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2D SESSION

# H. R. 4518

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IN THE SENATE OF THE UNITED STATES

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## AN ACT

To extend the statutory license for secondary transmissions by satellite carriers of transmissions by television broadcast stations under title 17, United States Code, and to amend the Communications Act of 1934 with respect to such transmissions, and for other purposes.

(a) SHORT TITLES.—This Act may be cited as the “Satellite Home Viewer Extension and Reauthorization Act of 2004” or the “W. J. (Billy) Tauzin Satellite Television Act of 2004”.

Sec. 1. Short titles; table of contents.

Sec. 101. Extension of authority.

Sec. 103. Statutory license for satellite carriers outside local markets.

Sec. 105. Definitions.

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Sec. 108. Expedited consideration of voluntary agreements to provide satellite secondary transmissions to local markets.

TITLE II—FEDERAL COMMUNICATIONS COMMISSION OPERATIONS

Sec. 201. Extension of retransmission consent exemption.

Sec. 202. Cable/satellite comparability.

Sec. 203. Carriage of local stations on a single dish.

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Sec. 205. Additional notices to subscribers, networks, and stations concerning signal carriage.

Sec. 206. Privacy rights of satellite subscribers.

Sec. 207. Reciprocal bargaining obligations.

Sec. 208. Unserved digital customers.

Sec. 209. Reduction of required tests.

1     **TITLE I—STATUTORY LICENSE**  
2     **FOR SATELLITE CARRIERS**

3     **SEC. 101. EXTENSION OF AUTHORITY.**

4         (a) IN GENERAL.—Section 4(a) of the Satellite Home  
5 Viewer Act of 1994 (17 U.S.C. 119 note; Public Law 103–  
6 369; 108 Stat. 3481) is amended by striking “December  
7 31, 2004” and inserting “December 31, 2009”.

8         (b) EXTENSION FOR CERTAIN SUBSCRIBERS.—Sec-  
9 tion 119(e) of title 17, United States Code, is amended  
10 by striking “December 31, 2004” and inserting “Decem-  
11 ber 31, 2009”.

12     **SEC. 102. REPORTING OF SUBSCRIBERS; SIGNIFICANTLY**  
13             **VIEWED AND OTHER SIGNALS; TECHNICAL**  
14             **AMENDMENTS.**

15         Section 119(a) of title 17, United States Code, is  
16 amended—

17             (1) in paragraph (1)—

18                 (A) in the paragraph heading, by striking  
19                 “AND PBS SATELLITE FEED”;

20                 (B) in the first sentence, by striking “(3),  
21                 (4), and (6)” and inserting “(5), (6), and (8)”;

22                 (C) in the first sentence, by striking “or by  
23                 the Public Broadcasting Service satellite feed”;  
24                 and

25                 (D) by striking the second sentence;

1 (2) in paragraph (2)—

2 (A) in subparagraph (A), by striking “(3),  
3 (4), (5), and (6)” and inserting “(5), (6), (7),  
4 and (8)”; and

5 (B) by striking subparagraph (C) and in-  
6 serting the following:

7 “(C) EXCEPTIONS.—

8 “(i) STATES WITH SINGLE FULL-  
9 POWER NETWORK STATION.—In a State in  
10 which there is licensed by the Federal  
11 Communications Commission a single full-  
12 power station that was a network station  
13 on January 1, 1995, the statutory license  
14 provided for in subparagraph (A) shall  
15 apply to the secondary transmission by a  
16 satellite carrier of the primary trans-  
17 mission of that station to any subscriber in  
18 a community that is located within that  
19 State and that is not within the first 50  
20 television markets as listed in the regula-  
21 tions of the Commission as in effect on  
22 such date (47 CFR 76.51).

23 “(ii) STATES WITH ALL NETWORK  
24 STATIONS AND SUPERSTATIONS IN SAME  
25 LOCAL MARKET.—In a State in which all

1 network stations and superstations licensed  
2 by the Federal Communications Commis-  
3 sion within that State as of January 1,  
4 1995, are assigned to the same local mar-  
5 ket and that local market does not encom-  
6 pass all counties of that State, the statu-  
7 tory license provided under subparagraph  
8 (A) shall apply to the secondary trans-  
9 mission by a satellite carrier of the pri-  
10 mary transmissions of such station to all  
11 subscribers in the State who reside in a  
12 local market that is within the first 50  
13 major television markets as listed in the  
14 regulations of the Commission as in effect  
15 on such date (section 76.51 of title 47 of  
16 the Code of Federal Regulations).

17 “(iii) CERTAIN ADDITIONAL STA-  
18 TIONS.—If 2 adjacent counties in a single  
19 State are in a local market comprised prin-  
20 cipally of counties located in another State,  
21 the statutory license provided for in sub-  
22 paragraph (A) shall apply to the secondary  
23 transmission by a satellite carrier to sub-  
24 scribers in those 2 counties of the primary  
25 transmissions of any network station lo-

1 cated in the capital of the State in which  
2 such 2 counties are located, if—

3 “(I) the 2 counties are located in  
4 a local market that is in the top 100  
5 markets for the year 2003 according  
6 to Nielsen Media Research; and

7 “(II) the total number of tele-  
8 vision households in the 2 counties  
9 combined did not exceed 10,000 for  
10 the year 2003 according to Nielsen  
11 Media Research.

12 “(D) SUBMISSION OF SUBSCRIBER LISTS  
13 TO NETWORKS.—

14 “(i) INITIAL LISTS.—A satellite car-  
15 rier that makes secondary transmissions of  
16 a primary transmission made by a network  
17 station pursuant to subparagraph (A)  
18 shall, 90 days after commencing such sec-  
19 ondary transmissions, submit to the net-  
20 work that owns or is affiliated with the  
21 network station—

22 “(I) a list identifying (by name  
23 and address, including street or rural  
24 route number, city, State, and zip  
25 code) all subscribers to which the sat-

1 elite carrier makes secondary trans-  
2 missions of that primary transmission  
3 to subscribers in unserved households;  
4 and

5 “(II) a separate list, aggregated  
6 by designated market area (as defined  
7 in section 122(j)) (by name and ad-  
8 dress, including street or rural route  
9 number, city, State, and zip code),  
10 which shall indicate those subscribers  
11 being served pursuant to paragraph  
12 (3), relating to significantly viewed  
13 stations.

14 “(ii) MONTHLY LISTS.—After the sub-  
15 mission of the initial lists under clause (i),  
16 on the 15th of each month, the satellite  
17 carrier shall submit to the network—

18 “(I) a list identifying (by name  
19 and address, including street or rural  
20 route number, city, State, and zip  
21 code) any persons who have been  
22 added or dropped as subscribers  
23 under clause (i)(I) since the last sub-  
24 mission under clause (i); and

1                   “(II) a separate list, aggregated  
2                   by designated market area (by name  
3                   and street address, including street or  
4                   rural route number, city, State, and  
5                   zip code), identifying those sub-  
6                   scribers whose service pursuant to  
7                   paragraph (3), relating to signifi-  
8                   cantly viewed stations, has been added  
9                   or dropped.

10                  “(iii) USE OF SUBSCRIBER INFORMA-  
11                  TION.—Subscriber information submitted  
12                  by a satellite carrier under this subpara-  
13                  graph may be used only for purposes of  
14                  monitoring compliance by the satellite car-  
15                  rier with this subsection.

16                  “(iv) APPLICABILITY.—The submis-  
17                  sion requirements of this subparagraph  
18                  shall apply to a satellite carrier only if the  
19                  network to which the submissions are to be  
20                  made places on file with the Register of  
21                  Copyrights a document identifying the  
22                  name and address of the person to whom  
23                  such submissions are to be made. The Reg-  
24                  ister shall maintain for public inspection a  
25                  file of all such documents.”;



1           (3) by striking paragraph (8);  
2           (4) by redesignating paragraphs (9) through  
3       (12) as paragraphs (10) through (13), respectively;  
4           (5) by redesignating paragraphs (3) through  
5       (7) as paragraphs (5) through (9), respectively;  
6           (6) by inserting after paragraph (2) the fol-  
7       lowing:

8           “(3) SECONDARY TRANSMISSIONS OF SIGNIFI-  
9       CANTLY VIEWED SIGNALS.—

10           “(A) IN GENERAL.—Notwithstanding the  
11       provisions of paragraph (2)(B), and subject to  
12       subparagraph (B) of this paragraph, the statu-  
13       tory license provided for in paragraphs (1) and  
14       (2) shall apply to the secondary transmission of  
15       the primary transmission of a network station  
16       or a superstation to a subscriber who resides  
17       outside the station’s local market (as defined in  
18       section 122(j)) but within a community in  
19       which the signal has been determined by the  
20       Federal Communications Commission, to be sig-  
21       nificantly viewed in such community, pursuant  
22       to the rules, regulations and authorizations of  
23       the Federal Communications Commission in ef-  
24       fect on April 15, 1976, applicable to deter-

1 mining with respect to a cable system whether  
2 signals are significantly viewed in a community.

3 “(B) LIMITATION.—Subparagraph (A)  
4 shall apply only to secondary transmissions of  
5 the primary transmissions of network stations  
6 and superstations to subscribers who receive  
7 secondary transmissions from a satellite carrier  
8 pursuant to the statutory license under section  
9 122.

10 “(C) WAIVER.—

11 “(i) IN GENERAL.—A subscriber who  
12 is denied the secondary transmission of the  
13 primary transmission of a network station  
14 under subparagraph (B) may request a  
15 waiver from such denial by submitting a  
16 request, through the subscriber’s satellite  
17 carrier, to the network station in the local  
18 market affiliated with the same network  
19 where the subscriber is located. The net-  
20 work station shall accept or reject the sub-  
21 scriber’s request for a waiver within 30  
22 days after receipt of the request. If the  
23 network station fails to accept or reject the  
24 subscriber’s request for a waiver within  
25 that 30-day period, that network station

1 shall be deemed to agree to the waiver re-  
2 quest. Unless specifically stated by the net-  
3 work station, a waiver that was granted  
4 before the date of the enactment of the  
5 Satellite Home Viewer Extension and Re-  
6 authorization Act of 2004 under section  
7 339(c)(2) of the Communications Act of  
8 1934 shall not constitute a waiver for pur-  
9 poses of this subparagraph.

