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109TH CONGRESS
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IN THE SENATE OF THE UNITED STATES

JUNE 12, 2006

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

SEPTEMBER 29, 2006

Reported by Mr. STEVENS, with an amendment

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

AN ACTTo promote the deployment of broadband networks and
services.

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; TABLE OF CONTENTS.**

4 (a) ~~SHORT TITLE.~~—This Act may be cited as the
 5 “~~Communications Opportunity, Promotion, and Enhance-~~
 6 ~~ment Act of 2006~~”.

7 (b) ~~TABLE OF CONTENTS.~~—

~~Sec. 1. Short title; table of contents.~~

TITLE I—NATIONAL CABLE FRANCHISING

Sec. 101. National cable franchising.
 Sec. 102. Definitions.
 Sec. 103. Monitoring and reporting.
 Sec. 104. Rule of construction.

TITLE II—ENFORCEMENT OF BROADBAND POLICY STATEMENT

Sec. 201. Enforcement of broadband policy statement.

TITLE III—VOIP/911

Sec. 301. Emergency services; interconnection.
 Sec. 302. Compensation and contribution.

TITLE IV—MUNICIPAL PROVISION OF SERVICES

Sec. 401. Government authority to provide services.

TITLE V—BROADBAND SERVICE

Sec. 501. Stand-alone broadband service.
 Sec. 502. Study of interference potential of broadband over power line systems.

TITLE VI—SEAMLESS MOBILITY

Sec. 601. Development of seamless mobility.

1 **TITLE I—NATIONAL CABLE** 2 **FRANCHISING**

3 **SEC. 101. NATIONAL CABLE FRANCHISING.**

4 (a) AMENDMENT.—Part III of title VI of the Com-
 5 munications Act of 1934 (47 U.S.C. 541 et seq.) is
 6 amended by adding at the end the following new section:

7 **“SEC. 630. NATIONAL CABLE FRANCHISING.**

8 “(a) NATIONAL FRANCHISES.—

9 “(1) ELECTION.—A person or group that is eli-
 10 gible under subsection (d) may elect to obtain a na-
 11 tional franchise under this section as authority to
 12 provide cable service in a franchise area in lieu of
 13 any other authority under Federal, State, or local

1 law to provide cable service in such franchise area.
2 A person or group may not provide cable service
3 under the authority of this section in a franchise
4 area unless such person or group has a franchise
5 under this section that is effective with respect to
6 such franchise area. A franchising authority may not
7 require any person or group that has a national
8 franchise under this section in effect with respect to
9 a franchise area to obtain a franchise under section
10 621 or any other law to provide cable service in such
11 franchise area.

12 “(2) CERTIFICATION.—To obtain a national
13 franchise under this section as authority to provide
14 cable service in a franchise area, a person or group
15 shall—

16 “(A) file with the Commission a certifi-
17 cation for a national franchise containing the
18 information required by paragraph (3) with re-
19 spect to such franchise area; if such person or
20 group has not previously obtained a national
21 franchise; or

22 “(B) file with the Commission a subse-
23 quent certification for additional franchise areas
24 containing the information required by para-
25 graph (3) with respect to such additional fran-

1 chise areas, if such person or group has pre-
2 viously obtained a national franchise.

3 ~~“(3) CONTENTS OF CERTIFICATION.—~~Such cer-
4 tification shall be in such form as the Commission
5 shall require by regulation and shall contain—

6 ~~“(A) the name under which such person or~~
7 group is offering or intends to offer cable serv-
8 ice;

9 ~~“(B) the names and business addresses of~~
10 the directors and principal executive officers; or
11 the persons performing similar functions; of
12 such person or group;

13 ~~“(C) the location of such person or group’s~~
14 principal business office;

15 ~~“(D) the name, business address, elec-~~
16 tronic mail address, and telephone and fax
17 number of such person or group’s local agent;

18 ~~“(E) a declaration by such person or group~~
19 that such person or group is eligible under sub-
20 section (d) to obtain a national franchise under
21 this section;

22 ~~“(F) an identification of each franchise~~
23 area in which such person or group seeks au-
24 thority to offer cable service pursuant to such
25 certification, which franchise area shall be—

1 “(i) the entirety of a franchise area in
2 which a cable operator is, on the date of
3 the filing of such certification, authorized
4 to provide cable service under section 621
5 or any other law (including this section);
6 or

7 “(ii) a geographic area that covers the
8 entirety of the jurisdiction of a unit of gen-
9 eral local government, except that—

10 “(I) if the geographic area over-
11 laps with a franchise area in which a
12 cable operator is, on such date, au-
13 thorized to provide cable service under
14 section 621 or any other law, the geo-
15 graphic area identified in the certifi-
16 cation under this clause as a franchise
17 area shall not include the overlapping
18 area; and

19 “(II) if such geographic area in-
20 cludes areas that are, respectively,
21 within the jurisdiction of different
22 franchising authorities, the certifi-
23 cation shall specify each such area as
24 a separate franchise area;

1 “(G) a declaration that such person or
2 group transmitted, or will transmit on the day
3 of filing such declaration, a copy of such certifi-
4 cation to the franchising authority for each
5 franchise area for which such person or group
6 is filing a certification for authority to offer
7 cable service under this section;

8 “(H) a declaration by the person or group
9 that the person or group will comply with the
10 rights-of-way requirements of the franchising
11 authority in accordance with subsection (f); and

12 “(I) a declaration by the person or group
13 that—

14 “(i) the person or group will comply
15 with all Commission consumer protection
16 and customer service rules under section
17 632(b) (including the rules adopted under
18 section 632(b) pursuant to subsection (g)
19 of this section); and

20 “(ii) the person or group agrees that
21 such standards may be enforced by the
22 Commission or by the franchising author-
23 ity in accordance with subsection (g) of
24 this section.

1 “(4) LOCAL NOTIFICATION; PRESERVATION OF
2 OPPORTUNITY TO NEGOTIATE.—

3 “(A) COPY TO FRANCHISING AUTHOR-
4 ITY.—On the day of filing any certification
5 under paragraph (2)(A) or (B) for a franchise
6 area, the person or group shall transmit a copy
7 of such certification to the franchising authority
8 for such area.

9 “(B) NEGOTIATED FRANCHISE AGREE-
10 MENTS PERMITTED.—Nothing in this section
11 shall prevent a person or group from negoti-
12 ating a franchise agreement or any other au-
13 thority to provide cable service in a franchise
14 area under section 621 or any other law. Upon
15 entry into any such negotiated franchise agree-
16 ment, such negotiated franchise agreement shall
17 apply in lieu of any national franchise held by
18 that person or group under this section for such
19 franchise area.

20 “(5) UPDATING OF CERTIFICATIONS.—A person
21 or group with a certification under this section shall
22 update any information contained in such certifi-
23 cation that is no longer accurate and correct.

24 “(6) PUBLIC AVAILABILITY OF CERTIFI-
25 CATIONS.—The Commission shall provide for the

1 public availability on the Commission's Internet
 2 website or other electronic facility of all current cer-
 3 tifications filed under this section.

4 “(b) EFFECTIVENESS; DURATION.—

5 “(1) EFFECTIVENESS.—A national franchise
 6 under this section shall be effective with respect to
 7 any franchise area 30 days after the date of the fil-
 8 ing of a completed certification under subsection
 9 (a)(2)(A) or (B) that applies to such franchise area.

10 “(2) DURATION.—

11 “(A) IN GENERAL.—A franchise under this
 12 section that applies to a franchise area shall be
 13 effective for that franchise area for a term of
 14 10 years.

15 “(B) RENEWAL.—A franchise under this
 16 section for a franchise area shall be renewed
 17 automatically upon expiration of the 10-year
 18 period described in subparagraph (A).

19 “(C) PUBLIC HEARING.—At the request of
 20 a franchising authority in a franchise area, a
 21 cable operator authorized under this section to
 22 provide cable service in such franchise area
 23 shall, within the last year of the 10-year period
 24 applicable under subparagraph (A) to the cable
 25 operator's franchise for such franchise area,

1 participate in a public hearing on the cable op-
2 erator's performance in the franchise area, in-
3 cluding the cable operator's compliance with the
4 requirements of this title. The hearing shall af-
5 ford the public the opportunity to participate
6 for the purpose of identifying cable-related com-
7 munity needs and interests and assessing the
8 operator's performance. The cable operator
9 shall provide notice to its subscribers of the
10 hearing at least 30 days prior to the hearing.
11 The Commission shall by rule specify the meth-
12 ods by which a franchising authority shall no-
13 tify a cable operator of the hearing for which its
14 participation is required under this subpara-
15 graph.

16 “(D) REVOCATION.—A franchise under
17 this section for a franchise area may be revoked
18 by the Commission—

19 “(i) for willful or repeated violation of
20 any Federal or State law, or any Commis-
21 sion regulation, relating to the provision of
22 cable service in such franchise area;

23 “(ii) for false statements or material
24 omissions knowingly made in any filing

1 with the Commission relating to the provi-
2 sion of cable service in such franchise area;

3 “(iii) for willful or repeated violation
4 of the rights-of-way management laws or
5 regulations of any franchising authority in
6 such franchise area relating to the provi-
7 sion of cable service in such franchise area;
8 or

9 “(iv) for willful or repeated violation
10 of the antidiscrimination requirement of
11 subsection (h) with respect to such fran-
12 chise area.

13 “(E) NOTICE.—The Commission shall
14 send a notice of such revocation to each fran-
15 chising authority with jurisdiction over the
16 franchise areas for which the cable operator’s
17 franchise was revoked.

18 “(F) REINSTATEMENT.—After a revoca-
19 tion under subparagraph (D) of a franchise for
20 a franchise area of any person or group ; the
21 Commission may refuse to accept for filing a
22 new certification for authority of such person or
23 group to provide cable service under this section
24 in such franchise area until the Commission de-

1 termines that the basis of such revocation has
2 been remedied.

3 ~~“(G) RETURN TO LOCAL FRANCHISING IF~~
4 ~~CABLE COMPETITION CEASES.—~~

5 ~~“(i) If only one cable operator is pro-~~
6 ~~viding cable service in a franchise area,~~
7 ~~and that cable operator obtained a national~~
8 ~~franchise for such franchise area under~~
9 ~~subsection (d)(2), the franchising authority~~
10 ~~for such franchise area may file a petition~~
11 ~~with the Commission requesting that the~~
12 ~~Commission terminate such national fran-~~
13 ~~chise for such franchise area.~~

14 ~~“(ii) The Commission shall provide~~
15 ~~public notice and opportunity to comment~~
16 ~~on such petition. If it finds that the re-~~
17 ~~quirements of clause (i) are satisfied, the~~
18 ~~Commission shall issue an order granting~~
19 ~~such petition. Such order shall take effect~~
20 ~~one year from the date of such grant, if no~~
21 ~~other cable operator offers cable service in~~
22 ~~such area during that one year. If another~~
23 ~~cable operator does offer cable service in~~
24 ~~such franchise area during that one year,~~

1 the Commission shall rescind such order
2 and dismiss such petition.

3 “(iii) A cable operator whose national
4 franchise is terminated for such franchise
5 area under this subparagraph may obtain
6 new authority to provide cable service in
7 such franchise area under this section, sec-
8 tion 621, or any other law, if and when eli-
9 gible.

10 “(c) REQUIREMENTS OF NATIONAL FRANCHISE.—A
11 national franchise shall contain the following require-
12 ments:

13 “(1) FRANCHISE FEE.—A cable operator au-
14 thorized under this section to provide cable service
15 in a franchise area shall pay to the franchising au-
16 thority in such franchise area a franchise fee of up
17 to 5 percent (as determined by the franchising au-
18 thority) of such cable operator’s gross revenues from
19 the provision of cable service under this section in
20 such franchise area. Such payment shall be assessed
21 and collected in a manner consistent with section
22 622 and the definitions of gross revenues and fran-
23 chise fee in this section.

24 “(2) PEG/I-NET REQUIREMENTS.—A cable op-
25 erator authorized under this section to provide cable

1 service in a franchise area shall comply with the re-
 2 quirements of subsection (e).

3 ~~“(3) RIGHTS-OF-WAY.—A cable operator au-~~
 4 ~~thorized under this section to provide cable service~~
 5 ~~in a franchise area shall comply with the rights-of-~~
 6 ~~way requirements of the franchising authority under~~
 7 ~~subsection (f).~~

8 ~~“(4) CONSUMER PROTECTION AND CUSTOMER~~
 9 ~~SERVICE STANDARDS.—A cable operator authorized~~
 10 ~~under this section to provide cable service in a fran-~~
 11 ~~chise area shall comply with the consumer protection~~
 12 ~~and customer service standards established by the~~
 13 ~~Commission under section 632(b).~~

14 ~~“(5) CHILD PORNOGRAPHY.—A cable operator~~
 15 ~~authorized under this section to provide cable service~~
 16 ~~in a franchise area shall comply with the regulations~~
 17 ~~on child pornography promulgated pursuant to sub-~~
 18 ~~section (i).~~

19 ~~“(d) ELIGIBILITY FOR NATIONAL FRANCHISES.—~~
 20 ~~The following persons or groups are eligible to obtain a~~
 21 ~~national franchise under this section:~~

22 ~~“(1) COMMENCEMENT OF SERVICE AFTER EN-~~
 23 ~~ACTMENT.—A person or group that is not providing~~
 24 ~~cable service in a franchise area on the date of en-~~
 25 ~~actment of this section under section 621 or any~~

1 other law may obtain a national franchise under this
2 section to provide cable service in such franchise
3 area.

4 “(2) EXISTING PROVIDERS OF CABLE SERV-
5 ICE.—A person or group that is providing cable
6 service in a franchise area on the date of enactment
7 of this section under section 621 or any other law
8 may obtain a franchise under this section to provide
9 cable service in such franchise area if, on the date
10 that the national franchise becomes effective, an-
11 other person or group is providing cable service
12 under this section, section 621, or any other law in
13 such franchise area.

14 “(e) PUBLIC, EDUCATIONAL, AND GOVERNMENTAL
15 USE.—

16 “(1) IN GENERAL.—Subject to paragraph (3), a
17 cable operator with a national franchise for a fran-
18 chise area under this section shall provide channel
19 capacity for public, educational, and governmental
20 use that is not less than the channel capacity re-
21 quired of the cable operator with the most sub-
22 scribers in such franchise area on the effective date
23 of such national franchise. If there is no other cable
24 operator in such franchise area on the effective date
25 of such national franchise, or there is no other cable

1 operator in such franchise area on such date that is
2 required to provide channel capacity for public, edu-
3 cational, and governmental use, the cable operator
4 shall provide the amount of channel capacity for
5 such use as determined by Commission rule.

6 ~~“(2) PEG AND I-NET FINANCIAL SUPPORT.—A~~
7 cable operator with a national franchise under this
8 section for a franchise area shall pay an amount
9 equal to 1 percent of the cable operator’s gross reve-
10 nues (as such term is defined in this section) in the
11 franchise area to the franchising authority for the
12 support of public, educational, and governmental use
13 and institutional networks (as such term is defined
14 in section 611(f)). Such payment shall be assessed
15 and collected in a manner consistent with section
16 622, including the authority of the cable operator to
17 designate that portion of a subscriber’s bill attrib-
18 utable to such payment. A cable operator that pro-
19 vided cable service in a franchise area on the date
20 of enactment of this section and that obtains a na-
21 tional franchise under this section shall continue to
22 provide any institutional network that it was re-
23 quired to provide on the day before its national fran-
24 chise became effective in such franchise area under
25 section 621 or any other law. Notwithstanding sec-

tion 621(b)(3)(D), a franchising authority may not require a cable operator franchised under this section to construct a new institutional network.

“(3) ADJUSTMENT.—Every 10 years after the commencement of a franchise under this section for a franchise area, a franchising authority may require a cable operator authorized under such franchise to increase the channel capacity designated for public, educational, or governmental use, and the channel capacity designated for such use on any institutional networks required under paragraph (2). Such increase shall not exceed the higher of—

“(A) one channel; or

“(B) 10 percent of the public, educational, or governmental channel capacity required of that operator prior to the increase.

“(4) TRANSMISSION AND PRODUCTION OF PROGRAMMING.—

“(A) A cable operator franchised under this section shall ensure that any public, educational, or governmental programming carried by the cable operator under this section within a franchise area is available to all of its subscribers in such franchise area.

1 “(B) The production of any programming
2 provided under this subsection shall be the re-
3 sponsibility of the franchising authority.

4 “(C) A cable operator franchised under
5 this section shall be responsible for the trans-
6 mission from the signal origination point (or
7 points) of the programming, or from the point
8 of interconnection with another cable operator
9 under subparagraph (D), to the cable operator’s
10 subscribers, of any public, educational, or gov-
11 ernmental programming produced by or for the
12 franchising authority and carried by the cable
13 operator pursuant to this section.

14 “(D) Unless two cable operators otherwise
15 agree to the terms for interconnection and cost
16 sharing, such cable operators shall, if at least
17 one of the operators is providing cable service
18 in the franchise area pursuant to a franchise
19 under this section, comply with regulations pre-
20 scribed by the Commission providing for—

21 “(i) the interconnection between two
22 cable operators in a franchise area for
23 transmission of public, educational, or gov-
24 ernmental programming, without material

1 deterioration in signal quality or
2 functionality; and

3 “(ii) the reasonable allocation of the
4 costs of such interconnection between such
5 cable operators.

6 “(E) A cable operator shall display the
7 program information for public, educational, or
8 governmental programming carried under this
9 subsection in any print or electronic program
10 guide in the same manner in which it displays
11 program information for other video program-
12 ming in the franchise area. The cable operator
13 shall not omit such public, educational, or gov-
14 ernmental programming from any navigational
15 device, guide, or menu containing other video
16 programming that is available to subscribers in
17 the franchise area.

18 ~~“(f) RIGHTS-OF-WAY.—~~

19 ~~“(1) AUTHORITY TO USE.—~~Any franchise under
20 this section for a franchise area shall be construed
21 to authorize the construction of a cable system over
22 public rights-of-way, and through easements, which
23 is within the area to be served by the cable system
24 and which have been dedicated for compatible uses;

1 except that in using such easements the cable oper-
2 ator shall ensure that—

3 “(A) the safety, functioning, and appear-
4 ance of the property and the convenience and
5 the safety of other persons not be adversely af-
6 fected by the installation or construction of fa-
7 cilities necessary for a cable system;

8 “(B) the cost of the installation, construc-
9 tion, operation, or removal of such facilities be
10 borne by the cable operator or subscriber, or a
11 combination of both; and

12 “(C) the owner of the property be justly
13 compensated by the cable operator for any dam-
14 ages caused by the installation, construction,
15 operation, or removal of such facilities by the
16 cable operator.

17 “(2) MANAGEMENT OF PUBLIC RIGHTS-OF-
18 WAY.—Nothing in this section affects the authority
19 of a State or local government (including a fran-
20 chising authority) over a person or group in their ca-
21 pacity as a cable operator with a franchise under
22 this section to manage, on a reasonable, competi-
23 tively neutral, and non-discriminatory basis, the pub-
24 lic rights-of-way, and easements that have been dedi-
25 cated for compatible uses. A State or local govern-

ment (including a franchising authority) may, on a reasonable, competitively neutral, and non-discriminatory basis—

“(A) impose charges for such management;

and

“(B) require compliance with such management, such charges, and paragraphs (1)(A), (B), and (C).

“(g) CONSUMER PROTECTION AND CUSTOMER SERVICE.—

“(1) NATIONAL STANDARDS.—Notwithstanding section 632(d), no State or local law (including any regulation) shall impose on a cable operator franchised under this section any consumer protection or customer service requirements other than consumer protection or customer service requirements of general applicability.

“(2) PROCEEDING.—Within 120 days after the date of enactment of this section, the Commission shall issue a report and order that updates for cable operators franchised under this section the national consumer protection and customer service rules under section 632(b), taking into consideration the national nature of a franchise under this section and the role of State and local governments in enforcing,

1 but not creating, consumer protection and customer
2 service standards for cable operators franchised
3 under this section.

4 “(3) REQUIREMENTS OF NEW RULES.—

5 “(A) Such rules shall, in addition to the
6 requirements of section 632(b), address, with
7 specificity, no less than the following consumer
8 protection and customer service issues:

9 “(i) Billing, billing disputes, and dis-
10 continuation of service, including when and
11 how any late fees may be assessed (but not
12 the amount of such fees).

13 “(ii) Loss of service or service quality.

14 “(iii) Changes in channel lineups or
15 other cable services and features.

16 “(iv) Availability of parental control
17 options.

18 “(B) The Commission’s revised consumer
19 protection rules shall provide for forfeiture pen-
20 alties, or customer rebates, refunds or credits,
21 or both, and shall establish forfeiture, rebate,
22 refund, and credit guidelines with respect to
23 violations of such rules. Such guidelines shall—

1 “(i) provide for increased forfeiture
2 penalties for repeated violations of the
3 standards in such rules; and

4 “(ii) establish procedures by which
5 any forfeiture penalty assessed by the
6 Commission under this subsection shall be
7 paid by the cable operator directly to the
8 franchising authority affected by the viola-
9 tion.

10 “(4) COMPLAINTS.—

11 “(A) IN GENERAL.—Any person may file a
12 complaint with respect to an alleged violation of
13 the Commission’s revised consumer protection
14 rules in a franchise area by a cable operator
15 franchised under this section—

16 “(i) with the franchising authority in
17 such area; or

18 “(ii) with the Commission.

19 “(B) LOCAL FRANCHISING AUTHORITY
20 PROCEDURE.—On its own motion or at the re-
21 quest of any person, a franchising authority for
22 a franchise area may—

23 “(i) initiate its own complaint pro-
24 ceeding with respect to such an alleged vio-
25 lation; or

1 “(ii) file a complaint with the Com-
 2 mission regarding such an alleged viola-
 3 tion.

4 “(C) TIMING.—The Commission or the
 5 franchising authority conducting a proceeding
 6 under this paragraph shall render a decision on
 7 any complaint filed under this paragraph within
 8 90 days of its filing.

9 ~~“(5) LOCAL FRANCHISING ORDERS.—~~

10 “(A) REQUIRING COMPLIANCE.—In a pro-
 11 ceeding commenced by a franchising authority,
 12 a franchising authority may issue an order re-
 13 quiring compliance with the Commission’s re-
 14 vised consumer protection rules, but a fran-
 15 chising authority may not create any new
 16 standard or regulation, or expand upon or mod-
 17 ify the Commission’s revised consumer protec-
 18 tion rules.

19 “(B) ACCESS TO RECORDS.—In such a
 20 proceeding, the franchising authority may issue
 21 an order requiring the filing of any data, docu-
 22 ments, or records (including any contract,
 23 agreement, or arrangement between the sub-
 24 scriber and the cable operator) that are directly
 25 related to the alleged violation.

1 ~~“(C) COST OF FRANCHISING AUTHORITY~~
 2 ~~ORDERS.—A franchising authority may charge~~
 3 ~~a cable operator franchised under this section a~~
 4 ~~nominal fee to cover the costs of issuing orders~~
 5 ~~under this paragraph.~~

6 ~~“(6) COMMISSION REMEDIES; APPEALS.—~~

7 ~~“(A) REMEDIES.—An order of a fran-~~
 8 ~~chising authority under this subsection shall be~~
 9 ~~enforced by the Commission under this Act if—~~

10 ~~“(i) the order is not appealed to the~~
 11 ~~Commission;~~

12 ~~“(ii) the Commission does not agree~~
 13 ~~to grant review during the 30-day period~~
 14 ~~described in subparagraph (B); or~~

15 ~~“(iii) the order is sustained on appeal~~
 16 ~~by the Commission.~~

17 ~~“(B) APPEALS.—Any party may file a no-~~
 18 ~~tice of appeal of an order of a franchising au-~~
 19 ~~thority under this subsection with the Commis-~~
 20 ~~sion, and shall transmit a copy of such notice~~
 21 ~~to the other parties to the franchising authority~~
 22 ~~proceeding. Such appeal shall be deemed denied~~
 23 ~~at the end of the 30-day period beginning on~~
 24 ~~the date of the filing unless the Commission~~

1 agrees within such period to grant review of the
2 appeal.

3 “(C) ~~TIMING.~~—After the filing of a notice
4 of appeal under subparagraph (B), if such no-
5 tice is not denied by operation of such subpara-
6 graph, the Commission shall render a decision
7 within 90 days of such filing.

8 “(7) ~~ANNUAL REPORT.~~—

9 “(A) ~~IN GENERAL.~~—Not later than 1 year
10 after the date of enactment of this section, and
11 annually thereafter, the Commission shall sub-
12 mit a report to the Committee on Energy and
13 Commerce of the House of Representatives and
14 the Committee on Commerce, Science, and
15 Transportation of the Senate on the implemen-
16 tation of this subsection, including the fol-
17 lowing:

18 “(i) The number of complaints filed
19 with franchising authorities under clause
20 (4)(A)(i).

21 “(ii) Any trends concerning com-
22 plaints, such as increases in the number of
23 particular types of complaints or in new
24 types of complaints.

1 ~~“(iii) The timeliness of the response~~
2 ~~of such franchising authorities and the re-~~
3 ~~sults of the complaints filed with such~~
4 ~~franchising authorities, if not appealed to~~
5 ~~the Commission.~~

6 ~~“(iv) The number of complaints filed~~
7 ~~with the Commission under clause~~
8 ~~(4)(A)(ii).~~

9 ~~“(v) The number of appeals filed with~~
10 ~~the Commission under paragraph (6)(B)~~
11 ~~and the number of such appeals which the~~
12 ~~Commission agreed to hear.~~

13 ~~“(vi) The timeliness of the Commis-~~
14 ~~sion’s responses to such complaints and~~
15 ~~appeals.~~

16 ~~“(vii) The results of such complaints~~
17 ~~and appeals filed with the Commission.~~

18 ~~“(B) SUBMISSION OF INFORMATION BY~~
19 ~~FRANCHISING AUTHORITIES.—The Commission~~
20 ~~may request franchising authorities to submit~~
21 ~~information about the complaints filed with the~~
22 ~~franchising authorities under subparagraph~~
23 ~~(4)(A)(i), including the number of such com-~~
24 ~~plaints and the timeliness of the response and~~
25 ~~the results of such complaints.~~

1 “(8) DEFINITION.—For purposes of this sub-
 2 section, the term ‘Commission’s revised consumer
 3 protection rules’ means the national consumer pro-
 4 tection and customer service rules under section
 5 632(b) as revised by the Commission pursuant to
 6 paragraph (2) of this subsection.

7 “(h) ANTIDISCRIMINATION.—

8 “(1) PROHIBITION.—A cable operator with a
 9 national franchise under this section to provide cable
 10 service in a franchise area shall not deny access to
 11 its cable service to any group of potential residential
 12 cable service subscribers in such franchise area be-
 13 cause of the income of that group.

14 “(2) ENFORCEMENT.—

15 “(A) COMPLAINT.—If a franchising au-
 16 thority in a franchise area has reasonable cause
 17 to believe that a cable operator is in violation
 18 of this subsection with respect to such franchise
 19 area, the franchising authority may, after com-
 20 plying with subparagraph (B), file a complaint
 21 with the Commission alleging such violation.

22 “(B) NOTICE BY FRANCHISING AUTHOR-
 23 ITY.—Before filing a complaint with the Com-
 24 mission under subparagraph (A), a franchising
 25 authority—

1 “(i) shall give notice of each alleged
2 violation to the cable operator;

3 “(ii) shall provide a period of not less
4 than 30 days for the cable operator to re-
5 spond to such allegations; and

6 “(iii) during such period, may require
7 the cable operator to submit a written re-
8 sponse stating the reasons why the oper-
9 ator has not violated this subsection.

10 “(C) BIENNIAL REPORT.—A cable oper-
11 ator with a national franchise under this section
12 for a franchise area, not later than 180 days
13 after the effective date of such national fran-
14 chise, and biennially thereafter, shall submit a
15 report to the Commission and the franchising
16 authority in the franchise area—

17 “(i) identifying the geographic areas
18 in the franchise area where the cable oper-
19 ator offers cable service; and

20 “(ii) describing the cable operator’s
21 progress in extending cable service to other
22 areas in the franchise area.

23 “(D) NOTICE BY COMMISSION.—Upon re-
24 ceipt of a complaint under this paragraph alleg-
25 ing a violation of this subsection by a cable op-

erator, the Commission shall give notice of the complaint to the cable operator.

“(E) INVESTIGATION.—In investigating a complaint under this paragraph, the Commission may require a cable operator to disclose to the Commission such information and documents as the Commission deems necessary to determine whether the cable operator is in compliance with this subsection. The Commission shall maintain the confidentiality of any information or document collected under this subparagraph.

“(F) DEADLINE FOR RESOLUTION OF COMPLAINTS.—Not more than 60 days after the Commission receives a complaint under this paragraph, the Commission shall issue a determination with respect to each violation alleged in the complaint.

“(G) DETERMINATION.—If the Commission determines (in response to a complaint under this paragraph or on its own initiative) that a cable operator with a franchise under this section to provide cable service in a franchise area has denied access to its cable service to a group of potential residential cable service

1 subscribers in such franchise area because of
 2 the income of that group, the Commission shall
 3 ensure that the cable operator extends access to
 4 that group within a reasonable period of time.

5 “(H) REMEDIES.—

6 “(i) IN GENERAL.—This subsection
 7 shall be enforced by the Commission under
 8 titles IV and V.

9 “(ii) MAXIMUM FORFEITURE PEN-
 10 ALTY.—For purposes of section 503, the
 11 maximum forfeiture penalty applicable to a
 12 violation of this subsection shall be
 13 \$750,000 for each day of the violation.

14 “(iii) PAYMENT OF PENALTIES TO
 15 FRANCHISING AUTHORITY.—The Commis-
 16 sion shall order any cable operator subject
 17 to a forfeiture penalty under this sub-
 18 section to pay the penalty directly to the
 19 franchising authority involved.

20 “(i) CHILD PORNOGRAPHY.—Not later than 180
 21 days after the date of enactment of this section, the Com-
 22 mission shall promulgate regulations to require a cable op-
 23 erator with a national franchise under this section to pre-
 24 vent the distribution of child pornography (as such term
 25 is defined in section 254(h)(7)(F)) over its network.

1 “(j) LEASED ACCESS.—The provisions of section
 2 612(i) regarding the carriage of programming from a
 3 qualified minority programming source or from any quali-
 4 fied educational programming source shall apply to a cable
 5 operator franchised under this section to provide cable
 6 service in a franchise area.

7 “(k) APPLICABILITY OF OTHER PROVISIONS.—The
 8 provisions of this title that apply to a cable operator shall
 9 apply in a franchise area to a person or group with a na-
 10 tional franchise under this section to provide cable service
 11 in such franchise area, except that the following sections
 12 shall not apply in a franchise area to a person or group
 13 franchised under this section in such franchise area, or
 14 confer any authority to regulate or impose obligations on
 15 such person or group in such franchise area: Sections
 16 611(a), 611(b), 611(c), 613(a), 617, 621 (other than sub-
 17 sections (b)(3)(A), (b)(3)(B), (b)(3)(C), and (e)), 624(b),
 18 624(c), 624(h), 625, 626, 627, and 632(a).

19 “(l) EMERGENCY ALERTS.—Nothing in this section
 20 shall be construed to prohibit a State or local government
 21 from accessing the emergency alert system of a cable oper-
 22 ator with a franchise under this section in the area served
 23 by the State or local government to transmit local or re-
 24 gional emergency alerts.

25 “(m) REPORTING, RECORDS, AND AUDITS.—

1 “(1) REPORTING.—A cable operator with a
2 franchise under this section to provide cable service
3 in a franchise area shall make such periodic reports
4 to the Commission and the franchising authority for
5 such franchise area as the Commission may require
6 to verify compliance with the fee obligations of sub-
7 sections (c)(1) and (c)(2).

