIN SIGNALS.—Providers of direct-to-home*
14 *satellite service may continue to carry the signals of distant*
15 *network stations without regard to subsections (a) and (b)*
16 *in any situation in which—*

17 “(1) *a subscriber is unserved by the local station*
18 *affiliated with that network;*

19 “(2) *a waiver is otherwise granted by the local*
20 *station under subsection (c); or*

21 “(3) *if the carriage would otherwise be consistent*
22 *with rules adopted by the Commission in CS Docket*
23 *98-201.*

24 “(e) *REPORT REQUIRED.—Within 180 days after the*
25 *date of enactment of the Satellite Television Act of 1999,*

1 *the Commission shall report to Congress on methods of fa-*
 2 *cilitating the delivery of local signals in local markets, espe-*
 3 *cially smaller markets.”.*

4 **SEC. 205. RETRANSMISSION CONSENT.**

5 *(a) AMENDMENT OF SECTION 325(b).—Section 325(b)*
 6 *of the Communications Act of 1934 (47 U.S.C. 325(b)) is*
 7 *amended by striking the subsection designation and para-*
 8 *graphs (1) and (2) and inserting the following:*

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

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

13 *“(B) pursuant to section 614 or section 615, in*
 14 *the case of a station electing, in accordance with this*
 15 *subsection, to assert the right to carriage under that*
 16 *section.*

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

19 *“(A) retransmission of the signal of a television*
 20 *broadcast station outside the station’s local market by*
 21 *a satellite carrier directly to subscribers if—*

22 *“(i) that station was a superstation on May*
 23 *1, 1991;*

24 *“(ii) as of July 1, 1998, such station’s sig-*
 25 *nal was transmitted under the compulsory li-*

1 *cense of section 119 of title 17, United States*
2 *Code, by satellite carriers directly to at least*
3 *250,000 subscribers; and*

4 *“(iii) the satellite carrier complies with any*
5 *program exclusivity rules that may be adopted*
6 *by the Federal Communications Commission*
7 *pursuant to section 338.*

8 *“(B) retransmission of the distant signal of a*
9 *broadcasting station that is owned or operated by, or*
10 *affiliated with, a broadcasting network directly to a*
11 *home satellite antenna, if the subscriber resides in an*
12 *unserved household; or*

13 *“(C) retransmission by a cable operator or other*
14 *multichannel video programming distributor (other*
15 *than by a satellite carrier direct to its subscribers) of*
16 *the signal of a television broadcast station outside the*
17 *station’s local market, if that signal was obtained*
18 *from a satellite carrier and—*

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

21 *“(ii) the originating station was a network*
22 *station on December 31, 1997, and its signal was*
23 *retransmitted by a satellite carrier directly to*
24 *subscribers.*

1 “(3) Any term used in this subsection that is defined
2 in section 337(d) of this Act has the meaning given to it
3 by that section.”.

4 (b) *EFFECTIVE DATE.*—The amendments made by sub-
5 section (a) take effect on January 1, 1999.

6 **SEC. 206. DESIGNATED MARKET AREAS.**

7 Nothing in this title, or in the amendments made by
8 this title, prevents the Federal Communications Commis-
9 sion from revising the listing of designated market areas
10 or reassigning those areas if the revision or reassignment
11 is done in the same manner and to the same extent as the
12 Commission’s cable television mandatory carriage rules
13 provide.

14 **SEC. 207. SEVERABILITY.**

15 If any provision of this title or section 325(b) or 337
16 of the Communications Act of 1934 (47 U.S.C. 325(b) or
17 337, respectively), or the application of that provision to
18 any person or circumstance, is held by a court of competent
19 jurisdiction to violate any provision of the Constitution of
20 the United States, then the other provisions of that section,
21 and the application of that provision to other persons and
22 circumstances, shall not be affected.

23 **SEC. 208. DEFINITIONS.**

24 In this title:

1 (1) *TERMS DEFINED IN COMMUNICATIONS ACT OF*
2 *1934.—Any term used in this title that is defined in*
3 *section 337(d) of the Communications Act of 1934, as*
4 *added by section 204 of this title, has the meaning*
5 *given to it by that section.*

6 (2) *DESIGNATED MARKET AREA.—The term “des-*
7 *ignated market area” means a designated market*
8 *area, as determined by Nielsen Media Research and*
9 *published in the DMA Market and Demographic Re-*
10 *port.*

Attest:

Secretary.

106TH CONGRESS
1ST SESSION

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AMENDMENT