10 “(ii) SUNSET.—The authority under  
11 clause (i) to grant waivers shall terminate  
12 on December 31, 2008, and any such waiv-  
13 er in effect shall terminate on that date.”;

14 (7) in paragraph (2)(B)(i), by adding at the  
15 end the following new sentence: “The limitation in  
16 this clause shall not apply to secondary trans-  
17 missions under paragraph (3).”.

18 **SEC. 103. STATUTORY LICENSE FOR SATELLITE CARRIERS**  
19 **OUTSIDE LOCAL MARKETS.**

20 Section 119 of title 17, United States Code, is  
21 amended as follows:

22 (1) Subsection (a) is amended by inserting after  
23 paragraph (3), as added by section 102 of this Act,  
24 the following:

1           “(4) STATUTORY LICENSE WHERE RETRANS-  
2       MISSIONS INTO LOCAL MARKET AVAILABLE.—

3           “(A) RULES FOR SUBSCRIBERS UNDER  
4       SUBSECTION (e).—

5           “(i) FOR THOSE RECEIVING DISTANT  
6       SIGNALS.—In the case of a subscriber of a  
7       satellite carrier who is eligible to receive  
8       the secondary transmission of the primary  
9       transmission of a network station solely by  
10      reason of subsection (e) (in this subpara-  
11      graph referred to as a ‘distant signal’),  
12      and who, as of October 1, 2004, is receiv-  
13      ing the distant signal of that network sta-  
14      tion, the following shall apply:

15           “(I) In a case in which the sat-  
16      ellite carrier makes available to the  
17      subscriber the secondary transmission  
18      of the primary transmission of a local  
19      network station affiliated with the  
20      same television network pursuant to  
21      the statutory license under section  
22      122, the statutory license under para-  
23      graph (2) shall apply only to sec-  
24      ondary transmissions by that satellite  
25      carrier to that subscriber of the dis-

1           tant signal of a station affiliated with  
2           the same television network—

3                   “(aa) if, within 60 days  
4                   after receiving the notice of the  
5                   satellite carrier under section  
6                   338(h)(1) of the Communications  
7                   Act of 1934, the subscriber elects  
8                   to retain the distant signal; but

9                   “(bb) only until such time as  
10                  the subscriber elects to receive  
11                  such local signal.

12                  “(II) Notwithstanding subclause  
13                  (I), the statutory license under para-  
14                  graph (2) shall not apply with respect  
15                  to any subscriber who is eligible to re-  
16                  ceive the distant signal of a television  
17                  network station solely by reason of  
18                  subsection (e), unless the satellite car-  
19                  rier, within 60 days after the date of  
20                  the enactment of the Satellite Home  
21                  Viewer Extension and Reauthorization  
22                  Act of 2004, submits to that television  
23                  network a list, aggregated by des-  
24                  ignated market area (as defined in  
25                  section 122(j)(2)(C)), that—

1           “(aa) identifies that sub-  
2           scriber by name and address  
3           (street or rural route number,  
4           city, State, and zip code) and  
5           specifies the distant signals re-  
6           ceived by the subscriber; and

7           “(bb) states, to the best of  
8           the satellite carrier’s knowledge  
9           and belief, after having made  
10          diligent and good faith inquiries,  
11          that the subscriber is eligible  
12          under subsection (e) to receive  
13          the distant signals.

14          “(ii) FOR THOSE NOT RECEIVING DIS-  
15          TANT SIGNALS.—In the case of any sub-  
16          scriber of a satellite carrier who is eligible  
17          to receive the distant signal of a network  
18          station solely by reason of subsection (e)  
19          and who did not receive a distant signal of  
20          a station affiliated with the same network  
21          on October 1, 2004, the statutory license  
22          under paragraph (2) shall not apply to sec-  
23          ondary transmissions by that satellite car-  
24          rier to that subscriber of the distant signal

1 of a station affiliated with the same net-  
2 work.

3 “(B) RULES FOR OTHER SUBSCRIBERS.—

4 In the case of a subscriber of a satellite carrier  
5 who is eligible to receive the secondary trans-  
6 mission of the primary transmission of a net-  
7 work station under the statutory license under  
8 paragraph (2) (in this subparagraph referred to  
9 as a ‘distant signal’), other than subscribers to  
10 whom subparagraph (A) applies, the following  
11 shall apply:

12 “(i) In a case in which the satellite  
13 carrier makes available to that subscriber,  
14 on January 1, 2005, the secondary trans-  
15 mission of the primary transmission of a  
16 local network station affiliated with the  
17 same television network pursuant to the  
18 statutory license under section 122, the  
19 statutory license under paragraph (2) shall  
20 apply only to secondary transmissions by  
21 that satellite carrier to that subscriber of  
22 the distant signal of a station affiliated  
23 with the same television network if the  
24 subscriber’s satellite carrier, not later than  
25 March 1, 2005, submits to that television

1 network a list, aggregated by designated  
2 market area (as defined in section  
3 122(j)(2)(C)), that identifies that sub-  
4 scriber by name and address (street or  
5 rural route number, city, State, and zip  
6 code) and specifies the distant signals re-  
7 ceived by the subscriber.

8 “(ii) In a case in which the satellite  
9 carrier does not make available to that  
10 subscriber, on January 1, 2005, the sec-  
11 ondary transmission of the primary trans-  
12 mission of a local network station affiliated  
13 with the same television network pursuant  
14 to the statutory license under section 122,  
15 the statutory license under paragraph (2)  
16 shall apply only to secondary transmissions  
17 by that satellite carrier of the distant sig-  
18 nal of a station affiliated with the same  
19 network to that subscriber if—

20 “(I) that subscriber seeks to sub-  
21 scribe to such distant signal before  
22 the date on which such carrier com-  
23 mences to provide pursuant to the  
24 statutory license under section 122  
25 the secondary transmissions of the



1 primary transmission of stations from  
2 the local market of such local network  
3 station; and

4 “(II) the satellite carrier, within  
5 60 days after such date, submits to  
6 each television network a list that  
7 identifies each subscriber in that local  
8 market provided such a signal by  
9 name and address (street or rural  
10 route number, city, State, and zip  
11 code) and specifies the distant signals  
12 received by the subscriber.

13 “(C) FUTURE APPLICABILITY.—The statu-  
14 tory license under paragraph (2) shall not apply  
15 to the secondary transmission by a satellite car-  
16 rier of a primary transmission of a network sta-  
17 tion to a person who—

18 “(i) is not a subscriber lawfully receiv-  
19 ing such secondary transmission as of the  
20 date of the enactment of the Satellite  
21 Home Viewer Extension and Reauthoriza-  
22 tion Act of 2004; and

23 “(ii) at the time such person seeks to  
24 subscribe to receive such secondary trans-  
25 mission, resides in a local market where

1 the satellite carrier makes available to that  
2 person the secondary transmission of the  
3 primary transmission of a local network  
4 station affiliated with the same television  
5 network pursuant to the statutory license  
6 under section 122.

7 “(D) OTHER PROVISIONS NOT AF-  
8 FECTED.—This paragraph shall not affect the  
9 applicability of the statutory license to sec-  
10 ondary transmissions under paragraph (3) or to  
11 unserved households included under paragraph  
12 (12).

13 “(E) WAIVER.—A subscriber who is denied  
14 the secondary transmission of a network station  
15 under subparagraph (C) may request a waiver  
16 from such denial by submitting a request,  
17 through the subscriber’s satellite carrier, to the  
18 network station in the local market affiliated  
19 with the same network where the subscriber is  
20 located. The network station shall accept or re-  
21 ject the subscriber’s request for a waiver within  
22 30 days after receipt of the request. If the net-  
23 work station fails to accept or reject the sub-  
24 scriber’s request for a waiver within that 30-  
25 day period, that network station shall be

1 deemed to agree to the waiver request. Unless  
2 specifically stated by the network station, a  
3 waiver that was granted before the date of the  
4 enactment of the Satellite Home Viewer Extension  
5 and Reauthorization Act of 2004 under  
6 section 339(c)(2) of the Communications Act of  
7 1934 shall not constitute a waiver for purposes  
8 of this subparagraph.

9 “(F) AVAILABLE DEFINED.—For purposes  
10 of this paragraph, a satellite carrier makes  
11 available a secondary transmission of the primary  
12 transmission of local station to a subscriber  
13 or person if the satellite carrier offers  
14 that secondary transmission to other subscribers  
15 who reside in the same zip code as that  
16 subscriber or person.”.

17 (2) Subsection (a) is amended by adding at the  
18 end the following:

19 “(14) WAIVERS.—A subscriber who is denied  
20 the secondary transmission of a signal of a network  
21 station under subsection (a)(2)(B) may request a  
22 waiver from such denial by submitting a request,  
23 through the subscriber’s satellite carrier, to the network  
24 station asserting that the secondary transmission  
25 is prohibited. The network station shall ac-

1       cept or reject a subscriber's request for a waiver  
2       within 30 days after receipt of the request. If a tele-  
3       vision network station fails to accept or reject a sub-  
4       scriber's request for a waiver within the 30-day pe-  
5       riod after receipt of the request, that station shall be  
6       deemed to agree to the waiver request and have filed  
7       such written waiver. Unless specifically stated by the  
8       network station, a waiver that was granted before  
9       the date of the enactment of the Satellite Home  
10      Viewer Extension and Reauthorization Act of 2004  
11      under section 339(c)(2) of the Communications Act  
12      of 1934, and that was in effect on such date of en-  
13      actment, shall constitute a waiver for purposes of  
14      this subparagraph.”.

15           (3) Subsection (b)(1) is amended by striking  
16      subparagraph (B) and inserting the following:

17                   “(B) a royalty fee for that 6-month period,  
18                   computed by multiplying the total number of  
19                   subscribers receiving each secondary trans-  
20                   mission of each superstation or network station  
21                   during each calendar month by the appropriate  
22                   rate in effect under this section.”.

23           (4) Subsection (b)(1) is further amended by  
24      adding at the end the following flush sentence:  
25      “Notwithstanding the provisions of subparagraph

1 (B), a satellite carrier whose secondary trans-  
2 missions are subject to statutory licensing under  
3 paragraph (1) or (2) of subsection (a) shall have no  
4 royalty obligation for secondary transmissions to a  
5 subscriber under paragraph (3) of such subsection.”.