8 “(2) AVAILABILITY OF BOOKS AND RECORDS.—
9 Upon request under paragraph (3) by a franchising
10 authority for a franchise area, and upon request by
11 the Commission, a cable operator with a national
12 franchise for such franchise area shall make avail-
13 able its books and records to periodic audit by such
14 franchising authority or the Commission, respec-
15 tively.

16 “(3) FRANCHISING AUTHORITY AUDIT PROCE-
17 DURE.—A franchising authority may, upon reason-
18 able written request, but no more than once in any
19 12-month period, review the business records of such
20 cable operator to the extent reasonably necessary to
21 ensure payment of the fees required by subsections
22 (c)(1) and (c)(2). Such review may include the meth-
23 odology used by such cable operator to assign por-
24 tions of the revenue from cable service that may be
25 bundled or functionally integrated with other serv-

ices, capabilities, or applications. Such review shall be conducted in accordance with procedures established by the Commission.

“(4) COST RECOVERY.—

“(A) To the extent that the review under paragraph (3) identifies an underpayment of an amount meeting the minimum percentage specified in subparagraph (B) of the fee required under subsection (c)(1) or (c)(2) for the period of review, the cable operator shall reimburse the franchising authority the reasonable costs of any such review conducted by an independent third party, as determined by the Commission, with respect to such fee. The costs of any contingency fee arrangement between the franchising authority and the independent reviewer shall not be subject to reimbursement.

“(B) The Commission shall determine by rule the minimum percentage underpayment that requires cost reimbursement under subparagraph (A).

“(5) LIMITATION.—Any fee that is not reviewed by a franchising authority within 3 years after it is paid or remitted shall not be subject to later review by the franchising authority under this subsection

1 and shall be deemed accepted in full payment by the
2 franchising authority.

3 ~~“(6) FEE DISPUTE RESOLUTION.—~~

4 ~~“(A) COMPLAINT.—A franchising author-~~
5 ~~ity or a cable operator may file a complaint at~~
6 ~~the Commission to resolve a dispute between~~
7 ~~such authority and operator with respect to the~~
8 ~~amount of any fee required under subsection~~
9 ~~(e)(1) or (e)(2) if—~~

10 ~~“(i) the franchising authority or the~~
11 ~~cable operator provides the other entity~~
12 ~~written notice of such dispute; and~~

13 ~~“(ii) the franchising authority and the~~
14 ~~cable operator have not resolved the dis-~~
15 ~~pute within 90 calendar days after receipt~~
16 ~~of such notice.~~

17 ~~“(B) MEETINGS.—Within 30 calendar~~
18 ~~days after receipt of notice of a dispute pro-~~
19 ~~vided pursuant to subparagraph (A)(i), rep-~~
20 ~~resentatives of the franchising authority and~~
21 ~~the cable operator, with authority to resolve the~~
22 ~~dispute, shall meet to attempt to resolve the~~
23 ~~dispute.~~

24 ~~“(C) LIMITATION.—A complaint under~~
25 ~~subparagraph (A) shall be filed not later than~~

1 3 years after the end of the period to which the
 2 disputed amount relates, unless such time is ex-
 3 tended by written agreement between the fran-
 4 chising authority and cable operator.

5 “(D) RESOLUTION.—The Commission
 6 shall issue an order resolving any complaint
 7 filed under subparagraph (A) within 90 days of
 8 filing.

9 “(n) ACCESS TO PROGRAMMING FOR SHARED FA-
 10 CILITIES.—

11 “(1) PROHIBITION.—A cable programming ven-
 12 dor in which a cable operator has an attributable in-
 13 terest shall not deny a cable operator with a national
 14 franchise under this section access to video program-
 15 ming solely because such cable operator with a na-
 16 tional franchise uses a headend for its cable system
 17 that is also used, under a shared ownership or leas-
 18 ing agreement, as the headend for another cable sys-
 19 tem.

20 “(2) DEFINITION.—The term ‘cable program-
 21 ming vendor’ means a person engaged in the produc-
 22 tion, creation, or wholesale distribution for sale of
 23 video programming which is primarily intended for
 24 the direct receipt by cable operators for their re-
 25 transmission to cable subscribers.

1 “(o) GROSS REVENUES.—As used in this section:

2 “(1) IN GENERAL.—Subject to paragraphs (2)
3 and (3), the term ‘gross revenues’ means all consid-
4 eration of any kind or nature, including cash, cred-
5 its, property, and in-kind contributions (services or
6 goods) received by the cable operator from the provi-
7 sion of cable service within the franchise area.

8 “(2) INCLUDED ITEMS.—Subject to paragraph
9 (3), the term ‘gross revenues’ shall include the fol-
10 lowing:

11 “(A) all charges and fees paid by sub-
12 scribers for the provision of cable service, in-
13 cluding fees attributable to cable service when
14 sold individually or as part of a package or bun-
15 dle, or functionally integrated, with services
16 other than cable service;

17 “(B) any franchise fee imposed on the
18 cable operator that is passed on to subscribers;

19 “(C) compensation received by the cable
20 operator for promotion or exhibition of any
21 products or services over the cable service, such
22 as on ‘home shopping’ or similar programming;

23 “(D) revenue received by the cable oper-
24 ator as compensation for carriage of video pro-

1 gramming or other programming service on
2 that operator's cable service;

3 ~~“(E) all revenue derived from the cable op-~~
4 ~~erator's cable service pursuant to compensation~~
5 ~~arrangements for advertising; and~~

6 ~~“(F) any advertising commissions paid to~~
7 ~~an affiliated third party for cable services ad-~~
8 ~~vertising.~~

9 ~~“(3) EXCLUDED ITEMS.—The term ‘gross reve-~~
10 ~~nuces’ shall not include the following:~~

11 ~~“(A) any revenue not actually received,~~
12 ~~even if billed, such as bad debt net of any re-~~
13 ~~coveries of bad debt;~~

14 ~~“(B) refunds, rebates, credits, or discounts~~
15 ~~to subscribers or a municipality to the extent~~
16 ~~not already offset by subparagraph (A) and to~~
17 ~~the extent such refund, rebate, credit, or dis-~~
18 ~~count is attributable to the cable service;~~

19 ~~“(C) subject to paragraph (4), any reve-~~
20 ~~nuces received by the cable operator or its affili-~~
21 ~~ates from the provision of services or capabili-~~
22 ~~ties other than cable service, including tele-~~
23 ~~communications services, Internet access serv-~~
24 ~~ices, and services, capabilities, and applications~~
25 ~~that may be sold as part of a package or bun-~~

1 dle, or functionally integrated, with cable serv-
2 ice;

3 “(D) any revenues received by the cable
4 operator or its affiliates for the provision of di-
5 rectory or Internet advertising, including yellow
6 pages, white pages, banner advertisement, and
7 electronic publishing;

8 “(E) any amounts attributable to the pro-
9 vision of cable service to customers at no
10 charge, including the provision of such service
11 to public institutions without charge;

12 “(F) any tax, fee, or assessment of general
13 applicability imposed on the customer or the
14 transaction by a Federal, State, or local govern-
15 ment or any other governmental entity, col-
16 lected by the provider, and required to be remit-
17 ted to the taxing entity, including sales and use
18 taxes and utility user taxes;

19 “(G) any forgone revenue from the provi-
20 sion of cable service at no charge to any person,
21 except that any forgone revenue exchanged for
22 trades, barter, services, or other items of value
23 shall be included in gross revenue;

24 “(H) sales of capital assets or surplus
25 equipment;

1 “(I) reimbursement by programmers of
2 marketing costs actually incurred by the cable
3 operator for the introduction of new program-
4 ming; and

5 “(J) the sale of cable services for resale to
6 the extent the purchaser certifies in writing
7 that it will resell the service and pay a franchise
8 fee with respect thereto.

9 “(4) FUNCTIONALLY INTEGRATED SERVICES.—
10 In the case of a cable service that is bundled or inte-
11 grated functionally with other services, capabilities,
12 or applications, the portion of the cable operator’s
13 revenue attributable to such other services, capabili-
14 ties, or applications shall be included in gross rev-
15 enue unless the cable operator can reasonably iden-
16 tify the division or exclusion of such revenue from
17 its books and records that are kept in the regular
18 course of business.

19 “(5) AFFILIATE REVENUE.—Revenue of an af-
20 filiate shall be included in the calculation of gross
21 revenues to the extent the treatment of such revenue
22 as revenue of the affiliate has the effect (whether in-
23 tentional or unintentional) of evading the payment
24 of franchise fees which would otherwise be paid for
25 cable service.

1 ~~“(6) AFFECT ON OTHER LAW.—~~Nothing in this
 2 section is intended to limit a franchising authority’s
 3 rights pursuant to section 622(h).

4 ~~“(p) ADDITIONAL DEFINITIONS.—~~For purposes of
 5 this section:

6 ~~“(1) CABLE OPERATOR.—~~The term ‘cable oper-
 7 ator’ has the meaning provided in section 602(5) ex-
 8 cept that such term also includes a person or group
 9 with a national franchise under this section.

10 ~~“(2) FRANCHISE FEE.—~~

11 ~~“(A) The term ‘franchise fee’ includes any~~
 12 fee or assessment of any kind imposed by a
 13 franchising authority or other governmental en-
 14 tity on a person or group providing cable serv-
 15 ice in a franchise area under this section, or on
 16 a subscriber of such person or group, or both,
 17 solely because of their status as such.

18 ~~“(B) The term ‘franchise fee’ does not in-~~
 19 clude—

20 ~~“(i) any tax, fee, or assessment of~~
 21 general applicability (including any such
 22 tax, fee, or assessment imposed on both
 23 utilities and a person or group providing
 24 cable service in a franchise area under this
 25 section (or the services of such person or

group) but not including a fee or assessment which is unduly discriminatory against such person or group or the subscribers of such person or group);

“(ii) any fee assessed under subsection (e)(2) for support of public, educational, and governmental use and institutional networks (as such term is defined in section 611(f));

“(iii) requirements or charges under subsection (f)(2) for the management of public rights-of-way, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or

“(iv) any fee imposed under title 17, United States Code.

~~“(3) INTERNET ACCESS SERVICE.—~~The term ‘Internet access service’ means a service that enables users to access content, information, electronic mail, or other services offered over the Internet.

~~“(4) UNIT OF GENERAL LOCAL GOVERNMENT.—~~The term ‘unit of general local government’ means—

1 “(A) a county, township, city, or political
2 subdivision of a county, township, or city;

3 “(B) the District of Columbia; or

4 “(C) the recognized governing body of an
5 Indian tribe or Alaskan Native village that ear-
6 ries out substantial governmental duties and
7 powers.”.

8 (b) IMPLEMENTING REGULATIONS.—The Federal
9 Communications Commission shall prescribe regulations
10 to implement the amendment made by subsection (a) with-
11 in 120 days after the date of enactment of this Act.

12 **SEC. 102. DEFINITIONS.**

13 Section 602 of the Communications Act of 1934 (47
14 U.S.C. 522) is amended—

15 (1) in paragraph (4), by inserting before the
16 semicolon at the end the following: “, or its equiva-
17 lent as determined by the Commission”;

18 (2) in paragraph (5)(A), by inserting “(regard-
19 less of whether such person or group provides such
20 service separately or combined with a telecommuni-
21 cations service or information service)” after “over
22 a cable system”;

23 (3) by striking paragraph (6) and inserting the
24 following:

25 “(6) the term ‘cable service’ means—

1 “(A)(i) the one-way transmission to sub-
 2 scribers of (I) video programming; or (II) other
 3 programming service; and

4 “(ii) subscriber interaction, if any, which is
 5 required for the selection or use of such video
 6 programming or other programming service; or

7 “(B) the transmission to subscribers of
 8 video programming or other programming serv-
 9 ice provided through wireline facilities located
 10 at least in part in the public rights-of-way,
 11 without regard to delivery technology, including
 12 Internet protocol technology, except to the ex-
 13 tent that such video programming or other pro-
 14 gramming service is provided as part of—

15 “(i) a commercial mobile service (as
 16 such term is defined in section 332(d)); or

17 “(ii) an Internet access service (as
 18 such term is defined in section 630(p));”;

19 (4) in paragraph (7)(D), by inserting after
 20 “section 653 of this title” the following; “except in
 21 a franchise area in which such system is used to
 22 provide cable service under a national franchise pur-
 23 suant to section 630”;

24 (5) in paragraph (9)—

25 (A) by inserting “(A)” after “means”; and

1 (B) by inserting before the semicolon at
 2 the end the following: “; and (B) a national
 3 franchise that is effective under section 630 on
 4 the basis of a certification with the Commis-
 5 sion”; and

6 (6) in paragraph (10), by inserting before the
 7 semicolon at the end the following: “; but does not
 8 include the Commission with respect to a national
 9 franchise under section 630”.

10 **SEC. 103. MONITORING AND REPORTING.**

11 (a) REPORT ON CABLE SERVICE DEPLOYMENT.—

12 The Federal Communications Commission shall, com-
 13 mencing not later than one year after the date of enact-
 14 ment of this Act, issue a report annually on the deploy-
 15 ment of cable service pursuant to the amendments made
 16 by this title. In its report, the Commission shall describe
 17 in detail—

18 (1) with respect to deployment by new cable op-
 19 erators—

20 (A) the progress of deployment of such
 21 service within the telephone service area of
 22 cable operators; if the operator is also an in-
 23 cumbent local exchange carrier, including a
 24 comparison with the progress of deployment of

1 broadband services not defined as cable services
2 within such telephone service area;

3 (B) the number of franchise areas in which
4 such service is being deployed and offered;

5 (C) where such service is not being de-
6 ployed and offered; and

7 (D) the number and locations of franchise
8 areas in which the cable operator is serving only
9 a portion of the franchise area, and the extent
10 of such service within the franchise area;

11 (2) the number and locations of franchise areas
12 in which a cable operator with a franchise under sec-
13 tion 621 of the Communications Act of 1934 (47
14 U.S.C. 541) on the date of enactment of this Act
15 withdraws service from any portion of the franchise
16 area for which it previously offered service, and the
17 extent of such withdrawal of service within the fran-
18 chise area;

19 (3) the rates generally charged for cable service;

20 (4) the rates charged by overlapping, competing
21 multichannel video programming distributors and by
22 competing cable operators for comparable service or
23 cable service;

24 (5) the average household income of those fran-
25 chise areas or portions of franchise areas where

1 cable services is being offered, and the average
2 household income of those franchise areas, or por-
3 tions of franchise areas, where cable service is not
4 being offered;

5 (6) the proportion of rural households to urban
6 households, as defined by the Bureau of the Census,
7 in those franchise areas or portions of franchise
8 areas where cable service is being offered, and the
9 proportion of rural households to urban households
10 in those franchise areas or portions of franchise
11 areas where cable service is not being offered, in-
12 cluding a State-by-State breakdown of such data
13 and a comparison with the overall ratio of rural and
14 urban households in each State; and

15 (7) a comparison of the services and rates in
16 areas served by national franchisees under section
17 630 of the Communications Act of 1934 (as added
18 by section 101 of this Act) and the services and
19 rates in other areas.

20 (b) CABLE OPERATOR REPORTS.—The Federal Com-
21 munications Commission is authorized—

22 (1) to require cable operators to report to the
23 Commission all of the information that the Commis-
24 sion needs to compile the report required by this sec-
25 tion; and

1 (2) to require cable operators to file the same
 2 information with the relevant franchising authorities
 3 and State commissions.

4 **SEC. 104. RULE OF CONSTRUCTION.**

5 Nothing in this Act or the amendments made by this
 6 Act shall affect the application or interpretation of section
 7 224 of the Communications Act of 1934 (47 U.S.C. 224).

8 **TITLE H—ENFORCEMENT OF**
 9 **BROADBAND POLICY STATE-**
 10 **MENT**

11 **SEC. 201. ENFORCEMENT OF BROADBAND POLICY STATE-**
 12 **MENT.**

13 Title VII of the Communications Act of 1934 (47
 14 U.S.C. 601 et seq.) is amended by adding at the end the
 15 following new section:

16 **“SEC. 715. ENFORCEMENT OF BROADBAND POLICY STATE-**
 17 **MENT.**

18 “(a) **AUTHORITY.**—The Commission shall have the
 19 authority to enforce the Commission’s broadband policy
 20 statement and the principles incorporated therein.

21 “(b) **ENFORCEMENT.**—

22 “(1) **IN GENERAL.**—This section shall be en-
 23 forced by the Commission under titles IV and V. A
 24 violation of the Commission’s broadband policy

1 statement or the principles incorporated therein
2 shall be treated as a violation of this Act.

3 “(2) MAXIMUM FORFEITURE PENALTY.—For
4 purposes of section 503, the maximum forfeiture
5 penalty applicable to a violation described in para-
6 graph (1) of this subsection shall be \$500,000 for
7 each violation.

8 “(3) ADJUDICATORY AUTHORITY.—The Com-
9 mission shall have exclusive authority to adjudicate
10 any complaint alleging a violation of the broadband
11 policy statement and the principles incorporated
12 therein. The Commission shall complete an adjudica-
13 tory proceeding under this subsection not later than
14 90 days after receipt of the complaint. If, upon com-
15 pletion of an adjudicatory proceeding pursuant to
16 this section, the Commission determines that such a
17 violation has occurred, the Commission shall have
18 authority to adopt an order to require the entity
19 subject to the complaint to comply with the
20 broadband policy statement and the principles incor-
21 porated therein. Such authority shall be in addition
22 to the authority specified in paragraph (1) to en-
23 force this section under titles IV and V. In addition,
24 the Commission shall have authority to adopt proce-
25 dures for the adjudication of complaints alleging a

1 violation of the broadband policy statement or prin-
2 ciples incorporated therein.

3 “(4) LIMITATION.—Notwithstanding paragraph
4 (1), the Commission’s authority to enforce the
5 broadband policy statement and the principles incor-
6 porated therein does not include authorization for
7 the Commission to adopt or implement rules or reg-
8 ulations regarding enforcement of the broadband
9 policy statement and the principles incorporated
10 therein, with the sole exception of the authority to
11 adopt procedures for the adjudication of complaints,
12 as provided in paragraph (3).

13 “(c) STUDY.—Within 180 days after the date of en-
14 actment of this section, the Commission shall conduct, and
15 submit to the House Committee on Energy and Commerce
16 and the Senate Committee on Commerce, Science, and
17 Transportation, a study regarding whether the objectives
18 of the broadband policy statement and the principles in-
19 corporated therein are being achieved.

20 “(d)(1) RULE OF CONSTRUCTION.—Nothing in this
21 section shall be construed to modify, impair, or supersede
22 the applicability of the antitrust laws or the jurisdiction
23 of the district courts of the United States to hear claims
24 arising under the antitrust laws.

1 “(2) DEFINITION OF ANTITRUST LAWS.—The term
 2 ‘antitrust laws’ has the meaning given it in subsection (a)
 3 of the first section of the Clayton Act (15 U.S.C. 12(a));
 4 except that such term includes section 5 of the Federal
 5 Trade Commission Act (15 U.S.C. 45) to the extent that
 6 such section 5 applies to unfair methods of competition.

7 “(e) DEFINITION.—For purposes of this section, the
 8 term ‘Commission’s broadband policy statement’ means
 9 the policy statement adopted on August 5, 2005, and
 10 issued on September 23, 2005, In the Matters of Appro-
 11 priate Framework for Broadband Access to the Internet
 12 over Wireline Facilities, and other Matters (FCC 05–151;
 13 CC Docket No. 02–33; CC Docket No. 01–337; CC Dock-
 14 et Nos. 95–20, 98–10; GN Docket No. 00–185; CS Dock-
 15 et No. 02–52).”.

16 **TITLE III—VOIP/911**

17 **SEC. 301. EMERGENCY SERVICES; INTERCONNECTION.**

18 Title VII of the Communications Act of 1934 (47
 19 U.S.C. 601 et seq.) is further amended by adding after
 20 section 715 (as added by section 201 of this Act) the fol-
 21 lowing new sections:

22 **“SEC. 716. EMERGENCY SERVICES.**

23 “(a) 911 AND E-911 SERVICES.—

1 “(1) IN GENERAL.—Each VOIP service pro-
 2 vider has a duty to ensure that 911 and E-911 serv-
 3 ices are provided to subscribers of VOIP services.

4 “(2) USE OF EXISTING REGULATIONS.—A
 5 VOIP service provider that complies with the Com-
 6 mission’s regulations requiring providers of VOIP
 7 service to supply 911 and E911 capabilities to their
 8 customers (Report and Order in WC Docket Nos.
 9 04-36 and 05-196) and that are in effect on the
 10 date of enactment of this section shall be considered
 11 to be in compliance with the requirements of this
 12 section, other than subsection (c), until such regula-
 13 tions are modified or superseded by subsequent reg-
 14 ulations.

15 “(b) NON-DISCRIMINATORY ACCESS TO CAPABILI-
 16 TIES.—

17 “(1) ACCESS.—Each incumbent local exchange
 18 carrier (as such term is defined in section 251(h))
 19 or government entity with ownership or control of
 20 the necessary E-911 infrastructure shall provide any
 21 requesting VOIP service provider with nondiscrim-
 22 inatory access to such infrastructure. Such carrier
 23 or entity shall provide access to the infrastructure at
 24 just and reasonable, nondiscriminatory rates, terms,
 25 and conditions. Such access shall be consistent with

1 industry standards established by the National
2 Emergency Number Association or other applicable
3 industry standards organizations.

4 “(2) ENFORCEMENT.—The Commission or a
5 State commission may enforce the requirements of
6 this subsection and the Commission’s regulations
7 thereunder. A VOIP service provider may obtain ac-
8 cess to such infrastructure pursuant to section 717
9 by asserting the rights described in such section.

10 “(c) NEW CUSTOMERS.—A VOIP service provider
11 shall make 911 service available to new customers within
12 a reasonable time in accordance with the following require-
13 ments:

14 “(1) CONNECTION TO SELECTIVE ROUTER.—
15 For all new customers not within the geographic
16 areas where a VOIP service provider can imme-
17 diately provide 911 service to the geographically ap-
18 propriate PSAP, a VOIP service provider, or its
19 third party vendor, shall have no more than 30 days
20 from the date the VOIP provider has acquired a cus-
21 tomer to order service providing connectivity to the
22 selective router so that 911 service, or E911 service
23 where the PSAP is capable of receiving and proc-
24 essing such information, can be provided through
25 the selective router.

1 ~~“(2) INTERIM SERVICE.—For all new customers~~
 2 not within the geographic areas where the VOIP
 3 service provider can immediately provide 911 service
 4 to the geographically appropriate PSAP, a VOIP
 5 service provider shall provide 911 service through—

6 ~~“(A) an arrangement mutually agreed to~~
 7 by the VOIP service provider and the PSAP or
 8 PSAP governing authority; or

9 ~~“(B) an emergency response center with~~
 10 national call routing capabilities.

11 Such service shall be provided 24 hours a day from
 12 the date a VOIP service provider has acquired a cus-
 13 tomer until the VOIP service provider can provide
 14 911 service to the geographically appropriate PSAP.

15 ~~“(3) NOTICE.—Before providing service to any~~
 16 new customer not within the geographic areas where
 17 the VOIP service provider can immediately provide
 18 911 service to the geographically appropriate PSAP;
 19 a VOIP service provider shall provide such customer
 20 with clear notice that 911 service will be available
 21 only as described in paragraph (2).

22 ~~“(4) RESTRICTION ON ACQUISITION OF NEW~~
 23 CUSTOMERS.—A VOIP service provider may not ac-
 24 quire new customers within a geographic area served
 25 by a selective router if, within 180 days of first ac-

1 quiring a new customer in the area served by the se-
 2 lective router, the VOIP service provider does not
 3 provide 911 service, or E911 service where the
 4 PSAP is capable of receiving and processing such in-
 5 formation, to the geographically appropriate PSAP
 6 for all existing customers served by the selective
 7 router.

8 “(5) ENFORCEMENT: NO FIRST WARNINGS.—
 9 Paragraph (5) of section 503(b) shall not apply to
 10 the assessment of forfeiture penalties for violations
 11 of this subsection or the regulations thereunder.

12 “(d) STATE AUTHORITY.—Nothing in this Act or any
 13 Commission regulation or order shall prevent the imposi-
 14 tion on or collection from a VOIP service provider, of any
 15 fee or charge specifically designated or presented as dedi-
 16 cated by a State, political subdivision thereof, or Indian
 17 tribe on an equitable, and non-discriminatory basis for the
 18 support of 911 and E-911 services if no portion of the
 19 revenue derived from such fee or charge is obligated or
 20 expended for any purpose other than support of 911 and
 21 E-911 services or enhancements of such services.

22 “(e) FEASIBILITY.—In establishing requirements or
 23 obligations under subsections (a) and (b), the Commission
 24 shall ensure that such standards impose requirements or
 25 obligations on VOIP service providers and entities with

1 ownership or control of necessary E-911 infrastructure
2 that the Commission determines are technologically and
3 operationally feasible. In determining the requirements
4 and obligations that are technologically and operationally
5 feasible, the Commission shall take into consideration
6 available industry technological and operational standards.

7 “(f) PROGRESS REPORTS.—To the extent that the
8 Commission concludes that it is not technologically or
9 operationally feasible for VOIP service providers to comply
10 with E-911 requirements or obligations, then the Com-
11 mission shall submit reports to the Committee on Energy
12 and Commerce of the House of Representatives and the
13 Committee on Commerce, Science, and Transportation of
14 the Senate on the progress in attaining and deploying E-
15 911 service. Such reports shall be submitted semiannually
16 until the Commission concludes that it is technologically
17 and operationally feasible for all VOIP service providers
18 to comply with E-911 requirements and obligations. Such
19 reports may include any recommendations the Commission
20 considers appropriate to encourage the migration of emer-
21 gency services to TCP/IP protocol or other advanced serv-
22 ices.

23 “(g) ACCESS TO INFORMATION.—The Commission
24 shall have the authority to compile a list of PSAP contact
25 information, testing procedures, and classes and types of

1 services supported by PSAPs, or other information con-
 2 cerning the necessary E-911 infrastructure, for the pur-
 3 pose of assisting providers in complying with the require-
 4 ments of this section.

5 “(h) EMERGENCY ROUTING NUMBER ADMINIS-
 6 TRATOR.—Within 30 days after the date of enactment of
 7 this section, the Federal Communications Commission
 8 shall establish an emergency routing number adminis-
 9 trator to enable VOIP service providers to acquire non-
 10 dialable pseudo-automatic number identification numbers
 11 for 9-1-1 routing purposes on a national scale. The Com-
 12 mission may adopt such rules and practices as are nec-
 13 essary to guide such administrator in the fair and expedi-
 14 tious assignment of these numbers.

15 “(i) EMERGENCY RESPONSE SYSTEMS.—

16 “(1) NOTICE PRIOR TO INSTALLATION OR NUM-
 17 BER ACTIVATION OF VOIP SERVICE.—Prior to instal-
 18 lation or number activation of VOIP service for a
 19 customer, a VOIP service provider shall provide
 20 clear and conspicuous notice to the customer that—

21 “(A) such customer should arrange with
 22 his or her emergency response system provider,
 23 if any, to test such system after installation;

1 “(B) such customer should notify his or
2 her emergency response system provider after
3 VOIP service is installed; and

4 “(C) a battery backup is required for cus-
5 tomer premises equipment installed in connec-
6 tion with the VOIP service in order for the sig-
7 naling of such system to function in the event
8 of a power outage.

9 “(2) DEFINITION.—In this subsection:

10 “(A) The term ‘emergency response sys-
11 tem’ means an alarm or security system, or per-
12 sonal security or medical monitoring system,
13 that is connected to an emergency response cen-
14 ter by means of a telecommunications carrier or
15 VOIP service provider.

16 “(B) The term ‘emergency response center’
17 means an entity that monitors transmissions
18 from an emergency response system.

19 “(j) MIGRATION TO IP-ENABLED EMERGENCY NET-
20 WORK.—

21 “(1) NATIONAL REPORT.—No more than 18
22 months after the date of the enactment of this sec-
23 tion, the National 911 Implementation and Coordi-
24 nation Office shall develop a report to Congress on
25 migrating to a national IP-enabled emergency net-

1 work capable of receiving and responding to all cit-
2 izen activated emergency communications.

3 ~~“(2) CONTENTS OF REPORT.—The report re-~~
4 ~~quired by paragraph (1) shall—~~

5 ~~“(A) outline the potential benefits of such~~
6 ~~a migration;~~

7 ~~“(B) identify barriers that must be over-~~
8 ~~come and funding mechanisms to address those~~
9 ~~barriers;~~

10 ~~“(C) include a proposed timetable, an out-~~
11 ~~line of costs and potential savings;~~

12 ~~“(D) provide recommendations on specific~~
13 ~~legislative language;~~

14 ~~“(E) provide recommendations on any leg-~~
15 ~~islative changes, including updating definitions,~~
16 ~~to facilitate a national IP-enabled emergency~~
17 ~~network; and~~

18 ~~“(F) assess, collect, and analyze the expe-~~
19 ~~riences of the PSAPs and related public safety~~
20 ~~authorities who are conducting trial deploy-~~
21 ~~ments of IP-enabled emergency networks as of~~
22 ~~the date of enactment of this section.~~

23 ~~“(3) CONSULTATION.—In developing the report~~
24 ~~required by paragraph (1), the Office shall consult~~
25 ~~with representatives of the public safety community,~~

1 technology and telecommunications providers; and
 2 others it deems appropriate.

3 ~~“(k) IMPLEMENTATION.—~~

4 ~~“(1) DEADLINE.—~~The Commission shall pre-
 5 scribe regulations to implement this section within
 6 120 days after the date of enactment of this section.

7 ~~“(2) LIMITATION.—~~Nothing in this section
 8 shall be construed to permit the Commission to issue
 9 regulations that require or impose a specific tech-
 10 nology or technological standard.

11 ~~“(l) DEFINITIONS.—~~For purposes of this section:

12 ~~“(1) VOIP SERVICE.—~~The term ‘VOIP service’
 13 means a service that—

14 ~~“(A) provides real-time 2-way voice com-~~
 15 ~~munications transmitted through customer~~
 16 ~~premises equipment using TCP/IP protocol; or~~
 17 ~~a successor protocol (including when the voice~~
 18 ~~communication is converted to or from TCP/IP~~
 19 ~~protocol by the VOIP service provider and~~
 20 ~~transmitted to the subscriber without use of cir-~~
 21 ~~cuit switching); for a fee or without a fee;~~

22 ~~“(B) is offered to the public; or such class-~~
 23 ~~es of users as to be effectively available to the~~
 24 ~~public (whether part of a bundle of services or~~
 25 ~~separately); and~~

1 “(C) has the capability so that the service
2 can originate traffic to, and terminate traffic
3 from, the public switched telephone network.

4 “(2) VOIP SERVICE PROVIDER.—The term
5 ‘VOIP service provider’ means any person who pro-
6 vides or offers to provide a VOIP service.

7 “(3) NECESSARY E-911 INFRASTRUCTURE.—
8 The term ‘necessary E-911 infrastructure’ means
9 the originating trunks to the selective routers, selec-
10 tive routers, databases (including automatic location
11 information databases and master street address
12 guides), trunks, or other related facilities necessary
13 for the delivery and completion of 911 and E-911
14 calls, or other 911 and E-911 equipment, facilities,
15 databases, interfaces, and related capabilities speci-
16 fied by the Commission.

17 “(4) NON-DIALABLE PSEUDO-AUTOMATIC NUM-
18 BER IDENTIFICATION NUMBER.—The term ‘non-
19 dialable pseudo-automatic number identification
20 number’ means a number, consisting of the same
21 number of digits as numbers used for automatic
22 number identification, that is not a North American
23 Numbering Plan telephone directory number and
24 that may be used in place of an automatic number
25 identification number to convey special meaning.

