

Calendar No. 268108TH CONGRESS
1ST SESSION**S. 1264****[Report No. 108-140]**

To reauthorize the Federal Communications Commission, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2003

Mr. MCCAIN (for himself and Mr. HOLLINGS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER 3, 2003

Reported by Mr. MCCAIN, with amendments

[Omit the part struck through and insert the part printed in italics]

A BILL

To reauthorize the Federal Communications Commission,
and for other purposes.

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

1 **SECTION 1. SHORT TITLE; AMENDMENT OF COMMUNICA-**
2 **TIONS ACT OF 1934.**

3 (a) **SHORT TITLE.**—This Act may be cited as the
4 “FCC Reauthorization Act of 2003”.

5 (b) **AMENDMENT OF COMMUNICATIONS ACT.**—Ex-
6 cept as otherwise specifically provided, whenever in this
7 Act an amendment or repeal is expressed in terms of an
8 amendment to, or repeal of, a section or other provision
9 of law, the reference shall be considered to be made to
10 a section or other provision of the Communications Act
11 of 1934 (47 U.S.C. 151 et seq.).

12 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

13 (a) **IN GENERAL.**—Section 6 (47 U.S.C. 156) is
14 amended—

15 (1) by striking subsections (a), (b), and (c);

16 (2) by redesignating subsection (d) as sub-
17 section (c);

18 (3) by inserting “**REGULATORY FEES OFF-**
19 **SET.—**” before “Of” in subsection (c), as redesign-
20 nated; and

21 (4) by inserting before subsection (c), as redesi-
22 gnated, the following:

23 “(a) **IN GENERAL.**—There are authorized to be ap-
24 propriated for the administration of this Act by the Com-
25 mission \$281,289,000 for fiscal year 2004, \$299,500,000
26 for fiscal year 2005, \$318,982,000 for fiscal year 2006,

1 and \$334,931,000 ~~for fiscal year 2007~~, *for each of fiscal*
 2 *years 2007 and 2008*, to carry out this Act including
 3 amounts necessary for unreimbursed travel, together with
 4 such sums as may be necessary for increases resulting
 5 from adjustments in salary, pay, retirement, other em-
 6 ployee benefits required by law, and other nondis-
 7 cretionary costs, for each of such years.

8 “(b) STAFFING LEVELS.—The Commission may hire
 9 and maintain an adequate number of full time equivalent
 10 staff, to the extent of the amounts authorized by sub-
 11 section (a), necessary to carry out the Commission’s pow-
 12 ers and duties under this Act.”.

13 (b) DEPOSIT OF APPLICATION FEES.—Section 8(e)
 14 is amended to read as follows:

15 “(e) DEPOSIT OF COLLECTIONS.—Moneys received
 16 from fees established under this section shall be deposited
 17 as an offsetting collection in, and credited to, the account
 18 providing appropriations to carry out the functions of the
 19 Commission.”.

20 **SEC. 3. AUDITS AND INVESTIGATIONS ~~REVIEW OF E-RATE~~**
 21 **BENEFICIARY COMPLIANCE WITH PROGRAM**
 22 **REQUIREMENTS.**

23 (a) IN GENERAL.—The Federal Communications
 24 Commission shall conduct ~~an investigation~~ *a review* into
 25 the implementation, utilization, and Commission oversight

1 of activities authorized by section 254(h) of the Commu-
2 nications Act of 1934 (47 U.S.C. 254(h)) and the oper-
3 ations of the National Education Technology Funding
4 Corporation established by section 708 of the Tele-
5 communications Act of 1996 for each of fiscal years 2004
6 through 2007, with a particular emphasis on ~~determining~~
7 ~~the specific fraud or abuse of Federal funds that has oc-~~
8 ~~curred in connection with such activities or operations: de-~~
9 *termining whether any fraud or abuse of Federal funds has*
10 *occurred in connection with such activities or operations.*

11 (b) REPORTS.—The Commission shall transmit a re-
12 port, setting forth its finding, conclusions, and rec-
13 ommendations, of the results of its investigation for each
14 of fiscal years 2004 through 2007 to the Senate Com-
15 mittee on Commerce, Science, and Transportation and the
16 House of Representatives Committee on Energy and Com-
17 merce within 1 year after the date of enactment of this
18 Act.