6 (5) Subsection (c) is amended—

7 (A) by amending paragraph (1) to read as  
8 follows:

9 “(1) APPLICABILITY AND DETERMINATION OF  
10 ROYALTY FEES.—The appropriate fee for purposes  
11 of determining the royalty fee under subsection  
12 (b)(1)(B) shall be the appropriate fee set forth in  
13 part 258 of title 37, Code of Federal Regulations, as  
14 in effect on July 1, 2004, as modified under this  
15 subsection.”;

16 (B) in paragraph (2)—

17 (i) in subparagraph (A), by striking  
18 “July 1, 1996,” and inserting “January 2,  
19 2005,”;

20 (ii) in subparagraph (C)—

21 (I) in the heading, by inserting “;  
22 PUBLIC NOTICE” after “AGREE-  
23 MENTS”;

24 (II) in the first sentence, by  
25 striking “Voluntary agreements” and

1                   inserting “(i) Voluntary agreements”;  
2                   and  
3                   (III) by adding at the end the  
4                   following:

5                   “(ii)(I) Within 10 days after the publica-  
6                   tion in the Federal Register of a notice of the  
7                   initiation of voluntary negotiation proceedings,  
8                   parties who have reached a voluntary agreement  
9                   may request that the royalty fees in that agree-  
10                  ment be applied to all satellite carriers, dis-  
11                  tributors, and copyright owners without con-  
12                  vening an arbitration proceeding pursuant to  
13                  paragraph (3).

14                  “(II) Upon receiving a request under sub-  
15                  clause (I), the Librarian of Congress shall im-  
16                  mediately provide public notice of the royalty  
17                  fees from the voluntary agreement and afford  
18                  parties an opportunity to state that they object  
19                  to those fees.

20                  “(III) The Librarian shall adopt the roy-  
21                  alty fees from the voluntary agreement for all  
22                  satellite carriers, distributors, and copyright  
23                  owners without convening an arbitration pro-  
24                  ceeding unless a party with an intent to partici-  
25                  pate in the arbitration proceeding and a signifi-

1 cant interest in the outcome of that proceeding  
2 objects under subclause (II).”; and

3 (iii) in subparagraph (D), by striking  
4 “December 31, 1999,” and inserting “De-  
5 cember 31, 2009”;

6 (C) in paragraph (3)—

7 (i) in subparagraph (A)—

8 (I) by striking “January 1,  
9 1997,” and inserting “May 1, 2005,”;  
10 and

11 (II) by striking “who are not  
12 parties to a voluntary agreement filed  
13 with the Copyright Office in accord-  
14 ance with paragraph (2).” and insert-  
15 ing “and distributors—

16 “(i) in the absence of a voluntary  
17 agreement filed in accordance with para-  
18 graph (2) that establishes the royalty fees  
19 to be paid by all satellite carriers and dis-  
20 tributors; or

21 “(ii) if an objection to the fees from  
22 a voluntary agreement submitted for adop-  
23 tion by the Librarian of Congress to apply  
24 to all satellite carriers, distributors, and  
25 copyright owners is received under para-

graph (2)(C) from a party with an intent to participate in the arbitration proceeding and a significant interest in the outcome of that proceeding.”;

(ii) in the first sentence of subparagraph (B), by inserting after “value of secondary transmissions” the following: “, except that the Librarian of Congress and any copyright arbitration royalty panel shall adjust those fees to account for the obligations of the parties under any applicable voluntary agreements filed with the Copyright Office pursuant to paragraph (2).”; and

(iii) in subparagraph (C)(ii), by striking “become effective as provided” and all that follows through “later” and inserting “be effective as of January 1, 2005”; and  
(D) by striking paragraphs (4) and (5).

(6) Subsection (a)(7), as redesignated by section 102(5) of this Act, is amended—

(A) in subparagraph (A), by striking “who does not reside in an unserved household” and inserting “who is not eligible to receive the transmission under this section”;



1 (B) in subparagraph (B), by striking “who  
 2 do not reside in unserved households” and in-  
 3 serting “who are not eligible to receive the  
 4 transmission under this section”; and

5 (C) in subparagraph (D), by striking “is  
 6 for private home viewing to an unserved house-  
 7 hold” and inserting “is to a subscriber who is  
 8 eligible to receive the secondary transmission  
 9 under this section”.

10 **SEC. 104. STATUTORY LICENSE FOR SATELLITE RETRANS-**  
 11 **MISSION OF LOW POWER TELEVISION STA-**  
 12 **TIONS.**

13 (a) IN GENERAL.—Section 119(a) of title 17, United  
 14 States Code (as amended by sections 102 and 103 of this  
 15 Act), is further amended by adding at the end the fol-  
 16 lowing:

17 “(15) CARRIAGE OF LOW POWER TELEVISION  
 18 STATIONS.—

19 “(A) IN GENERAL.—Notwithstanding para-  
 20 graph (2)(B), and subject to subparagraphs (B)  
 21 through (F) of this paragraph, the statutory li-  
 22 cense provided for in paragraphs (1) and (2)  
 23 shall apply to the secondary transmission of the  
 24 primary transmission of a network station or a  
 25 superstation that is licensed as a low power tel-

1           evision station, to a subscriber who resides  
2           within the same local market.

3           “(B) GEOGRAPHIC LIMITATION.—

4           “(i) NETWORK STATIONS.—With re-  
5           spect to network stations, secondary trans-  
6           missions provided for in subparagraph (A)  
7           shall be limited to secondary transmissions  
8           to subscribers who—

9           “(I) reside in the same local mar-  
10          ket as the station originating the sig-  
11          nal; and

12          “(II) reside within 35 miles of  
13          the transmitter site of such station,  
14          except that in the case of such a sta-  
15          tion located in a standard metropoli-  
16          tan statistical area which has 1 of the  
17          50 largest populations of all standard  
18          metropolitan statistical areas (based  
19          on the 1980 decennial census of popu-  
20          lation taken by the Secretary of Com-  
21          merce), the number of miles shall be  
22          20.

23          “(ii) SUPERSTATIONS.—With respect  
24          to superstations, secondary transmissions  
25          provided for in subparagraph (A) shall be

1           limited to secondary transmissions to sub-  
2           scribers who reside in the same local mar-  
3           ket as the station originating the signal.

4           “(C) NO APPLICABILITY TO REPEATERS  
5           AND TRANSLATORS.—Secondary transmissions  
6           provided for in subparagraph (A) shall not  
7           apply to any low power television station that  
8           retransmits the programs and signals of an-  
9           other television station for more than 2 hours  
10          each day.

11          “(D) ROYALTY FEES.—Notwithstanding  
12          subsection (b)(1)(B), a satellite carrier whose  
13          secondary transmissions of the primary trans-  
14          missions of a low power television station are  
15          subject to statutory licensing under this section  
16          shall have no royalty obligation for secondary  
17          transmissions to a subscriber who resides within  
18          35 miles of the transmitter site of such station,  
19          except that in the case of such a station located  
20          in a standard metropolitan statistical area  
21          which has 1 of the 50 largest populations of all  
22          standard metropolitan statistical areas (based  
23          on the 1980 decennial census of population  
24          taken by the Secretary of Commerce), the num-  
25          ber of miles shall be 20. Carriage of a supersta-

tion that is a low power television station within the station’s local market, but outside of the 35-mile or 20-mile radius described in the preceding sentence, shall be subject to royalty payments under section (b)(1)(B).

“(E) LIMITATION TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—Secondary transmissions provided for in subparagraph (A) may be made only to subscribers who receive secondary transmissions of primary transmissions from that satellite carrier pursuant to the statutory license under section 122, and only in conformity with the requirements under 340(b) of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004.”.

**SEC. 105. DEFINITIONS.**

Section 119(d) of title 17, United States Code, is amended—

(1) in paragraph (2)(A), by striking “a television broadcast station” and inserting “a television station licensed by the Federal Communications Commission”;

1           (2) by amending paragraph (9) to read as fol-  
2       lows:

3           “(9) SUPERSTATION.—The term ‘superstation’  
4       means a television station, other than a network sta-  
5       tion, licensed by the Federal Communications Com-  
6       mission, that is secondarily transmitted by a satellite  
7       carrier.”;

8           (3) in paragraph (10)—

9           (A) in subparagraph (B), by striking  
10       “granted under regulations established under  
11       section 339(c)(2) of the Communications Act of  
12       1934” and inserting “that meets the standards  
13       of subsection (a)(14) whether or not the waiver  
14       was granted before the date of the enactment of  
15       the Satellite Home Viewer Extension and Reau-  
16       thorization Act of 2004”; and

17          (B) in subparagraph (D), by striking  
18       “(a)(11)” and inserting “(a)(12)”; and

19          (4) by striking paragraphs (11) and (12) and  
20       inserting the following:

21          “(11) LOCAL MARKET.—The term ‘local mar-  
22       ket’ has the meaning given such term under section  
23       122(j), except that with respect to a low power tele-  
24       vision station, the term ‘local market’ means the

1 designated market area in which the station is lo-  
2 cated.

3 “(12) LOW POWER TELEVISION STATION.—The  
4 term ‘low power television station’ means a low  
5 power television as defined under section 74.701(f)  
6 of title 47, Code of Federal Regulations, as in effect  
7 on June 1, 2004. For purposes of this paragraph,  
8 the term “low power television station” includes a  
9 low power television station that has been accorded  
10 primary status as a Class A television licensee under  
11 section 73.6001(a) of title 47, Code of Federal Reg-  
12 ulations.

13 “(13) COMMERCIAL ESTABLISHMENT.—The  
14 term ‘commercial establishment’—

15 “(A) means an establishment used for  
16 commercial purposes, such as a bar, restaurant,  
17 private office, fitness club, oil rig, retail store,  
18 bank or other financial institution, super-  
19 market, automobile or boat dealership, or any  
20 other establishment with a common business  
21 area; and

22 “(B) does not include a multi-unit perma-  
23 nent or temporary dwelling where private home  
24 viewing occurs, such as a hotel, dormitory, hos-  
25 pital, apartment, condominium, or prison.”.