1 The special meaning assigned to the non-dialable
 2 pseudo-automatic number identification number is
 3 determined by nationally standard agreements, or by
 4 individual agreements, as necessary, between the
 5 system originating the call, intermediate systems
 6 handling and routing the call, and the destination
 7 system.

8 **“SEC. 717. RIGHTS AND OBLIGATIONS OF VOIP SERVICE**
 9 **PROVIDERS.**

10 **“(a) IN GENERAL.—**

11 **“(1) FACILITIES-BASED VOIP SERVICE PRO-**
 12 **VIDERS.—**A facilities-based VOIP service provider
 13 shall have the same rights, duties, and obligations as
 14 a requesting telecommunications carrier under sec-
 15 tions 251 and 252, if the provider elects to assert
 16 such rights.

17 **“(2) VOIP SERVICE PROVIDERS.—**A VOIP serv-
 18 ice provider that is not a facilities-based VOIP serv-
 19 ice provider shall have only the same rights, duties,
 20 and obligations as a requesting telecommunications
 21 carrier under sections 251(b), 251(e), and 252, if
 22 the provider elects to assert such rights.

23 **“(3) CLARIFYING TREATMENT OF VOIP SERV-**
 24 **ICE.—**A telecommunications carrier may use inter-
 25 connection, services, and network elements obtained

1 pursuant to sections 251 and 252 from an incum-
2 bent local exchange carrier (as such term is defined
3 in section 251(h)) to exchange VOIP service traffic
4 with such incumbent local exchange carrier regard-
5 less of the provider originating such VOIP service
6 traffic, including an affiliate of such telecommuni-
7 cations carrier.

8 “(b) DISABLED ACCESS.—A VOIP service provider
9 or a manufacturer of VOIP service equipment shall have
10 the same rights, duties, and obligations as a telecommuni-
11 cations carrier or telecommunications equipment manufac-
12 turer, respectively, under sections 225, 255, and 710 of
13 the Act. Within 1 year after the date of enactment of this
14 Act, the Commission, in consultation with the Architee-
15 tural and Transportation Barriers Compliance Board,
16 shall prescribe such regulations as are necessary to imple-
17 ment this section. In implementing this subsection, the
18 Commission shall consider whether a VOIP service pro-
19 vider or manufacturer of VOIP service equipment pri-
20 marily markets such service or equipment as a substitute
21 for telecommunications service, telecommunications equip-
22 ment, customer premises equipment, or telecommuni-
23 cations relay services.

24 “(c) DEFINITIONS.—For purposes of this section:

1 ~~“(1) FACILITIES-BASED VOIP SERVICE PRO-~~
 2 ~~VIDER.—The term ‘facilities-based VOIP service~~
 3 ~~provider’ means an entity that provides VOIP serv-~~
 4 ~~ice over a physical facility that terminates at the end~~
 5 ~~user’s location and which such entity or an affiliate~~
 6 ~~owns or over which such entity or affiliate has exclu-~~
 7 ~~sive use. An entity or affiliate shall be considered a~~
 8 ~~facilities-based VOIP service provider only in those~~
 9 ~~geographic areas where such terminating physical~~
 10 ~~facilities are located.~~

11 ~~“(2) VOIP SERVICE PROVIDER; VOIP SERVICE.—~~
 12 ~~The terms ‘VOIP service provider’ and ‘VOIP serv-~~
 13 ~~ice’ have the meanings given such terms by section~~
 14 ~~716(1).”.~~

15 **SEC. 302. COMPENSATION AND CONTRIBUTION.**

16 ~~(a) RULE OF CONSTRUCTION.—Nothing in this Act~~
 17 ~~(including the amendments made by this Act) shall be con-~~
 18 ~~strued to exempt a VOIP service provider from require-~~
 19 ~~ments imposed by the Federal Communications Commis-~~
 20 ~~sion or a State commission on all VOIP service providers~~
 21 ~~to—~~

22 ~~(1) pay appropriate compensation for the trans-~~
 23 ~~mission of a VOIP service over the facilities and~~
 24 ~~equipment of another provider; or~~

1 (2) contribute on an equitable and non-discrimi-
 2 natory basis to the preservation and advancement
 3 of universal service.

4 (b) DEFINITIONS.—As used in this section—

5 (1) the terms “VOIP service provider” and
 6 “VOIP service” have the meanings given such terms
 7 in section 716(h) of the Communications Act of
 8 1934, as added by section 301 of this Act; and

9 (2) the term “State commission” has the mean-
 10 ing given such term in section 3 of the Communica-
 11 tions Act of 1934 (47 U.S.C. 153).

12 **TITLE IV—MUNICIPAL** 13 **PROVISION OF SERVICES**

14 **SEC. 401. GOVERNMENT AUTHORITY TO PROVIDE SERV-** 15 **ICES.**

16 (a) IN GENERAL.—Neither the Communications Act
 17 of 1934 nor any State statute, regulation, or other State
 18 legal requirement may prohibit or have the effect of pro-
 19 hibiting any public provider of telecommunications service,
 20 information service, or cable service (as such terms are
 21 defined in sections 3 and 602 of such Act) from providing
 22 such services to any person or entity.

23 (b) COMPETITION NEUTRALITY.—Any State or polit-
 24 ical subdivision thereof, or any agency, authority, or in-
 25 strumentality of a State or political subdivision thereof,

1 that is, owns, controls, or is otherwise affiliated with a
2 public provider of telecommunications service, information
3 service, or cable service shall not grant any preference or
4 advantage to any such provider. Such entity shall apply
5 its ordinances, rules, and policies, including those relating
6 to the use of public rights-of-way, permitting, performance
7 bonding, and reporting without discrimination in favor of
8 any such provider as compared to other providers of such
9 services.

10 (c) COMPLIANCE WITH OTHER LAWS NOT AF-
11 FECTED.—Nothing in this section shall exempt a public
12 provider from any law or regulation that applies to pro-
13 viders of telecommunications service, information service,
14 or cable service.

15 (d) REPORT.—Not later than 1 year after the date
16 of the enactment of this Act, the Federal Communications
17 Commission shall submit to the Congress a report on the
18 status of the provision of telecommunications service, in-
19 formation service, and cable service by States and political
20 subdivisions thereof.

21 (e) DEFINITION OF PUBLIC PROVIDER.—For pur-
22 poses of this section, the term “public provider” means
23 a State or political subdivision thereof, or any agency, au-
24 thority, or instrumentality of a State or political subdivi-
25 sion thereof, that provides telecommunications service, in-

1 formation service, or cable service, or any entity that is
 2 owned, controlled, or is otherwise affiliated with such
 3 State or political subdivision thereof, or agency, authority,
 4 or instrumentality of a State or political subdivision there-
 5 of.

6 **TITLE V—BROADBAND SERVICE**

7 **SEC. 501. STAND-ALONE BROADBAND SERVICE.**

8 Title VII of the Communications Act of 1934 (47
 9 U.S.C. 601 et seq.) is further amended by adding after
 10 section 717 (as added by section 301 of this Act) the fol-
 11 lowing new section:

12 **“SEC. 718. STAND-ALONE BROADBAND SERVICE.**

13 “(a) PROHIBITION.—A broadband service provider
 14 shall not require a subscriber, as a condition on the pur-
 15 chase of any broadband service the provider offers, to pur-
 16 chase any cable service, telecommunications service, or
 17 VOIP service offered by the provider.

18 “(b) DEFINITIONS.—In this section:

19 “(1) The term ‘broadband service’ means a two-
 20 way transmission service that connects to the Inter-
 21 net and transmits information at an average rate of
 22 at least 200 kilobits per second in at least one direc-
 23 tion.

24 “(2) The term ‘broadband service provider’
 25 means a person or entity that controls, operates, or

1 resells and controls any facility used to provide
 2 broadband service to the public, by whatever tech-
 3 nology and whether provided for a fee, in exchange
 4 for an explicit benefit, or for free.

5 “(3) The term ‘VOIP service’ has the meaning
 6 given such term by section 716(1).”.

7 **SEC. 502. STUDY OF INTERFERENCE POTENTIAL OF**
 8 **BROADBAND OVER POWER LINE SYSTEMS.**

9 Within 90 days after the date of enactment of this
 10 Act, the Federal Communications Commission shall con-
 11 duct, and submit to the Committee on Energy and Com-
 12 merce of the House of Representatives and the Committee
 13 on Commerce, Science, and Transportation of the Senate,
 14 a study of the interference potential of broadband over
 15 power line systems.

16 **TITLE VI—SEAMLESS MOBILITY**

17 **SEC. 601. DEVELOPMENT OF SEAMLESS MOBILITY.**

18 (a) STREAMLINED REVIEW.—

19 (1) The Commission shall further the develop-
 20 ment of seamless mobility.

21 (2) Within 120 days after the date of enact-
 22 ment of this Act, the Commission shall implement a
 23 process for streamlined review and authorization of
 24 multi-mode devices that permit communication

1 across multiple Internet protocol-enabled broadband
 2 platforms, facilities, and networks.

3 (b) ~~STUDY.~~—The Commission shall undertake an in-
 4 quiry to identify barriers to the achievement of seamless
 5 mobility. Within 180 days after the date of enactment of
 6 this Act, the Commission shall report to the Congress on
 7 its findings and its recommendations for steps to eliminate
 8 those barriers.

9 (c) ~~DEFINITIONS.~~—For purposes of this section, the
 10 term “seamless mobility” means the ability of a commu-
 11 nications device to select between and utilize multiple
 12 Internet protocol-enabled technology platforms, facilities,
 13 and networks in a real-time manner to provide a unified
 14 service.

15 **SECTION 1. SHORT TITLE.**

16 *This Act may be cited as the “Advanced Telecommuni-*
 17 *cations and Opportunities Reform Act” or the “Commu-*
 18 *nications Act of 2006”.*

19 **SEC. 2. AMENDMENT OF COMMUNICATIONS ACT OF 1934.**

20 *Except as otherwise expressly provided, whenever in*
 21 *this title an amendment or repeal is expressed in terms of*
 22 *an amendment to, or repeal of, a section or other provision,*
 23 *the reference shall be considered to be made to a section or*
 24 *other provision of the Communications Act of 1934 (47*
 25 *U.S.C. 151 et seq.).*

1 SEC. 3. TABLE OF CONTENTS.

2 *The table of contents for this Act is as follows:*

Sec. 1. Short title.

Sec. 2. Amendment of Communications Act of 1934.

Sec. 3. Table of contents.

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Sec. 102. Repeal of existing authorization.

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Sec. 151. Interoperable emergency communications.

Sec. 152. Transfer of Public Safety Grant Program to the Department of Homeland Security.

Sec. 153. Public safety interoperable communications grants.

Sec. 154. Eligibility of IP-enabled services.

TITLE II—UNIVERSAL SERVICE REFORM; INTERCONNECTION

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Subtitle A—Contributions to Universal Service

Sec. 211. Stabilization of universal service funding.

Sec. 212. Modification of rural video service exemption.

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Subtitle B—Distributions from Universal Service

Sec. 251. Encouraging broadband deployment.

Sec. 252. Establishment of broadband program.

Sec. 253. Competitive neutrality principle.

Sec. 254. Transition rules for modifications adversely affecting carriers.

Sec. 255. Eligibility guidelines.

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TITLE III—STREAMLINING THE FRANCHISING PROCESS

Sec. 301. Short title.

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Sec. 311. Application of title VI to video services and video service providers.

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Sec. 339. Application of title VII cable provisions to video services.

Sec. 340. Children's Television Act amendment.

Subtitle C—Miscellaneous and Conforming Amendments

Sec. 351. Miscellaneous amendments.

Subtitle D—Effective Dates and Transition Rules

Sec. 381. Effective dates; phase-in.

TITLE IV—VIDEO CONTENT

Subtitle A—National Satellite

Sec. 401. Availability of certain licensed services in noncontiguous States.

Subtitle B—Video and Audio Flag

Sec. 451. Short title.

Sec. 452. Protection of digital broadcast video content.

Sec. 453. Protection of digital audio broadcasting content.

Sec. 454. Digital Audio Review Board.

TITLE V—MUNICIPAL BROADBAND

Sec. 501. Short title.

Sec. 502. State regulation of municipal broadband networks.

TITLE VI—WIRELESS INNOVATION NETWORKS

Sec. 601. Short title.

Sec. 602. Eligible television spectrum made available for wireless use.

TITLE VII—DIGITAL TELEVISION

Sec. 701. Analog and digital television sets and converter boxes; consumer education and requirements to reduce the government cost of the converter box program.

Sec. 702. Digital stream requirement for the blind.

Sec. 703. Status of international coordination.

Sec. 704. Certain border stations.

TITLE VIII—PROTECTING CHILDREN

Sec. 801. Video transmission of child pornography.

Sec. 802. Additional child pornography amendments.

- Sec. 803. Prevention of interactivity with commercial matter during children's programming.*
Sec. 804. FCC study of bus-casting.

TITLE IX—INTERNET CONSUMER BILL OF RIGHTS ACT

- Sec. 901. Short title.*
Sec. 902. Findings.
Sec. 903. Consumer Internet bill of rights.
Sec. 904. Application of the First Amendment.
Sec. 905. Stand-alone Internet service shall be offered to the public.
Sec. 906. Network security, worms, viruses, denial of service, parental controls, and blocking child pornography.
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- Sec. 1001. Commissioner participation in forums and meetings.*
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Sec. 1017. Forbearance.
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TITLE XI—LOCAL COMMUNITY RADIO ACT

- Sec. 1101. Short title.*
Sec. 1102. Repeal of prior law.
Sec. 1103. Minimum distance separation requirements.
Sec. 1104. Protection of radio reading services.
Sec. 1105. Ensuring availability of spectrum for LPFM stations.
Sec. 1106. Federal Communications Commission rules.

TITLE XII—CELL PHONE TAX MORATORIUM

- Sec. 1201. Short title.*
Sec. 1202. Moratorium.

TITLE XIII—TRUTH IN CALLER ID

Sec. 1301. Short title.

Sec. 1302. Prohibition regarding manipulation of caller identification information.

TITLE XIV—RURAL WIRELESS AND BROADBAND SERVICE

Sec. 1401. Short title.

Sec. 1402. Small geographic licensing areas.

Sec. 1403. Report on the impact of secondary market transactions.

Sec. 1404. Radio spectrum review.

Sec. 1405. 700 MHz license areas.

Sec. 1406. No interference with DTV transition.

Sec. 1407. Effective date.

1 **TITLE I—WAR ON TERRORISM**2 **Subtitle A—Call Home**3 **SEC. 101. TELEPHONE RATES FOR MEMBERS OF ARMED**
4 **FORCES DEPLOYED ABROAD.**

5 (a) *IN GENERAL.*—*The Federal Communications Com-*
6 *mission shall take such action as may be necessary to reduce*
7 *the cost of calling home for Armed Forces personnel who*
8 *are stationed outside the United States under official mili-*
9 *tary orders or deployed outside the United States in support*
10 *of military operations, training exercises, or other purposes*
11 *as approved by the Secretary of Defense, including the re-*
12 *duction of such costs through the waiver of government fees,*
13 *assessments, or other charges for such calls. The Commission*
14 *may not regulate rates in order to carry out this section.*

15 (b) *FACTORS TO CONSIDER.*—*In taking the action de-*
16 *scribed in subsection (a), the Commission, in coordination*
17 *with the Department of Defense and the Department of*
18 *State, shall—*

1 (1) *evaluate and analyze the costs to Armed*
2 *Forces personnel of such telephone calls to and from*
3 *military bases abroad;*

4 (2) *evaluate methods of reducing the rates im-*
5 *posed on such calls, including deployment of new*
6 *technology such as voice over Internet protocol or suc-*
7 *cessor protocol technology;*

8 (3) *encourage providers of telecommunications to*
9 *adopt flexible billing procedures and policies for*
10 *Armed Forces personnel and their dependents for tele-*
11 *phone calls to and from such Armed Forces personnel;*
12 *and*

13 (4) *seek agreements with foreign governments to*
14 *reduce international surcharges on such telephone*
15 *calls.*

16 (c) *DEFINITIONS.—In this section:*

17 (1) *ARMED FORCES.—The term “Armed Forces”*
18 *has the meaning given that term by section 2101(2)*
19 *of title 5, United States Code.*

20 (2) *MILITARY BASE.—The term “military base”*
21 *includes official duty stations, including vessels,*
22 *whether such vessels are in port or underway outside*
23 *of the United States.*

1 **SEC. 102. REPEAL OF EXISTING AUTHORIZATION.**

2 *Section 213 of the Telecommunications Authorization*
 3 *Act of 1992 (47 U.S.C. 201 note) is repealed.*

4 ***Subtitle B—Interoperability***

5 **SEC. 151. INTEROPERABLE EMERGENCY COMMUNICATIONS.**

6 *(a) IN GENERAL.—Section 3006 of Public Law 109–*
 7 *171 (47 U.S.C. 309 note) is amended by redesignating sub-*
 8 *section (d) as subsection (i) and by inserting after sub-*
 9 *section (c) the following:*

10 “(d) *INTEROPERABLE COMMUNICATIONS SYSTEM*
 11 *EQUIPMENT DEPLOYMENT.—*

12 “(1) *IN GENERAL.—The Secretary of Homeland*
 13 *Security shall allocate at least 25 percent of the funds*
 14 *made available to carry out this section to make*
 15 *interoperable communications system equipment*
 16 *grants for equipment that can utilize, or enable inter-*
 17 *operability with systems or networks that can utilize,*
 18 *reallocated public safety spectrum.*

19 “(2) *ALLOCATION OF FUNDS.—The Secretary*
 20 *shall allocate—*

21 “(A) *a majority of the amounts allocated*
 22 *under paragraph (1) for distribution to public*
 23 *safety agencies based on the threat and risk fac-*
 24 *tors used by the Secretary for the purposes of al-*
 25 *locating discretionary grants under the heading*
 26 *‘OFFICE FOR DOMESTIC PREPAREDNESS, STATE*

1 *AND LOCAL PROGRAMS’ in the Department of*
2 *Homeland Security Appropriations Act, 2006;*
3 *and*

4 *“(B) the remainder equally to each State for*
5 *distribution by the States to public safety agen-*
6 *cies.*

7 *“(3) ELIGIBILITY.—A State may not receive*
8 *funds allocated to it under paragraph (2) unless it*
9 *has established a statewide interoperable communica-*
10 *tions plan approved by the Secretary.*

11 *“(4) USE OF FUNDS.—A public safety agency*
12 *shall use any funds received under this subsection for*
13 *the purchase of interoperable communications system*
14 *equipment and infrastructure that is consistent with*
15 *SAFECOM guidance, including any standards that*
16 *may be referenced by SAFECOM guidance, and inter-*
17 *operable communications system equipment and in-*
18 *frastructure that improves interoperability that uses*
19 *Internet protocol or any successor protocol.*

20 *“(e) COORDINATION, PLANNING, AND TRAINING GRANT*
21 *INITIATIVE.—*

22 *“(1) IN GENERAL.—The Secretary of Homeland*
23 *Security shall allocate at least 25 percent of the funds*
24 *made available to carry out this section for interoper-*
25 *able emergency communications coordination, plan-*

1 *ning, and training grants. The grants shall supple-*
 2 *ment, and be in addition to, any Federal funds other-*
 3 *wise made available by grant or otherwise to the*
 4 *States for emergency coordination, planning, or*
 5 *training.*

6 “(2) *ALLOCATION.*—*The Secretary shall allo-*
 7 *cate—*

8 “(A) *a majority of the amounts allocated*
 9 *under paragraph (1) for distribution to the*
 10 *States based on the threat and risk factors used*
 11 *by the Secretary for the purposes of allocating*
 12 *discretionary grants under the heading “OFFICE*
 13 *FOR DOMESTIC PREPAREDNESS, STATE AND*
 14 *LOCAL PROGRAMS” in the Department of Home-*
 15 *land Security Appropriations Act, 2006; and*

16 “(B) *the remainder equally to each State for*
 17 *distribution to public safety agencies.*

18 “(3) *COORDINATION, PLANNING, AND TRAINING*
 19 *GUIDELINES.*—*A State shall use its emergency com-*
 20 *munication coordination, planning, and training*
 21 *grant to establish a statewide plan consistent with the*
 22 *State communications interoperability planning*
 23 *methodology developed by the SAFECOM program*
 24 *within the Department of Homeland Security or a re-*
 25 *gional plan established by a regional planning agency*

1 *consistent with this section and to establish training*
2 *programs designed to ensure effective implementation*
3 *of coordination and interoperability plans. In estab-*
4 *lishing the statewide plan, the Governor or the Gov-*
5 *ernor's designee shall consult with the Secretary of*
6 *Homeland Security or the Secretary of Homeland Se-*
7 *curity's designee. A State shall submit its statewide*
8 *plan to the Federal Communications Commission and*
9 *the Secretary of Homeland Security.*

10 “(4) *MEDICAL SERVICES.*—As part of its state-
11 *wide plan, a State shall ensure that—*

12 “(A) *there are effective 2-way communica-*
13 *tions and information sharing between medical*
14 *services and other emergency response entities,*
15 *including communications among key strategic*
16 *emergency responders, emergency medical care*
17 *facilities, and Federal, State, and local authori-*
18 *ties in the event of a national, regional, or other*
19 *large-scale emergency, and redundancy in the*
20 *event of a failure of the primary communica-*
21 *tions systems; and*

22 “(B) *medical emergency responses are inte-*
23 *grated into all planning and decision-making*
24 *practices for emergency response.*

1 “(5) *STATE-SPECIFIC COORDINATION, PLANNING,*
 2 *AND TRAINING.*—*Grants under this section shall be*
 3 *available for emergencies and disasters, such as hurri-*
 4 *canes, forest fires, and mining accidents.*

5 “(f) *STRATEGIC TECHNOLOGY RESERVES INITIA-*
 6 *TIVE.*—

7 “(1) *IN GENERAL.*—*The Secretary of Homeland*
 8 *Security shall allocate up to 25 percent of the funds*
 9 *made available to carry out this section to establish*
 10 *and implement a strategic technology reserve to pre-*
 11 *position or secure interoperable communications sys-*
 12 *tems in advance for immediate deployment in an*
 13 *emergency or major disaster (as defined in section*
 14 *102(2) of Public Law 93–288 (42 U.S.C. 5122)). In*
 15 *carrying out this paragraph, the Secretary shall take*
 16 *into consideration the continuing technological evo-*
 17 *lution of communications technologies and devices,*
 18 *with its implicit risk of obsolescence, and ensure that,*
 19 *to the maximum extent feasible, a substantial part of*
 20 *the reserve involves prenegotiated contracts and other*
 21 *arrangements for rapid deployment of equipment,*
 22 *supplies, and systems rather than the warehousing or*
 23 *storage of equipment and supplies currently available*
 24 *at the time the reserve is established.*

1 “(2) *REQUIREMENTS AND CHARACTERISTICS.*—A
2 *reserve established under paragraph (1) shall—*

3 “(A) *be capable of re-establishing commu-*
4 *nications when existing infrastructure is dam-*
5 *aged or destroyed in an emergency or a major*
6 *disaster;*

7 “(B) *include appropriate current, widely-*
8 *used equipment, such as Land Mobile Radio Sys-*
9 *tems, cellular telephones, satellite equipment,*
10 *Cells-On-Wheels, Cells-On-Light-Trucks, or other*
11 *self-contained mobile cell sites that can be towed,*
12 *backup batteries, generators, fuel, and computers;*

13 “(C) *include equipment on hand for the*
14 *Governor of each State, key emergency response*
15 *officials, and appropriate State or local per-*
16 *sonnel;*

17 “(D) *include contracts (including*
18 *prenegotiated contracts) for rapid delivery of the*
19 *most current technology available from commer-*
20 *cial sources; and*

21 “(E) *include arrangements for training to*
22 *ensure that personnel are familiar with the oper-*
23 *ation of the equipment and devices to be deliv-*
24 *ered pursuant to such contracts.*

1 “(3) *ADDITIONAL CHARACTERISTICS.*—*Portions*
 2 *of the reserve may be virtual and may include items*
 3 *donated on an in-kind contribution basis.*

4 “(4) *CONSULTATION.*—*In developing the reserve,*
 5 *the Secretary shall seek advice from the Secretary of*
 6 *Defense, as well as national public safety organiza-*
 7 *tions, emergency managers, State, local, and tribal*
 8 *governments, and commercial providers of such sys-*
 9 *tems and equipment.*

10 “(5) *ALLOCATION AND USE OF FUNDS.*—*The Sec-*
 11 *retary shall allocate—*

12 “(A) *a portion of the reserve’s funds for*
 13 *block grants to States to enable each State to es-*
 14 *tablish a strategic technology reserve within its*
 15 *borders in a secure location to allow immediate*
 16 *deployment; and*

17 “(B) *a portion of the reserve’s funds for re-*
 18 *gional Federal strategic technology reserves to fa-*
 19 *cilitate any Federal response when necessary, to*
 20 *be held in each of the Federal Emergency Man-*
 21 *agement Agency’s regional offices, including Bos-*
 22 *ton, Massachusetts (Region 1), New York, New*
 23 *York (Region 2), Philadelphia, Pennsylvania*
 24 *(Region 3), Atlanta, Georgia (Region 4), Chi-*
 25 *cago, Illinois (Region 5), Denton, Texas (Region*

1 6), *Kansas City, Missouri (Region 7), Denver,*
 2 *Colorado (Region 8), Oakland, California (Re-*
 3 *gion 9), Bothell, Washington (Region 10), and*
 4 *each of the noncontiguous States for immediate*
 5 *deployment.*

6 “(g) *CONSENSUS STANDARDS; APPLICATIONS.—*

7 “(1) *CONSENSUS STANDARDS.—In carrying out*
 8 *this section, the Secretary of Homeland Security shall*
 9 *identify, and if necessary encourage the development*
 10 *and implementation of, consensus standards for inter-*
 11 *operable communications systems to the greatest ex-*
 12 *tent practicable.*

13 “(2) *APPLICATIONS.—To be eligible for assist-*
 14 *ance under the programs established in this section,*
 15 *each State shall submit an application, at such time,*
 16 *in such form, and containing such information as the*
 17 *Secretary may require, including—*

18 “(A) *a detailed explanation of how assist-*
 19 *ance received under the program would be used*
 20 *to improve local communications interoper-*
 21 *ability and ensure interoperability with other*
 22 *appropriate public safety agencies in an emer-*
 23 *gency or a major disaster; and*

24 “(B) *assurance that the equipment and sys-*
 25 *tem would—*

1 “(i) *be compatible with the commu-*
 2 *nications architecture developed under sec-*
 3 *tion 7303(a)(1)(E) of the Intelligence Re-*
 4 *form and Terrorism Prevention Act of 2004*
 5 *(6 U.S.C. 194(a)(1)(E));*

6 “(ii) *meet any voluntary consensus*
 7 *standards developed under section*
 8 *7303(a)(1)(D) of that Act (6 U.S.C.*
 9 *194(a)(1)(D); and*

10 “(iii) *be compatible with the common*
 11 *grant guidance established under section*
 12 *7303(a)(1)(H) of that Act (6 U.S.C.*
 13 *194(a)(1)(H)).*

14 “(h) *DEADLINE FOR IMPLEMENTATION REGULA-*
 15 *TIONS.—Within 90 days after the date of enactment of the*
 16 *Advanced Telecommunications and Opportunities Reform*
 17 *Act, the Secretary, in consultation with the Federal Com-*
 18 *munications Commission, shall promulgate regulations for*
 19 *the implementation of subsections (d) through (f) of this sec-*
 20 *tion.”.*

21 “(b) *SEAMLESS MOBILITY.—Within 180 days after the*
 22 *date of enactment of this Act, the Federal Communications*
 23 *Commission shall streamline its process for certifying*
 24 *multi-mode devices that permit communication across mul-*

1 *tiple platforms, facilities, or networks in a manner con-*
2 *sistent with the public interest.*

3 *(c) FCC REPORT ON EMERGENCY COMMUNICATIONS*
4 *BACK-UP SYSTEM.—*

5 *(1) IN GENERAL.—Not later than 1 year after*
6 *the date of enactment of this Act, the Federal Commu-*
7 *nications Commission, in coordination with the Sec-*
8 *retary of Homeland Security, shall evaluate the tech-*
9 *nical feasibility of creating a back-up emergency com-*
10 *munications system that complements existing com-*
11 *munications resources and takes into account next*
12 *generation and advanced telecommunications tech-*
13 *nologies. The overriding objective for the evaluation*
14 *shall be providing a framework for the development of*
15 *a resilient interoperable communications system for*
16 *emergency responders in an emergency. The Commis-*
17 *sion shall evaluate all reasonable options, including*
18 *satellites, wireless, and terrestrial-based communica-*
19 *tions systems and other alternative transport mecha-*
20 *nisms that can be used in tandem with existing tech-*
21 *nologies.*

22 *(2) FACTORS TO BE EVALUATED.—The evalua-*
23 *tion under paragraph (1) shall include—*

24 *(A) a survey of all Federal agencies that use*
25 *terrestrial or satellite technology for communica-*

tions security and an evaluation of the feasibility of using existing systems for the purpose of creating such an emergency back-up public safety communications system;

(B) the feasibility of using private satellite, wireless, or terrestrial networks for emergency communications;

(C) the technical options, cost, and deployment methods of software, equipment, handsets, or desktop communications devices for public safety entities in major urban areas, and nationwide; and

(D) the feasibility and cost of necessary changes to the network operations center of terrestrial-based or satellite systems to enable the centers to serve as emergency back-up communications systems.

(3) *REPORT.*—Upon the completion of the evaluation under paragraph (1), the Commission shall submit a report to Congress that details the findings of the evaluation, including a full inventory of existing public and private resources most efficiently capable of providing emergency communications.

(d) *INTEROPERABLE COMMUNICATIONS AND E-911 SERVICES.*—The Secretary of Homeland Security shall take

1 *into consideration the role of public safety answering points*
 2 *and E-911 systems, and shall reserve a portion of the funds*
 3 *made available to carry out section 3006 of Public Law*
 4 *109–171 (47 U.S.C. 309 note) to provide interoperable com-*
 5 *munication system grants for projects to public safety an-*
 6 *swering points that enable interoperability and that ad-*
 7 *vance E-911 deployment.*

8 **SEC. 152. TRANSFER OF PUBLIC SAFETY GRANT PROGRAM**
 9 **TO THE DEPARTMENT OF HOMELAND SECU-**
 10 **RITY.**

11 *(a) IN GENERAL.—Section 3006 of Public Law 109–*
 12 *171 (47 U.S.C. 309 note) is amended—*

13 *(1) by striking “The Assistant Secretary, in con-*
 14 *sultation with the” in subsection (a) and inserting*
 15 *“The”; and*

16 *(2) by striking “Assistant Secretary” each place*
 17 *it appears in subsection (b) and inserting “Secretary*
 18 *of Homeland Security”.*

19 *(b) USE OF FUNDS.—In carrying out section 3006(a)*
 20 *of Public Law 109–171 (47 U.S.C. 309 note), as amended*
 21 *by subsection (a), the Secretary of Homeland Security may*
 22 *not use funds under that section for any purpose other than*
 23 *those provided in section 3006 of that Act.*

1 **SEC. 153. PUBLIC SAFETY INTEROPERABLE COMMUNICA-**
 2 **TIONS GRANTS.**

3 *Pursuant to section 3006 of Public Law 109–171 (47*
 4 *U.S.C. 309 note), the Secretary of Homeland Security, in*
 5 *coordination with the Secretary of Commerce, shall award*
 6 *no less than \$1,000,000,000 for public safety interoperable*
 7 *communications grants no later than September 30, 2006.*

8 **SEC. 154. ELIGIBILITY OF IP-ENABLED SERVICES.**

9 *Section 158(a)(1)(A) of the National Telecommuni-*
 10 *cations and Information Administration Organization Act*
 11 *(47 U.S.C. 942(a)(1)(A)) is amended by striking “services;”*
 12 *and inserting “services and services related to the migration*
 13 *to an IP-enabled emergency network that provides E–911*
 14 *services;”.*

15 **TITLE II—UNIVERSAL SERVICE**
 16 **REFORM; INTERCONNECTION**

17 **SEC. 201. SHORT TITLE.**

18 *This title may be cited as the “Internet and Universal*
 19 *Service Act of 2006”.*

20 **Subtitle A—Contributions to**
 21 **Universal Service**

22 **SEC. 211. STABILIZATION OF UNIVERSAL SERVICE FUND-**
 23 **ING.**

24 *(a) ENSURING AN EQUITABLE CONTRIBUTION BASE*
 25 *FOR UNIVERSAL SERVICE.—*

1 (1) *IN GENERAL.*—Section 254(d) (47 U.S.C.
2 254(d)) is amended to read as follows:

3 “(d) *UNIVERSAL SERVICE SUPPORT CONTRIBU-*
4 *TIONS.*—

5 “(1) *CONTRIBUTION MECHANISM.*—

6 “(A) *IN GENERAL.*—Each communications
7 service provider shall contribute as provided in
8 this subsection to support universal service.