19 (c) FUNDING.—Of the amounts authorized by section
20 6(a) of the Communications Act of 1934 (47 U.S.C.
21 156(a)), the Commission shall allocate such sums as may
22 be necessary for fiscal years 2004 through 2007 to be used
23 for audits and ~~investigations~~ *reviews* of compliance by
24 beneficiaries with the rules and regulations of the Uni-

1 versal Service Fund program under section 254(h), com-
 2 monly known as the “e-rate program”.

3 **SEC. 4. CLARIFICATION OF CONGRESSIONAL INTENT WITH**
 4 **RESPECT TO BIENNIAL REVIEW MODIFICA-**
 5 **TIONS; FREQUENCY OF REVIEW.**

6 (a) COMMISSION REVIEW OF OWNERSHIP RULES.—
 7 Section 202(h) of the Telecommunications Act of 1996 is
 8 amended to read as follows:

9 “(h) FURTHER COMMISSION REVIEW.—

10 “(1) IN GENERAL.—The Commission shall re-
 11 view its rules adopted pursuant to this section, and
 12 all of its ownership rules ~~quinquennially~~ *quadren-*
 13 *nially* (beginning with 2007), and shall determine
 14 whether—

15 “(A) any rule requires strengthening or
 16 broadening;

17 “(B) any rule requires limiting or nar-
 18 rowing;

19 “(C) any rule should be repealed; or

20 “(D) any rule should be retained.

21 “(2) CHANGE, REPEAL, OR RETAIN.—The Com-
 22 mission shall change, repeal, or retain such rules
 23 pursuant to its review under paragraph (1) as it de-
 24 termines to be in the public interest.”.

1 (b) OTHER REGULATORY REFORM REVIEWS.—Sec-
 2 tion 11 of the Communications Act of 1934 (47 U.S.C.
 3 161) is amended by adding at the end the following:

4 “(c) OWNERSHIP RULES.—Subsections (a) and (b)
 5 do not apply to ownership rules reviewable under section
 6 202(h) of the Telecommunications Act of 1996.”.

7 **SEC. 5. FCC ENFORCEMENT ENHANCEMENTS.**

8 (a) FORFEITURES IN CASES OF REBATES AND OFF-
 9 SETS.—

10 (1) BROADCAST AND MULTICHANNEL VIDEO
 11 PROVIDERS.—Section 503(b)(2)(A) (47 U.S.C.
 12 503(b)(2)(A)) is amended—

13 (A) by striking “operator, or” in clause (i)
 14 and inserting “operator or any other multi-
 15 channel video distributor, or”;

16 (B) by striking “\$25,000” and inserting
 17 “\$250,000”; and

18 (C) by striking “\$250,000” and inserting
 19 “\$2,500,000”.

20 (2) COMMON CARRIERS.—Section 503(b)(2)(B)
 21 (47 U.S.C. 503(b)(2)(B)) is amended—

22 (A) by striking “\$100,000” and inserting
 23 “\$1,000,000”; and

24 (B) by striking “\$1,000,000” and insert-
 25 ing “\$10,000,000”.

1 (3) OTHERS.—Section 503(b)(2)(C) (47 U.S.C.
2 503(b)(2)(C)) is amended—

3 (A) by striking “\$10,000” and inserting
4 “\$100,000”; and

5 (B) by striking “\$75,000” and inserting
6 “\$750,000”.

7 (4) STATUTE OF LIMITATIONS.—Section
8 503(b)(6) (47 U.S.C. 503(b)(6)) is amended—

9 (A) by striking “1 year” in subparagraph
10 (A)(i) and inserting “2 years”; and

11 (B) by striking “1 year” in subparagraph
12 (B) and inserting “2 years”.

13 (b) FORFEITURES OF COMMUNICATIONS DEVICES.—
14 Section 510 (47 U.S.C. 510) is amended by inserting “and
15 any equipment used to create malicious interference in vio-
16 lation of section 333,” after “302,”.