1 **SEC. 106. EFFECT ON CERTAIN PROCEEDINGS.**

2       Nothing in this title shall modify any remedy imposed  
3 on a party that is required by the judgment of a court  
4 in any action that was brought before May 1, 2004,  
5 against that party for a violation of section 119 of title  
6 17, United States Code.

7 **SEC. 107. STATUTORY LICENSE FOR SATELLITE CARRIERS**  
8 **RETRANSMITTING SUPERSTATION SIGNALS**  
9 **TO COMMERCIAL ESTABLISHMENTS.**

10       (a) IN GENERAL.—Section 119 of title 17, United  
11 States Code, is amended—

12           (1) in subsection (a)(1)—

13                   (A) by inserting “or for viewing in a com-  
14 mercial establishment” after “for private home  
15 viewing” each place it appears; and

16                   (B) by striking “household” and inserting  
17 “subscriber”;

18           (2) in subsection (b), by striking “for private  
19 home viewing” each place it appears;

20           (3) in subsection (d)(1)—

21                   (A) by striking “for private home viewing”;  
22 and

23                   (B) by inserting “in accordance with the  
24 provisions of this section” before the period;

25           (4) in subsection (d)(6), by inserting “pursuant  
26 to this section” before the period; and

1 (5) in subsection (d)(8)—

2 (A) by striking “who” and inserting “or  
3 entity that”;

4 (B) by striking “for private home view-  
5 ing”; and

6 (C) by inserting “in accordance with the  
7 provisions of this section” before the period.

8 (b) CONFORMING AMENDMENTS.— Subsections  
9 (a)(4) and (d)(1)(A) of section 111 of title 17, United  
10 States Code, are each amended by striking “for private  
11 home viewing”.

12 **SEC. 108. EXPEDITED CONSIDERATION OF VOLUNTARY**  
13 **AGREEMENTS TO PROVIDE SATELLITE SEC-**  
14 **ONDARY TRANSMISSIONS TO LOCAL MAR-**  
15 **KETS.**

16 Section 119 of title 17, United States Code, is  
17 amended by adding at the end the following:

18 “(f) EXPEDITED CONSIDERATION BY JUSTICE DE-  
19 PARTMENT OF VOLUNTARY AGREEMENTS TO PROVIDE  
20 SATELLITE SECONDARY TRANSMISSIONS TO LOCAL MAR-  
21 KETS.—

22 “(1) IN GENERAL.—In a case in which no sat-  
23 ellite carrier makes available, to subscribers located  
24 in a local market, as defined in section 122(j)(2),  
25 the secondary transmission into that market of a



1 primary transmission of one or more television  
2 broadcast stations licensed by the Federal Commu-  
3 nications Commission, and two or more satellite car-  
4 riers request a business review letter in accordance  
5 with section 50.6 of title 28, Code of Federal Regu-  
6 lations (as in effect on July 7, 2004), in order to as-  
7 sess the legality under the antitrust laws of proposed  
8 business conduct to make or carry out an agreement  
9 to provide such secondary transmission into such  
10 local market, the appropriate official of the Depart-  
11 ment of Justice shall respond to the request no later  
12 than 90 days after the date on which the request is  
13 received.

14 “(2) DEFINITION.—For purposes of this sub-  
15 section, the term ‘antitrust laws’—

16 “(A) has the meaning given that term in  
17 subsection (a) of the first section of the Clayton  
18 Act (15 U.S.C. 12(a)), except that such term  
19 includes section 5 of the Federal Trade Com-  
20 mission Act (15 U.S.C. 45) to the extent such  
21 section 5 applies to unfair methods of competi-  
22 tion; and

23 “(B) includes any State law similar to the  
24 laws referred to in paragraph (1).”.

1   **SEC. 109. STUDY.**

2           No later than June 30, 2008, the Register of Copy-  
3 rights shall report to the Committee on the Judiciary of  
4 the House of Representatives and the Committee on the  
5 Judiciary of the Senate the Register's findings and rec-  
6 ommendations on the operation and revision of the statu-  
7 tory licenses under sections 111, 119, and 122 of title 17,  
8 United States Code. The report shall include, but not be  
9 limited to, the following:

10           (1) A comparison of the royalties paid by licens-  
11 ees under such sections, including historical rates of  
12 increases in these royalties, a comparison between  
13 the royalties under each such section and the prices  
14 paid in the marketplace for comparable program-  
15 ming.

16           (2) An analysis of the differences in the terms  
17 and conditions of the licenses under such sections,  
18 an analysis of whether these differences are required  
19 or justified by historical, technological, or regulatory  
20 differences that affect the satellite and cable indus-  
21 tries, and an analysis of whether the cable or sat-  
22 ellite industry is placed in a competitive disadvan-  
23 tage due to these terms and conditions.

24           (3) An analysis of whether the licenses under  
25 such sections are still justified by the bases upon  
26 which they were originally created.

1           (4) An analysis of the correlation, if any, be-  
2       tween the royalties, or lack thereof, under such sec-  
3       tions and the fees charged to cable and satellite sub-  
4       scribers, addressing whether cable and satellite com-  
5       panies have passed to subscribers any savings real-  
6       ized as a result of the royalty structure and amounts  
7       under such sections.

8           (5) An analysis of issues that may arise with  
9       respect to the application of the licenses under such  
10      sections to the secondary transmissions of the pri-  
11      mary transmissions of network stations and super-  
12      stations that originate as digital signals, including  
13      issues that relate to the application of the unserved  
14      household limitations under section 119 of title 17,  
15      United States Code, and to the determination of roy-  
16      alties of cable systems and satellite carriers.

17 **TITLE     II—FEDERAL     COMMU-**  
18 **NICATIONS COMMISSION OP-**  
19 **ERATIONS**

20 **SEC. 201. EXTENSION OF RETRANSMISSION CONSENT EX-**  
21 **EMPTION.**

22       Section 325(b)(2)(C) of the Communications Act of  
23 1934 (47 U.S.C. 325(b)(2)(C)) is amended by striking  
24 “December 31, 2004” and inserting “December 31,  
25 2009”.

1 **SEC. 202. CABLE/SATELLITE COMPARABILITY.**

2 (a) AMENDMENT.—Part I of title III of the Commu-  
3 nications Act of 1934 is amended by inserting after sec-  
4 tion 339 (47 U.S.C. 339) the following new section:

5 **“SEC. 340. SIGNIFICANTLY VIEWED SIGNALS PERMITTED**  
6 **TO BE CARRIED.**

7 “(a) SIGNIFICANTLY VIEWED STATIONS.—In addi-  
8 tion to the broadcast signals that subscribers may receive  
9 under section 338 and 339, a satellite carrier is also au-  
10 thorized to retransmit to a subscriber located in a commu-  
11 nity the signal of any station located outside the local mar-  
12 ket in which such subscriber is located, to the extent such  
13 signal—

14 “(1) has, before the date of enactment of the  
15 Satellite Home Viewer Extension and Reauthoriza-  
16 tion Act of 2004, been determined by the Federal  
17 Communications Commission to be a signal a cable  
18 operator may carry as significantly viewed in such  
19 community, except to the extent that such signal is  
20 prevented from being carried by a cable system in  
21 such community under the Commission’s network  
22 nonduplication and syndicated exclusivity rules; or

23 “(2) is, after such date of enactment, deter-  
24 mined by the Commission to be significantly viewed  
25 in such community in accordance with the same  
26 standards and procedures concerning shares of view-

1 ing hours and audience surveys as are applicable  
2 under the rules, regulations, and authorizations of  
3 the Commission to determining with respect to a  
4 cable system whether signals are significantly viewed  
5 in a community.

6 “(b) LIMITATIONS.—

7 “(1) ANALOG SERVICE LIMITED TO SUB-  
8 SCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—

9 With respect to a signal that originates as an analog  
10 signal of a network station, this section shall apply  
11 only to retransmissions to subscribers of a satellite  
12 carrier who receive retransmissions from that sat-  
13 ellite carrier pursuant to section 338.

14 “(2) DIGITAL SERVICE LIMITATIONS.—With re-  
15 spect to a signal that originates as a digital signal  
16 of a network station, this section shall apply only  
17 if—

18 “(A) the subscriber receives from the sat-  
19 ellite carrier pursuant to section 338 the re-  
20 transmission of the digital signal of a network  
21 station in the subscriber’s local market that is  
22 affiliated with the same television network; and

23 “(B) either—

24 “(i) the retransmission of the local  
25 network station occupies at least the equiv-

1                   alent bandwidth as the digital signal re-  
2                   transmitted pursuant to this section; or

3                   “(ii) the retransmission of the local  
4                   network station is comprised of the entire  
5                   bandwidth of the digital signal broadcast  
6                   by such local network station.

7                   “(3) LIMITATION NOT APPLICABLE WHERE NO  
8                   NETWORK AFFILIATES.—The limitations in para-  
9                   graphs (1) and (2) shall not prohibit a retrans-  
10                  mission under this section to a subscriber located in  
11                  a local market in which there are no network sta-  
12                  tions affiliated with the same television network as  
13                  the station whose signal is being retransmitted pur-  
14                  suant to this section.

15                  “(4) AUTHORITY TO GRANT STATION-SPECIFIC  
16                  WAIVERS.—Paragraphs (1) and (2) shall not pro-  
17                  hibit a retransmission of a network station to a sub-  
18                  scriber if and to the extent that the network station  
19                  in the local market in which the subscriber is lo-  
20                  cated, and that is affiliated with the same television  
21                  network, has privately negotiated and affirmatively  
22                  granted a waiver from the requirements of para-  
23                  graph (1) and (2) to such satellite carrier with re-  
24                  spect to retransmission of the significantly viewed  
25                  station to such subscriber.

1       “(c) PUBLICATION AND MODIFICATIONS OF LISTS;  
2 REGULATIONS.—

3               “(1) IN GENERAL.—The Commission shall—

4                       “(A) within 60 days after the date of en-  
5 actment of the Satellite Home Viewer Exten-  
6 sion and Reauthorization Act of 2004—

7                               “(i) publish a list of the stations that  
8 are eligible for retransmission under sub-  
9 section (a) (1) and the communities in  
10 which such stations are eligible for such re-  
11 transmission; and

12                               “(ii) commence a rulemaking pro-  
13 ceeding to implement this section by publi-  
14 cation of a notice of proposed rulemaking;

15                       “(B) adopt rules pursuant to such rule-  
16 making within one year after such date of en-  
17 actment.