9 “(B) *REQUIREMENTS.*—The Commission
10 shall ensure that the contributions required by
11 this subsection are—

12 “(i) applied in a manner that is as
13 competitively and technologically neutral as
14 possible;

15 “(ii) specific, predictable, and suffi-
16 cient to sustain the funding of networks
17 used to preserve and advance universal serv-
18 ice; and

19 “(iii) applied in such a manner that
20 no methodology results in a communica-
21 tions services provider being required to
22 contribute more than once to support Fed-
23 eral universal service for the same trans-
24 action, activity, or service.

1 “(C) *ADJUSTMENTS.—The Commission*
2 *shall adjust the contribution for communication*
3 *service providers for their low-call volume, non-*
4 *business customers.*

5 “(2) *EXEMPTIONS.—The Commission may ex-*
6 *empt a communications service provider or any class*
7 *of communications service providers from the require-*
8 *ments of this subsection in the following cir-*
9 *cumstances:*

10 “(A) *The services of such a provider are*
11 *limited to such an extent that the level of its con-*
12 *tributions would be de minimis.*

13 “(B) *The communications service is pro-*
14 *vided pursuant to the Commission’s Lifeline As-*
15 *sistance Program.*

16 “(C) *The communications service is pro-*
17 *vided only to in-vehicle emergency communica-*
18 *tions customers.*

19 “(D) *The communications service is pro-*
20 *vided by a not-for-profit communications service*
21 *provider that is neither an affiliate of a for-prof-*
22 *it organization nor has a for-profit affiliate and*
23 *which provides voice mailboxes to low income*
24 *consumers and the homeless.*

1 “(3) CONTRIBUTION ASSESSMENT FLEXI-
2 BILITY.—

3 “(A) METHODOLOGY.—*To achieve the prin-*
4 *ciples in this section, the Commission may base*
5 *universal service contributions upon—*

6 “(i) revenue from communications
7 service;

8 “(ii) in-use working phone numbers or
9 any other identifier protocol or connection
10 to the networks; or

11 “(iii) network capacity.

12 “(B) USE OF MORE THAN 1 METHOD-
13 OLOGY.—*If no single methodology employed*
14 *under subparagraph (A) achieves the principles*
15 *described in this subsection, the Commission may*
16 *employ a combination of any such methodologies.*

17 “(C) REMOVAL OF INTERSTATE/INTRASTATE
18 DISTINCTION.—*Notwithstanding section 2(b) of*
19 *this Act, the Commission may assess the inter-*
20 *state, intrastate, and international portions of*
21 *communications service for the purpose of uni-*
22 *versal service contributions.*

23 “(D) GROUP PLAN DISCOUNT.—*If the Com-*
24 *mission utilizes a methodology under subpara-*
25 *graph (A) based in whole or in part on in-use*

1 *working phone numbers, it may provide a dis-*
2 *count for additional numbers provided under a*
3 *group or family pricing plan for residential cus-*
4 *tomers provided in 1 bill.*

5 “(4) *NON-DISCRIMINATORY ELIGIBILITY RE-*
6 *QUIREMENT.—A communications service provider is*
7 *not exempted from the requirements of this subsection*
8 *solely on the basis that such provider is not eligible*
9 *to receive support under this section.*

10 “(5) *BILLING.—*

11 “(A) *IN GENERAL.—A communications*
12 *service provider that contributes to universal*
13 *service under this section may place on any cus-*
14 *tomers bill a separate line item charge that does*
15 *not exceed the amount for the customer that the*
16 *provider is required to contribute under this sub-*
17 *section that shall be identified as the ‘Federal*
18 *Universal Service Fee’.*

19 “(B) *LIMITATION.—A communications serv-*
20 *ice provider may not separately bill customers*
21 *for administrative costs associated with its col-*
22 *lection and remission of universal service fees*
23 *under this subsection.*

24 “(6) *DEFINITIONS.—In this subsection:*

1 “(A) *BROADBAND SERVICE.*—The term
2 ‘broadband service’ means any service (whether
3 part of a bundle of services or offered separately)
4 used for transmission of information of a user’s
5 choosing with a transmission speed of at least
6 200 kilobits per second in at least 1 direction, re-
7 gardless of the transmission medium or tech-
8 nology employed, that connects to the public
9 Internet directly—

10 “(i) to the public; or

11 “(ii) to such classes of users as to be ef-
12 fectively available directly to the public.

13 “(B) *COMMUNICATIONS SERVICE.*—The term
14 ‘communications service’ means telecommuni-
15 cations service, broadband service, or IP-enabled
16 voice service (whether part of a bundle of services
17 or offered separately).

18 “(C) *CONNECTION.*—The term ‘connection’
19 means the facilities that provide customers with
20 access to a public or private network, regardless
21 of whether the connection is circuit-switched,
22 packet-switched, wireline or wireless, or leased
23 line.

24 “(D) *IN-VEHICLE EMERGENCY COMMUNICA-*
25 *TIONS.*—The term ‘in-vehicle emergency commu-

1 *nications’ means services and technology, includ-*
2 *ing automatic crash notification, roadside assist-*
3 *ance, SOS distress calls, remote diagnostics,*
4 *navigation or location-based services, and other*
5 *driver assistance services, which are integrated*
6 *into passenger automobiles to facilitate commu-*
7 *nications from the automobile to emergency re-*
8 *sponse professionals.*

9 “(E) *IP-ENABLED VOICE SERVICE.*—*The*
10 *term ‘IP-enabled voice service’ means the provi-*
11 *sion of real-time 2-way voice communications of-*
12 *fered to the public, or such classes of users as to*
13 *be effectively available to the public, transmitted*
14 *through customer premises equipment using*
15 *Internet protocol, or a successor protocol, for a*
16 *fee (whether part of a bundle of services or of-*
17 *fered separately) with 2-way interconnection ca-*
18 *pability such that the service can originate traf-*
19 *fic to, and terminate traffic from, the public*
20 *switched telephone network.*

21 “(F) *WORKING PHONE NUMBERS.*—*The*
22 *term ‘working phone number’ means an assigned*
23 *number (as defined in section 52.15 of the Com-*
24 *mission’s regulations (47 C.F.R. 52.15)) or an*

1 *intermediate number (as defined in that sec-*
 2 *tion).”.*

3 (2) *CONFORMING AMENDMENT.—Section*
 4 *254(b)(4) (47 U.S.C. 254(b)(4)) is amended by strik-*
 5 *ing “telecommunications services” and inserting*
 6 *“communications services (as defined in subsection*
 7 *(d)(6)(B)”.*

8 (3) *STATE AUTHORITY.—Section 254(f) (47*
 9 *U.S.C. 254(f)) is amended to read as follows:*
 10 *“(f) STATE AUTHORITY.—*

11 *“(1) IN GENERAL.—A State may adopt regula-*
 12 *tions not inconsistent with the Commission’s rules to*
 13 *preserve and advance universal service. In adopting*
 14 *those rules, a State may require telecommunications*
 15 *service providers and IP-enabled voice service (as de-*
 16 *finied in subsection (d)(6)(E)) providers to contribute*
 17 *to universal service on the basis of—*

18 *“(A) revenue;*

19 *“(B) in-use working phone numbers or any*
 20 *other identifier protocol or connection to the net-*
 21 *works;*

22 *“(C) network capacity; or*

23 *“(D) any combination of such methodolo-*
 24 *gies.*

1 “(2) *DISREGARD OF INTERSTATE COMPONENT.*—
 2 *A State may require telecommunications service pro-*
 3 *viders and IP-enabled voice service providers to con-*
 4 *tribute under paragraph (1) regardless of whether the*
 5 *service contains an interstate component.*

6 “(3) *BUNDLING.*—*If a telecommunications serv-*
 7 *ice or IP-enabled voice service is offered as part of a*
 8 *bundle of services, the Commission shall determine a*
 9 *fair allocation of revenue between the telecommuni-*
 10 *cations service or IP-enabled voice service and other*
 11 *bundled services if the primary place of use of such*
 12 *bundled services is within the State.*

13 “(4) *GUIDELINES.*—*Regulations adopted by a*
 14 *State under this subsection shall result in a specific,*
 15 *predictable, and sufficient mechanism to support uni-*
 16 *versal service and shall be competitively and techno-*
 17 *logically neutral, equitable, and nondiscriminatory.”.*

18 (b) *PROPER ACCOUNTING OF UNIVERSAL SERVICE*
 19 *CONTRIBUTIONS.*—

20 (1) *FROM ALL BUDGETS.*—*Notwithstanding any*
 21 *other provision of law, the receipts and disbursements*
 22 *of universal service under section 254 of the Commu-*
 23 *nications Act of 1934 (47 U.S.C. 254) shall not be*
 24 *counted as new budget authority, outlays, receipts, or*
 25 *deficit or surplus for purposes of—*

1 (A) *the budget of the United States Govern-*
 2 *ment as submitted by the President;*

3 (B) *the Congressional budget;*

4 (C) *the Balanced Budget and Emergency*
 5 *Deficit Control Act of 1985; or*

6 (D) *any other law requiring budget seques-*
 7 *ters.*

8 (2) *ADDITIONAL EXEMPTIONS.—Section 1341,*
 9 *subchapter II of chapter 15, and sections 3302, 3321,*
 10 *3322, and 3325 of title 31, United States Code, shall*
 11 *not apply to—*

12 (A) *the collection and receipt of universal*
 13 *service contributions, including the interest*
 14 *earned on such contributions; or*

15 (B) *disbursements or other obligations au-*
 16 *thorized by the Federal Communications Com-*
 17 *mission under section 254 and 254A of the Com-*
 18 *munications Act of 1934 (47 U.S.C. 254 and*
 19 *254A).*

20 (c) *FINANCIAL MANAGEMENT.—The Federal Commu-*
 21 *nications Commission and the Administrator of the Uni-*
 22 *versal Service Fund—*

23 (1) *shall account for the financial transactions of*
 24 *the Fund in accordance with generally accepted ac-*
 25 *counting principles for Federal agencies;*

1 (2) *shall maintain the accounts of the Fund in*
 2 *accordance with the United States Government*
 3 *Standard General Ledger; and*

4 (3) *may invest unexpended balances only in Fed-*
 5 *eral securities (as defined in section 113(b)(5) of Of-*
 6 *fice of Management and Budget circular OMB A-11*
 7 *or any revision of that circular).*

8 (d) *RULEMAKING.*—*Not later than 180 days after the*
 9 *date of enactment of this Act, the Federal Communications*
 10 *Commission shall issue a rule to implement section 254(d)*
 11 *of the Communications Act of 1934 (47 U.S.C. 254(d)) as*
 12 *amended by this section.*

13 (e) *CONGRESSIONAL REVIEW.*—*Any rule issued under*
 14 *subsection (d) shall—*

15 (1) *be submitted to Congress, along with any*
 16 *data and information relied upon to establish such*
 17 *rule; and*

18 (2) *not take effect until the date that is 90 days*
 19 *after the date of such submission.*

20 **SEC. 212. MODIFICATION OF RURAL VIDEO SERVICE EXEMP-**
 21 **TION.**

22 (a) *RURAL TELEPHONE COMPANIES.*—*Section*
 23 *251(f)(1) (47 U.S.C. 251(f)(1)) is amended—*

1 (1) by striking “Subsection” in subparagraph
2 (A) and inserting “Except as provided in subpara-
3 graph (B), subsection”;

4 (2) by striking “interconnection, services, or net-
5 work elements” in subparagraphs (A) and (B) and
6 inserting “services or network elements”;

7 (3) by striking “(under subparagraph (B))” in
8 subparagraph (A) and inserting “(under subpara-
9 graph (C))”;

10 (4) by redesignating subparagraphs (B) and (C)
11 as subparagraphs (D) and (E);

12 (5) by inserting after subparagraph (A) the fol-
13 lowing:

14 “(B) CERTAIN CARRIERS.—Subsection (c)
15 (other than paragraphs (1) and (2) thereof) of
16 this section shall not apply to a rural telephone
17 company in Alaska with fewer than 10 access
18 lines per square mile installed in the aggregate
19 in its service area (as defined in section
20 214(e)(5)).

21 “(C) INTERCONNECTION.—Notwithstanding
22 subparagraphs (A) and (D), paragraphs (1) and
23 (2) of subsection (c) of this section shall not
24 apply to a rural telephone company until such

1 *company has received a bona fide request for*
 2 *interconnection.”; and*

3 *(6) by striking subparagraph (E), as redesign-*
 4 *ated.*

5 ***(b) OTHER RURAL CARRIERS.***—*Section 251(f)(2) (47*
 6 *U.S.C. 251(f)(2)) is amended by inserting “(other than*
 7 *paragraphs (1) and (2) of subsection (c))” after “subsection*
 8 *(b) or (c)” in the first sentence.*

9 ***(c) EFFECTIVE DATE.***—*Notwithstanding any other*
 10 *provision of this Act, the amendments made by this section*
 11 *shall take effect on the date of enactment of this Act.*

12 **SEC. 213. INTERCONNECTION.**

13 *Title VII (47 U.S.C. 601 et seq.) is amended by adding*
 14 *after section 714 the following new section:*

15 **“SEC. 715. RIGHTS AND OBLIGATIONS OF IP-ENABLED**
 16 **VOICE SERVICE PROVIDERS.**

17 ***“(a) IN GENERAL.***—*A facilities-based IP-enabled voice*
 18 *service provider shall have the same rights, duties, and obli-*
 19 *gations, including any obligation imposed under section*
 20 *276, as a requesting telecommunications carrier under sec-*
 21 *tions 251 and 252, if the provider elects to assert such*
 22 *rights. A telecommunications carrier may not refuse to*
 23 *transport or terminate IP-enabled voice traffic solely on the*
 24 *basis that it is IP-enabled. A provider originating, trans-*
 25 *mitting, or terminating IP-enabled voice traffic shall not*

1 *be exempted from paying compensation for interstate traffic*
2 *owed to another provider or carrier solely on the basis that*
3 *such traffic is IP-enabled, and any obligations to pay com-*
4 *pensation with respect to traffic that originates or termi-*
5 *nates on the public switched telephone network shall be re-*
6 *ciprocal, including any payment to an IP-enabled voice*
7 *service provider that receives traffic from, or sends traffic*
8 *to, the public switched telephone network.*

9 “(b) *DISABLED ACCESS.—An IP-enabled voice service*
10 *provider or a manufacturer of IP-enabled voice service*
11 *equipment shall have the same rights, duties, and obliga-*
12 *tions as a telecommunications carrier or telecommuni-*
13 *cations equipment manufacturer, respectively, under sec-*
14 *tions 225, 255, and 710 of the Act. Within 1 year after*
15 *the date of enactment of the Internet and Universal Service*
16 *Act of 2006, the Commission, in consultation with the Ar-*
17 *chitectural and Transportation Barriers Compliance*
18 *Board, shall prescribe such regulations as are necessary to*
19 *implement this section. In prescribing the regulations, the*
20 *Commission shall take into account the differences between*
21 *IP-enabled voice service and circuit-switched communica-*
22 *tions, and the functionalities required by the disabled com-*
23 *munity. Every 2 years after the date of enactment of the*
24 *Internet and Universal Service Act of 2006, the Commission*
25 *shall submit a report to the Committee on Commerce,*

1 *Science, and Transportation of the Senate and the Com-*
 2 *mittee on Energy and Commerce of the House of Represent-*
 3 *atives that assesses the level of compliance with this section*
 4 *and evaluates the extent to which any accessibility barriers*
 5 *still exist with respect to new technologies and hearing aid*
 6 *compatibility.*

7 “(c) *IP-ENABLED EMERGENCY RESPONSE SYS-*
 8 *TEMS.—Prior to installation or activation of an IP-enabled*
 9 *voice service for a customer, an IP-enabled voice service pro-*
 10 *vider shall provide clear and conspicuous notice to the cus-*
 11 *tomers that—*

12 “(1) *such customer should arrange with his or*
 13 *her emergency response system provider, if any, to*
 14 *test such system after installation;*

15 “(2) *such customer should notify his or her emer-*
 16 *gency response system provider as soon as the IP-en-*
 17 *abled voice service is installed; and*

18 “(3) *a battery backup may be required for cus-*
 19 *tomers premises equipment installed in connection*
 20 *with the IP-enabled voice service in order for the sig-*
 21 *nalings of such system to function in the event of a*
 22 *power outage.*

23 “(e) *NO EFFECT ON TAX LAWS.—Nothing in this sec-*
 24 *tion shall be construed to modify, impair, supersede, or au-*

1 *thorize the modification, impairment, or supersession of,*
 2 *any State or local tax law.*

3 “(f) *DEFINITIONS.—In this section:*

4 “(1) *EMERGENCY RESPONSE SYSTEM.—The term*
 5 *‘emergency response system’ means an alarm or secu-*
 6 *rity system, or personal security or medical moni-*
 7 *toring system, that is connected to an emergency re-*
 8 *sponse center by means of a telecommunications car-*
 9 *rier or IP-enabled voice service provider.*

10 “(2) *EMERGENCY RESPONSE CENTER.—The term*
 11 *‘emergency response center’ means an entity that*
 12 *monitors transmissions from an emergency response*
 13 *system.*

14 “(3) *FACILITIES-BASED.—The term ‘facilities-*
 15 *based’ includes an IP-enabled voice service provider*
 16 *with control and operation within a local access*
 17 *transport area of—*

18 “(A) *communications switching and routing*
 19 *equipment;*

20 “(B) *long-haul trunks; or*

21 “(C) *local transmission facilities.*

22 “(4) *IP-ENABLED VOICE SERVICE.—The term*
 23 *‘IP-enabled voice service’ means the provision of real-*
 24 *time 2-way voice communications offered to the pub-*
 25 *lic, or such classes of users as to be effectively avail-*

1 able to the public, transmitted through customer
2 premises equipment using Internet protocol, or a suc-
3 cessor protocol, for a fee (whether part of a bundle of
4 services or offered separately) with interconnection ca-
5 pability such that the service can originate traffic to,
6 and terminate traffic from, the public switched tele-
7 phone network.”.

8 *SEC. 214. TREATMENT OF SUBSTITUTE SERVICES UNDER*
9 *SECTION 254(g).*

10 Section 254(g) (47 U.S.C. 254(g)) is amended by in-
11 serting after “State.” the following: “This section shall also
12 apply to any services within the jurisdiction of the Commis-
13 sion that can be used as effective substitutes for inter-
14 exchange telecommunications services, including any such
15 substitute classified as an information service that uses tele-
16 communications.”.

17 ***Subtitle B—Distributions From***
18 ***Universal Service***

19 **SEC. 251. ENCOURAGING BROADBAND DEPLOYMENT.**

(a) IN GENERAL.—Beginning 2 years after the date of enactment of this Act, and biennially thereafter, an eligible communications carrier shall submit a report to the Commission and to the State commission in each State in which it provides communications service that sets forth the following:

1 (1) *The percentage of households to which it of-*
 2 *fers broadband service in each of its service areas.*

3 (2) *The percentage of households that subscribe to*
 4 *broadband service in each of its service areas.*

5 (3) *The service plans and speeds at which*
 6 *broadband service is offered in each of its service*
 7 *areas.*

8 (4) *The types of technologies used in offering*
 9 *broadband service in each of its service areas.*

10 (5) *Any planned upgrade or deployment of*
 11 *broadband service in the next 2 years in each of its*
 12 *service areas.*

13 (b) *INFORMATION TREATED AS CONFIDENTIAL.—The*
 14 *Commission and State commissions shall treat information*
 15 *received pursuant to subsection (a) as confidential and pro-*
 16 *prietary, and shall protect sensitive business information*
 17 *from disclosure in any reports made public.*

18 (c) *COMMISSION REPORT.—The Commission shall in-*
 19 *corporate the data from reports it receives under subsection*
 20 *(a) into its advanced telecommunications capability reports*
 21 *under section 706 of the Telecommunications Act of 1996.*

22 **SEC. 252. ESTABLISHMENT OF BROADBAND PROGRAM.**

23 *Part I of title II (47 U.S.C. 201 et seq.) is amended*
 24 *by inserting after section 254 the following:*

1 **“SEC. 254A. BROADBAND FOR UNSERVED AREAS PROGRAM.**

2 “(a) *PROGRAM ESTABLISHED.*—

3 “(1) *IN GENERAL.*—*The Commission shall estab-*
4 *lish a new separate program to be known as the*
5 *‘Broadband for Unserved Areas Program’.*

6 “(2) *PURPOSE.*—*The purpose of the Program is*
7 *to provide financial assistance for the deployment of*
8 *broadband equipment and infrastructure necessary*
9 *for the deployment of broadband service (including*
10 *installation costs) to unserved areas throughout the*
11 *United States.*

12 “(3) *FUNDING.*—*The Program shall be funded by*
13 *amounts collected under section 254(d).*

14 “(b) *IMPLEMENTATION.*—

15 “(1) *IN GENERAL.*—*Within 180 days after the*
16 *date of enactment of the Internet and Universal Serv-*
17 *ice Act of 2006, the Commission shall issue rules es-*
18 *tablishing—*

19 “(A) *guidelines for determining which areas*
20 *may be considered to be unserved areas for pur-*
21 *poses of this section, which may be portions of*
22 *service areas or study areas;*

23 “(B) *criteria for determining which facili-*
24 *ties-based providers of broadband service and*
25 *which projects are eligible for support from the*
26 *Program;*

1 “(C) *procedural guidelines for awarding as-*
2 *sistance from the Program on a merit-based and*
3 *competitive basis;*

4 “(D) *guidelines for application procedures,*
5 *accounting and reporting requirements, and*
6 *other appropriate fiscal controls for assistance*
7 *made available from the Program, including*
8 *random audits with respect to the receipt and*
9 *use of funds under this section;*

10 “(E) *a procedure for making funds in the*
11 *Program available among the several States on*
12 *an equitable basis; and*

13 “(F) *the Universal Service Administrative*
14 *Company as the administrator of the Program,*
15 *subject to Commission rules and oversight.*

16 “(2) *FACILITIES-BASED PROVIDER ELIGI-*
17 *BILITY.—For purposes of this section, satellite*
18 *broadband service providers, terrestrial wireless*
19 *broadband service providers, and wireline broadband*
20 *service providers shall be considered to be facilities-*
21 *based providers eligible for support from the Program.*
22 *The deployment of satellite broadband service cus-*
23 *tomers premises equipment shall be considered to be a*
24 *project eligible for support from the Program.*

1 “(3) *DE MINIMIS SUBSCRIBERSHIP EXCEP-*
 2 *TION.—The availability of satellite broadband service*
 3 *in an area shall not preclude the designation of that*
 4 *area as an unserved area if the Commission deter-*
 5 *mines that subscribership to broadband satellite serv-*
 6 *ice in the area is de minimis.*

7 “(4) *MULTIPLE AREAS WITHIN STATE.—There*
 8 *may be more than 1 unserved area within a State.*

9 “(c) *LIMITATIONS.—*

10 “(1) *ANNUAL AMOUNT.—Amounts obligated or*
 11 *expended under subsection (b) for any fiscal year may*
 12 *not exceed \$500,000,000.*

13 “(2) *UNOBLIGATED BALANCES.—To the extent*
 14 *that the full amount in the program is not obligated*
 15 *for financial assistance under this section within a*
 16 *fiscal year, any unobligated balance shall be used to*
 17 *support universal service under section 254.*

18 “(3) *SUPPORT LIMITED TO SINGLE FACILITIES-*
 19 *BASED PROVIDER PER UNSERVED AREA.—Assistance*
 20 *under this section may be provided only to 1 facili-*
 21 *ties-based provider of broadband service in each*
 22 *unserved area.*

23 “(d) *APPLICATION WITH SECTION 410.—Section 410*
 24 *shall not apply to the Broadband for Unserved Areas Pro-*
 25 *gram.*

1 “(e) *BROADBAND SERVICE DEFINED.*—

2 “(1) *IN GENERAL.*—*In this section, except to the*
 3 *extent revised by the Commission under paragraph*
 4 *(2), the term ‘broadband service’ means any service*
 5 *used for transmission of information of a user’s choos-*
 6 *ing at a transmission speed of at least 400 kilobits*
 7 *per second in at least 1 direction, regardless of the*
 8 *transmission medium or technology employed, that*
 9 *connects to the public Internet directly—*

10 “(A) *to the public; or*

11 “(B) *to such classes of users as to be effec-*
 12 *tively available directly to the public.*

13 “(2) *ANNUAL REVIEW OF TRANSMISSION*
 14 *SPEED.*—*The Commission shall review the trans-*
 15 *mission speed component of the definition in para-*
 16 *graph (1) biannually and revise that component as*
 17 *appropriate.*

18 “(f) *REPORT.*—*The Commission shall transmit an an-*
 19 *nual report to the Senate Committee on Commerce, Science,*
 20 *and Transportation and the House of Representatives Com-*
 21 *mittee on Energy and Commerce making recommendations*
 22 *for an increase or decrease, if necessary, in the amounts*
 23 *credited to the program under this section.”.*

1 **SEC. 253. COMPETITIVE NEUTRALITY PRINCIPLE.**

2 Section 254(b) (47 U.S.C. 254(b)) is amended by re-
3 designating paragraph (7) as paragraph (8), and inserting
4 after paragraph (6) the following:

5 “(7) **COMPETITIVE NEUTRALITY.**—Universal
6 service support mechanisms and rules should be com-
7 petitively neutral. In this context, competitively neu-
8 tral means that universal service support mechanisms
9 and rules neither unfairly advantage nor disadvan-
10 tage one provider over another, and neither unfairly
11 favor nor disfavor one technology over another.”.

12 **SEC. 254. TRANSITION RULES FOR MODIFICATIONS AD-**
13 **VERSELY AFFECTING CARRIERS.**

14 If the Federal Communications Commission modifies
15 the high-cost distribution rules under section 254 of the
16 Communications Act of 1934 (47 U.S.C. 254), it shall adopt
17 transition mechanisms of not less than 5 years in duration
18 designed to alleviate any harmful affect of those modifica-
19 tions on existing eligible communications carriers and their
20 customers.

21 **SEC. 255. ELIGIBILITY GUIDELINES.**

22 Section 214(e) (47 U.S.C. 214(e)) is amended by add-
23 ing at the end the following:

24 “(7) **ELIGIBILITY GUIDELINES.**—

1 “(A) *IN GENERAL.*—A common carrier may
2 not be designated as a new eligible communica-
3 tions carrier unless it—

4 “(i) *is committed to providing service*
5 *throughout its proposed designated service*
6 *area, using its own facilities or a combina-*
7 *tion of facilities and resale of another car-*
8 *rier’s facilities, to all customers making a*
9 *reasonable request for service;*

10 “(ii) *has certified to the State commis-*
11 *sion or the Commission that it will provide*
12 *service on a timely basis to requesting cus-*
13 *tomers within its service area, if service can*
14 *be provided at reasonable cost;*

15 “(iii) *has submitted a plan to the*
16 *State commission or the Commission that*
17 *describes with specificity proposed improve-*
18 *ments or upgrades to its network that will*
19 *be accomplished with high-cost support over*
20 *the first 2 years following its designation as*
21 *an eligible communications carrier;*

22 “(iv) *has demonstrated to the State*
23 *commission or the Commission its ability to*
24 *remain functional in emergency situations,*
25 *including a demonstration that it has a*

1 *reasonable amount of back-up power to en-*
2 *sure functionality without an external*
3 *power source;*

4 *“(v) is committed to following applica-*
5 *ble consumer protection and service quality*
6 *standards; and*

7 *“(vi) has complied with annual report-*
8 *ing requirements established by the Com-*
9 *mission or by State Commissions for all*
10 *carriers receiving universal service support*
11 *to ensure that such support is used for the*
12 *provision, maintenance, and upgrading of*
13 *the facilities for which support is intended.*

14 *“(B) APPLICATION LIMITED TO POST DATE-*
15 *OF-ENACTMENT DESIGNATIONS.—Subparagraph*
16 *(A) applies only to an entity designated as an*
17 *eligible communications carrier after the date of*
18 *enactment of the Internet and Universal Service*
19 *Act of 2006.*

20 *“(C) 6-MONTH DESIGNATION DEADLINE.—*
21 *Beginning 6 months after the date of enactment*
22 *of the Internet and Universal Service Act of*
23 *2006, a State commission or the Commission*
24 *shall grant or deny an application for designa-*
25 *tion as an eligible communications carrier with-*

1 *in 6 months after the date on which it receives*
 2 *a complete application.*

3 “(D) *ELIGIBLE COMMUNICATIONS CAR-*
 4 *RIER.—In this paragraph, the term ‘eligible*
 5 *communications carrier’ means an entity des-*
 6 *ignated under paragraph (2), (3), or (6) of this*
 7 *subsection. Any reference to eligible telecommuni-*
 8 *cations carrier in this section or in section 254*
 9 *refers also to an eligible communications car-*
 10 *rier.”.*

11 **SEC. 256. PRIMARY LINE.**

12 *Section 214(e) (47 U.S.C. 214(e)), as amended by sec-*
 13 *tion 255 of this Act, is amended by adding at the end the*
 14 *following:*

15 “(8) *PRIMARY LINE.—In implementing the re-*
 16 *quirements of this Act with respect to the distribution*
 17 *and use of Federal universal service support, the*
 18 *Commission shall not limit such distribution and use*
 19 *to a single connection or primary line, and all resi-*
 20 *dential and business lines served by an eligible com-*
 21 *munications carrier shall be eligible for Federal uni-*
 22 *versal service support.”.*

23 **SEC. 257. PHANTOM TRAFFIC.**

24 “(a) *IN GENERAL.—Section 254 (47 U.S.C. 254) is*
 25 *amended by adding at the end the following:*

1 “(m) *NETWORK TRAFFIC IDENTIFICATION ACCOUNT-*
2 *ABILITY STANDARDS.*—

3 “(1) *NETWORK TRAFFIC IDENTIFICATION AC-*
4 *COUNTABILITY STANDARDS.*—*A provider of voice com-*
5 *munications services shall ensure, to the degree tech-*
6 *nically possible, that all traffic that originates on its*
7 *network contains, or, in the case of nonoriginated*
8 *traffic, preserves, sufficient information to allow for*
9 *traffic identification by other voice communications*
10 *service providers that transport or terminate such*
11 *traffic, including information on the identity of the*
12 *originating provider, the class of service of the origi-*
13 *nating line as required under Commission orders in*
14 *effect on the date of enactment of the Internet and*
15 *Universal Service Act of 2006, the calling and called*
16 *parties, and such other information as the Commis-*
17 *sion deems appropriate. Except as otherwise per-*
18 *mitted by the Commission, a provider that transports*
19 *traffic between communications service providers shall*
20 *signal-forward without altering call signaling infor-*
21 *mation it receives from another provider.*

22 “(2) *NETWORK TRAFFIC IDENTIFICATION RULE-*
23 *MAKING.*—*The Commission, in consultation with the*
24 *State commissions, shall initiate a single rulemaking*
25 *no later than 180 days after the date of enactment of*

1 *the Internet and Universal Service Act of 2006 to es-*
 2 *tablish rules and enforcement provisions for traffic*
 3 *identification.*

4 “(3) *NETWORK TRAFFIC IDENTIFICATION EN-*
 5 *FORCEMENT.*—*The Commission shall adopt and en-*
 6 *force clear penalties, fines, and sanctions under this*
 7 *section.*

8 “(4) *VOICE COMMUNICATIONS SERVICE DE-*
 9 *FINED.*—*In this subsection, the term ‘voice commu-*
 10 *nications service’ means telecommunications service*
 11 *or IP-enabled voice service (as defined in section*
 12 *254(d)(6)(E)).’.*

13 (b) *CONFORMING AMENDMENT.*—*Section 276(d) (47*
 14 *U.S.C. 276(d)) is amended—*

15 (1) *by striking “DEFINITION.—” and inserting*
 16 *“DEFINITIONS.—”; and*

17 (2) *by striking “services.” and inserting “serv-*
 18 *ices, and the term ‘call’ includes any communication*
 19 *coming within the definition of ‘communications serv-*
 20 *ice’ (as defined in section 254(d)) when it originated*
 21 *from a payphone.’.*

22 **SEC. 258. RANDOM AUDITS.**

23 *Section 254 (47 U.S.C. 254), as amended by section*
 24 *257 of this Act, is amended by adding at the end the fol-*
 25 *lowing:*

1 “(n) *AUDITS.*—*The Commission shall provide for ran-*
2 *dom periodic audits, to be administered by the Universal*
3 *Service Administrative Company, of each recipient of funds*
4 *collected pursuant to subsection (d) with respect to its re-*
5 *ceipt and use of such support. With respect to an eligible*
6 *communications carrier, the audit shall include a review*
7 *of its relative cost to provide service compared to other,*
8 *similarly situated, universal service recipients based on*
9 *their respective service areas (as defined in section*
10 *214(e)(5)). The Commission shall take such remedial action*
11 *as it deems necessary if any audit under this subsection*
12 *reveals improper use of universal service support, including*
13 *the imposition of fines or other appropriate remedies.”.*

14 **SEC. 259. INTEGRITY AND ACCOUNTABILITY.**

15 (a) *IN GENERAL.*—*The Federal Communications Com-*
16 *mission, in consultation with the Administrator of the Uni-*
17 *versal Service Administrative Company, shall—*

18 (1) *ensure the integrity and accountability of all*
19 *programs established under sections 254 and 254A of*
20 *the Communications Act of 1934 (47 U.S.C. 254 and*
21 *254A); and*

22 (2) *not later than 180 days after the date of en-*
23 *actment of this Act, establish rules—*

1 (A) identifying appropriate fiscal controls
2 and accountability standards that shall be ap-
3 plied to programs under sections 254 and 254A;

4 (B) establishing a memorandum of under-
5 standing, or contractual relationships, as the
6 Commission determines appropriate, defining the
7 administrative structure and processes by which
8 the Universal Service Administrative Company
9 administers programs under sections 254 and
10 254A;

11 (C) creating performance goals and meas-
12 ures for programs under sections 254 and 254A,
13 that shall be used by the Commission to deter-
14 mine—

15 (i) how efficiently and cost-effectively
16 the Universal Service Administrative Com-
17 pany spends funds pursuant to its oper-
18 ation of all universal service programs; and

19 (ii) areas for improving operations;

20 (D) creating performance goals and meas-
21 urements for the Schools and Libraries Program
22 under section 254(h) that—

23 (i) determine the progress of schools
24 and libraries toward achieving advances in
25 connectivity goals; and

1 (ii) reflect the evolving level of ad-
2 vanced services; and

3 (E) establishing appropriate enforcement
4 actions, including the imposition of sanctions on
5 applicants and vendors who repeatedly and
6 knowingly violate program rules set forth in sec-
7 tion 254(h) or adopted by the Commission, such
8 as debarment from the program for individuals
9 convicted of crimes or held civilly liable for ac-
10 tions taken in connection with the Schools and
11 Libraries Program.