17 ~~(e) LIABILITY OF CARRIERS FOR DAMAGES.—Section~~
18 ~~206 (47 U.S.C. 206) is amended to read as follows:~~

19 ~~“SEC. 206. LIABILITY OF CARRIERS FOR DAMAGES.~~

20 ~~“A common carrier that does, or causes or permits~~
21 ~~to be done, any act, matter, or thing prohibited or declared~~
22 ~~to be unlawful in this Act, or in any rule, regulation, or~~
23 ~~order issued by the Commission, or that fails to do any~~
24 ~~act, matter, or thing required to be done by this Act, or~~
25 ~~by any rule, regulation, or order of the Commission is lia-~~

1 ble to any person injured by such act or failure for the
 2 full amount of damages sustained in consequence of such
 3 act or failure, together with a reasonable attorney's fee.

4 The amount of the attorney's fee shall be—

5 “(1) fixed by the court in every case of recovery
 6 in a judicial proceeding; or

7 “(2) fixed by the Commission in every case of
 8 recovery in a Commission proceeding.”.

9 (d) VIOLATIONS OF REGULATIONS, RULES, AND OR-
 10 DERS.—Section 208 (47 U.S.C. 208) is amended by in-
 11 serting “or of any rule, regulation, or order of the Com-
 12 mission,” after “thereof.”.

13 **SEC. 6. APPLICATION OF COMMUNICATIONS ACT WITH**
 14 **BANKRUPTCY AND SIMILAR LAWS.**

15 (a) *IN GENERAL*.—Section 4 (47 U.S.C. 154) is
 16 amended by adding at the end the following:

17 “(p) APPLICATION WITH BANKRUPTCY LAWS.—

18 “(1) *IN GENERAL*.—The bankruptcy laws shall
 19 not be applied—

20 “(A) to avoid, discharge, stay, or set-off
 21 any pre-petition debt obligation to the United
 22 States arising from an auction under this Act,

23 “(B) to stay the payment obligations of the
 24 debtor to the United States if such payments

1 were a condition of the grant or retention of a
2 license under this Act, or

3 “(C) to prevent the automatic cancellation
4 of licenses for failure to comply with any mone-
5 etary or non-monetary condition for holding any
6 license issued by the Commission, including
7 automatic cancellation of licenses for failure to
8 pay a monetary obligation of the debtor to the
9 United States when due under an installment
10 payment plan arising from an auction under
11 this Act,

12 except that, upon cancellation of a license issued by
13 the Commission, the United States shall have an al-
14 lowed unsecured claim for any outstanding debt to
15 the United States with respect to such canceled li-
16 censes, and that unsecured debt may be recovered by
17 the United States under its rights as a creditor
18 under title 11, United States Code, or other applica-
19 ble law.

20 “(2) DEBTOR TO HAVE NO INTEREST IN PRO-
21 CEEDS OF AUCTION.—A debtor in a proceeding
22 under the bankruptcy laws shall have no right or in-
23 terest in any portion of the proceeds from an auction
24 of any license reclaimed by the Commission for fail-
25 ure to pay a monetary obligation of the debtor to the

1 United States in connection with the grant or reten-
 2 tion of a license under this Act.

3 “(3) SECURITY INTERESTS.—Notwithstanding
 4 any other provision of law, the Commission may—

5 “(A) establish rules and procedures gov-
 6 erning security interests in licenses, or the pro-
 7 ceeds of the sale of licenses, issued by the Com-
 8 mission; and

9 “(B) establish an office within the Office
 10 of Secretary for the recording and perfection of
 11 such security interests without regard to other-
 12 wise applicable State law.

13 “(4) BANKRUPTCY LAWS DEFINED.—In this
 14 subsection, the term ‘bankruptcy laws’ means title
 15 11, United States Code, or any otherwise applicable
 16 Federal or State law regarding insolvencies or re-
 17 ceiverships, including any Federal law enacted or
 18 amended after the date of enactment of the FCC
 19 Reauthorization Act of 2003 not expressly in deroga-
 20 tion of this subsection.”.