18               “(2) PUBLIC AVAILABILITY OF LIST.—The  
19 Commission shall make readily available to the pub-  
20 lic in electronic form, on the Internet website of the  
21 Commission or other comparable facility, a list of  
22 the stations that are eligible for retransmission  
23 under subsection (a) and the communities in which  
24 such stations are eligible for such retransmission.  
25 The Commission shall update such list within 10

1 business days after the date on which the Commis-  
2 sion issues an order making any modification of  
3 such stations and communities.

4 “(3) MODIFICATIONS.—In addition to cable op-  
5 erators and television broadcast station licensees, the  
6 Commission shall permit a satellite carrier to peti-  
7 tion for decisions and orders—

8 “(A) by which stations may be added to  
9 those that are eligible for retransmission under  
10 subsection (a), and by which communities may  
11 be added in which such stations are eligible for  
12 such retransmission; and

13 “(B) by which network nonduplication or  
14 syndicated exclusivity regulations are applied to  
15 the retransmission in accordance with sub-  
16 section (e).

17 “(d) EFFECT ON OTHER OBLIGATIONS AND  
18 RIGHTS.—

19 “(1) NO EFFECT ON CARRIAGE OBLIGATIONS.—  
20 Carriage of a signal under this section is not manda-  
21 tory, and any right of a station licensee to have the  
22 signal of such station carried under section 338 is  
23 not affected by the eligibility of such station to be  
24 carried under this section.



1           “(2) RETRANSMISSION CONSENT RIGHTS NOT  
2       AFFECTED.—The eligibility of the signal of a station  
3       to be carried under this section does not affect any  
4       right of the licensee of such station to grant (or  
5       withhold) retransmission consent under section  
6       325(b)(1).

7           “(e) NETWORK NONDUPLICATION AND SYNDICATED  
8       EXCLUSIVITY.—

9           “(1) NOT APPLICABLE EXCEPT AS PROVIDED  
10       BY COMMISSION REGULATIONS.—Signals eligible to  
11       be carried under this section are not subject to the  
12       Commission’s regulations concerning network non-  
13       duplication or syndicated exclusivity unless, pursu-  
14       ant to regulations adopted by the Commission, the  
15       Commission determines to permit network non-  
16       duplication or syndicated exclusivity to apply within  
17       the appropriate zone of protection.

18           “(2) LIMITATION.—Nothing in this subsection  
19       or Commission regulations shall permit the applica-  
20       tion of network nonduplication or syndicated exclu-  
21       sivity regulations to the retransmission of distant  
22       signals of network stations that are carried by a sat-  
23       ellite carrier pursuant to a statutory license under  
24       section 119(a)(2)(A) or (B), with respect to persons

1 who reside in unserved households, under  
2 119(a)(4)(A), or under section 119(a)(12).

3 “(f) ENFORCEMENT.—

4 “(1) ORDERS AND DAMAGES.—Upon complaint,  
5 the Commission shall issue a cease and desist order  
6 to any satellite carrier found to have violated this  
7 section in carrying any television broadcast station.  
8 Such order may, if a complaining station requests  
9 damages—

10 “(A) provide for the award of damages to  
11 a complaining station that establishes that the  
12 violation was committed in bad faith, in an  
13 amount up to \$50 per subscriber, per station,  
14 per day of the violation; and

15 “(B) provide for the award of damages to  
16 a prevailing satellite carrier if the Commission  
17 determines that the complaint was frivolous, in  
18 an amount up to \$50 per subscriber alleged to  
19 be in violation, per station alleged, per day of  
20 the alleged violation.

21 “(2) COMMISSION DECISION.—The Commission  
22 shall issue a final determination resolving a com-  
23 plaint brought under this subsection not later than  
24 180 days after the submission of a complaint under  
25 this subsection. The Commission may hear witnesses

1 if it clearly appears, based on written filings by the  
2 parties, that there is a genuine dispute about mate-  
3 rial facts. Except as provided in the preceding sen-  
4 tence, the Commission may issue a final ruling  
5 based on written filings by the parties.

6 “(3) REMEDIES IN ADDITION.—The remedies  
7 under this subsection are in addition to any rem-  
8 edies available under title 17, United States Code.

9 “(4) NO EFFECT ON COPYRIGHT PRO-  
10 CEEDINGS.—Any determination, action, or failure to  
11 act of the Commission under this subsection shall  
12 have no effect on any proceeding under title 17,  
13 United States Code, and shall not be introduced in  
14 evidence in any proceeding under that title. In no in-  
15 stance shall a Commission enforcement proceeding  
16 under this subsection be required as a predicate to  
17 the pursuit of a remedy available under title 17.

18 “(g) NOTICES CONCERNING SIGNIFICANTLY VIEWED  
19 STATIONS.—Each satellite carrier that proposes to com-  
20 mence the retransmission of a station pursuant to this sec-  
21 tion in any local market shall—

22 “(1) not less than 60 days before commencing  
23 such retransmission, provide a written notice to any  
24 television broadcast station in such local market of  
25 such proposal; and

1           “(2) designate on such carrier’s website all sig-  
2           nificantly viewed signals carried pursuant to section  
3           340 and the communities in which the signals are  
4           carried.

5           “(h) ADDITIONAL CORRESPONDING CHANGES IN  
6 REGULATIONS.—

7           “(1) COMMUNITY-BY-COMMUNITY ELEC-  
8           TIONS.—The Commission shall, no later than April  
9           30, 2005, revise section 76.66 of its regulations (47  
10          CFR 76.66), concerning satellite broadcast signal  
11          carriage, to permit (at the next cycle of elections  
12          under section 325) a television broadcast station  
13          that is located in a local market into which a sat-  
14          ellite carrier retransmits a television broadcast sta-  
15          tion pursuant to section 338, to elect, with respect  
16          to such satellite carrier, between retransmission con-  
17          sent pursuant to such section 325 and mandatory  
18          carriage pursuant to section 338 separately for each  
19          county within such station’s local market, if—

20               “(A) the satellite carrier has notified the  
21               station, pursuant to paragraph (3), that it in-  
22               tends to carry another affiliate of the same net-  
23               work pursuant to this section during the rel-  
24               evant election period in the station’s local mar-  
25               ket; or

1           “(B) on the date notification under para-  
2           graph (3) was due, the satellite carrier was re-  
3           transmitting into the station’s local market pur-  
4           suant to this section an affiliate of the same tel-  
5           evision network.

6           “(2) UNIFIED NEGOTIATIONS.—In revising its  
7           regulations as required by paragraph (1), the Com-  
8           mission shall provide that any such station shall con-  
9           duct a unified negotiation for the entire portion of  
10          its local market for which retransmission consent is  
11          elected.

12          “(3) ADDITIONAL PROVISIONS.—The Commis-  
13          sion shall, no later than April 30, 2005, revise its  
14          regulations to provide the following:

15               “(A) NOTIFICATIONS BY SATELLITE CAR-  
16               RIER.—A satellite carrier’s retransmission of  
17               television broadcast stations pursuant to this  
18               section shall be subject to the following limita-  
19               tions:

20                       “(i) In any local market in which the  
21                       satellite carrier provides service pursuant  
22                       to section 338 on the date of enactment of  
23                       the Satellite Home Viewer Extension and  
24                       Reauthorization Act of 2004, the carrier  
25                       may notify a television broadcast station in

1 that market, at least 60 days prior to any  
2 date on which the station must thereafter  
3 make an election under section 76.66 of  
4 the Commission's regulations (47 CFR  
5 76.66), of—

6 “(I) each affiliate of the same  
7 television network that the carrier re-  
8 serves the right to retransmit into  
9 that station's local market pursuant  
10 to this section during the next election  
11 cycle under such section of such regu-  
12 lations; and

13 “(II) for each such affiliate, the  
14 communities into which the satellite  
15 carrier reserves the right to make  
16 such retransmissions.

17 “(ii) In any local market in which the  
18 satellite carrier commences service pursu-  
19 ant to section 338 after the date of enact-  
20 ment of the Satellite Home Viewer Exten-  
21 sion and Reauthorization Act of 2004, the  
22 carrier may notify a station in that mar-  
23 ket, at least 60 days prior to the introduc-  
24 tion of such service in that market, and  
25 thereafter at least 60 days prior to any

1 date on which the station must thereafter  
2 make an election under section 76.66 of  
3 the Commission's regulations (47 CFR  
4 76.66), of each affiliate of the same tele-  
5 vision network that the carrier reserves the  
6 right to retransmit into that station's local  
7 market during the next election cycle  
8 under such section of such regulations.

9 “(iii) Beginning with the 2005 elec-  
10 tion cycle, a satellite carrier may only re-  
11 transmit pursuant to this section during  
12 the pertinent election period a signal—

13 “(I) as to which it has provided  
14 the notifications set forth in clauses  
15 (i) and (ii); or

16 “(II) that it was retransmitting  
17 into the local market under this sec-  
18 tion as of the date such notifications  
19 were due.

20 “(B) HARMONIZATION OF ELECTIONS AND  
21 RETRANSMISSION CONSENT AGREEMENTS.—If a  
22 satellite carrier notifies a television broadcast  
23 station that it reserves the right to retransmit  
24 an affiliate of the same television network dur-  
25 ing the next election cycle pursuant to this sec-

tion, the station may choose between retransmission consent and mandatory carriage for any portion of the 3-year election cycle that is not covered by an existing retransmission consent agreement.

“(i) DEFINITIONS.—As used in this section:

“(1) LOCAL MARKET; SATELLITE CARRIER; SUBSCRIBER; TELEVISION BROADCAST STATION.—The terms ‘local market’, ‘satellite carrier’, ‘subscriber’, and ‘television broadcast station’ have the meanings given such terms in section 338(k).

“(2) NETWORK STATION; TELEVISION NETWORK.—The terms ‘network station’ and ‘television network’ have the meanings given such terms in section 339(d).

“(3) COMMUNITY.—The term ‘community’ means—

“(A) a county or a cable community, as determined under the rules, regulations, and authorizations of the Commission applicable to determining with respect to a cable system whether signals are significantly viewed; or

“(B) a satellite community, as determined under such rules, regulations, and authorizations (or revisions thereof) as the Commission



1           may prescribe in implementing the require-  
2           ments of this section.