12 (b) *PERMANENT BAN OF VENDORS CONVICTED OF*
13 *CRIMINAL FRAUD.*—A vendor that has been convicted of a
14 criminal fraud violation in connection with the provision
15 of goods or services under section 254(h) of the Communica-
16 tions Act of 1934 (47 U.S.C. 254(h)) is not eligible to pro-
17 vide goods or services to any school, library, or other entity
18 under the program authorized by that section.

19 **SEC. 260. IMPROVING EFFECTIVENESS OF RURAL HEALTH**
20 **CARE SUPPORT MECHANISM.**

21 (a) *IN GENERAL.*—Section 254(h) (47 U.S.C. 254(h))
22 is amended—

23 (1) by resetting so much of paragraph (1)(A) as
24 follows “AREAS.—” as an indented paragraph 6 ems

1 *from the left margin and inserting “(i) IN GEN-*
 2 *ERAL.—” before “A telecommunications”;*

3 *(2) by inserting “deployment of reasonable infra-*
 4 *structure and” after “including” in the first sentence*
 5 *of paragraph (1)(A)(i), as designated by paragraph*
 6 *(1) of this subsection;*

7 *(3) by striking “service.” in paragraph (1)(A)(i),*
 8 *as designated by paragraph (1) of this subsection, and*
 9 *inserting “service, and to receive reimbursement*
 10 *promptly of any amount in excess of such obligations*
 11 *to participate in universal service mechanisms.”;*

12 *(4) by adding at the end of paragraph (1)(A) the*
 13 *following:*

14 *“(ii) LIMITATION.—The discount re-*
 15 *quired under clause (i) shall be available*
 16 *only to a public or nonprofit health care*
 17 *provider located in a rural area.*

18 *“(iii) DEFINITION.—For purposes of*
 19 *this subparagraph, the term ‘rural area’*
 20 *means—*

21 *“(I) any incorporated or unincor-*
 22 *porated area in the United States, or*
 23 *in the territories or insular possessions*
 24 *of the United States that has not more*
 25 *than 20,000 inhabitants based on the*

1 *most recent available population statis-*
2 *tics published in the most recent decen-*
3 *nial census issued by the Census Bu-*
4 *reau;*

5 *“(II) any area located outside the*
6 *boundaries of any incorporated or un-*
7 *incorporated city, county, or borough*
8 *that has more than 20,000 inhabitants*
9 *based on the most recent available pop-*
10 *ulation statistics published in the most*
11 *recent decennial census issued by the*
12 *Census Bureau; or*

13 *“(III) any area that qualified as*
14 *a rural area under the rules of the*
15 *Commission in effect on December 1,*
16 *2004.”;*

17 *(5) by striking “and” in paragraph (7)(B)(vi);*

18 *and*

19 *(6) by striking paragraph (7)(B)(vii) and insert-*
20 *ing the following:*

21 *“(vii) not-for-profit nursing homes or*
22 *skilled nursing facilities;*

23 *“(viii) critical access hospitals;*

24 *“(ix) emergency medical services facili-*
25 *ties;*

1 “(x) hospice providers;
 2 “(xi) rural dialysis facilities;
 3 “(xii) tribal health clinics;
 4 “(xiii) not-for-profit dental offices;
 5 “(xiv) school health clinics;
 6 “(xv) residential treatment facilities;
 7 “(xvi) rural pharmacies;
 8 “(xvii) consortia of health care pro-
 9 viders consisting of 1 or more entities de-
 10 scribed in clauses (i) through (xv); and
 11 “(xviii) any other entity the Commis-
 12 sion determines—
 13 “(I) eligible to receive discounted
 14 telecommunications service under
 15 paragraph (1)(A); and
 16 “(II) essential to the public
 17 health.”.

18 (b) *SCHOOLS, LIBRARIES, RURAL HEALTH CARE,*
 19 *LIFE-LINE, LINK-UP, AND TOLL LIMITATION HOLD HARM-*
 20 *LESS.—Except as provided in subsections (h)(1)(A),*
 21 *(h)(7)(B), and (h)(7)(J) of section 254 of the Communica-*
 22 *tions Act of 1934 (47 U.S.C. 254), as amended by subsection*
 23 *(a)—*

24 (1) *nothing in this Act (or the amendments*
 25 *made by this Act) shall be construed as limiting,*

1 *changing, modifying, or altering the amount of sup-*
 2 *port or means of distribution for the schools, libraries,*
 3 *rural health care, life-line, link-up, and toll limita-*
 4 *tion programs; and*

5 *(2) the Federal Communications Commission*
 6 *shall ensure that such amendments do not result in*
 7 *a decrease of such support to a level below the level*
 8 *for the fiscal year preceding the fiscal year in which*
 9 *this Act is enacted.*

10 *(c) AMERICAN COMMUNITY SURVEY RESIDENTIAL*
 11 *INTERNET ACCESS QUESTION.—The Secretary of Com-*
 12 *merce, in consultation with the Federal Communications*
 13 *Commission, shall expand the American Community Sur-*
 14 *vey conducted by the Bureau of the Census to elicit informa-*
 15 *tion for residential households, including those located on*
 16 *Indian land (as defined in section 4(9) of the American*
 17 *Indian Agricultural Resource Management Act (25 U.S.C.*
 18 *3703(9))), as to what technology such households use to ac-*
 19 *cess the Internet from home.*

20 **SEC. 261. COMMUNICATIONS SERVICES FOR LIBRARIES.**

21 *Section 254(h)(4) of the Communications Act of 1934*
 22 *(47 U.S.C. 254(h)(4)) is amended to read as follows:*

23 *“(4) CERTAIN USERS NOT ELIGIBLE.—Notwith-*
 24 *standing any other provision of this subsection, the*

1 *following entities are not entitled to preferential rates*
 2 *or treatment as required by this subsection:*

3 “(A) *An entity operated as a for-profit busi-*
 4 *ness.*

5 “(B) *A school described in paragraph*
 6 *(7)(A) with an endowment of more than*
 7 *\$50,000,000.*

8 “(C) *A library or library consortium not el-*
 9 *igible for assistance under the Library Services*
 10 *and Technology Act (20 U.S.C. 9101 et seq.)*
 11 *from a State library administrative agency.*

12 “(D) *A library or library consortium not el-*
 13 *igible for assistance funded by a grant under sec-*
 14 *tion 261 of the Library Services and Technology*
 15 *Act (20 U.S.C. 9161) from an Indian tribe or*
 16 *other organization.”.*

17 **SEC. 262. USF SUPPORT FOR INSULAR AREAS.**

18 *Within 180 days after the date of enactment of this*
 19 *Act, the Federal Communications Commission shall issue*
 20 *an order in FCC Docket 96–45 establishing a predictable*
 21 *and sufficient support mechanism for eligible carriers in*
 22 *insular areas, including any insular area that is a State*
 23 *comprised entirely of islands, that includes assistance for*
 24 *high-cost communications transport services used by car-*

riers whose service territory includes multiple noncontiguous service areas.

TITLE III—STREAMLINING THE FRANCHISING PROCESS

SEC. 301. SHORT TITLE.

This title may be cited as the “Video Competition and Savings for Consumers Act of 2006”.

Subtitle A—Updating the 1934 Act and Leveling the Regulatory Playing Field

SEC. 311. APPLICATION OF TITLE VI TO VIDEO SERVICES AND VIDEO SERVICE PROVIDERS.

(a) *TERMINOLOGY.*—Title VI (47 U.S.C. 521 et seq.), except for section 602 (47 U.S.C. 522), is amended—

(1) by striking “cable operator”, “cable operator’s”, and “cable operators” each place they appear and inserting “video service provider”, “video service provider’s”, or “video service providers”, respectively;

(2) by striking “cable” when used in “cable auxiliary”, “cable communications”, “cable network”, “cable programmer”, “cable programmers”, “cable service”, “cable services”, “cable subscriber”, “cable system”, “cable systems”, or “cable telecommunications”, each place it appears and inserting “video service”;

1 (3) by striking “noncable” in section
 2 614(h)(1)(C)(ii)(IV) and inserting “non-video serv-
 3 ice”;

4 (4) except where amended by paragraph (1), by
 5 striking “operator”, “operator’s”, and “operators”
 6 each place they appear and inserting “provider”,
 7 “provider’s”, or “providers”, respectively;

8 (5) by striking “cassette” each place it appears;
 9 and

10 (6) by striking “tape” each place it appears and
 11 inserting “record”.

12 (b) *HEADINGS*.—Title VI (47 U.S.C. 521 et seq.) is
 13 amended—

14 (1) by striking the heading for title VI and in-
 15 serting “**TITLE VI—VIDEO SERVICES**”;

16 (2) by striking the heading for part II and in-
 17 serting “**PART II—USE OF VIDEO SERV-**
 18 **ICES; RESTRICTIONS**”;

19 (3) by striking the heading for part III and in-
 20 serting “**PART III—FRANCHISING**”; and

21 (4) striking “**CABLE**” in the heading for sec-
 22 tions 633 and 640 and inserting “**VIDEO**”.

23 (c) *REGULATIONS*.—Notwithstanding section 381(a) of
 24 this Act:

1 (1) *NEW REGULATIONS.*—Within 120 days after
 2 the date of enactment of this Act, the Commission
 3 shall issue regulations to implement sections 603, 611,
 4 612, 621, and 622 of the Communications Act of
 5 1934, as amended by this Act.

6 (2) *UPDATING EXISTING REGULATIONS.*—Within
 7 120 days after the date of enactment of this Act, the
 8 Commission shall issue, as necessary, updated regula-
 9 tions needed under title VI or other provisions of the
 10 Communications Act of 1934 to reflect the amend-
 11 ments made by this Act.

12 **SEC. 312. FRANCHISE APPLICATIONS; SCOPE.**

13 Part I of title VI (47 U.S.C. 521 *et seq.*) is amended
 14 by adding at the end the following:

15 **“SEC. 603. FRANCHISE APPLICATIONS.**

16 “(a) *IN GENERAL.*—

17 “(1) *EXPEDITED PROCESS.*—Except as otherwise
 18 provided in this subsection, a franchising authority
 19 shall grant a franchise to provide video service within
 20 its franchise area to a video service provider within
 21 90 calendar days after receiving a franchise applica-
 22 tion that is complete from the video service provider
 23 except for—

24 “(A) the franchise fee percentage, as pro-
 25 vided by section 622(b)(1);

1 “(B) the number of public, educational, or
2 governmental use channels required by section
3 611;

4 “(C) any fee percentage that may be as-
5 sessed under section 622(b)(4); and

6 “(D) the point of contact for the franchising
7 authority.

8 “(2) *STANDARDIZED APPLICATION FORM.*—A
9 video service provider shall use the standard franchise
10 application form promulgated by the Commission
11 under section 612.

12 “(3) *RESPONSIBILITIES OF FRANCHISING AU-*
13 *THORITY*—After receiving a franchise application
14 under paragraph (1), a franchising authority shall—

15 “(A) publish public notice of the applica-
16 tion within 15 days after receiving a complete
17 application from a video service provider if pub-
18 lic notice is required by State or local law; and

19 “(B) complete and return the application
20 form by providing the information described in
21 subparagraphs (A), (B), (C), and (D) of para-
22 graph (1) in a manner that is consistent with
23 the requirements of this title within 90 calendar
24 days after the date on which it was received.

1 “(4) *ACCEPTANCE OF TERMS.*—A franchising
 2 *agreement shall take effect 15 calendar days after the*
 3 *date that the completed franchise application is re-*
 4 *ceived by the applicant under paragraph (3)(B) un-*
 5 *less the applicant notifies the franchising authority*
 6 *within that 15-day period that the terms offered are*
 7 *not accepted.*

8 “(5) *EXCEPTION.*—This subsection does not re-
 9 *quire a franchising authority to approve or complete*
 10 *an application from a video service provider if a*
 11 *franchise held by that provider has been revoked*
 12 *under section 625(b) by the franchising authority.*

13 “(b) *DEEMED APPROVAL.*—Except as provided in sub-
 14 *section (a)(5), if a franchising authority fails to act on a*
 15 *franchise application that meets the requirements of this*
 16 *title within the 90-day period described in subsection*
 17 *(a)(3)(B), the franchise application shall be deemed grant-*
 18 *ed—*

19 “(1) *effective on the 91st day after the fran-*
 20 *chising authority received the application;*

21 “(2) *for a term of 15 years;*

22 “(3) *with—*

23 “(A) *the same percentage of gross revenue*
 24 *paid by the cable operator with the most sub-*

1 scribers offering cable service in the franchise
2 area; or

3 “(B) if there is no cable operator offering
4 cable service in the franchise area, 5 percent of
5 gross revenue; and

6 “(4) with an obligation to provide the number of
7 public, educational, or governmental use channels re-
8 quired by section 611.

9 “(c) *PROCEDURE.*—If an application is not granted
10 within the 90-day period described in subsection (a)(3)(B)
11 because of subsection (a)(5), the applicant may avail itself
12 of the procedures in section 635 of this Act.

13 **“SEC. 604. NO EFFECT ON STATE LAWS OF GENERAL APPLI-**
14 **CABILITY.**

15 “Nothing in this title is intended to affect State or
16 local laws of general applicability, except to the extent that
17 such laws are inconsistent with this title.

18 **“SEC. 605. DIRECT BROADCAST SATELLITE SERVICE.**

19 “No State or local government may regulate direct
20 broadcast satellite services (as that term is used in section
21 335 of this Act). This section shall not be construed to pre-
22 vent taxation of a provider of direct-to-home satellite service
23 by a State, to the extent otherwise permissible, and shall
24 not preempt State or local laws of general applicability.”.

1 **SEC. 313. STANDARD FRANCHISE APPLICATION FORM.**

2 *Section 612 (47 U.S.C. 532) is amended to read as*
 3 *follows:*

4 **“SEC. 612. STANDARD FRANCHISE APPLICATION FORM.**

5 *“(a) IN GENERAL.—Within 30 days after the date of*
 6 *enactment of the Video Competition and Savings for Con-*
 7 *sumers Act of 2006, the Commission shall promulgate a*
 8 *standard franchise application form, the use of which by*
 9 *franchising authorities shall be mandatory.*

10 *“(b) COMPLIANCE COMMITMENTS.—The franchise ap-*
 11 *plication form shall include a statement, to be signed by*
 12 *the video service provider—*

13 *“(1) that it agrees to comply with all applicable*
 14 *Federal and State statutes and regulations that are*
 15 *consistent with this title;*

16 *“(2) that it agrees to comply with all applicable*
 17 *municipal regulations regarding the use and occupa-*
 18 *tion of public rights-of-way in the delivery of video*
 19 *service, including the police powers of the municipali-*
 20 *ties in which the service is delivered that are con-*
 21 *sistent with this title;*

22 *“(3) geographically identifying the franchise*
 23 *area in which the provider intends to offer cable serv-*
 24 *ice pursuant to the standard franchise; and*

25 *“(4) certifying that the information contained in*
 26 *the notice is accurate and correct and that the pro-*

1 *vider will immediately notify the franchising author-*
2 *ity of any material changes in that information dur-*
3 *ing the franchise term.*

4 *“(c) PROVISIONS TO BE SUPPLIED.—The franchise*
5 *application form shall include only the following blank*
6 *spaces to be filled in by the video service provider and the*
7 *franchising authority, as appropriate:*

8 *“(1) The name of the video service provider.*

9 *“(2) The name and business address of each di-*
10 *rector and principal executive officer.*

11 *“(3) A point of contact for the video service pro-*
12 *vider.*

13 *“(4) A point of contact for the franchising au-*
14 *thority.*

15 *“(5) The franchise fee percentage under section*
16 *622(b)(1).*

17 *“(6) Any fee percentage that may be assessed*
18 *under section 622(b)(4).*

19 *“(7) The period during which the franchising*
20 *agreement shall be in effect.*

21 *“(8) The public, educational, or governmental*
22 *capacity to be provided.*

23 *“(9) The physical location of the headend.*

24 *“(10) A description of the video service to be pro-*
25 *vided.*

1 “(11) *Signatures.*

2 “(12) *Dates for each signature.*”.

3 **SEC. 314. DEFINITIONS.**

4 (a) *IN GENERAL.*—Section 602 (47 U.S.C. 522) is
5 *amended—*

6 (1) *by striking “cable system” in paragraphs (1)*
7 *and (9) and inserting “video service system”;*

8 (2) *by striking “regulation);” in paragraph (4)*
9 *and inserting “regulation) or its equivalent (as deter-*
10 *mined by the Commission).”;*

11 (3) *by inserting after paragraph (11) the fol-*
12 *lowing:*

13 “(11A) *HEADEND.*—*The term ‘headend’ means*
14 *the headend of a cable system or its equivalent as de-*
15 *termined by the Commission.*”;

16 (4) *by inserting after paragraph (12) the fol-*
17 *lowing:*

18 “(12A) *INSTITUTIONAL NETWORK.*—*The term*
19 *‘institutional network’ means a communication net-*
20 *work constructed by a cable operator that is generally*
21 *available only to subscribers who are not residential*
22 *subscribers.*”;

23 (5) *by striking “cable operator” in paragraph*
24 *(14) and inserting “video service provider”;*

1 (6) by inserting after paragraph (16) the fol-
2 lowing:

3 “(16A) *SATELLITE CARRIER*.—The term ‘satellite
4 carrier’ means an entity that uses the facilities of a
5 satellite or satellite service licensed by the Commis-
6 sion and operates in the Fixed-Satellite Service under
7 part 25 of title 47, Code of Federal Regulations, or
8 the Direct Broadcast Satellite Service under part 100
9 of title 47, Code of Federal Regulations, to establish
10 and operate a channel of communications for point-
11 to-multipoint distribution of television station sig-
12 nals, and that owns or leases capacity or service on
13 a satellite in order to provide such point-to-
14 multipoint distribution, except to the extent that such
15 entity provides such distribution pursuant to tariff
16 under this Act, for purposes other than for private
17 home viewing.”;

18 (7) by striking “cable service” in paragraph (17)
19 and inserting “video service”;

20 (8) by striking “cable operator” each place it ap-
21 pears in paragraph (17) and inserting “video service
22 provider”; and

23 (9) by inserting after paragraph (20) the fol-
24 lowing:

1 “(24) *VIDEO SERVICE*.—The term ‘video service’
2 *means—*

3 “(A) *the transmission to subscribers of—*

4 “(i) *video programming;*

5 “(ii) *interactive on-demand service; or*

6 “(iii) *other programming service; and*

7 “(B) *subscriber interaction, if any, required*
8 *for the selection or use of such video program-*
9 *ming, interactive on-demand service, or other*
10 *programming service regardless of the trans-*
11 *mission technology used and regardless of how*
12 *the subscriber interacts with the service.*

13 “(25) *VIDEO SERVICE PROVIDER*.—The term
14 ‘video service provider’—

15 “(A) *means a facilities-based (as determined*
16 *by the Commission) provider of video service*
17 *that utilizes a public right-of-way in the provi-*
18 *sion of such service (including cable operators*
19 *and providers offering open video systems under*
20 *section 653), regardless of the transmission tech-*
21 *nology used and regardless of how the subscriber*
22 *interacts with the service; but*

23 “(B) *does not include any person to the ex-*
24 *tent that the person is providing—*

1 “(i) satellite service, including if such
 2 service is bundled with, or offered in con-
 3 junction with, an Internet access service or
 4 other broadband capability;

5 “(ii) video programming using radio
 6 communication directly to the recipient’s
 7 premises; or

8 “(iii) service via commercial mobile
 9 service (as defined in section 332(d)).”.

10 (b) *STYLISTIC CONSISTENCY*.—Section 602 (47 U.S.C.
 11 522), as amended by subsection (a), is amended—

12 (1) by striking “title—” and inserting “title.”;

13 (2) by redesignating paragraphs (1) through (20)
 14 as paragraphs (1) through (23);

15 (3) by striking the semicolon at the end of each
 16 such paragraph and inserting a period; and

17 (4) by striking “Commission; and” in paragraph
 18 (22), as redesignated, and inserting “Commission.”;

19 (5) except in paragraphs (12), (14), and (19), as
 20 redesignated—

21 (A) by inserting after the designation of
 22 each such paragraph a heading, in a form con-
 23 sistent with the form of the heading of para-
 24 graphs (24) and (25), as added by subsection (a)
 25 of this section consisting of the term defined by

1 such paragraph, or the first term so defined if
 2 the paragraph defines more than 1 term; and
 3 (B) by striking “the” the first place it ap-
 4 pears and inserting “The”.

5 **SEC. 315. FAMILY TIER STUDY.**

6 (a) *IN GENERAL.*—The Congress endorses and com-
 7 mends cable operators, satellite providers, and other multi-
 8 channel video programming distributors for their voluntary
 9 efforts to offer family program tiers that seek to meet con-
 10 sumer demand for programming packages free of indecent
 11 and obscene programming suitable for family audiences.

12 (b) *DATA COLLECTION.*—Every multichannel video
 13 programming distributor shall submit an annual report to
 14 the Federal Communications Commission on family tiers
 15 that includes whether it offers a family tier, the retail price
 16 of such tier, a description of the channels included in such
 17 tier, a description of the distributor’s efforts to market such
 18 tier, and the subscribership level for every tier and package
 19 offered by such distributor. The Commission shall keep con-
 20 fidential any data that is not available in the public do-
 21 main on the date of submission.

22 (c) *REPORT TO CONGRESS.*—Within 1 year after the
 23 date of enactment of this Act, and every year thereafter for
 24 5 years, the Commission shall submit a report to Congress
 25 aggregating the data it receives pursuant to subsection (b).

1 **SEC. 316. NOTICE OF INQUIRY ON VIOLENT PROGRAMMING.**

2 *Not later than 180 days after the date of enactment*
 3 *of this Act, the Federal Communications Commission shall*
 4 *complete its Notice of Inquiry and issue its finding in the*
 5 *matter of Violent Television Programming and Its Impact*
 6 *on Children, MB Docket No. 04–261.*

7 ***Subtitle B—Streamlining the***
 8 ***Provision of Video Services***

9 **SEC. 331. FRANCHISE REQUIREMENTS AND RELATED PRO-**
 10 **VISIONS.**

11 *(a) GENERAL FRANCHISE REQUIREMENTS.—Section*
 12 *621 (47 U.S.C. 541) is amended—*

13 *(1) by striking subsection (a) and inserting the*
 14 *following:*

15 *“(a) IN GENERAL.—*

16 *“(1) AWARD OF FRANCHISE.—A franchising au-*
 17 *thority may not—*

18 *“(A) grant an exclusive franchise; or*

19 *“(B) grant a franchise for a term shorter*
 20 *than 5 years or longer than 15 years as provided*
 21 *in section 603.*

22 *“(2) PRESERVATION OF LOCAL GOVERNMENT AU-*
 23 *THORITY TO MANAGE PUBLIC RIGHTS-OF-WAY; EASE-*
 24 *MENTS.—*

25 *“(A) IN GENERAL.—Except as provided in*
 26 *this title, no State or local law may prohibit, or*

1 *have the effect of prohibiting, a video service pro-*
2 *vider from offering video service.*

3 “(B) *HOLD HARMLESS.—A State or local*
4 *government shall apply its laws or regulations*
5 *in a manner that is reasonable, competitively*
6 *neutral, nondiscriminatory, and consistent with*
7 *State police powers, including permitting, pay-*
8 *ments for bonds, security funds, letters of credit,*
9 *insurance, indemnification, penalties, or liq-*
10 *uidated damages to ensure compliance with such*
11 *laws and regulations. Any permitting fees im-*
12 *posed by a State or local government shall be for*
13 *the purpose of compensating that government for*
14 *the costs incurred in managing public rights-of-*
15 *way. Any law or regulation that meets the re-*
16 *quirements of this subparagraph shall not be*
17 *held to violate subparagraph (A).*

18 “(C) *PROPERTY OWNERS.—Nothing in this*
19 *title precludes a State or local government from*
20 *requiring that a property owner be justly com-*
21 *pensated by a video service provider for damage*
22 *caused by the installation, construction, oper-*
23 *ation, or removal of facilities by the video service*
24 *provider.*

1 “(D) *DISPUTE RESOLUTION.*—If a dispute
 2 arises concerning the application of subpara-
 3 graph (A), (B), or (C), the sole recourse of any
 4 party to the dispute shall be to file an action in
 5 a court of competent jurisdiction.