21 (b) EFFECTIVE DATE.—The amendment made by
 22 subsection (a) shall ~~apply to cases and proceedings com-~~
 23 ~~menced on or after the date of enactment of this Act. not~~
 24 *apply to cases in bankruptcy if the petition for bankruptcy*
 25 *was filed on or before June 26, 2003.*

1 **SEC. 7. BAN ON REIMBURSED TRAVEL EXPENSES.**

2 Section 4(g)(2) (47 U.S.C. 154(g)(2)) is amended to
3 read as follows:

4 “(2) Notwithstanding section 1353 of title 31, United
5 States Code, section 4111 of title 5, United States Code,
6 or any other provision of law in pari materia, no Commis-
7 sioner or employee of the Commission may accept, nor
8 may the Commission accept, payment or reimbursement
9 from the nongovernmental sponsor (or any affiliated orga-
10 nization) of any convention, conference, or meeting for ex-
11 penses for travel, subsistence, or related expenses incurred
12 by a commissioner or employee of the Commission for the
13 purpose of enabling that commissioner or employee to at-
14 tend and participate in any such convention, conference,
15 or meeting. The Commission may establish a de minimus
16 level of payment or value to which the preceding sentence
17 does not apply.”.

18 **SEC. 8. APPLICATION OF ONE-YEAR RESTRICTIONS TO CER-**
19 **TAIN POSITIONS.**

20 For purposes of section 207 of title 18, United States
21 Code, an individual serving in any of the following posi-
22 ~~tions~~ *positions, or in any successor position*, at the Federal
23 Communications Commission is deemed to be a person de-
24 scribed in section 207(c)(2)(A)(ii) of that title, regardless
25 of the individual’s rate of basic pay:

1 (1) Chief, Office of Engineering and Tech-
2 nology.

3 (2) Director, Office of Legislative Affairs.

4 (3) Inspector General, Office of Inspector Gen-
5 eral.

6 (4) Managing Director, Office of Managing Di-
7 rector.

8 (5) General Counsel, Office of General Counsel.

9 (6) Chief, Office of Strategic Planning and Pol-
10 icy Analysis.

11 (7) Chief, Consumer and Governmental Affairs
12 Bureau.

13 (8) Chief, Enforcement Bureau.

14 (9) Chief, International Bureau.

15 (10) Chief, Media Bureau.

16 (11) Chief, Wireline Competition Bureau.

17 (12) Chief, Wireless Telecommunications Bu-
18 reau.

19 (13) *Any position for which the individual was*
20 *appointed under section 4(f)(2) of the Communica-*
21 *tions Act of 1934 (47 U.S.C. 4(f)(2)).*

22 **SEC. 9. VIDEO DESCRIPTION RULES AUTHORITY.**

23 (a) *IN GENERAL.*—Notwithstanding the decision of
24 the United States Court of Appeals for the District of Co-
25 lumbia Circuit in Motion Picture Association of America,

1 Inc., et al., v. Federal Communications Commission, et al.
2 (309 F. 3d 796, November 8, 2002), the Federal Commu-
3 nications Commission—

4 (1) shall, within 90 days after the date of en-
5 actment of this Act, reinstate its video description
6 rules contained in the report and order identified as
7 Implementation of Video Description of Video Pro-
8 gramming, Report and Order, 15 F.C.C.R. 15,230
9 (2000); ~~and~~

10 (2) may amend, repeal, or otherwise modify
11 such ~~rules~~; *rules; and*

12 (3) *shall initiate a proceeding within 180 days*
13 *after the date of enactment of this Act to consider*
14 *whether it is economically and technically feasible*
15 *and consistent with the public interest to include “ac-*
16 *cessible information” in its video description rules.*

17 (b) *ACCESSIBLE INFORMATION DEFINED.—In this sec-*
18 *tion, the term “accessible information” may include written*
19 *information displayed on television screens during regular*
20 *programming, hazardous warnings and other emergency*
21 *information, local and national news bulletins, and any*
22 *other information the Commission deems appropriate.*

1 **SEC. 10. POLITICAL BROADCASTING REGULATIONS REVIEW.**

2 (a) *IN GENERAL.*—By no later than August 1, 2004,
3 the Federal Communications Commission shall complete
4 rulemakings to—