3           “(4) BANDWIDTH.—The terms ‘equivalent  
4           bandwidth’ and ‘entire bandwidth’ shall be defined  
5           by the Commission by regulation.”.

6 **SEC. 203. CARRIAGE OF LOCAL STATIONS ON A SINGLE**  
7 **DISH.**

8           (a) AMENDMENTS.—Section 338 of the Communica-  
9           tions Act of 1934 (47 U.S.C. 338(d)) is amended—

10           (1) by redesignating subsections (g) and (h) as  
11           subsections (j) and (k), respectively; and

12           (2) by inserting after subsection (f) the fol-  
13           lowing new subsection:

14           “(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE  
15           DISH.—

16           “(1) SINGLE DISH.—Each satellite carrier that  
17           retransmits the analog signals of local television  
18           broadcast stations in a local market shall retransmit  
19           such analog signals in such market by means of a  
20           single reception antenna and associated equipment.

21           “(2) EXCEPTION.—If the carrier retransmits  
22           signals in the digital television service, the carrier  
23           shall retransmit such digital signals in such market  
24           by means of a single reception antenna and associ-  
25           ated equipment, but such antenna and associated

1 equipment may be separate from the single reception  
2 antenna and associated equipment used for analog  
3 television service signals.

4 “(3) EFFECTIVE DATE.—The requirements of  
5 paragraphs (1) and (2) of this subsection shall apply  
6 on and after one year after the date of enactment  
7 of the Satellite Home Viewer Extension and Reau-  
8 thorization Act of 2004.

9 “(4) NOTICE OF DISRUPTIONS.—A carrier that  
10 is providing signals of a local television broadcast  
11 station in a local market under this section on the  
12 date of enactment of the Satellite Home Viewer Ex-  
13 tension and Reauthorization Act of 2004 shall, not  
14 later than 270 days after such date of enactment,  
15 provide to the licensees for such stations and the  
16 carrier’s subscribers in such local market a notice  
17 that displays prominently and conspicuously a clear  
18 statement of—

19 “(A) any reallocation of signals between  
20 different reception antennas and associated  
21 equipment that the carrier intends to make in  
22 order to comply with the requirements of this  
23 subsection;

1           “(B) the need, if any, for subscribers to  
2           obtain an additional reception antenna and as-  
3           sociated equipment to receive such signals; and

4           “(C) any cessation of carriage or other ma-  
5           terial change in the carriage of signals as a con-  
6           sequence of the requirements of this para-  
7           graph.”.

8           (b) CONFORMING AMENDMENTS: COMMISSION EN-  
9           FORCEMENT OF SECTION; LOW POWER TELEVISION STA-  
10          TIONS.—

11           (1) Section 338(a) of such Act is amended by  
12           striking paragraphs (1) and (2) and inserting the  
13           following:

14           “(1) IN GENERAL.—Each satellite carrier pro-  
15           viding, under section 122 of title 17, United States  
16           Code, secondary transmissions to subscribers located  
17           within the local market of a television broadcast sta-  
18           tion of a primary transmission made by that station  
19           shall carry upon request the signals of all television  
20           broadcast stations located within that local market,  
21           subject to section 325(b).

22           “(2) REMEDIES FOR FAILURE TO CARRY.—In  
23           addition to the remedies available to television  
24           broadcast stations under section 501(f) of title 17,  
25           United States Code, the Commission may use the

1 Commission’s authority under this Act to assure  
2 compliance with the obligations of this subsection,  
3 but in no instance shall a Commission enforcement  
4 proceeding be required as a predicate to the pursuit  
5 of a remedy available under such section 501(f).

6 “(3) LOW POWER STATION CARRIAGE OP-  
7 TIONAL.—No low power television station whose sig-  
8 nals are provided under section 119(a)(14) of title  
9 17, United States Code, shall be entitled to insist on  
10 carriage under this section, regardless of whether  
11 the satellite carrier provides secondary transmissions  
12 of the primary transmissions of other stations in the  
13 same local market pursuant to section 122 of such  
14 title, nor shall any such carriage be considered in  
15 connection with the requirements of subsection (c) of  
16 this section.”.

17 (2) Section 338(c)(1) of such Act is amended  
18 by striking “subsection (a)” and inserting “sub-  
19 section (a)(1)”.

20 (3) Section 338(k) of such Act (as redesignated  
21 by subsection (a)(1)) is amended—

22 (A) by redesignating paragraphs (4)  
23 through (7) as paragraphs (5) through (8), re-  
24 spectively; and

1 (B) by inserting after paragraph (3) the  
 2 following new paragraph:

3 “(4) LOW POWER TELEVISION STATION.—The  
 4 term ‘low power television station’ means a low  
 5 power television station as defined under section  
 6 74.701(f) of title 47, Code of Federal Regulations,  
 7 as in effect on June 1, 2004. For purposes of this  
 8 paragraph, the term “low power television station”  
 9 includes a low power television station that has been  
 10 accorded primary status as a Class A television li-  
 11 censee under section 73.6001(a) of title 47, Code of  
 12 Federal Regulations.”.

13 **SEC. 204. REPLACEMENT OF DISTANT SIGNALS WITH**  
 14 **LOCAL SIGNALS.**

15 Section 339(a) of the Communications Act of 1934  
 16 (47 U.S.C. 339(a)) is amended—

17 (1) by redesignating paragraph (2) as para-  
 18 graph (3); and

19 (2) by inserting after paragraph (1) the fol-  
 20 lowing new paragraph:

21 “(2) REPLACEMENT OF DISTANT SIGNALS WITH  
 22 LOCAL SIGNALS.—Notwithstanding any other provi-  
 23 sion of paragraph (1), the following rules shall apply  
 24 after the date of enactment of the Satellite Home  
 25 Viewer Extension and Reauthorization Act of 2004:

1           “(A) RULES FOR GRANDFATHERED SUB-  
2           SCRIBERS.—

3           “(i) FOR THOSE RECEIVING DISTANT  
4           SIGNALS.—In the case of a subscriber of a  
5           satellite carrier who is eligible to receive  
6           the signal of a network station solely by  
7           reason of section 119(e) of title 17, United  
8           States Code (in this subparagraph referred  
9           to as a ‘distant signal’), and who, as of Oc-  
10          tober 1, 2004, is receiving the distant sig-  
11          nal of that network station, the following  
12          shall apply:

13                 “(I) In a case in which the sat-  
14                 ellite carrier makes available to the  
15                 subscriber the signal of a local net-  
16                 work station affiliated with the same  
17                 television network pursuant to section  
18                 338, the carrier may only provide the  
19                 secondary transmissions of the distant  
20                 signal of a station affiliated with the  
21                 same network to that subscriber—

22                 “(aa) if, within 60 days  
23                 after receiving the notice of the  
24                 satellite carrier under section  
25                 338(h)(1) of this Act, the sub-

1 subscriber elects to retain the dis-  
2 tant signal; but

3 “(bb) only until such time as  
4 the subscriber elects to receive  
5 such local signal.

6 “(II) Notwithstanding subclause  
7 (I), the carrier may not retransmit  
8 the distant signal to any subscriber  
9 who is eligible to receive the signal of  
10 a network station solely by reason of  
11 section 119(e) of title 17, United  
12 States Code, unless such carrier, with-  
13 in 60 days after the date of the enact-  
14 ment of the Satellite Home Viewer  
15 Extension and Reauthorization Act of  
16 2004, submits to that television net-  
17 work the list and statement required  
18 by subparagraph (E)(i).

19 “(ii) FOR THOSE NOT RECEIVING DIS-  
20 TANT SIGNALS.—In the case of any sub-  
21 scriber of a satellite carrier who is eligible  
22 to receive the distant signal of a network  
23 station solely by reason of section 119(e)  
24 of title 17, United States Code, and who  
25 did not receive a distant signal of a station

1 affiliated with the same network on Octo-  
2 ber 1, 2004, the carrier may not provide  
3 the secondary transmissions of the distant  
4 signal of a station affiliated with the same  
5 network to that subscriber.

6 “(B) RULES FOR OTHER SUBSCRIBERS.—

7 In the case of a subscriber of a satellite carrier  
8 who is eligible to receive the signal of a network  
9 station under this section (in this subparagraph  
10 referred to as a ‘distant signal’), other than  
11 subscribers to whom subparagraph (A) applies,  
12 the following shall apply:

13 “(i) In a case in which the satellite  
14 carrier makes available to that subscriber,  
15 on January 1, 2005, the signal of a local  
16 network station affiliated with the same  
17 television network pursuant to section 338,  
18 the carrier may only provide the secondary  
19 transmissions of the distant signal of a  
20 station affiliate with the same network to  
21 that subscriber if the subscriber’s satellite  
22 carrier, not later than March 1, 2005, sub-  
23 mits to that television network the list and  
24 statement required by subparagraph  
25 (E)(i).



1           “(ii) In a case in which the satellite  
2           carrier does not make available to that  
3           subscriber, on January 1, 2005, the signal  
4           of a local network station pursuant to sec-  
5           tion 338, the carrier may only provide the  
6           secondary transmissions of the distant sig-  
7           nal of a station affiliated with the same  
8           network to that subscriber if—

9                       “(I) that subscriber seeks to sub-  
10           scribe to such distant signal before  
11           the date on which such carrier com-  
12           mences to carry pursuant to section  
13           338 the signals of stations from the  
14           local market of such local network  
15           station; and

16                      “(II) the satellite carrier, within  
17           60 days after such date, submits to  
18           each television network the list and  
19           statement required by subparagraph  
20           (E)(ii).

21                      “(C) FUTURE APPLICABILITY.—A satellite  
22           carrier may not provide a distant signal (within  
23           the meaning of subparagraph (A) or (B)) to a  
24           person who—

1 “(i) is not a subscriber lawfully receiv-  
2 ing such secondary transmission as of the  
3 date of the enactment of the Satellite  
4 Home Viewer Extension and Reauthoriza-  
5 tion Act of 2004; and

6 “(ii) at the time such person seeks to  
7 subscribe to receive such secondary trans-  
8 mission, resides in a local market where  
9 the satellite carrier makes available to that  
10 person the signal of a local network station  
11 affiliated with the same television network  
12 pursuant to section 338.