6 “(3) *USE OF PUBLIC RIGHTS-OF-WAY.*—Any
 7 franchise shall be construed to authorize the construc-
 8 tion of a video service system over public rights-of-
 9 way, and through easements, which is within the area
 10 to be served by the video service system and which
 11 have been dedicated for compatible uses, except that
 12 in using such easements the video service provider
 13 shall ensure—

14 “(A) that the safety and functioning of the
 15 property and the safety of other persons not be
 16 adversely affected by the installation or construc-
 17 tion of facilities necessary for a video service sys-
 18 tem; and

19 “(B) that the cost of the installation, con-
 20 struction, operation, or removal of such facilities
 21 be borne by the video service provider or sub-
 22 scriber, or a combination of both.”; and

23 (2) by striking paragraph (1) of subsection (b)
 24 and inserting “(1) Except to the extent provided in

1 *subsection (f), a video service provider may not pro-*
 2 *vide video service without a franchise.”.*

3 *(b) FRANCHISE FEE.—Section 622 (47 U.S.C. 542) is*
 4 *amended—*

5 *(1) by striking subsections (a) and (b) and in-*
 6 *serting the following:*

7 *“(a) IN GENERAL.—A franchising authority may im-*
 8 *pose and collect a franchise fee from a video service provider*
 9 *that provides video services within the local franchise area*
 10 *of that authority. A franchising authority may not dis-*
 11 *criminate among video service providers in imposing or col-*
 12 *lecting any fee assessed under this section.*

13 *“(b) AMOUNT.—*

14 *“(1) IN GENERAL.—The franchise fee imposed by*
 15 *a franchising authority under subsection (a) for any*
 16 *12-month period may not exceed 5 percent of the*
 17 *video service provider’s gross revenue derived in such*
 18 *period. For purposes of this section, the 12-month pe-*
 19 *riod shall be the 12-month period applicable under*
 20 *the franchise for accounting purposes.*

21 *“(2) PREPAID OR DEFERRED PAYMENT AR-*
 22 *RANGEMENTS.—Nothing in this subsection prohibits a*
 23 *franchising authority and a video service provider*
 24 *from agreeing that franchise fees which lawfully could*
 25 *be collected for any such 12-month period shall be*

1 *paid on a prepaid or deferred basis, except that the*
 2 *sum of the fees paid during the term of the franchise*
 3 *may not exceed the amount, including the time value*
 4 *of money, which would have lawfully been collected if*
 5 *such fees had been paid per annum.*

6 “(3) *FRANCHISING AUTHORITY AND VIDEO SERV-*
 7 *ICE PROVIDER AGREEMENTS.—Nothing in this section*
 8 *precludes a State or local government and a video*
 9 *service provider from entering into a voluntary com-*
 10 *mercial agreement, whereby in consideration for a*
 11 *mutually agreed upon reduction in the franchise fee*
 12 *under paragraph (1), the video service provider makes*
 13 *available to the local unit of government services,*
 14 *equipment, capabilities, or other valuable consider-*
 15 *ation.*

16 “(4) *PEG AND INSTITUTIONAL NETWORK FINAN-*
 17 *CIAL SUPPORT.—*

18 “(A) *IN GENERAL.—Except as provided in*
 19 *subparagraph (D), a video service provider may*
 20 *be required to pay a fee equal to—*

21 “(i) *not more than 1 percent of the*
 22 *video service provider’s gross revenue in the*
 23 *franchise area to the franchising authority*
 24 *for the support of public, educational, and*

1 *governmental access facilities and institu-*
2 *tional networks; or*

3 “(ii) *the value, on a per subscriber*
4 *basis, of all monetary grants or in-kind*
5 *services or facilities for public, educational,*
6 *or governmental access facilities provided*
7 *by the cable operator in the franchise area*
8 *with the most cable service subscribers in*
9 *the calendar year preceding the date of en-*
10 *actment of the Video Competition and Sav-*
11 *ings for Consumers Act of 2006, pursuant to*
12 *that cable operator’s existing franchise in*
13 *effect on the date of enactment of that Act.*

14 “(B) *CALCULATION DATA.—A franchising*
15 *authority may require a cable operator to pro-*
16 *vide information sufficient to calculate the per-*
17 *subscriber equivalent fee allowed by subpara-*
18 *graph (A)(ii). The information shall be treated*
19 *as confidential and proprietary business infor-*
20 *mation. The payments made by a video service*
21 *provider pursuant to subparagraph (A) shall be*
22 *assessed and collected in a manner consistent*
23 *with this section.*

24 “(C) *EXISTING INSTITUTIONAL NET-*
25 *WORKS.—*

1 “(i) *CONTINUED SERVICE*.—*Except as*
 2 *provided in subparagraph (D), a fran-*
 3 *chising authority may require a cable oper-*
 4 *ator or video service provider with a fran-*
 5 *chise in effect on the date of enactment of*
 6 *the Video Competition and Savings for Con-*
 7 *sumers Act of 2006 to continue to provide*
 8 *any institutional network it was required to*
 9 *provide on the date of enactment of that Act*
 10 *notwithstanding the expiration or termi-*
 11 *nation of that franchise pursuant to section*
 12 *381(b) of the Video Competition and Sav-*
 13 *ings for Consumers Act of 2006.*

14 “(ii) *NEW NETWORK NOT REQUIRED*.—
 15 *A franchising authority may not require a*
 16 *video service provider to construct a new in-*
 17 *stitutional network.*

18 “(D) *SPECIAL RULE*.—*In Hawaii—*

19 “(i) *subparagraph (A)(ii) shall be ap-*
 20 *plied by inserting ‘and institutional net-*
 21 *works’ after ‘governmental access facilities’;*
 22 *and*

23 “(ii) *subparagraph (C)(i) shall be ap-*
 24 *plied by inserting ‘or had committed to pro-*
 25 *vide’ after ‘required to provide.’; and*

1 (2) *by striking subsections (d) through (h), redesi-*
 2 *gnating subsection (i) as subsection (h), and insert-*
 3 *ing the following after subsection (c):*

4 “(d) *OTHER TAXES, FEES, AND ASSESSMENTS NOT*
 5 *AFFECTED.—Except as otherwise provided in this section,*
 6 *nothing in this section shall be construed to modify, impair,*
 7 *supersede, or authorize the modification, impairment, or*
 8 *supersession of, any State or local law pertaining to tax-*
 9 *ation.*

10 “(e) *ANNUAL REVIEW.—*

11 “(1) *FRANCHISING AUTHORITY AUDIT PROCE-*
 12 *DURE.—A franchising authority may, upon reason-*
 13 *able written request, but no more than once in any*
 14 *12-month period, review the business records of a*
 15 *video service provider to the extent reasonably nec-*
 16 *essary to ensure payment of the fees required by this*
 17 *section. The review may include the methodology used*
 18 *by the video service provider to assign portions of the*
 19 *revenue from video service that may be bundled or*
 20 *functionally integrated with other services, capabili-*
 21 *ties, or applications. The review shall be conducted in*
 22 *accordance with procedures established by the Com-*
 23 *mission.*

24 “(2) *AVAILABILITY OF BOOKS AND RECORDS.—*

25 *Upon request under paragraph (1), a video service*

1 *provider shall make available its books and records*
2 *for periodic audit by a franchising authority. The*
3 *franchising authority shall treat information obtained*
4 *in the course of such an audit as confidential and*
5 *proprietary and protect sensitive information from*
6 *public disclosure.*

7 “(3) *COST RECOVERY.*—*To the extent that the re-*
8 *view under paragraph (1) identifies an under-*
9 *payment of more than 5 percent of any fee required*
10 *by this section for the period of review, the video serv-*
11 *ice provider shall reimburse the franchising authority*
12 *the reasonable costs of any such review conducted by*
13 *an independent third party with respect to such fee.*
14 *The costs of any contingency fee arrangement between*
15 *the franchising authority and the independent re-*
16 *viewer shall not be subject to reimbursement.*

17 “(4) *LIMITATION.*—*Any fee that is not reviewed*
18 *by a franchising authority within 3 years after it is*
19 *paid or remitted shall not be subject to later review*
20 *by the franchising authority under this subsection*
21 *and shall be deemed accepted in full payment by the*
22 *franchising authority.*

23 “(f) *GAAP STANDARDS.*—*For purposes of this section,*
24 *all financial determinations and computations shall be*

1 *made in accordance with generally accepted accounting*
 2 *principles except as otherwise provided.*

3 “(g) *DEFINITIONS.—In this section:*

4 “(1) *FRANCHISE FEE.—The term ‘franchise*
 5 *fee’—*

6 “(A) *includes any tax, fee, or assessment of*
 7 *any kind imposed by a franchising authority or*
 8 *a State or local governmental entity on a video*
 9 *service provider or subscriber, or both, solely be-*
 10 *cause of their status as such; but*

11 “(B) *does not include—*

12 “(i) *any tax, fee, or assessment of gen-*
 13 *eral applicability (including any such tax,*
 14 *fee, or assessment imposed on both utilities*
 15 *and video service providers or their services*
 16 *but not including a tax, fee, or assessment*
 17 *which is unduly discriminatory against*
 18 *video service providers or subscribers);*

19 “(ii) *any fee that is required by the*
 20 *franchise under subsection (b)(4);*

21 “(iii) *requirements or charges inci-*
 22 *dental to the use of public rights-of-way, in-*
 23 *cluding payments for bonds, security funds,*
 24 *letters of credit, insurance, indemnification,*
 25 *penalties, or liquidated damages;*

1 “(iv) costs of fines, penalties, or
2 recoupment; or

3 “(v) any fee imposed under title 17,
4 United States Code.

5 “(2) GROSS REVENUE.—

6 “(A) IN GENERAL.—The term ‘gross rev-
7 enue’ means all consideration of any kind or na-
8 ture including cash, credits, property, and in-
9 kind contributions (services or goods) received by
10 a video service provider from the provision of
11 video service within a franchise area includ-
12 ing—

13 “(i) all charges and fees paid by sub-
14 scribers for the provision of video service,
15 including fees attributable to video service
16 when that service is sold individually or as
17 part of a package or bundle, or is function-
18 ally integrated with services other than
19 video service;

20 “(ii) revenue received by a video serv-
21 ice provider as compensation for carriage of
22 video programming on the provider’s sys-
23 tem;

24 “(iii) compensation received by a video
25 service provider as compensation for pro-

1 *motion or exhibition of any product or serv-*
2 *ice on the provider's video service, such as*
3 *a home shopping or similar channel, subject*
4 *to subparagraph (D)(vi); and*

5 “(iv) a pro rata portion of all revenue
6 derived by a video service provider or an af-
7 filiate thereof pursuant to a compensation
8 arrangement for advertising derived from
9 the operation of the provider's video service
10 or the video service within a franchise area
11 subject to subparagraph (D)(ii).

12 “(B) *AFFILIATES.*—The gross revenue of a
13 video service provider includes gross revenue of
14 an affiliate to the extent the exclusion of the af-
15 filiate's gross revenue would have the effect of
16 permitting the video service provider to evade the
17 payment of franchise fees which would otherwise
18 be paid by that video service provider for video
19 services provided within the franchise area of the
20 franchising authority imposing the fee.

21 “(C) *REVENUE FROM BUNDLED OR FUNC-*
22 *TIONALLY INTEGRATED SERVICE.*—In the case of
23 a video service that is packaged, bundled, or
24 functionally integrated with other services, capa-
25 bilities, or applications, gross revenue shall in-

1 *clude only the revenue attributable to the video*
2 *service, which shall be reflected on the books and*
3 *records of the video service provider kept in the*
4 *regular course of business.*

5 “(D) *EXCLUSIONS.*—Gross revenue of a
6 *video service provider (or an affiliate to the ex-*
7 *tent otherwise included in the gross revenue of*
8 *the video service provider under subparagraph*
9 *(B)) does not include—*

10 “(i) *any revenue not actually received,*
11 *even if billed, such as bad debts, net of any*
12 *recoveries of bad debts;*

13 “(ii) *refunds, rebates, credits, or dis-*
14 *counts to subscribers or a municipality to*
15 *the extent not already excluded under clause*
16 *(i);*

17 “(iii) *subject to subparagraph (C), any*
18 *revenues received by a video service provider*
19 *or its affiliates from the provision of serv-*
20 *ices or capabilities other than video service,*
21 *including—*

22 “(I) *voice, Internet access, or*
23 *other broadband-enabled applications*
24 *that are not video service; and*

1 “(II) *services, capabilities, and*
2 *applications that are sold or provided*
3 *as part of a package or bundle of serv-*
4 *ices or capabilities, or that are func-*
5 *tionally integrated with video service;*

6 “(iv) *any revenues received by a video*
7 *service provider or its affiliates for the pro-*
8 *vision of directory or Internet advertising,*
9 *including yellow pages, white pages, banner*
10 *advertisement, and electronic publishing;*

11 “(v) *any costs attributable to the pro-*
12 *vision of video services to subscribers at no*
13 *charge, including the provision of such serv-*
14 *ices to public institutions without charge;*

15 “(vi) *any revenue paid by subscribers*
16 *to a home shopping programmer directly*
17 *from the sale of merchandise through any*
18 *home shopping channel offered as part of*
19 *the video service provider’s video services,*
20 *but not excluding any commissions that are*
21 *paid to the video service provider as com-*
22 *ensation for promotion or exhibition of*
23 *any product or service on the provider’s*
24 *video service, such as a home shopping or*
25 *similar channel;*

1 “(vii) any revenue forgone from the
2 provision of video service at no charge to
3 any person other than forgone revenue ex-
4 changed for trades, barter, services, or other
5 items of value;

6 “(viii) any tax, fee, or assessment of
7 general applicability imposed on a sub-
8 scriber or transaction by Federal, State, or
9 local government that is required to be col-
10 lected by the video service provider and re-
11 mitted to the taxing authority, including
12 sales taxes, use taxes, and utility user taxes;

13 “(ix) any revenue from the sale of cap-
14 ital assets or surplus equipment;

15 “(x) the reimbursement by program-
16 mers for marketing costs actually incurred
17 by a video service provider for the introduc-
18 tion of new programming; or

19 “(xi) any revenue from the sale of
20 video services for resale to the extent that
21 the purchaser certifies in writing that it
22 will—

23 “(I) resell the service; and

24 “(II) pay any applicable fran-
25 chise fee with respect thereto.”.

1 **SEC. 332. RENEWAL; REVOCATION.**

2 *Part II of title VI (47 U.S.C. 541 et seq.) is amended*
3 *by striking sections 625 and 626 and inserting the fol-*
4 *lowing:*

5 **“SEC. 625. RENEWAL; REVOCATION.**

6 *“(a) RENEWAL.—A video service provider may submit*
7 *a written application for renewal of its franchise to a fran-*
8 *chising authority not more than 180 days before the fran-*
9 *chise expires. Any such application shall be made on the*
10 *standard application form promulgated by the Commission*
11 *under section 612 and shall be treated under section 603*
12 *in the same manner as any other franchise application.*

13 *“(b) REVOCATION.—Notwithstanding any other law of*
14 *general applicability, a franchising authority may revoke*
15 *a video service provider’s franchise if it determines, after*
16 *notice and an opportunity for a hearing, that the video*
17 *service provider has—*

18 *“(1) violated any Federal or State law, or any*
19 *Commission regulation, relating to the provision of*
20 *video services in the franchise area;*

21 *“(2) made false statements, or material omis-*
22 *sions, in any filing with the franchising authority or*
23 *the Commission relating to the provision of video*
24 *service in the franchise area;*

25 *“(3) violated the rights-of-way management laws*
26 *or regulations of any franchising authority in the*

1 *franchise area relating to the provision of video serv-*
 2 *ice in the franchise area; or*

3 “(4) *violated the terms of the franchise agree-*
 4 *ment (including any commercial agreement permitted*
 5 *under section 622(b)(3)).*

6 “(c) *NOTICE; OPPORTUNITY TO CURE.—A franchising*
 7 *authority may not revoke a franchise unless it first pro-*
 8 *vides—*

9 “(1) *written notice to the video service provider*
 10 *of the alleged violation in which the revocation would*
 11 *be based; and*

12 “(2) *a reasonable opportunity to cure the viola-*
 13 *tion.*

14 “(d) *FINALITY OF DECISION.—Any decision of a fran-*
 15 *chising authority to revoke a franchise under this section*
 16 *is final for purposes of appeal. A video service provider*
 17 *whose franchise is revoked by a franchising authority may*
 18 *avail itself of the procedures in section 635 of this Act.”.*

19 **SEC. 333. PEG AND INSTITUTIONAL NETWORK OBLIGA-**
 20 **TIONS.**

21 *Section 611 (47 U.S.C. 531) is amended to read as*
 22 *follows:*

1 **“SEC. 611. CHANNELS FOR PUBLIC, EDUCATIONAL, OR GOV-**
 2 **ERNMENTAL USE.**

3 “(a) *IN GENERAL.*—A video service provider that ob-
 4 tains a franchise shall provide channel capacity for public,
 5 educational, or governmental use that is not less than the
 6 channel capacity required of the cable operator or video
 7 service provider with the greatest number of public, edu-
 8 cational, or governmental use channels in the franchise area
 9 on the effective date of the franchise. If there is no other
 10 video service provider in the franchise area on the effective
 11 date of the franchise, the video service provider may be re-
 12 quired to provide up to 3 channels.

13 “(b) *ADJUSTMENT.*—Every 15 years after the com-
 14 mencement of a franchise granted after April 30, 2006, a
 15 franchising authority may require a video service provider
 16 to increase the channel capacity designated for public, edu-
 17 cational, or governmental use, and the channel capacity
 18 designated for such use on any institutional networks re-
 19 quired under subsection (a). The increase may not exceed
 20 the greater of—

21 “(1) 1 channel; or

22 “(2) 10 percent of the public, educational, or
 23 governmental channel capacity required of the video
 24 service provider before the required increase.

25 “(c) *EDITORIAL CONTROL.*—Subject to section
 26 624(d)(1), a video service provider shall not exercise any

1 *editorial control over any public, educational, or govern-*
2 *mental use of channel capacity provided pursuant to this*
3 *section, but a video service provider may refuse to transmit*
4 *any public access program or portion of a public access pro-*
5 *gram which contains obscenity.*

6 “(d) *TRANSMISSION AND PRODUCTION OF PROGRAM-*
7 *MING.—*

8 “(1) *PEG PROGRAMMING.—A video service pro-*
9 *vider shall ensure that all subscribers receive any*
10 *public, educational, or governmental programming*
11 *carried by the video service provider within the sub-*
12 *scriber’s franchise area.*

13 “(2) *PRODUCTION RESPONSIBILITY.—The pro-*
14 *duction of any programming provided under this sub-*
15 *section shall be the responsibility of the franchising*
16 *authority.*

17 “(3) *TRANSMISSION RESPONSIBILITY.—The video*
18 *service provider shall be responsible for the trans-*
19 *mission from the signal origination point (or points)*
20 *of the programming, or from the point of interconnec-*
21 *tion with another video service provider already offer-*
22 *ing the public, educational, or governmental program-*
23 *ming under paragraph (4), to the video service pro-*
24 *vider’s subscribers, or any public, educational, or gov-*
25 *ernmental programming produced by or for the fran-*

1 *chising authority and carried by the video service*
2 *provider pursuant to this section.*

3 *“(4) INTERCONNECTION; COST-SHARING.—Unless*
4 *2 video service providers otherwise agree to the terms*
5 *for interconnection and cost sharing, such video serv-*
6 *ice providers shall comply with regulations prescribed*
7 *by the Commission providing for—*

8 *“(A) the interconnection between 2 video*
9 *service providers in a franchise area for trans-*
10 *mission of public, educational, or governmental*
11 *programming, without material degradation in*
12 *signal quality or functionality; and*

13 *“(B) the reasonable allocation of the costs of*
14 *such interconnection between such video service*
15 *providers.*

16 *“(5) DISPLAY OF PROGRAM INFORMATION.—The*
17 *video service provider shall display the program in-*
18 *formation for public, educational, or governmental*
19 *programming in any print or electronic program*
20 *guide in the same manner in which it displays pro-*
21 *gram information for other video programming in the*
22 *franchise area. The video service provider may not*
23 *omit public, educational, or governmental program-*
24 *ming from any navigational device, guide, or menu*
25 *containing other video programming that is available*

1 to subscribers in the franchise area if the franchising
 2 authority provides such programming to the video
 3 service provider at a location, in the data format, and
 4 in sufficient time normally required for the program-
 5 ming to be displayed on such device, guide, or
 6 menu.”.

7 **SEC. 334. SERVICES, FACILITIES, AND EQUIPMENT.**

8 (a) *IN GENERAL.*—Section 624 (47 U.S.C. 544) is
 9 amended—

10 (1) by striking subsections (a), (b), (c), (e), and
 11 (h) and redesignating subsections (d), (f), (g), and (i)
 12 as subsections (a) through (d), respectively; and

13 (2) by inserting “or wire” after “any cable” in
 14 subsection (d), as redesignated.

15 (b) *CONFORMING AMENDMENT.*—Section 611(c) (47
 16 U.S.C. 531(c)), as amended by section 333 of this Act, is
 17 amended by striking “624(d)(1)” and inserting
 18 “624(a)(1)”.

19 **SEC. 335. SHARED FACILITIES.**

20 Part III of title VI (47 U.S.C. 541 et seq.) is amend-
 21 ed—

22 (1) by striking section 627 and redesignating
 23 sections 628 and 629 as sections 626 and 627, respec-
 24 tively; and

25 (2) by adding at the end the following:

1 **“SEC. 628. ACCESS TO PROGRAMMING FOR SHARED FACILI-**
 2 **TIES.**

3 “(a) *IN GENERAL.*—A video service programming ven-
 4 *dor in which a video service provider has an attributable*
 5 *interest may not deny a video service provider with a fran-*
 6 *chise under this title access to video programming solely*
 7 *because that video service provider uses a headend for its*
 8 *video service system that is also used, under a shared owner-*
 9 *ship or leasing agreement, as the headend for another video*
 10 *service system.*

11 “(b) *VIDEO SERVICE PROGRAMMING VENDOR DE-*
 12 *FINED.*—The term ‘video service programming vendor’
 13 *means a person engaged in the production, creation, or*
 14 *wholesale distribution for sale of video programming that*
 15 *is primarily intended for receipt by video service providers*
 16 *for retransmission to their video service subscribers.”.*

17 **SEC. 336. CONSUMER PROTECTION AND CUSTOMER SERV-**
 18 **ICE.**

19 Section 632 (47 U.S.C. 552) is amended to read as
 20 *follows:*

21 **“SEC. 632. CONSUMER PROTECTION AND CUSTOMER SERV-**
 22 **ICE.**

23 “(a) *REGULATIONS.*—

24 “(1) *IN GENERAL.*—Not later than 120 days
 25 *after the date of enactment of the Video Competition*
 26 *and Savings for Consumers Act of 2006, the Commis-*

1 *sion, after receiving comments from interested parties,*
2 *including national associations representing fran-*
3 *chising authorities or consumers, shall promulgate*
4 *regulations, which shall include penalties to be paid*
5 *to subscribers with respect to customer service and*
6 *consumer protection requirements for video service*
7 *providers.*

8 *“(2) EFFECTIVE DATE OF REGULATIONS.—The*
9 *regulations required by subsection (a) shall take effect*
10 *60 days after the date on which a final rule is pro-*
11 *mulgated by the Commission.*

12 *“(b) MAXIMUM PENALTY FOR EARLY TERMINATION OF*
13 *SUBSCRIPTION.—It is unlawful for a video service provider*
14 *to charge a subscriber an amount in excess of 1 month’s*
15 *subscription fee as a penalty or service charge for termi-*
16 *nating a subscription to the video service provider’s service*
17 *before the date on which the subscription term ends.*

18 *“(c) ENFORCEMENT.—The regulations promulgated by*
19 *the Commission under subsection (a) and the provisions of*
20 *subsection (b) shall be enforced by franchising authorities.*
21 *A franchising authority may refer a matter for enforcement*
22 *to the State attorney general or the State consumer protec-*
23 *tion agency on a case-by-case basis.*

24 *“(d) REVIEW BY COMMISSION.—A video service pro-*
25 *vider may appeal any enforcement action taken against*

1 *that provider by a franchising authority to the Commis-*
 2 *sion.”.*

3 **SEC. 337. REDLINING.**

4 *Part IV of title VI (47 U.S.C. 551 et seq.) is amended*
 5 *by adding at the end the following:*

6 **“SEC. 642. REDLINING.**

7 *“(a) IN GENERAL.—A video service provider may not*
 8 *deny access to its video service to any group of potential*
 9 *residential video service subscribers because of the income,*
 10 *race, or religion of that group.*

11 *“(b) ENFORCEMENT.—*

12 *“(1) STATE ATTORNEY GENERAL ENFORCE-*
 13 *MENT.—This section may be enforced by the State at-*
 14 *torney general through a complaint-initiated adju-*
 15 *dication process under which a complaint may be*
 16 *filed by a resident of the franchising area who is ag-*
 17 *grieved by a violation of subsection (a) or by a fran-*
 18 *chising authority on behalf of residents of its fran-*
 19 *chise area. Within 180 days after receiving the resi-*
 20 *dent’s or franchising authority’s complaint, a State*
 21 *attorney general shall act on such a complaint either*
 22 *by filing a complaint with a court of competent juris-*
 23 *isdiction or notifying the resident or franchising au-*
 24 *thority that the State attorney general will not file*
 25 *such a complaint.*

1 “(2) *EVALUATION OF COMPLAINT.*—*The totality*
 2 *of the video service provider’s deployments in its serv-*
 3 *ice areas shall be considered in any adjudication pur-*
 4 *suant to an enforcement action under this subsection.*

5 “(c) *REMEDIES.*—*If a court determines that a video*
 6 *service provider has violated subsection (a) it—*

7 “(1) *shall ensure that the video service provider*
 8 *remedies any violation of subsection (a); and*

9 “(2) *may assess a civil penalty in such amount*
 10 *as may be authorized under State law for the fran-*
 11 *chising area in which the violation occurred for viola-*
 12 *tion of that State’s antidiscrimination laws.*

13 “(d) *LIMITATIONS.*—

14 “(1) *NATURAL AND TECHNOLOGICAL BAR-*
 15 *RIERS.*—*It is not a violation of subsection (a) if video*
 16 *service is denied because technical feasibility, com-*
 17 *mercial feasibility, operational limitations, or phys-*
 18 *ical barriers preclude the effective provision of video*
 19 *service.*

20 “(2) *QUOTAS, GOALS, OR TIMETABLES.*—*Nothing*
 21 *in this section authorizes the use of quotas, goals, or*
 22 *timetables as a remedy.*

23 “(e) *REPORTS.*—

24 “(1) *ANNUAL REPORTS TO COMMISSION.*—*Begin-*
 25 *ning 3 years after the date of enactment of the Video*

1 *Competition and Savings for Consumers Act of 2006,*
 2 *each franchising authority shall report to the Com-*
 3 *mission on video service provider deployment in its*
 4 *franchise area. The Commission shall develop and*
 5 *make available to franchising authorities a standard-*
 6 *ized, electronic data-based, report form to be used in*
 7 *complying with the requirements of this paragraph. A*
 8 *video service provider shall provide such information*
 9 *to the franchising authority as is needed to complete*
 10 *the report.*

11 “(2) COMMISSION REPORT TO CONGRESS.—Be-
 12 *ginning 4 years after the date of enactment of the*
 13 *Video Competition and Savings for Consumers Act of*
 14 *2006, and every 4 years thereafter, the Commission*
 15 *shall report to the Senate Committee on Commerce,*
 16 *Science, and Transportation and the House of Rep-*
 17 *resentatives Committee on Energy and Commerce on*
 18 *the buildout of video service.”.*

19 **SEC. 338. APPLICATION OF SECTION 503(b).**

20 *Section 503(b) (47 U.S.C. 503(b)) is amended by add-*
 21 *ing at the end the following:*

22 “(7) APPLICATION TO VIDEO SERVICE PROVIDERS.—
 23 *In this section the terms ‘cable television operator’ and*
 24 *‘cable television system operator’ include a video service*
 25 *provider (as defined in section 602 of this Act).”.*

1 **SEC. 339. APPLICATION OF TITLE VII CABLE PROVISIONS**
 2 **TO VIDEO SERVICES.**

3 *Title VII (47 U.S.C. 601 et seq.) is amended—*

4 *(1) by striking “cable operators for their retrans-*
 5 *mission to cable subscribers;” in section 705(d)(1)*
 6 *and inserting “cable operators or video service pro-*
 7 *viders (as defined in section 602 of this Act) for their*
 8 *retransmission to subscribers;”;*

9 *(2) by striking “and cable television;” in section*
 10 *712(a)(1) and inserting “cable television, and video*
 11 *service (as defined in section 602 of this Act);”;* and

12 *(3) by inserting “video service,” in section*
 13 *714(k)(3) after “cable,”.*

14 **SEC. 340. CHILDREN’S TELEVISION ACT AMENDMENT.**

15 *Section 102(d) of the Children’s Television Act of 1990*
 16 *(47 U.S.C. 303a(d)) is amended by striking “a cable oper-*
 17 *ator,” and inserting “cable operators and video service pro-*
 18 *viders,”.*

19 ***Subtitle C—Miscellaneous and***
 20 ***Conforming Amendments***

21 **SEC. 351. MISCELLANEOUS AMENDMENTS.**

22 *(a) MUNICIPAL OPERATORS.—Section 621(f) (47*
 23 *U.S.C. 541(f)) is amended to read as follows:*

24 *“(f) MUNICIPAL OPERATORS.—No provision of this*
 25 *title shall be construed to prohibit a local or municipal au-*
 26 *thority that is also, or is affiliated with, a franchising au-*

1 *thority from operating as a multichannel video program-*
 2 *ming distributor in the franchise area, notwithstanding the*
 3 *granting of one or more franchises by the franchising au-*
 4 *thority.”.*

5 (b) *SUNSET.*—Section 626(c)(5), as redesignated by
 6 *section 335 of this Act, is amended—*

7 (1) *by striking “10 years after the date of enact-*
 8 *ment of this section,” and inserting “on October 5,*
 9 *2012,”; and*

10 (2) *by striking “last year of such 10-year pe-*
 11 *riod,” and inserting “12-month period ending on that*
 12 *date,”.*

13 (c) *UPDATING.*—Section 613 (47 U.S.C. 533) is
 14 *amended—*

15 (1) *by striking “July 1, 1984,” in subsection (g)*
 16 *and inserting “the date of enactment of the Video*
 17 *Competition and Savings for Consumers Act of*
 18 *2006”; and*

19 (2) *by striking subsection (a) and redesignating*
 20 *subsections (c) through (h) as subsections (a) through*
 21 *(f), respectively.*

22 (d) *REPEAL.*—Section 617 (47 U.S.C. 537) is repealed.

23 (e) *RESTRUCTURING PART IV.*—Part IV of title VI (47
 24 *U.S.C. 551 et seq.) is amended—*

25 (1) *by striking sections 636 and 637; and*

1 (2) *by redesignating sections 635A, 638, 639,*
 2 *640, 641, and 642 (as added by section 337 of this*
 3 *Act) as sections 636, 637, 638, 639, 640, and 641, re-*
 4 *spectively.*

5 (f) *FEDERAL REGULATION OF IP-ENABLED VIDEO*
 6 *SERVICE.—Title VI (47 U.S.C. 521 et seq.), as amended*
 7 *by section 337 and subsection (e)(2), is amended by adding*
 8 *at the end the following:*

9 **“SEC. 642. IP-ENABLED VIDEO SERVICE.**

10 “(a) *IN GENERAL.—Notwithstanding any other provi-*
 11 *sion of law, IP-enabled video service is an interstate service*
 12 *and is subject only to Federal regulations.*

13 “(b) *IP-ENABLED VIDEO SERVICE DEFINED.—In this*
 14 *section, the term ‘IP-enabled video service’ means a video*
 15 *service provided over the public Internet utilizing Internet*
 16 *protocol, or any successor protocol that is not offered by,*
 17 *or not offered as part of a package of video services offered*
 18 *by, a video service provider or its affiliate.*

19 “(c) *COMMISSION AUTHORITY.—The commission may*
 20 *not impose any rule on, apply any regulation to, or other-*
 21 *wise regulate the offering or provision of IP-enabled video*
 22 *service.*

23 “(d) *LAW ENFORCEMENT.—Nothing in this section*
 24 *shall be construed to interfere with any lawful activity of*
 25 *a law enforcement agency or to limit the application of any*

1 *law the violation of which is punishable by a fine, impris-*
 2 *onment, or both.*

3 “(e) *NO EFFECT ON TAX LAWS.*—*Nothing in this sec-*
 4 *tion shall be construed to modify, impair, supersede, or au-*
 5 *thorize the modification, impairment, or supersession of,*
 6 *any State or local tax law.”.*

7 (g) *CONFORMING AMENDMENTS FOR RETRANS-*
 8 *MISSION.*—

9 (1) *Section 325(b) (47 U.S.C. 325(b)) is amend-*
 10 *ed—*

11 (A) *by striking “cable system” in para-*
 12 *graph (1) and inserting “video service provider”;*
 13 *and*

14 (B) *by inserting “The term ‘video service*
 15 *provider’ has the meaning given it in section*
 16 *602(25) of this Act.” after “title.” in the matter*
 17 *following subparagraph (E) of paragraph (2).*

18 (2) *Section 336(b) (47 U.S.C. 336(b)) is amend-*
 19 *ed by striking “section 614 or 615 or be deemed a*
 20 *multichannel video programming distributor for pur-*
 21 *poses of section 628;” and inserting “section 614 or*
 22 *615;”.*

1 ***Subtitle D—Effective Dates and***
 2 ***Transition Rules***

3 **SEC. 381. EFFECTIVE DATES; PHASE-IN.**

4 (a) *IN GENERAL.*—

5 (1) *6-MONTH DELAY.*—*Except as provided in*
 6 *paragraph (2), the amendments made by the Video*
 7 *Competition and Savings for Consumers Act of 2006*
 8 *shall take effect 180 days after the date of enactment*
 9 *of that Act.*

10 (2) *INITIATION OF CERTAIN PROCEEDINGS.*—*Not-*
 11 *withstanding paragraph (1), the Federal Communica-*
 12 *tions Commission shall initiate any proceeding re-*
 13 *quired by title VI of the Communications Act of 1934,*
 14 *as amended by this Act, or made necessary by such*
 15 *amendment as soon as practicable after the date of*
 16 *enactment of this Act.*

17 (b) *APPLICATION TO EXISTING FRANCHISE AGREE-*
 18 *MENTS.*—

19 (1) *IN GENERAL.*—*Except as provided in para-*
 20 *graph (2), the provisions of title VI of the Commu-*
 21 *nications Act of 1934, as amended by this Act, shall*
 22 *not apply to a cable operator with a franchise agree-*
 23 *ment in effect on the date of enactment of this Act be-*
 24 *tween a franchising authority and a cable operator*
 25 *before the expiration date of the agreement, as deter-*

1 *mined without regard to any renewal or extension of*
 2 *the agreement. The provisions of title VI of the Com-*
 3 *munications Act of 1934 (47 U.S.C. 521 et seq.), as*
 4 *in effect on the day before the date of enactment of*
 5 *this Act, shall continue to apply to any such franchise*
 6 *agreement and the cable operator as provided by sub-*
 7 *section (c) until the earlier of—*

8 *(A) the expiration date of the agreement; or*

9 *(B) the date on which a new franchise*
 10 *agreement that replaces the existing franchise*
 11 *agreement takes effect.*

12 *(2) COMPETITION TRIGGER.—*

13 *(A) NOTIFICATION OF EXISTING*
 14 *FRANCHISEE REQUIRED.—If a franchising au-*
 15 *thority authorizes a video service provider to*
 16 *provide video service in an area in which cable*
 17 *service is already being provided under an exist-*
 18 *ing franchise agreement, the franchising author-*
 19 *ity shall—*

20 *(i) require the video service provider to*
 21 *notify the franchising authority when the*
 22 *video service provider commences video serv-*
 23 *ice in that area; and*

24 *(ii) immediately notify any cable oper-*
 25 *ator providing cable service in that area*

1 upon receipt of the notice required under
2 clause (i).