5 (1) provide specific guidance to affected parties
6 concerning what the Commission will consider to con-
7 stitute an exercise of reasonable diligence in compli-
8 ance with its regulations set forth at 47 C.F.R.
9 73.1212(b) and 47 C.F.R. 1615(b) with respect to po-
10 litical matter and issue advertising described in its
11 regulations set forth at 47 C.F.R. 73.1212(d) and (e)
12 (with respect to broadcast stations) and at 47 C.F.R.
13 76.1615(c) and (d) (with respect to cable television
14 system operators); and

15 (2) establish procedures for the prompt filing,
16 consideration, and resolution of complaints per-
17 taining to violations of its regulations concerning po-
18 litical matter and issue advertising, and of appeals
19 therefrom, including the following regulations per-
20 taining to such advertising:

21 (A) *Sponsorship identification* (47 C.F.R.
22 73.1212(a) through (e)).

23 (B) *Legally qualified candidates for public*
24 *office* (47 C.F.R. 73.1940).

25 (C) *Equal opportunities* (47 C.F.R.
26 73.1941).

1 (D) Candidate rates (47 C.F.R. 73.1942).

2 (E) Political file (47 C.F.R. 73.1943).

3 (F) Reasonable access (47 C.F.R. 73.1944).

4 (G) Origination cablecasts by legally quali-
5 fied candidates for public office and equal oppor-
6 tunities (47 C.F.R. 76.205).

7 (H) Candidate rates (47 C.F.R. 76.206).

8 (I) Sponsorship identification (47 C.F.R.
9 76.1615).

10 (J) Political file (47 C.F.R. 76.1701).

11 (K) Public interest obligations (47 C.F.R.
12 25.701(b)).

13 **SEC. 11. SPECIAL RULES FOR INDECENT BROADCASTING.**

14 Section 503 of the Communications Act of 1934 (47
15 U.S.C. 503) is amended by adding at the end the following:

16 “(c) **SPECIAL RULES FOR BROADCASTING OBSCENE**
17 **OR INDECENT MATTER.**—

18 “(1) **MULTIPLE VIOLATIONS.**—If the violation of
19 section 1464 of title 18, United States Code, involves
20 the broadcast of obscene or indecent matter from more
21 than 1 individual during the same program, then the
22 broadcast of such matter from each individual shall
23 be considered a separate violation.

24 “(2) **REVOCATION PROCEEDING TO BE COM-**
25 **MENCED.**—If the Commission has reason to believe

1 that an entity described in subsection (b)(2)(A)(i) of
2 this section has violated section 1464 of title 18,
3 United States Code, then the Commission shall com-
4 mence a proceeding under section 312(a)(6) to revoke
5 the station license or construction permit of that enti-
6 ty and shall revoke such station license or construc-
7 tion permit unless the Commission determines that
8 such action would not be in the public interest.”.

9 **SEC. 12. PHASE-OUT OF UHF DISCOUNT.**

10 (a) *IN GENERAL.*—No Discount for Newly Acquired
11 Stations.—The attribution discount permitted for UHF tel-
12 evision stations pursuant to section 73.5555(e)(2) of the
13 Federal Communication Commission’s regulations (47
14 C.F.R. 73.3555(e)(2)) shall not apply to any UHF station
15 granted, transferred, or assigned after June 2, 2003, for the
16 purpose of calculating the aggregate national audience
17 reach of a party under section 73.3555(e)(1) of those regula-
18 tions (47 C.F.R. 73.3555(e)(1)).

19 (b) *SUNSET OF UHF DISCOUNT FOR EXISTING STA-*
20 *TIONS.*—Beginning on January 1, 2008, the attribution
21 discount permitted for UHF television stations pursuant to
22 section 73.5555(e)(2) of the Federal Communication’s regu-
23 lations (47 C.F.R. 73.3555(e)(2)) shall expire.

1 **SEC. 13. DIGITAL TRANSLATORS.**

2 *Section 336(f)(4) of the Communications Act of 1934*
3 *(47 U.S.C. 336(f)(4)) is amended by adding at the end*
4 *“Within 60 days after the date of enactment of the FCC*
5 *Reauthorization Act of 2003, the Commission shall initiate*
6 *a rulemaking implementing this section to authorize the op-*
7 *eration of digital television translators and digital on-chan-*
8 *nel repeaters.”.*

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