13 “(D) AUTHORITY TO GRANT STATION-SPE-  
14 CIFIC WAIVERS.—This paragraph shall not pro-  
15 hibit a retransmission of a distant signal (with-  
16 in the meaning of subparagraph (A) or (B)) of  
17 any distant network station to any subscriber to  
18 whom the signal of a local network station af-  
19 filiated with the same network is available pur-  
20 suant to section 338, if and to the extent that  
21 such local network station has affirmatively  
22 granted a waiver from the requirements of this  
23 paragraph to such satellite carrier with respect  
24 to retransmission of such distant network sta-  
25 tion to such subscriber.

1                   “(E) NOTICES TO NETWORKS OF DISTANT  
2                   SIGNAL SUBSCRIBERS.—

3                   “(i) Within 60 days after the date of  
4                   enactment of the Satellite Home Viewer  
5                   Extension and Reauthorization Act of  
6                   2004, each satellite carrier that provides a  
7                   distant signal of a network station to a  
8                   subscriber pursuant to subparagraph (A)  
9                   or (B)(i) of this paragraph shall submit to  
10                  each network—

11                  “(I) a list, aggregated by des-  
12                  ignated market area, identifying each  
13                  subscriber provided such a signal by—

14                         “(aa) name;

15                         “(bb) address (street or  
16                         rural route number, city, State,  
17                         and zip code); and

18                         “(cc) the distant network  
19                         signal or signals received; and

20                  “(II) a statement that, to the  
21                  best of the carrier’s knowledge and  
22                  belief after having made diligent and  
23                  good faith inquiries, the subscriber is  
24                  qualified under the existing law to re-  
25                  ceive the distant network signal or

1 signals pursuant to subparagraph (A)  
2 or (B)(i) of this paragraph.

3 “(ii) Within 60 days after the date a  
4 satellite carrier commences to carry pursu-  
5 ant to section 338 the signals of stations  
6 from a local market, such a satellite carrier  
7 that provides a distant signal of a network  
8 station to a subscriber pursuant to sub-  
9 paragraph (B)(ii) of this paragraph shall  
10 submit to each network—

11 “(I) a list identifying each sub-  
12 scriber in that local market provided  
13 such a signal by—

14 “(aa) name;

15 “(bb) address (street or  
16 rural route number, city, State,  
17 and zip code); and

18 “(cc) the distant network  
19 signal or signals received; and

20 “(II) a statement that, to the  
21 best of the carrier’s knowledge and  
22 belief after having made diligent and  
23 good faith inquiries, the subscriber is  
24 qualified under the existing law to re-  
25 ceive the distant network signal or

1 signals pursuant to subparagraph  
2 (B)(ii) of this paragraph.

3 “(F) OTHER PROVISIONS NOT AF-  
4 FECTED.—This paragraph shall not affect the  
5 eligibility of a subscriber to receive secondary  
6 transmissions under section 340 of this Act or  
7 as an unserved household included under sec-  
8 tion 119(a)(12) of title 17, United States Code.

9 “(G) AVAILABLE DEFINED.—For purposes  
10 of this paragraph, a satellite carrier makes  
11 available a local signal to a subscriber or person  
12 if the satellite carrier offers that local signal to  
13 other subscribers who reside in the same zip  
14 code as that subscriber or person.”.

15 **SEC. 205. ADDITIONAL NOTICES TO SUBSCRIBERS, NET-**  
16 **WORKS, AND STATIONS CONCERNING SIGNAL**  
17 **CARRIAGE.**

18 Section 338 of the Communications Act of 1934 (47  
19 U.S.C. 338) is further amended by inserting after sub-  
20 section (g) (as added by section 203) the following new  
21 subsection:

22 “(h) ADDITIONAL NOTICES TO SUBSCRIBERS, NET-  
23 WORKS, AND STATIONS CONCERNING SIGNAL CAR-  
24 RIAGE.—

1           “(1) NOTICES TO AND ELECTIONS BY SUB-  
2       SCRIBERS CONCERNING GRANDFATHERED SIG-  
3       NALS.—Any carrier that provides a distant signal of  
4       a network station to a subscriber pursuant section  
5       339(a)(2)(A) shall—

6           “(A) within 60 days after the local signal  
7       of a network station of the same television net-  
8       work is available pursuant to section 338, or  
9       within 60 days after the date of enactment of  
10      the Satellite Home Viewer Extension and Reau-  
11      thorization Act of 2004, whichever is later, send  
12      a notice to the subscriber—

13           “(i) offering to substitute the local  
14      network signal for the duplicating distant  
15      network signal; and

16           “(ii) informing the subscriber that, if  
17      the subscriber fails to respond in 60 days,  
18      the subscriber will lose the distant network  
19      signal but will be permitted to subscribe to  
20      the local network signal; and

21           “(B) if the subscriber—

22           “(i) elects to substitute such local net-  
23      work signal within such 60 days, switch  
24      such subscriber to such local network sig-

1           nal within 10 days after the end of such  
2           60-day period; or

3           “(ii) fails to respond within such 60  
4           days, terminate the distant network signal  
5           within 10 days after the end of such 60-  
6           day period.

7           “(2) NOTICE TO STATION LICENSEES OF COM-  
8           MENCEMENT OF LOCAL-INTO-LOCAL SERVICE.—

9           “(A) NOTICE REQUIRED.—Within 180  
10          days after the date of enactment of the Satellite  
11          Home Viewer Extension and Reauthorization  
12          Act of 2004, the Commission shall revise the  
13          regulations under this section relating to notice  
14          to broadcast station licensees to comply with  
15          the requirements of this paragraph.

16          “(B) CONTENTS OF COMMENCEMENT NO-  
17          TICE.—The notice required by such regulations  
18          shall inform each television broadcast station li-  
19          censee within any local market in which a sat-  
20          ellite carrier proposes to commence carriage of  
21          signals of stations from that market, not later  
22          than 60 days prior to the commencement of  
23          such carriage—

24                 “(i) of the carrier’s intention to  
25                 launch local-into-local service under this

1 section in a local market, the identity of  
2 that local market, and the location of the  
3 carrier's proposed local receive facility for  
4 that local market;

5 “(ii) of the right of such licensee to  
6 elect carriage under this section or grant  
7 retransmission consent under section  
8 325(b);

9 “(iii) that such licensee has 30 days  
10 from the date of the receipt of such notice  
11 to make such election; and

12 “(iv) that failure to make such elec-  
13 tion will result in the loss of the right to  
14 demand carriage under this section for the  
15 remainder of the 3-year cycle of carriage  
16 under section 325.

17 “(C) TRANSMISSION OF NOTICES.—Such  
18 regulations shall require that each satellite car-  
19 rier shall transmit the notices required by such  
20 regulation via certified mail to the address for  
21 such television station licensee listed in the con-  
22 solidated database system maintained by the  
23 Commission.”.



1 **SEC. 206. PRIVACY RIGHTS OF SATELLITE SUBSCRIBERS.**

2 (a) AMENDMENT.—Section 338 of the Communica-  
3 tions Act of 1934 (47 U.S.C. 338) is further amended by  
4 inserting after subsection (h) (as added by section 205)  
5 the following new subsection:

6 “(i) PRIVACY RIGHTS OF SATELLITE SUB-  
7 SCRIBERS.—

8 “(1) NOTICE.—At the time of entering into an  
9 agreement to provide any satellite service or other  
10 service to a subscriber and at least once a year  
11 thereafter, a satellite carrier shall provide notice in  
12 the form of a separate, written statement to such  
13 subscriber which clearly and conspicuously informs  
14 the subscriber of—

15 “(A) the nature of personally identifiable  
16 information collected or to be collected with re-  
17 spect to the subscriber and the nature of the  
18 use of such information;

19 “(B) the nature, frequency, and purpose of  
20 any disclosure which may be made of such in-  
21 formation, including an identification of the  
22 types of persons to whom the disclosure may be  
23 made;

24 “(C) the period during which such infor-  
25 mation will be maintained by the satellite car-  
26 rier;

1           “(D) the times and place at which the sub-  
2           scriber may have access to such information in  
3           accordance with paragraph (5); and

4           “(E) the limitations provided by this sec-  
5           tion with respect to the collection and disclosure  
6           of information by a satellite carrier and the  
7           right of the subscriber under paragraphs (7)  
8           and (9) to enforce such limitations.

9           In the case of subscribers who have entered into  
10          such an agreement before the effective date of this  
11          subsection, such notice shall be provided within 180  
12          days of such date and at least once a year there-  
13          after.

14          “(2) DEFINITIONS.—For purposes of this sub-  
15          section, other than paragraph (9)—

16               “(A) the term ‘personally identifiable infor-  
17               mation’ does not include any record of aggre-  
18               gate data which does not identify particular  
19               persons;

20               “(B) the term ‘other service’ includes any  
21               wire or radio communications service provided  
22               using any of the facilities of a satellite carrier  
23               that are used in the provision of satellite serv-  
24               ice; and

1           “(C) the term ‘satellite carrier’ includes, in  
2 addition to persons within the definition of sat-  
3 ellite carrier, any person who—

4                   “(i) is owned or controlled by, or  
5 under common ownership or control with,  
6 a satellite carrier; and

7                   “(ii) provides any wire or radio com-  
8 munications service.

9           “(3) PROHIBITIONS.—

10                   “(A) CONSENT TO COLLECTION.—Except  
11 as provided in subparagraph (B), a satellite  
12 carrier shall not use any facilities used by the  
13 satellite carrier to collect personally identifiable  
14 information concerning any subscriber without  
15 the prior written or electronic consent of the  
16 subscriber concerned.

17                   “(B) EXCEPTIONS.—A satellite carrier  
18 may use such facilities to collect such informa-  
19 tion in order to—

20                   “(i) obtain information necessary to  
21 render a satellite service or other service  
22 provided by the satellite carrier to the sub-  
23 scriber; or

24                   “(ii) detect unauthorized reception of  
25 satellite communications.

1 “(4) DISCLOSURE.—

2 “(A) CONSENT TO DISCLOSURE.—Except  
3 as provided in subparagraph (B), a satellite  
4 carrier shall not disclose personally identifiable  
5 information concerning any subscriber without  
6 the prior written or electronic consent of the  
7 subscriber concerned and shall take such ac-  
8 tions as are necessary to prevent unauthorized  
9 access to such information by a person other  
10 than the subscriber or satellite carrier.