3 (B) *NEW FRANCHISE AGREEMENT SUPER-*
4 *SEDES EXISTING AGREEMENT.*—Upon receipt of
5 notice under subparagraph (A)(ii), a cable oper-
6 ator with an existing franchise to provide cable
7 service in that area may submit an application
8 for a franchise under section 603 of the Commu-
9 nications Act of 1934, as amended by this Act.
10 When the franchise is granted—

11 (i) the terms and conditions of the new
12 franchise agreement supersede the existing
13 franchise agreement; and

14 (ii) the provisions of title VI of the
15 Communications Act of 1934, as amended
16 by this Act, shall apply.

17 (c) *LIMITED APPLICATION OF PRIOR LAW.*—

18 (1) *IN GENERAL.*—Except as provided in sub-
19 section (b) or otherwise explicitly provided in new
20 title VI, the provisions of old title VI (and all regula-
21 tions, rulings, waivers, orders, and franchise agree-
22 ments under old title VI) shall continue in effect after
23 the date of enactment of this Act with respect to any
24 cable operator to which they applied before that date
25 until the earlier of—

1 (A) *the expiration date of the franchise*
 2 *agreement under which the cable operator was*
 3 *operating on the date of enactment of this Act;*
 4 *or*

5 (B) *that date on which a new franchise*
 6 *agreement takes effect that replaces a cable oper-*
 7 *ator's franchise agreement described in subpara-*
 8 *graph (A).*

9 (2) *PRESERVATION OF BASIC TIER REGULA-*
 10 *TION.—Notwithstanding any other provision of this*
 11 *subsection, section 623 of old title VI shall continue*
 12 *to apply in any franchise area until a franchising*
 13 *authority receives a notice under subsection*
 14 *(b)(2)(A)(i).*

15 (d) *DEFINITIONS.—In this section:*

16 (1) *CABLE OPERATOR.—The term “cable oper-*
 17 *ator” includes a local exchange carrier that provides*
 18 *video services to video service subscribers in its tele-*
 19 *phone service area through an open video system that*
 20 *complies with the requirements of section 653 of the*
 21 *Communications Act of 1934 (47 U.S.C. 573).*

22 (2) *NEW TITLE VI.—The term “new title VI”*
 23 *means title VI of the Communications Act of 1934 (47*
 24 *U.S.C. 521 et seq.) as amended by this Act.*

(3) *OLD TITLE VI.*—The term “old title VI” means title VI of the Communications Act of 1934 (47 U.S.C. 521 et seq.) as in effect on the day before the date of enactment of this Act.

TITLE IV—VIDEO CONTENT

Subtitle A—National Satellite

SEC. 401. AVAILABILITY OF CERTAIN LICENSED SERVICES IN NONCONTIGUOUS STATES.

(a) *IN GENERAL.*—Section 335 (47 U.S.C. 335) is amended by adding at the end thereof the following:

“(c) *ALASKA AND HAWAII OBLIGATIONS.*—

“(1) *IN GENERAL.*—Each satellite carrier shall, to the extent technically feasible given the carrier’s satellite constellation in use, provide a comparable consumer product to subscribers in Alaska and Hawaii at prices and terms comparable to those made available to subscribers in the contiguous United States.

“(2) *CONDITIONS ON NEW LICENSES.*—

“(A) *IN GENERAL.*—Before the Commission grants a license for a new satellite used for service in the contiguous United States to a satellite carrier, it shall ensure that, to the extent technically feasible, the following minimum conditions are met:

1 “(i) *If the satellite is used for direct-to*
2 *home video services, the satellite shall be—*

3 “(I) *capable of providing services*
4 *to consumers in the cities of Anchor-*
5 *age, Fairbanks, and Juneau, Alaska,*
6 *using signal power levels of at least 45*
7 *dBW effective isotropic radiated power;*
8 *and*

9 “(II) *capable of providing services*
10 *to consumers in the islands of Oahu,*
11 *Maui, Kauai, Molokai, and Hawaii,*
12 *Hawaii, using signal power levels of at*
13 *least 46 dBW effective isotropic radi-*
14 *ated power.*

15 “(ii) *If the satellite is used for any*
16 *other direct-to-consumer service—*

17 “(I) *with respect to services of-*
18 *fered on beams covering substantially*
19 *the entire contiguous United States, the*
20 *carrier must make best efforts to ensure*
21 *that the effective isotropic radiated*
22 *power of the satellite on the downlink*
23 *and, where applicable, the efficiency of*
24 *the satellite receive antenna (G/T) can*
25 *allow the use of a commercially avail-*

1 *able antenna in Alaska and Hawaii*
2 *with a gain that is no more than 4 dB*
3 *greater than that used to provide the*
4 *service in the contiguous United*
5 *States; and*

6 *“(II) with respect to services of-*
7 *fered over spot beams covering portions*
8 *of the contiguous United States, the*
9 *carrier must make best efforts to ensure*
10 *that the effective isotropic radiated*
11 *power of the satellite on the downlink*
12 *and, where applicable, the efficiency of*
13 *the satellite receive antenna (G/T) shall*
14 *allow the use of the same antenna in*
15 *Alaska and Hawaii as provided in the*
16 *contiguous United States for the serv-*
17 *ice.*

18 *“(B) TECHNICAL FEASIBILITY.—It is*
19 *deemed not technically feasible for a satellite*
20 *with a look angle to any area of less than 8.25*
21 *degrees to provide service to such area at the sig-*
22 *nal power levels described in subparagraph (A).*

23 *“(3) SATELLITE CARRIER DEFINED.—In this*
24 *subsection, the term ‘satellite carrier’ means an entity*
25 *that uses the facilities of a satellite in the Fixed-Sat-*

1 *ellite Service, the Direct Broadcast Satellite service,*
 2 *the Broadcast Satellite Service, the Mobile-Satellite*
 3 *Service, or the Digital Audio Radio Service that is li-*
 4 *censed by the Commission under part 25 of title 47,*
 5 *Code of Federal Regulations, or is licensed or author-*
 6 *ized by a foreign government.”.*

7 **(b) EFFECTIVE DATE.**—*Section 335(c) of the Commu-*
 8 *nications Act of 1934, as added by subsection (a), shall take*
 9 *effect 36 months after the date of enactment of this Act.*

10 **(c) EXCEPTION.**—*Nothing in this section, nor any*
 11 *amendment made by this section, shall require any satellite*
 12 *carrier to take any action that the Commission determines*
 13 *will materially impact the signal quality or availability*
 14 *of programming available to subscribers of such carrier in*
 15 *the continental United States.*

16 **(d) IMPLEMENTATION BY COMMISSION.**—

17 **(1) IN GENERAL.**—*The Federal Communications*
 18 *Commission shall adopt such rules and policies as are*
 19 *necessary to implement and enforce section 335(c) of*
 20 *the Communications Act of 1934 (47 U.S.C. 335(c)).*

21 **(2) AMENDMENT OF RULES.**—*Within 30 days*
 22 *after the date of enactment of this Act, the Commis-*
 23 *sion shall amend section 1.4000(a)(1)(i)(B) of its*
 24 *rules (47 C.F.R. 1.4000(a)(1)(i)(B)) to insert “and*
 25 *Hawaii” after “Alaska”.*

1 ***Subtitle B—Video and Audio Flag***

2 ***SEC. 451. SHORT TITLE.***

3 *This subtitle may be cited as the “Digital Content Pro-*
 4 *tection Act of 2006”.*

5 ***SEC. 452. PROTECTION OF DIGITAL BROADCAST VIDEO***
 6 ***CONTENT.***

7 *(a) IN GENERAL.—Section 303 (47 U.S.C. 303) is*
 8 *amended by adding at the end the following:*

9 *“(z) Have authority with respect to digital television*
 10 *receivers to adopt such regulations and certifications as are*
 11 *necessary to implement the Report and Order in the matter*
 12 *of Digital Broadcast Content Protection, FCC 03–273, as*
 13 *ratified by the Congress in section 102(b) of the Consumer*
 14 *Competition and Broadband Promotion Act, with the exclu-*
 15 *sive purpose of limiting the indiscriminate redistribution*
 16 *of digital television content over the Internet or similar dis-*
 17 *tribution platforms, including the authority to reconsider,*
 18 *amend, repeal, supplement, and otherwise modify any such*
 19 *regulations and certifications, in whole or in part, only for*
 20 *that purpose.”.*

21 *(b) RATIFICATION OF FCC REPORT AND ORDERS.—*
 22 *The Report and Order in the matter of Digital Broadcast*
 23 *Content Protection, FCC 03–273, and the Order in the mat-*
 24 *ter of Digital Output Protection Technology and Recording*
 25 *Method Certifications, FCC 04–193, are ratified, subject to*

1 *the limitations set forth in subsection (d), and shall become*
 2 *effective 12 months after the date of enactment of this Act.*

3 (c) *EXPEDITED PROCEEDING FOR CERTIFYING TECH-*
 4 *NOLOGIES FOR USE IN DISTANCE EDUCATION.*—*Within 30*
 5 *days after the date of enactment of this Act, the Federal*
 6 *Communications Commission shall initiate a further pro-*
 7 *ceeding for the approval of digital output protection tech-*
 8 *nologies and recording methods for use in the course of dis-*
 9 *tance learning activities. The proceeding shall be conducted*
 10 *in accordance with the expedited procedures established for*
 11 *the Interim Approval of Authorized Digital Output Protec-*
 12 *tion Technologies and Authorized Recording Methods in the*
 13 *Report and Order described in subsection (b). The pro-*
 14 *ceeding shall have no effect on certifications made pursuant*
 15 *to the Order in the matter of Digital Output Protection*
 16 *Technology and Recording Method Certifications described*
 17 *in subsection (b), as ratified in that subsection.*

18 (d) *LIMITATIONS.*—

19 (1) *IN GENERAL.*—*Nothing in this Act or section*
 20 *303(z) of the Communications Act of 1934 (47 U.S.C.*
 21 *303(z)), or in regulations of the Commission adopted*
 22 *pursuant thereto, shall—*

23 (A) *limit the Commission’s authority to ap-*
 24 *prove digital output protection technologies and*
 25 *recording methods that allow for the redistribu-*

tion of digital broadcast content within the home or similar environment, or the use of the Internet to transmit digital broadcast content, where such technologies and recording methods adequately protect such content from indiscriminate redistribution; or

(B) be construed to affect rights, remedies, limitations, or defenses to copyright infringement, including fair use, under title 17, United States Code.

(2) *USE OF REDISTRIBUTION CONTROL DESCRIPTOR.*—Licensees of television broadcast stations may not utilize the Redistribution Control Descriptor, as adopted by the Report and Order described in subparagraph (b), to limit the redistribution of news and public affairs programming the primary commercial value of which depends on timeliness. The Federal Communications Commission shall allow each broadcaster or broadcasting network to determine whether the primary commercial value of a particular news program depends on timeliness. The Commission may review any such determination by a broadcaster or broadcasting network if it receives bona fide complaints alleging, or otherwise has reason

1 to believe, that particular broadcast digital television
2 content has violated this subsection.

3 (3) *PROPERTY RIGHTS.*—The Commission shall
4 require that any authorized redistribution control
5 technology and any authorized recording method tech-
6 nology approved by the Commission under this sec-
7 tion that is publicly offered for adoption by licensees,
8 be licensed on reasonable and nondiscriminatory
9 terms and conditions, including terms preserving a li-
10 censee’s ability to assert any patent rights necessary
11 for implementation of the licensed technology.

12 **SEC. 453. PROTECTION OF DIGITAL AUDIO BROADCASTING**
13 **CONTENT.**

14 Part I of title III (47 U.S.C. 301 et seq.) is amended
15 by adding at the end the following:

16 **“SEC. 342. PROTECTION OF DIGITAL AUDIO BROADCASTING**
17 **CONTENT.**

18 “(a) *IN GENERAL.*—Subject to section 454(d)(2) of the
19 *Digital Content Protection Act of 2006*, the Commission
20 may promulgate regulations governing the distribution of
21 audio content with respect to—

22 “(1) digital radio broadcasts;

23 “(2) satellite digital radio transmissions; and

24 “(3) digital radios.

25 “(b) *MONITORING ORGANIZATIONS.*—

1 “(1) *IN GENERAL.*—*The Commission shall ensure*
2 *that a performing rights society or a mechanical*
3 *rights organization, or any entity acting on behalf of*
4 *such a society or organization, is granted a license for*
5 *free or for a de minimis fee to cover only the reason-*
6 *able costs to the licensor of providing the license, and*
7 *on reasonable, nondiscriminatory terms and condi-*
8 *tions, to access and retransmit as necessary any con-*
9 *tent contained in such transmissions protected by*
10 *content protection or similar technologies, if—*

11 “(A) *the license is used to carry out the ac-*
12 *tivities of such society, organization, or entity in*
13 *monitoring the public performance or other uses*
14 *of copyrighted works; and*

15 “(B) *such society, organization, or entity*
16 *employs reasonable methods to protect any such*
17 *content accessed from further distribution.*

18 “(2) *PROTECTED ACTIVITIES.*—*Nothing shall*
19 *preclude or prevent a performing rights organization,*
20 *a mechanical rights organization, a monitoring serv-*
21 *ice, a measuring service, or any entity owned in*
22 *whole or in part by, or acting on behalf of, such an*
23 *organization or service, from monitoring or meas-*
24 *uring public performances or other uses of copy-*
25 *righted works, advertisements, or announcements con-*

1 *tained in performances or other uses, or other infor-*
2 *mation concerning the content or audience of such*
3 *performances or other uses.*

4 “(3) *ALTERNATIVE LICENSING LANGUAGE.—The*
5 *Commission may require that any such organization,*
6 *service, or entity be given a license on either a gratu-*
7 *itous basis or for a de minimis fee to cover only the*
8 *reasonable costs to the licensor of providing the li-*
9 *cence, and on reasonable, nondiscriminatory terms, to*
10 *access, record, and retransmit as necessary any con-*
11 *tent contained in any such performance or use pro-*
12 *ected by content protection or similar technology,*
13 *if—*

14 “(A) *the license is used for carrying out the*
15 *activities of such organizations, services, or enti-*
16 *ties in monitoring or measuring the public per-*
17 *formance or other use of copyrighted works, ad-*
18 *vertisements, or announcements, or other infor-*
19 *mation concerning the content or audience of*
20 *such performances or uses; and*

21 “(B) *the organizations, services, or entities*
22 *employ reasonable methods to protect any such*
23 *content accessed from further distribution.”.*

1 **SEC. 454. DIGITAL AUDIO REVIEW BOARD.**

2 (a) *ESTABLISHMENT.*—*The Federal Communications*
3 *Commission shall establish an advisory committee, to be*
4 *known as the Digital Audio Review Board.*

5 (b) *MEMBERSHIP.*—*Members of the Board shall be ap-*
6 *pointed by the chairman of the Commission and shall in-*
7 *clude representatives nominated by—*

8 (1) *the information technology industry;*

9 (2) *the software industry;*

10 (3) *the consumer electronics industry;*

11 (4) *the radio broadcasting industry;*

12 (5) *the satellite radio broadcasting industry;*

13 (6) *the cable industry;*

14 (7) *the audio recording industry;*

15 (8) *the music publishing industry;*

16 (9) *performing rights societies, including—*

17 (A) *the American Society of Composers, Au-*
18 *thors and Publishers;*

19 (B) *Broadcast Music, Inc.; and*

20 (C) *SESAC, Inc.;*

21 (10) *public interest organizations;*

22 (11) *organizations representing recording artists,*
23 *performers and musicians;*

24 (12) *organizations representing songwriters; and*

1 (13) *any other group that the Commission deter-*
2 *mines will be directly affected by adoption of broad-*
3 *cast flag technology regulations.*

4 (c) *DUTY.—*

5 (1) *IN GENERAL.—Within 1 year after the date*
6 *of enactment of this Act, the Board shall submit to the*
7 *Commission a proposed regulation under section 343*
8 *of the Communications Act of 1934 (47 U.S.C. 343)*
9 *that—*

10 (A) *represents a consensus of the members of*
11 *the Board; and*

12 (B) *is consistent with fair use principles.*

13 (2) *EXTENSION OF 1-YEAR PERIOD.—The Com-*
14 *mission may extend, for good cause shown, the 1-year*
15 *period described in paragraph (1) for a period of not*
16 *more than 6 months, if the Commission determines*
17 *that—*

18 (A) *substantial progress has been made by*
19 *the Board toward the development of a proposed*
20 *regulation;*

21 (B) *the members of the Board are con-*
22 *tinuing to negotiate in good faith; and*

23 (C) *there is a reasonable expectation that*
24 *the Board will draft and submit a proposed reg-*

1 *ulation before the expiration of the extended pe-*
 2 *riod of time.*

3 *(d) COMMISSION TREATMENT OF PROPOSED REGULA-*
 4 *TION.—*

5 *(1) DRAFT REGULATION.—Within 30 days after*
 6 *the Commission receives a proposed regulation from*
 7 *the Board under this section the Commission shall*
 8 *initiate a rulemaking proceeding to implement the*
 9 *proposed regulation.*

10 *(2) DEFERENCE; DEADLINE.—If the Board sub-*
 11 *mits a proposed regulation under this section the*
 12 *Commission, in promulgating a regulation under sec-*
 13 *tion 343 of the Communications Act of 1934, shall—*

14 *(A) give substantial deference to the pro-*
 15 *posed regulation submitted by the Board; and*

16 *(B) issue a final rule not later than 6*
 17 *months after the date on which the proceeding*
 18 *was initiated.*

19 *(3) COMMISSION ACTION IF NO BOARD ACTION.—*
 20 *If the Board does not submit a proposed regulation*
 21 *to the Commission within 1 year after the date of en-*
 22 *actment of this Act, plus any extension granted by the*
 23 *Commission under subsection (c)—*

24 *(A) the Commission may initiate a pro-*
 25 *ceeding to determine what, if any, regulations*

1 *under section 343 of the Communications Act of*
2 *1934 regarding digital audio copy protection are*
3 *necessary; and*

4 *(B) if the Commission determines that such*
5 *regulations are necessary, the Commission may*
6 *promulgate a rule implementing such protections*
7 *as long as such regulations do not harm or delay*
8 *the continued roll-out of HD radio.*

9 *(e) ADMINISTRATIVE PROVISIONS.—*

10 *(1) MEETINGS.—The Board shall meet at the call*
11 *of the Chairman of the Commission.*

12 *(2) EXECUTIVE DIRECTOR.—The Chairman of*
13 *the Commission may, without regard to civil service*
14 *laws and regulations, appoint and terminate an Ex-*
15 *ecutive Director and such other additional personnel*
16 *as may be necessary to enable the Board to perform*
17 *its duties. The Executive Director shall be com-*
18 *pensated at a rate not to exceed the rate of pay pay-*
19 *able for level V of the Executive Schedule under sec-*
20 *tion 5316 of title 5, United States Code.*

21 *(3) TEMPORARY AND INTERMITTENT SERV-*
22 *ICES.—In carrying out its duty, the Board may pro-*
23 *cure temporary and intermittent services of consult-*
24 *ants and experts under section 3109(b) of title 5,*
25 *United States Code, at rates for individuals which do*

1 *not exceed the daily equivalent of the annual rate of*
2 *basic pay prescribed for level V of the Executive*
3 *Schedule under section 5316 of such title.*

4 (4) *DETAIL OF GOVERNMENT EMPLOYEES.—*
5 *Upon request of the Board, the head of any Federal*
6 *agency may detail any Federal Government employee*
7 *to the Board without reimbursement, and such detail*
8 *shall be without interruption or loss of civil service*
9 *status or privilege.*

10 (5) *ADMINISTRATIVE SUPPORT.—Notwith-*
11 *standing section 7(c) of the Federal Advisory Com-*
12 *mittee Act (5 U.S.C. App.), the Commission shall pro-*
13 *vide the Board with such administrative and sup-*
14 *portive services as are necessary to ensure that the*
15 *Board can carry out its functions.*

16 (6) *TERMINATION.—The Board shall terminate*
17 *on the date on which it submits a proposed regulation*
18 *to the Commission or at the discretion of the Chair-*
19 *man of the Federal Communications Commission, but*
20 *no later than 18 months after the Board's first meet-*
21 *ing.*

TITLE V—MUNICIPAL BROADBAND

SEC. 501. SHORT TITLE.

This title may be cited as the “Community Broadband Act”.

SEC. 502. STATE REGULATION OF MUNICIPAL BROADBAND NETWORKS.

Section 706 of the Telecommunications Act of 1996 (47 U.S.C. 157 note) is amended—

(1) by redesignating subsection (c) as subsection (i);

(2) by inserting after subsection (b) the following:

“(c) LOCAL GOVERNMENT PROVISION OF ADVANCED COMMUNICATIONS CAPABILITY AND SERVICES.—No State statute, regulation, or other State legal requirement may prohibit or have the effect of prohibiting any public provider from providing, to any person or any public or private entity, advanced telecommunications capability or any service that utilizes the advanced telecommunications capability provided by such public provider.

“(d) SAFEGUARDS.—

“(1) ANTIDISCRIMINATION.—To the extent any public provider regulates competing providers of advanced telecommunications capability or any service

1 that utilizes the advanced telecommunications capa-
 2 bility provided by such providers, the public provider
 3 shall apply its ordinances, rules, policies, and fees,
 4 including those relating to public rights-of-way, per-
 5 mitting, performance bonding, and reporting, without
 6 discrimination in favor of itself or any other ad-
 7 vanced telecommunications capability provider that
 8 such public provider owns or is affiliated with, as
 9 compared to other providers of such capability or
 10 services.

11 “(2) *APPLICATION OF GENERAL LAWS.*—Nothing
 12 in this subsection or subsections (e) through (g) shall
 13 exempt a public provider from any Federal or State
 14 telecommunications law or regulation that applies to
 15 all providers of—

16 “(A) advanced telecommunications capa-
 17 bility; or

18 “(B) any service that utilizes the advanced
 19 telecommunications capability provided by such
 20 public provider.

21 “(e) *PUBLIC-PRIVATE PARTNERSHIPS ENCOUR-*
 22 AGED.—Each public provider that intends to provide ad-
 23 vanced telecommunications capability or any service that
 24 utilizes the advanced telecommunications capability pro-
 25 vided by such public provider to the public shall consider

1 *the potential benefits of a public-private partnership prior*
 2 *to providing such capability or services.*

3 “(f) *NOTICE AND OPPORTUNITY TO BID FOR THE PRI-*
 4 *VATE SECTOR.*—

5 “(1) *NOTICE AND OPPORTUNITY TO BID RE-*
 6 *QUIRED.*—*If a public provider decides not to initiate*
 7 *a project to provide advanced telecommunications ca-*
 8 *pability or any service that utilizes the advanced tele-*
 9 *communications capability provided by such public*
 10 *provider to the public through a public-private part-*
 11 *nership, then, before the public provider may provide*
 12 *such advanced telecommunications capability or any*
 13 *such service that utilizes the advanced telecommuni-*
 14 *cations capability provided by such public provider to*
 15 *the public, the public provider shall—*

16 “(A)(i) *publish notice of its intention in*
 17 *media generally available to the public in the*
 18 *area in which it intends to provide such capa-*
 19 *bility or service; or*

20 “(ii) *utilize such notice procedures as such*
 21 *provider already had in effect as of the date of*
 22 *enactment of the Community Broadband Act, if*
 23 *such notice has the effect of making such notice*
 24 *generally known to the public; and*

1 “(B) provide an opportunity for commercial
 2 enterprises to bid to provide such capability or
 3 service during the 30-day period following publi-
 4 cation of the notice.

5 “(2) NOTICE REQUIREMENTS.—The public pro-
 6 vider shall include in the notice required by para-
 7 graph (1) a description of the proposed scope of the
 8 advanced telecommunications capability or any serv-
 9 ice that utilizes the advanced telecommunications ca-
 10 pability provided by such public provider to be pro-
 11 vided, including—

12 “(A) the services to be provided (including
 13 network capabilities);

14 “(B) the coverage area;

15 “(C) service tiers and pricing; and

16 “(D) any proposal for providing advanced
 17 telecommunications capability or any service
 18 that utilizes the advanced telecommunications
 19 capability provided by such public provider to
 20 low-income areas, or other demographically or
 21 geographically defined areas.

22 “(3) PUBLIC NOTICE AND INPUT ON PROPOSED
 23 PROJECTS.—

24 “(A) IN GENERAL.—Each public provider
 25 shall—

1 “(i) publish notice of each proposal to
2 provide advanced telecommunications capa-
3 bility or any service that utilizes the ad-
4 vanced telecommunications capability pro-
5 vided by such public provider to the public
6 by a commercial enterprise under para-
7 graph (1)(B); and

8 “(ii) provide local citizens in the juris-
9 diction of that public provider and such
10 commercial enterprises with information on
11 the specifics of each such project, includ-
12 ing—

13 “(I) the cost to taxpayers, and the
14 benefits of, the proposed public pro-
15 vider project; and

16 “(II) any potential alternatives to
17 the proposed public provider project,
18 including any public-private partner-
19 ships.

20 “(B) 30-DAY PERIOD.—In order to provide
21 local citizens and commercial enterprises with
22 an adequate opportunity to be informed, a pub-
23 lic provider shall provide additional notice re-
24 questing that any public comments on the pro-
25 posed public provider project be filed not later

1 *than 30 days after the date of publication of the*
2 *notice required under subparagraph (A).*

3 “(4) *APPROVAL PROCESS.—If a public provider*
4 *decides to proceed with its own project to provide ad-*
5 *vanced telecommunications capability or any service*
6 *that utilizes the advanced telecommunications capa-*
7 *bility provided by such public provider to the public*
8 *despite bids by commercial enterprises received in ac-*
9 *cordance with paragraph (1)(B), such public provider*
10 *shall authorize that project by whatever process typi-*
11 *cally would be utilized by such public provider to ap-*
12 *prove projects of comparable cost in the jurisdiction*
13 *of such public provider.*

14 “(5) *APPLICATION TO EXISTING ARRANGEMENTS*
15 *AND PENDING PROPOSALS.—This subsection does not*
16 *apply to—*

17 “(A) *any contract or other arrangement*
18 *under which a public provider is providing or*
19 *upgrading advanced telecommunications capa-*
20 *bility or any service that utilizes the advanced*
21 *telecommunications capability provided by such*
22 *public provider to the public as of April 20,*
23 *2006; or*

24 “(B) *any public provider proposal to pro-*
25 *vide advanced communications capability or any*

1 *service that utilizes the advanced telecommuni-*
2 *cations capability provided by such public pro-*
3 *vider to the public that, as of April 20, 2006—*

4 *“(i) is in the request-for-proposals*
5 *process;*

6 *“(ii) is in the process of being built; or*

7 *“(iii) has been approved by referendum*
8 *but is the subject of a lawsuit brought before*
9 *March 1, 2006.*

10 *“(g) NO RECEIPT OF FEDERAL FUNDS.—If any*
11 *project to provide advanced telecommunications capability*
12 *or any service that utilizes the advanced telecommuni-*
13 *cations capability provided by a public provider under this*
14 *section fails whether due to bankruptcy, insufficient funds,*
15 *or any other reason, no Federal funds may be provided to*
16 *such public provider to assist such public provider in main-*
17 *taining, reviving, or renewing such project, except if such*
18 *failure occurred in any jurisdiction that is subject to a dec-*
19 *laration by the President of a major disaster, as defined*
20 *under section 102 of the Robert T. Stafford Disaster Relief*
21 *and Emergency Assistance Act (42 U.S.C. 5122).*

22 *“(h) TEMPORARY SERVICES DURING STATES OF*
23 *EMERGENCY.—Nothing in subsections (c) through (g) shall*
24 *preclude a public provider from—*

1 “(1) immediately deploying a temporary ad-
 2 vanced telecommunications capability or any service
 3 that utilizes the advanced telecommunications capa-
 4 bility provided by such public provider to the public
 5 during a state of emergency declared by the President
 6 or the Governor of the State in which such public pro-
 7 vider is located; and

8 “(2) continuing the operation of such capability
 9 or service until the emergency situation is resolved.”;
 10 and

11 (3) by adding at the end of subsection (i), as re-
 12 designated, the following:

13 “(3) *PUBLIC PROVIDER*.—The term ‘public pro-
 14 vider’ means—

15 “(A) a State or political subdivision thereof;

16 “(B) any agency, authority, or instrumen-
 17 tality of a State or political subdivision thereof;

18 “(C) an Indian tribe (as defined in section
 19 4(e) of the Indian Self-Determination and Edu-
 20 cation Assistance Act (25 U.S.C. 450b(e)); or

21 “(D) any entity that is owned, controlled,
 22 or otherwise affiliated with a State, political
 23 subdivision thereof, agency, authority, or instru-
 24 mentality, or Indian tribe.”.

1 **TITLE VI—WIRELESS**
2 **INNOVATION NETWORKS**

3 **SEC. 601. SHORT TITLE.**

4 *This title may be cited as the “Wireless Innovation Act*
5 *of 2006” or the “WIN Act of 2006”.*

6 **SEC. 602. ELIGIBLE TELEVISION SPECTRUM MADE AVAIL-**
7 **ABLE FOR WIRELESS USE.**

8 *Part I of title III (47 U.S.C. 301 et seq.), as amended*
9 *by section 453 of this Act, is further amended by adding*
10 *at the end the following:*

11 **“SEC. 343. ELIGIBLE BROADCAST TELEVISION SPECTRUM**
12 **MADE AVAILABLE FOR WIRELESS USE.**

13 *“(a) IN GENERAL.—Effective 270 days after the date*
14 *of enactment of the WIN Act of 2006, a certified unlicensed*
15 *device may use eligible broadcast television frequencies in*
16 *a manner that protects licensees from harmful interference.*

17 *“(b) COMMISSION TO FACILITATE USE.—Within 270*
18 *days after the date of enactment of that Act, the Commis-*
19 *sion shall adopt technical and device rules in ET Docket*
20 *No. 04–186 to facilitate the efficient use of eligible broadcast*
21 *television frequencies by certified unlicensed devices, which*
22 *shall include rules and procedures—*

23 *“(1) to protect licensees from harmful inter-*
24 *ference from certified unlicensed devices;*

1 “(2) to require certification of unlicensed devices
2 designed to be operated in the eligible broadcast tele-
3 vision frequencies that includes testing, which may
4 include testing in an independent laboratory certified
5 by the Commission and field testing, that dem-
6 onstrates—

7 “(A) compliance with the requirements set
8 forth pursuant to this paragraph; and

9 “(B) that such compliance effectively pro-
10 tects licensees from harmful interference;

11 “(3) to require manufacturers of such devices to
12 include a means of disabling or modifying the device
13 remotely if the Commission determines that certain
14 certified unlicensed devices may cause harmful inter-
15 ference to licensees;

16 “(4) to act immediately on any bona fide com-
17 plaints from licensees that a certified unlicensed de-
18 vice causes harmful interference including
19 verification, in the field, of actual harmful inter-
20 ference; and

21 “(5) to limit the operation or use of certified un-
22 licensed devices within any geographic area in which
23 a public safety entity is authorized to operate as a
24 primary licensee within the eligible broadcast tele-
25 vision frequencies.

