

109TH CONGRESS  
1ST SESSION

# H. R. 3146

To promote deployment of competitive video services and eliminate redundant and unnecessary regulation.

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IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2005

Mrs. BLACKBURN (for herself and Mr. WYNN) introduced the following bill;  
which was referred to the Committee on Energy and Commerce

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## A BILL

To promote deployment of competitive video services and  
eliminate redundant and unnecessary regulation.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Video Choice Act of  
5       2005”.

6       **SEC. 2. ESTABLISHMENT OF VIDEO CHOICE REGULATORY**  
7       **RELIEF.**

8       The Communications Act of 1934 (47 U.S.C. 151 et  
9       seq.) is amended by adding at the end the following new  
10      title:

1       **“TITLE VIII—VIDEO CHOICE**  
2               **REGULATORY RELIEF**

3   **“SEC. 801. DEFINITIONS.**

4       “(a) COMPETITIVE VIDEO SERVICES PROVIDER.—  
5 For purposes of this title, the term ‘competitive video serv-  
6 ices provider’ means any provider of video programming,  
7 interactive on-demand services, other programming serv-  
8 ices, or any other video services, who has, pursuant to any  
9 Federal, State, or local law, any right, permission, or au-  
10 thority to establish or use lines in or across public rights-  
11 of-way, which right, permission or authority does not rely  
12 on, and is independent of, any cable franchise obtained  
13 pursuant to section 621.

14       “(b) OTHER TERMS.—For the purposes of this title,  
15 any term used in this title that is defined by section 602  
16 has the meaning provided by that section.

17   **“SEC. 802. REGULATORY RELIEF.**

18       “(a) REDUNDANT FRANCHISES PROHIBITED.—Not-  
19 withstanding any other provision of this Act, no competi-  
20 tive video services provider may be required, whether pur-  
21 suant to section 621 or to any other provision of Federal,  
22 State, or local law, to obtain a franchise, in order to pro-  
23 vide any video programming, interactive on-demand serv-  
24 ices, other programming services, or any other video serv-  
25 ices in any geographic area if the provider has, pursuant

1 to any Federal, State, or local law, any right, permission,  
 2 or authority to establish lines in or across public rights-  
 3 of-way in such geographic area, which right, permission  
 4 or authority does not rely on, and is independent of, any  
 5 cable franchise obtained pursuant to section 621.

6 “(b) FEES.—

7 “(1) FEES PERMITTED.—Any competitive video  
 8 services provider may be subject to the payment of  
 9 fees to a local franchising authority, based on the  
 10 gross revenues of the provider within the jurisdiction  
 11 of such franchising authority, subject to the limita-  
 12 tions of paragraph (2).

13 “(2) LIMITS ON FEES.—In determining the fees  
 14 that may be required under paragraph (1)—

15 “(A) the rate at which fees are imposed  
 16 shall not exceed—

17 “(i) the rate at which franchise fees  
 18 are imposed on any cable operator pro-  
 19 viding cable service in the jurisdiction of  
 20 the franchising authority, as determined in  
 21 accordance with section 622 and any re-  
 22 lated regulations; or

23 “(ii) in any jurisdiction in which no  
 24 cable operator provides service, no more  
 25 than the rate at which franchise fees could

1 be imposed rate on a cable operator in ac-  
2 cordance with section 622 and any related  
3 regulations; and

4 “(B) the only revenues that shall be con-  
5 sidered are those attributable to services that  
6 would be considered in calculating franchise  
7 fees if the provider were deemed a cable oper-  
8 ator for purposes of section 622 and any re-  
9 lated regulations.

10 “(3) ITEMIZED BILLING PERMITTED.—The  
11 competitive video services provider may designate  
12 that portion of the end user’s bill attributable to the  
13 fee under this subsection as a separate item on the  
14 bill.

15 “(c) REGULATORY TREATMENT.—

16 “(1) OBLIGATIONS AND DUTIES.—Any competi-  
17 tive video services provider shall—

18 “(A) be subject to the retransmission con-  
19 sent provisions of section 325(b);

20 “(B) carry, within each local franchise  
21 area, any public, educational, or governmental  
22 use channels that are carried by cable operators  
23 within such franchise area, and, in any fran-  
24 chise area not served by a cable operator, pro-

1           vide reasonable public, educational or govern-  
2           mental access facilities pursuant to section 611;

3           “(C) carry the signals of local commercial  
4           television stations as required by section 614;

5           “(D) carry the signals of local noncommer-  
6           cial educational television stations as required  
7           by section 615;

8           “(E) not deny services to any group of po-  
9           tential residential subscribers because of the in-  
10          come of the residents of the local area in which  
11          such group resides;

12          “(F) be entitled to the benefits and protec-  
13          tion of section 628;

14          “(G) protect the personally identifiable in-  
15          formation of its subscribers in the same manner  
16          as is required of cable operators with respect to  
17          subscribers to cable services under section 631;

18          “(H) comply with any consumer protection  
19          and customer service requirements promulgated  
20          by the Commission pursuant to section 632;

21          “(I) be entitled to the benefits and protec-  
22          tion of section 633;

23          “(J) be subject to the requirements of sec-  
24          tion 641;

1           “(K) be subject to the prohibition on buy  
2           outs of or by the incumbent cable operator  
3           under section 652; and

4           “(L) not be subject to any other provisions  
5           of title VI of this Act.

6           “(2) DETERMINATIONS OF LOCAL SIGNALS.—

7           For purposes of complying with paragraphs (1) (C)  
8           and (D), a competitive video service provider shall  
9           treat as local television stations with respect to a  
10          customer located within the jurisdiction of any fran-  
11          chising authority the same stations that are treated  
12          as local television stations for a cable system located  
13          within such jurisdiction.

14          “(d) OTHER REGULATION PROHIBITED.—Except to  
15          the extent expressly provided in this title, neither the Com-  
16          mission nor any State or political subdivision thereof may  
17          regulate the rates, charges, terms, or conditions for, entry  
18          into, exit from, deployment or provision of, or any other  
19          aspect of the services provided by a competitive video serv-  
20          ices provider.

21          “(e) STATE AND LOCAL GOVERNMENT AUTHOR-  
22          ITY.—Except as provided in subsection (a), nothing in this  
23          section affects the authority of a State or local government  
24          to manage the public rights-of-way.”.

1 **SEC. 3. REGULATION OF COMMON CARRIERS.**

2 Section 651(a)(3) of the Communications Act of  
3 1934 (47 U.S.C. 571(a)(3)) is amended—

4 (1) by striking “or” at the end of subparagraph  
5 (A);

6 (2) by striking the period at the end of sub-  
7 paragraph (B) and inserting “; or”; and

8 (3) by adding at the end the following new sub-  
9 paragraph:

10 “(C) if such carrier is a competitive video  
11 services provider providing video programming  
12 pursuant to title VIII of this Act, such carrier  
13 shall not be subject to the requirements of this  
14 title except as provided in title VIII.”.

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