11 “(B) EXCEPTIONS.—A satellite carrier  
12 may disclose such information if the disclosure  
13 is—

14 “(i) necessary to render, or conduct a  
15 legitimate business activity related to, a  
16 satellite service or other service provided  
17 by the satellite carrier to the subscriber;

18 “(ii) subject to paragraph (9), made  
19 pursuant to a court order authorizing such  
20 disclosure, if the subscriber is notified of  
21 such order by the person to whom the  
22 order is directed;

23 “(iii) a disclosure of the names and  
24 addresses of subscribers to any satellite  
25 service or other service, if—

1 “(I) the satellite carrier has pro-  
2 vided the subscriber the opportunity  
3 to prohibit or limit such disclosure;  
4 and

5 “(II) the disclosure does not re-  
6 veal, directly or indirectly, the—

7 “(aa) extent of any viewing  
8 or other use by the subscriber of  
9 a satellite service or other service  
10 provided by the satellite carrier;  
11 or

12 “(bb) the nature of any  
13 transaction made by the sub-  
14 scriber over any facilities used by  
15 the satellite carrier; or

16 “(iv) to a government entity as au-  
17 thorized under chapters 119, 121, or 206  
18 of title 18, United States Code, except that  
19 such disclosure shall not include records  
20 revealing satellite subscriber selection of  
21 video programming from a satellite carrier.

22 “(5) ACCESS BY SUBSCRIBER.—A satellite sub-  
23 scriber shall be provided access to all personally  
24 identifiable information regarding that subscriber  
25 which is collected and maintained by a satellite car-

1 rier. Such information shall be made available to the  
2 subscriber at reasonable times and at a convenient  
3 place designated by such satellite carrier. A satellite  
4 subscriber shall be provided reasonable opportunity  
5 to correct any error in such information.

6 “(6) DESTRUCTION OF INFORMATION.—A sat-  
7 ellite carrier shall destroy personally identifiable in-  
8 formation if the information is no longer necessary  
9 for the purpose for which it was collected and there  
10 are no pending requests or orders for access to such  
11 information under paragraph (5) or pursuant to a  
12 court order.

13 “(7) PENALTIES.—Any person aggrieved by  
14 any act of a satellite carrier in violation of this sec-  
15 tion may bring a civil action in a United States dis-  
16 trict court. The court may award—

17 “(A) actual damages but not less than liq-  
18 uidated damages computed at the rate of \$100  
19 a day for each day of violation or \$1,000,  
20 whichever is higher;

21 “(B) punitive damages; and

22 “(C) reasonable attorneys’ fees and other  
23 litigation costs reasonably incurred.

1       The remedy provided by this subsection shall be in  
2       addition to any other lawful remedy available to a  
3       satellite subscriber.

4           “(8) RULE OF CONSTRUCTION.—Nothing in  
5       this title shall be construed to prohibit any State  
6       from enacting or enforcing laws consistent with this  
7       section for the protection of subscriber privacy.

8           “(9) COURT ORDERS.—Except as provided in  
9       paragraph (4)(B)(iv), a governmental entity may ob-  
10      tain personally identifiable information concerning a  
11      satellite subscriber pursuant to a court order only if,  
12      in the court proceeding relevant to such court  
13      order—

14           “(A) such entity offers clear and con-  
15      vincing evidence that the subject of the infor-  
16      mation is reasonably suspected of engaging in  
17      criminal activity and that the information  
18      sought would be material evidence in the case;  
19      and

20           “(B) the subject of the information is af-  
21      forded the opportunity to appear and contest  
22      such entity’s claim.”.

23      (b) EFFECTIVE DATE.—Section 338(i) of the Com-  
24      munications Act of 1934 (47 U.S.C. 338(i)) as amended

1 by subsection (a) of this section shall be effective 60 days  
2 after the date of enactment of this Act.

3 **SEC. 207. RECIPROCAL BARGAINING OBLIGATIONS.**

4 (a) AMENDMENTS.—Section 325(b)(3)(C) of the  
5 Communications Act of 1934 (47 U.S.C. 325(b)(3)(C)) is  
6 amended—

7 (1) by striking “Within 45 days” and all that  
8 follows through “1999, the” and inserting “The”;

9 (2) by striking the second sentence;

10 (3) by striking “and” at the end of clause (i);

11 (4) in clause (ii)—

12 (A) by striking “January 1, 2006” and in-  
13 serting “January 1, 2010”; and

14 (B) by striking the period at the end and  
15 inserting “; and”; and

16 (5) by adding at the end the following new  
17 clauses:

18 “(iii) until January 1, 2010, prohibit  
19 a multichannel video programming dis-  
20 tributor from failing to negotiate in good  
21 faith for retransmission consent under this  
22 section, and it shall not be a failure to ne-  
23 gotiate in good faith if the distributor en-  
24 ters into retransmission consent agree-  
25 ments containing different terms and con-



1                   ditions, including price terms, with dif-  
2                   ferent broadcast stations if such different  
3                   terms and conditions are based on com-  
4                   petitive marketplace considerations.”.

5           (b) DEADLINE.—The Federal Communications Com-  
6 mission shall prescribe regulations to implement the  
7 amendments made by subsection (a)(5) within 180 days  
8 after the date of enactment of this Act.

9   **SEC. 208. UNSERVED DIGITAL CUSTOMERS.**

10          (a) INQUIRY REQUIRED.—Consistent with the digital  
11 television service rules of the Federal Communications  
12 Commission in effect on the date of enactment of this Act,  
13 and the propagation prediction models derived from Bul-  
14 letin No. 69 of the Commission’s Office of Engineering  
15 and Technology, the Commission shall initiate an inquiry  
16 to recommend the appropriate methodologies for deter-  
17 mining which consumers are in locations where the con-  
18 sumer will be unable, on and after the date on which ana-  
19 log television services are discontinued pursuant to the  
20 provisions of section 309(j)(14) of the Communications  
21 Act of 1934 (47 U.S.C. 309(j)(14)), to receive broadcast  
22 digital television service signals that are transmitted from  
23 a station’s permanent digital television channel that are  
24 of sufficient intensity to be able to receive and display dig-  
25 ital television service using receiving terrestrial outdoor

1 antennas of reasonable cost and ease of installation. Such  
2 methodologies shall be based on the current field strength  
3 requirements for digital television stations in section  
4 73.622(e)(1) of the Commission's regulations (47 CFR  
5 622(e)(1)).

6 (b) REPORT REQUIRED.—The Federal Communica-  
7 tions Commission shall submit a report on the results of  
8 the inquiry required by subsection (a) to the Committee  
9 on Energy and Commerce of the House of Representatives  
10 and the Committee on Commerce, Science, and Transpor-  
11 tation of the Senate not later than December 31, 2005.  
12 Such report shall include—

13 (1) a proposal, using the best engineering prac-  
14 tices for the broadcast television industry, for a pre-  
15 dictive methodology for determining both which con-  
16 sumers—

17 (A) receive a digital signal of sufficient in-  
18 tensity to be able to receive and display digital  
19 television service using receiving terrestrial out-  
20 door antennas of reasonable cost and ease of in-  
21 stallation; or

22 (B) will receive such a signal after a local  
23 station begins transmitting on its permanent  
24 digital television channel;

1           (2) an analysis of whether it is possible to iden-  
2       tify the areas of the country within which consumers  
3       will not, on and after the date on which analog tele-  
4       vision services are discontinued pursuant to the pro-  
5       visions of section 309(j)(14) of the Communications  
6       Act of 1934 (47 U.S.C. 309(j)(14)), be able to re-  
7       ceive a digital television signal of sufficient intensity  
8       to be able to receive and display digital television  
9       service using receiving terrestrial outdoor antennas  
10      of reasonable cost and ease of installation; and

11           (3) if possible, an identification, on a county-by-  
12      county or more localized basis, of such areas for  
13      each television network.

14   **SEC. 209. REDUCTION OF REQUIRED TESTS.**

15       Section 339(c)(4) of the Communications Act of 1934  
16   (47 U.S.C. 339(c)(4)) is amended by inserting after sub-  
17   paragraph (C) the following new subparagraphs:

18           “(D) REDUCTION OF VERIFICATION BUR-  
19       DENS.—Within one year after the date of enact-  
20       ment of the Satellite Home Viewer Extension  
21       and Reauthorization Act of 2004, the Commis-  
22       sion shall by rule exempt from the verification  
23       requirements of subparagraph (A) any request  
24       for a test made by a subscriber to a satellite  
25       carrier—

1                   “(i) to whom the retransmission of  
2                   the signals of local broadcast stations is  
3                   available under section 338 from such car-  
4                   rier; or

5                   “(ii) for whom the predictive model  
6                   required by paragraph (3) predicts a signal  
7                   intensity that exceeds the signal intensity  
8                   standard in effect under section  
9                   119(d)(10)(A) of such title by such num-  
10                  ber of decibels as the Commission specifies  
11                  in such rule.

12                 “(E) EXCEPTION.—A subscriber in a local  
13                 market in which the satellite carrier does not  
14                 offer the signals of local broadcast stations  
15                 under section 338 and whose household is pre-  
16                 dicted to meet or exceed the number of decibels  
17                 specified by the Commission pursuant to sub-  
18                 paragraph (D)(ii), may, at his or her own ex-  
19                 pense, authorize a signal intensity test to be  
20                 performed pursuant to the procedures specified  
21                 by the Commission in section 73.686(d) of title  
22                 47, Code of Federal Regulations, by a tester  
23                 who is approved by the satellite carrier and by  
24                 each affected network station, or who has been  
25                 previously approved by the satellite carrier and

1 by each affected network station but not pre-  
2 viously disapproved. A tester may not be so dis-  
3 approved for a test after the tester has com-  
4 menced such test. The tester shall give 5 busi-  
5 ness days advance written notice to the satellite  
6 carrier and to the affected network station or  
7 stations. A signal intensity test conducted in ac-  
8 cordance with the preceding sentence shall be  
9 determinative of the signal strength received at  
10 that household for purposes of determining  
11 whether the household is capable of receiving a  
12 Grade B intensity signal.”.

Passed the House of Representatives October 6,  
2004.

Attest:

JEFF TRANDAHL,

*Clerk.*