1 “(c) *DEFINITIONS.—In this section:*

2 “(1) *CERTIFIED UNLICENSED DEVICE.—The term*
3 *‘certified unlicensed device’ means a device certified*
4 *under subsection (b)(2).*

5 “(2) *ELIGIBLE BROADCAST TELEVISION FRE-*
6 *QUENCIES.—The term ‘eligible broadcast television*
7 *frequencies’ means the following frequencies:*

8 “(A) *All frequencies between 54 and 72*
9 *megaHertz, inclusive.*

10 “(B) *All frequencies between 76 and 88*
11 *megaHertz, inclusive.*

12 “(C) *All frequencies between 174 and 216*
13 *megaHertz, inclusive.*

14 “(D) *All frequencies between 470 and 608*
15 *megaHertz, inclusive.*

16 “(E) *All frequencies between 614 and 698*
17 *megaHertz, inclusive.*

18 “(3) *LICENSEE.—The term ‘licensee’ means a li-*
19 *censee, as defined in section 3(24), that is operating*
20 *in a manner that is not inconsistent with its li-*
21 *cense.”.*

1 ***TITLE VII—DIGITAL TELEVISION***

2 ***SEC. 701. ANALOG AND DIGITAL TELEVISION SETS AND***
 3 ***CONVERTER BOXES; CONSUMER EDUCATION***
 4 ***AND REQUIREMENTS TO REDUCE THE GOV-***
 5 ***ERNMENT COST OF THE CONVERTER BOX***
 6 ***PROGRAM.***

7 *(a) CONSUMER EDUCATION REQUIREMENTS.—Section*
 8 *330 (47 U.S.C. 330) is amended—*

9 *(1) by redesignating subsection (d) as subsection*
 10 *(e); and*

11 *(2) by inserting after subsection (c) the following*
 12 *new subsection:*

13 *“(d) CONSUMER EDUCATION REQUIREMENTS RE-*
 14 *GARDING ANALOG RECEIVERS.—*

15 *“(1) REQUIREMENTS FOR MANUFACTURERS.—*
 16 *The manufacturer of any analog only television set*
 17 *manufactured in the United States or shipped in*
 18 *interstate commerce shall—*

19 *“(A) place the appropriate removable label*
 20 *described in paragraph (3) on the screen of such*
 21 *television set; and*

22 *“(B) display the label required by para-*
 23 *graph (3) on the outside of the retail packaging*
 24 *of the television set—*

1 “(i) in a clear and conspicuous man-
2 ner; and

3 “(ii) in a manner that cannot be re-
4 moved.

5 “(2) REQUIREMENTS FOR RETAILERS.—

6 “(A) IN GENERAL.—A retailer of analog
7 only television sets that sells such television sets
8 via direct mail, catalog, or electronic means,
9 shall include in all advertisements or descrip-
10 tions of such television set the product and the
11 information described in paragraph (3) within
12 120 days after the date of enactment of the Ad-
13 vanced Telecommunications and Opportunities
14 Reform Act.

15 “(B) DUTY TO ADEQUATELY INFORM CON-
16 SUMERS.—Notwithstanding the requirement in
17 subparagraph (A), it shall be a violation of this
18 Act for any retailer of analog-only television
19 sets—

20 “(i) to fail to adequately inform con-
21 sumers about the availability of digital-to-
22 analog converter boxes; or

23 “(ii) to provide misleading informa-
24 tion about the availability and cost of such
25 converter boxes.

1 “(3) *PRODUCT AND DIGITAL TELEVISION TRANSI-*
2 *TION INFORMATION.*—

3 “(A) *LABEL REQUIREMENT.*—*The following*
4 *product and digital television transition infor-*
5 *mation shall be displayed as a label on analog*
6 *television sets, in both English and Spanish:*

‘CONSUMER ALERT

‘This TV has only an “analog” broadcast tuner and will require a converter box after February 17, 2009 to receive over-the-air broadcasts with an antenna because of the Nation’s transition to digital broadcasting on that date as required by Federal law. It should continue to work as before with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products.’

7 “(B) *BLOCKING TECHNOLOGY.*—*All tele-*
8 *vision sets, analog or digital, that have a picture*
9 *screen 13 inches or greater in size (measured di-*
10 *agonally), shall be equipped with a feature de-*
11 *signed to enable viewers to block display of all*
12 *programs with a common rating. For additional*
13 *information on such technology, visit [http://](http://www.tvguidelines.org)*
14 *www.tvguidelines.org.*

15 “(4) *COMMISSION OUTREACH.*—

16 “(A) *IN GENERAL.*—*Beginning within 1*
17 *month after the date of enactment of the Ad-*
18 *vanced Telecommunications and Opportunities*
19 *Reform Act, the Commission shall initiate a*
20 *public outreach program the purpose of which is*
21 *to educate consumers about the digital television*

1 *transition. Not later than October 15, 2007, the*
2 *Commission shall complete and submit a na-*
3 *tional plan to Congress on how to best carry out*
4 *such public outreach program. Such plan shall*
5 *include a description of how such public out-*
6 *reach program will carry out the purposes, rec-*
7 *ommendations, and requirements described in*
8 *subparagraphs (A), (B), and (C) of section*
9 *701(b)(3) of the Advanced Telecommunications*
10 *and Opportunities Reform Act.*

11 “(B) *WEBSITE.*—*The Commission shall*
12 *maintain and publicize a website, or an easily*
13 *accessible page on its website, containing such*
14 *consumer information as well as any links to*
15 *other websites the Commission determines to be*
16 *appropriate.*

17 “(C) *TELEPHONE INFORMATION HOTLINE.*—
18 *The Commission shall establish, maintain, and*
19 *make public a toll-free information hotline re-*
20 *garding the digital television transition.*

21 “(5) *PUBLIC SERVICE ANNOUNCEMENTS.*—

22 “(A) *IN GENERAL.*—*Each television broad-*
23 *cast licensee or permittee shall broadcast at least*
24 *2 30-second public service announcements*
25 *daily—*

1 “(i) during the 3-month period begin-
2 ning December 1, 2007, such date being 1
3 month prior to the commencement of the
4 digital-to-analog converter box subsidy pro-
5 gram authorized under 3005 of the Digital
6 Television Transition and Public Safety Act
7 of 2005 (Public Law 109–171; 120 Stat.
8 24); and

9 “(ii) during the 3-month period begin-
10 ning on November 17, 2008, such date being
11 3 months prior to the Nation’s transition to
12 digital broadcasting as required under sec-
13 tion 309(j)(14) of the Communications Act
14 of 1934 (47 U.S.C. 309(j)(14)).

15 “(B) *MULTILINGUAL NOTICES.*—The infor-
16 mation required to be provided to consumers
17 under this paragraph shall be provided in
18 English and Spanish and may be provided in
19 such other languages as may be appropriate to
20 the marketing segments of the public to which the
21 information is addressed.

22 “(C) *TIME OF BROADCAST.*—The public
23 service announcements required under subpara-
24 graph (A) shall be broadcast at such times as the
25 Commission, in accordance with the Working

1 Group established under section 701(b)(3) of the
2 Advanced Telecommunications and Opportuni-
3 ties Reform Act, may require in order to assure
4 the widest possible audience.

5 “(D) CONTENT OF BROADCAST.—The public
6 service announcements required under subpara-
7 graph (A) shall, at least—

8 “(i) notify the public of the—

9 “(I) date of the digital transition;

10 and

11 “(II) starting date of the digital-

12 to-analog converter box subsidy pro-

13 gram described in subparagraph (A);

14 and

15 “(ii) contain the address of the website

16 and toll-free information hotline provided

17 by the Commission under subparagraphs

18 (B) and (C) of paragraph (4).

19 “(6) PENALTY.—In addition to any other civil
20 or criminal penalty provided by law, the Commission
21 shall issue civil forfeitures for violations of the re-
22 quirements of this subsection in an amount equal to
23 not more than 3 times the amount of the forfeiture
24 penalty established by section 503(a)(2)(A).

1 “(7) *SUNSET.*—*The requirements of this sub-*
2 *section, excluding the consumer alert labeling provi-*
3 *sion described in paragraph (3), shall cease to apply*
4 *to manufacturers and retailers on December 1,*
5 *2009.”.*

6 *(b) DTV WORKING GROUP ON CONSUMER EDUCATION,*
7 *OUTREACH, AND TECHNICAL ASSISTANCE.—*

8 *(1) IN GENERAL.—Within 60 days after the date*
9 *of enactment of this Act, the Federal Communications*
10 *Commission shall establish an advisory committee, to*
11 *be known as the DTV Working Group, to consult with*
12 *State and local governments and the National Tele-*
13 *communications and Information Administration to*
14 *promote consumer outreach and to provide logistical*
15 *assistance on a market-by-market basis to consumers*
16 *with special needs, including the converter box sub-*
17 *sidy program. The Working Group shall ensure that*
18 *the digital-to-analog converter box subsidy program*
19 *authorized under section 3005 of Digital Television*
20 *Transition and Public Safety Act of 2005 (Public*
21 *Law 109-171; 120 Stat. 24) includes a means by*
22 *which to reach and assist elderly, disabled, low-in-*
23 *come, and non-English speaking households with the*
24 *delivery and installation of such converter boxes.*

1 (2) *MEMBERSHIP.*—*The Commission shall ap-*
2 *point to the DTV Working Group representatives of*
3 *groups involved with the transition to digital tele-*
4 *vision, including the Commission, the National Tele-*
5 *communications and Information Administration,*
6 *other Federal agencies, commercial and noncommer-*
7 *cial television broadcasters, multichannel video pro-*
8 *gramming distributors, consumer electronics manu-*
9 *facturers and manufacturers of peripheral devices,*
10 *broadcast antenna and tuner manufacturers, retail*
11 *providers of consumer electronics equipment, as well*
12 *as providers of low-income assistance programs, edu-*
13 *cational institutions, community groups, consumers,*
14 *and public interest groups (including the Television*
15 *Ratings Oversight Monitoring Board, the American*
16 *Association of Retired Persons, the American Associa-*
17 *tion of People with Disabilities, and the Seniors Coa-*
18 *lition). Members of the DTV Working Group shall*
19 *serve without compensation and shall not be consid-*
20 *ered Federal employees by reason of their service on*
21 *the advisory committee.*

22 (3) *PURPOSES.*—*The purposes of the DTV Work-*
23 *ing Group are—*

24 (A) *to advise the Commission through writ-*
25 *ten recommendations submitted not later than*

1 *July 15, 2007, about the creation and implemen-*
2 *tation of a national plan to inform consumers*
3 *about the digital television transition as required*
4 *by section 330(d)(4) of the Communications Act*
5 *of 1934 (47 U.S.C. 330(d)(6));*

6 *(B) to ensure that the Commission’s na-*
7 *tional plan includes—*

8 *(i) at a minimum, recommended pro-*
9 *cedures for public service announcements by*
10 *broadcasters, toll-free information hotlines,*
11 *and retail displays or notices, and any*
12 *other media or non-media outreach methods*
13 *the Commission determines necessary, in-*
14 *cluding methods for reaching consumers*
15 *after February 17, 2009;*

16 *(ii) a requirement that all licensed*
17 *broadcasters in a designated market area*
18 *submit a joint plan to the Commission and*
19 *the DTV Working Group, not later 4*
20 *months after the Commission initiates its*
21 *public outreach program under section*
22 *330(d) of the Communications Act of 1934*
23 *(47 U.S.C. 330(d)), that addresses the pub-*
24 *lic outreach and public service announce-*
25 *ment requirements required by this title to*

1 *inform consumers in those areas of the tran-*
2 *sition to digital television and that—*

3 *(I) includes a description of how*
4 *each commercial television broadcaster*
5 *will fulfill the public service announce-*
6 *ment requirements required under sec-*
7 *tion 330(d)(7) of the Communications*
8 *Act of 1934 (47 U.S.C. 330(d)(7));*

9 *(II) includes market research by*
10 *each commercial television broadcaster*
11 *regarding projected consumer demand*
12 *for converter boxes in their designated*
13 *market area; and*

14 *(III) will be shared with retailers*
15 *inside their designated market area so*
16 *that such retailers may stock the ap-*
17 *propriate amount of converter boxes to*
18 *meet the needs of consumers within*
19 *each designated market area;*

20 *(C) to work with the Commission and the*
21 *National Telecommunications and Information*
22 *Administration to ensure that the digital-to-ana-*
23 *log converter box subsidy program is adminis-*
24 *tered in a manner such that those consumers*

1 *with the greatest need, including analog-only*
2 *consumers, are adequately served;*

3 *(D) to monitor and advise the Commission*
4 *through 2 DTV Progress Reports regarding the*
5 *course of the outreach program during calendar*
6 *year 2008; such reports shall describe planned ef-*
7 *forts by the private sector, both nationally and*
8 *in various television broadcast markets, to in-*
9 *form consumers about the digital transition, and*
10 *shall evaluate the effectiveness of the outreach*
11 *program and the digital-to-analog converter box*
12 *subsidy program authorized under section 3005*
13 *of Digital Television Transition and Public*
14 *Safety Act of 2005 (public Law 109-171; 120*
15 *Stat. 24);*

16 *(E) to advise the Commission about modi-*
17 *fications necessary to the national plan to mini-*
18 *mize potential disruption to consumers attrib-*
19 *utable to the transition to digital broadcasting*
20 *required under section 309(j)(14) of the Commu-*
21 *nications Act of 1934 (47 U.S.C. 309(j)(14));*
22 *and*

23 *(F) to recommend to the Commission proce-*
24 *dures for contacting persons with disabilities,*
25 *which shall include—*

1 (i) use of telecommunications relay
2 services for persons who are deaf, hard of
3 hearing, or with speech disabilities;

4 (ii) distribution of printed items avail-
5 able in alternative formats for persons with
6 vision and learning disabilities; and

7 (iii) other alternative formats, includ-
8 ing accessible websites for persons with dis-
9 abilities.

10 (c) *REQUIREMENTS TO PROMOTE SALE OF DIGITAL*
11 *TELEVISIONS AND CONVERTER BOXES.*—

12 (1) *DIGITAL TUNER MANDATE.*—*Part I of title*
13 *III (47 U.S.C. 301 et seq.) is amended by inserting*
14 *after section 303 the following:*

15 “**SEC. 303A. REQUIREMENTS FOR DIGITAL TELEVISION**
16 **SETS AND CERTAIN OTHER EQUIPMENT.**

17 “*After March 1, 2007, it is unlawful for a manufac-*
18 *turer or importer to import into the United States or ship*
19 *in interstate commerce for sale or resale to the public, a*
20 *television broadcast receiver (as defined in section 15.3(w)*
21 *of the Commission’s regulations (47 C.F.R. 15.3(w))) that*
22 *is not equipped with a tuner capable of receiving and decod-*
23 *ing digital signals.”.*

24 (2) *COMMISSION NOT TO CHANGE SCHEDULE.*—
25 *The Federal Communications Commission may not*

1 *revise the digital television reception capability im-*
2 *plementation schedule under section 15.117(i) of its*
3 *regulations (47 C.F.R. 15.117(i)) except to conform*
4 *that section to the requirements of section 303A of the*
5 *Communications Act of 1934.*

6 (3) *CONVERTER BOXES.—*

7 (A) *ENERGY STANDARDS.—Within 1 year*
8 *after the date of enactment of this Act, the As-*
9 *stant Secretary of Commerce for Communica-*
10 *tions and Information, in consultation with the*
11 *Secretary of Energy, shall set the energy stand-*
12 *ards for digital-to-analog converter boxes (as de-*
13 *finied in section 3005(d) of the Digital Television*
14 *Transition and Public Safety Act of 2005 (47*
15 *U.S.C. 309 note)), taking into consideration the*
16 *cost of the converter box. The standards shall*
17 *meet the criteria specified in section 325(o) of*
18 *the Energy Policy and Conservation Act (42*
19 *U.S.C. 6295(o)).*

20 (B) *APPLICATION.—Notwithstanding any*
21 *other provision of law, the standards set under*
22 *subparagraph (A) shall solely govern the energy*
23 *standards for converter boxes manufactured or*
24 *imported for use in the United States on and*
25 *after the effective date established by the Assist-*

1 *ant Secretary. This paragraph shall not apply*
 2 *after May 17, 2010.*

3 (C) *CONFORMING AMENDMENT.—Section*
 4 *3005(d) of the Digital Television Transition and*
 5 *Public Safety Act of 2005 (47 U.S.C. 309 note))*
 6 *is amended by inserting “a clock, other inci-*
 7 *dental features, or” after “include”.*

8 (d) *DOWNCONVERSION FROM DIGITAL SIGNALS TO*
 9 *ANALOG SIGNALS.—*

10 (1) *DIGITAL-TO-ANALOG CONVERSION.—Section*
 11 *614(b)(4) (47 U.S.C. 534(b)(4)) is amended—*

12 (A) *by redesignating subparagraph (B) as*
 13 *subparagraph (I); and*

14 (B) *by inserting after subparagraph (A) the*
 15 *following:*

16 “(B) *DIGITAL VIDEO SIGNAL.—With respect*
 17 *to any television station that is transmitting*
 18 *broadcast programming exclusively in the digital*
 19 *television service in a local market, a cable oper-*
 20 *ator of a cable system in that market shall carry*
 21 *any digital video signal requiring carriage*
 22 *under this section and program-related material*
 23 *in the digital format transmitted by that station,*
 24 *without material degradation, if the licensee for*
 25 *that station relies on this section or section 615*

1 to obtain carriage of the digital video signal and
2 program-related material on that cable system in
3 that market.

4 “(C) *MULTIPLE FORMATS PERMITTED.*—A
5 cable operator of a cable system may offer the
6 digital video signal and program-related mate-
7 rial of a local television station described in sub-
8 paragraph (A) in any analog or digital format
9 or formats, whether or not doing so requires con-
10 version from the format transmitted by the local
11 television station, so long as—

12 “(i) the cable operator offers the digital
13 video signal and program-related material
14 in the converted analog or digital format or
15 formats without material degradation; and

16 “(ii) also offers the digital video signal
17 and program-related material in the man-
18 ner or manners required by this paragraph.

19 “(D) *TRANSITIONAL CONVERSIONS.*—Not-
20 withstanding the requirement in subparagraph
21 (B) to carry the digital video signal and pro-
22 gram-related material in the digital format
23 transmitted by the local television station, but
24 subject to the prohibition on material degrada-
25 tion, until February 17, 2014—

1 “(i) a cable operator—

2 “(I) shall offer the digital video
3 signal and program-related material
4 in the format or formats necessary for
5 such signal and material to be
6 viewable on analog and digital tele-
7 visions; and

8 “(II) may convert the digital
9 video signal and program-related ma-
10 terial to standard-definition digital
11 format in lieu of offering it in the dig-
12 ital format transmitted by the local tel-
13 evision station; and

14 “(ii) notwithstanding clause (i), a
15 cable operator of a cable system with an ac-
16 tivated capacity of 550 megahertz or less—

17 “(I) shall offer the digital video
18 signal and program-related material of
19 the local television station described in
20 subparagraph (A), converted to an
21 analog format; and

22 “(II) may, but shall not be re-
23 quired to, offer the digital video signal
24 and program-related material in any
25 digital format or formats.

1 “(E) *LOCATION AND METHOD OF CONVER-*
 2 *SION.*—A cable operator of a cable system may
 3 perform any conversion permitted or required by
 4 this paragraph at any location, from the cable
 5 head-end to the customer premises, inclusive.

6 “(F) *CONVERSIONS NOT TREATED AS DEG-*
 7 *RADATION.*—Any conversion permitted or re-
 8 quired by this paragraph shall not, by itself, be
 9 treated as a material degradation.

10 “(G) *CARRIAGE OF PROGRAM-RELATED MA-*
 11 *TERIAL.*—The obligation to carry program-re-
 12 lated material under this paragraph is effective
 13 only to the extent technically feasible.

14 “(H) *DEFINITION OF STANDARD-DEFINITION*
 15 *FORMAT.*—For purposes of this paragraph, a sig-
 16 nal shall be in standard definition digital format
 17 if such signal meets the criteria for such format
 18 specified in the standard recognized by the Com-
 19 mission in section 73.682 of its rules (47 C.F.R.
 20 73.682) or a successor regulation.”.

21 (2) *TIERING.*—

22 (A) *AMENDMENT TO COMMUNICATIONS*
 23 *ACT.*—Clause (iii) of section 623(b)(7)(A) (47
 24 U.S.C. 543(b)(7)(A)(iii)) is amended to read as
 25 follows:

1 “(iii) *Any analog signal and any dig-*
 2 *ital video signal of any television broadcast*
 3 *station that is provided by the cable oper-*
 4 *ator to any subscriber, except a signal*
 5 *which is secondarily transmitted by a sat-*
 6 *ellite carrier beyond the local service area of*
 7 *such station.”.*

8 (B) *EFFECTIVE DATE.*—*With respect to any*
 9 *television broadcast station, this subsection and*
 10 *the amendments made by this paragraph shall*
 11 *take effect on the date the broadcaster ceases*
 12 *transmissions in the analog television service.*

13 (3) *MATERIAL DEGRADATION.*—*Section 614 (47*
 14 *U.S.C. 534) is amended—*

15 (A) *by redesignating subsection (h) as sub-*
 16 *section (i); and*

17 (B) *by inserting after subsection (g) the fol-*
 18 *lowing:*

19 “(h) *MATERIAL DEGRADATION.*—*For purposes of this*
 20 *section and section 615, transmission of a digital signal*
 21 *over a cable system in a compressed bitstream shall not be*
 22 *considered material degradation as long as such compres-*
 23 *sion does not materially affect the picture quality the con-*
 24 *sumer receives.”.*

1 (e) *SATELLITE DOWNCONVERSION.*—Section 338 (47
2 *U.S.C. 338)* is amended by adding at the end the following:

3 “(l) *SPECIFIC CARRIAGE OBLIGATIONS AFTER DIG-*
4 *ITAL TRANSITION.*—

5 “(1) *DIGITAL VIDEO SIGNAL.*—With respect to
6 any television broadcast station that is transmitting
7 broadcast programming exclusively in the digital tele-
8 vision service in a local market in the United States,
9 a satellite carrier carrying the digital signal of any
10 other television broadcast station in that local market
11 shall carry the station’s primary video required to be
12 carried and program-related material without mate-
13 rial degradation, if the licensee for that station relies
14 on this section to obtain carriage of the station’s video
15 signal and program-related material on that satellite
16 carrier’s system in that market.

17 “(2) *FORMATTING OF PRIMARY VIDEO.*—A sat-
18 ellite carrier shall offer the primary video and pro-
19 gram-related material of a local television station de-
20 scribed in paragraph (1) in the digital format trans-
21 mitted by the station if the satellite carrier carries the
22 primary video of any other television broadcast sta-
23 tion in that local market in the same digital format.

24 “(3) *MULTIPLE FORMATS PERMITTED.*—A sat-
25 ellite carrier may offer the primary video and pro-

1 *gram-related material of a local television broadcast*
2 *station described in paragraph (1) in any analog or*
3 *digital format or formats, whether or not doing so re-*
4 *quires conversion from the format transmitted by the*
5 *local television broadcast station, so long as—*

6 *“(A) the satellite carrier offers the primary*
7 *video and program-related material in the con-*
8 *verted analog or digital format or formats with-*
9 *out material degradation; and*

10 *“(B) also offers the primary video and pro-*
11 *gram-related material in the manner or manners*
12 *required by this paragraph.*

13 *“(4) TRANSITIONAL CONVERSIONS.—Notwith-*
14 *standing any requirement in paragraph (1) or (2) to*
15 *carry the primary video and program-related mate-*
16 *rial in the digital format transmitted by the local tel-*
17 *evision station, but subject to the prohibition on mate-*
18 *rial degradation, until February 17, 2014, a satellite*
19 *carrier—*

20 *“(A) shall offer the primary video and pro-*
21 *gram-related material of any local television*
22 *broadcast station required to be carried under*
23 *paragraph (1) in the format or formats nec-*
24 *essary for such primary video and program-re-*

1 *lated material to be viewable on analog and dig-*
2 *ital televisions; and*

3 “(B) *may convert the primary video and*
4 *program-related material to standard-definition*
5 *digital format in lieu of offering it in the digital*
6 *format transmitted by the local television sta-*
7 *tion.*

8 “(5) *LOCATION AND METHOD OF CONVERSION.—*
9 *A satellite carrier may perform any conversion per-*
10 *mitted or required by this paragraph at any location,*
11 *from the local receive facility to the customer prem-*
12 *ises, inclusive.*

13 “(6) *CONVERSIONS NOT TREATED AS DEGRADA-*
14 *TION.—Any conversion permitted or required by this*
15 *paragraph shall not, by itself, be treated as a mate-*
16 *rial degradation.*

17 “(7) *CARRIAGE OF PROGRAM-RELATED MATE-*
18 *RIAL.—The obligation to carry program-related mate-*
19 *rial under this paragraph is effective only to the ex-*
20 *tent technically feasible.*

21 “(8) *DEFINITION OF STANDARD-DEFINITION FOR-*
22 *MAT.—For purposes of this subsection, the primary*
23 *video shall be in standard definition digital format if*
24 *such primary video meets the criteria for such format*
25 *specified in the standard recognized by the Commis-*

1 *sion in section 73.682 of its rules (47 C.F.R. 73.682)*
 2 *or a successor regulation.*

3 “(9) *MATERIAL DEGRADATION.*—*For purposes of*
 4 *this subsection, transmission of a digital signal over*
 5 *a satellite system in a compressed bitstream shall not*
 6 *be considered material degradation as long as such*
 7 *compression does not materially affect the picture*
 8 *quality the consumer receives.”.*

9 **SEC. 702. DIGITAL STREAM REQUIREMENT FOR THE BLIND.**

10 (a) *RULES REINSTATED.*—*The video description rules*
 11 *of the Federal Communications Commission contained in*
 12 *the report and order identified as Implementation of Video*
 13 *Description of Video Programming, Report and Order, 15*
 14 *F.C.C.R. 15,230 (2000), shall, notwithstanding the decision*
 15 *of the United States Court of Appeals for the District of*
 16 *Columbia Circuit in Motion Picture Association of Amer-*
 17 *ica, Inc., et al., v. Federal Communications Commission,*
 18 *et al. (309 F. 3d 796, November 8, 2002), be considered to*
 19 *be authorized and ratified by law.*

20 (b) *CONTINUING AUTHORITY OF COMMISSION.*—*The*
 21 *Federal Communications Commission—*

22 (1) *shall, within 45 days after the date of enact-*
 23 *ment of this Act, republish its video description rules*
 24 *contained in the report and order Implementation of*

1 *Video Description of Video Programming, Report and*
2 *Order, 15 F.C.C.R. 15,230 (2000);*

3 *(2) may amend, repeal, or otherwise modify such*
4 *rules;*

5 *(3) shall initiate a proceeding within 120 days*
6 *after the date of enactment of this Act, and complete*
7 *that proceeding within 1 year, to consider incor-*
8 *porating accessible information requirements in its*
9 *video description rules; and*

10 *(4) shall extend the video description rules under*
11 *this section to digital broadcast programming and*
12 *video programming (as defined in section 602(23) of*
13 *the Communications Act of 1934), as appropriate, in*
14 *the public interest.*

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

21 **SEC. 703. STATUS OF INTERNATIONAL COORDINATION.**

22 *Until the date on which the international coordination*
23 *with Canada and Mexico of the DTV table of allotments*
24 *is complete (as determined by the Federal Communications*
25 *Commission), the Federal Communications Commission*

1 *shall submit a report every 6 months on the status of that*
2 *international coordination to the Senate Committee on*
3 *Commerce, Science, and Transportation and the House of*
4 *Representatives Committee on Energy and Commerce.*

5 **SEC. 704. CERTAIN BORDER STATIONS.**

6 *Section 309(j)(14) (47 U.S.C. 309(j)(14)) is amended*
7 *by adding at the end the following:*

8 *“(D) BORDER STATIONS.—An analog*
9 *broadcast television station, whose programming*
10 *is broadcast entirely in the Spanish-language,*
11 *that prior to February 17, 2009, is licensed by*
12 *the Commission to serve communities located*
13 *within 50 miles of the common border with the*
14 *United Mexican States and can establish to the*
15 *satisfaction of the Federal Communications*
16 *Commission that its continued operation in ana-*
17 *log is in the public interest, shall be entitled to*
18 *the renewal of its television broadcast license au-*
19 *thorizing analog television service and to operate*
20 *on a channel between 2 and 51 that complies*
21 *with the following provisions through February*
22 *17, 2011:*

23 *“(i) The channel used for analog oper-*
24 *ation may not—*

1 “(I) prevent the auction of recov-
2 ered spectrum, as provided for in para-
3 graph (15) of this subsection;

4 “(II) prevent the use of recovered
5 spectrum by public safety services, as
6 provided for by section 337(a)(1) of
7 this Act; and

8 “(III) encumber nor interfere with
9 any channels reserved for public safety
10 use as designated in FCC ET Docket
11 No. 97–157.

12 “(ii) The station shall operate on its
13 assigned analog channel as of February 16,
14 2009, if that channel—

15 “(I) is designated between 2 and
16 51;

17 “(II) has not been assigned to the
18 station itself or another station for dig-
19 ital operation after the digital transi-
20 tion; and

21 “(III) could be used by that sta-
22 tion for analog operation after the dig-
23 ital transition without causing inter-
24 ference to previously authorized digital
25 television stations.

1 “(iii) If the station does not meet the
2 criteria of clause (ii) for operation on its
3 assigned analog channel as of February 16,
4 2009, the station may request, and the Com-
5 mission shall promptly act upon such re-
6 quest, to be assigned a new channel for its
7 analog operation, if the requested channel—

8 “(I) is shall between channels 2
9 and 51; and

10 “(II) allows the station to operate
11 on a primary basis without causing
12 interference to other analog or digital
13 television stations or to stations li-
14 censed to operate in other radio serv-
15 ices that also operate on channels be-
16 tween 2 and 51. Where mutually exclu-
17 sive applications are submitted for
18 analog television operation on a chan-
19 nel under the provisions of this section,
20 the Commission shall award the au-
21 thority to use that channel through the
22 application of the procedures of this
23 subsection and giving due consider-
24 ation to the alternative resolution pro-

1 cedures of paragraph (6)(E) of this
2 subsection.

3 “(iv) *The station shall, from February*
4 *16, 2009, through February 17, 2011, regu-*
5 *larly broadcast Spanish-language public*
6 *service announcements that serve to educate*
7 *the station’s viewers to the digital transi-*
8 *tion and the need to secure digital con-*
9 *verters or monitors so that the station’s*
10 *viewers can receive the station’s digital sig-*
11 *nal after February 17, 2011.”.*

12 ***TITLE VIII—PROTECTING***
13 ***CHILDREN***

14 ***SEC. 801. VIDEO TRANSMISSION OF CHILD PORNOGRAPHY.***

15 *Section 621 (47 U.S.C. 541) is amended by adding*
16 *at the end the following:*

17 “(g) *CHILD PORNOGRAPHY.—*

18 “(1) *IN GENERAL.—A video service provider au-*
19 *thorized to provide video service in a local franchise*
20 *area shall comply with the regulations on child por-*
21 *nography promulgated pursuant to paragraph (2).*

22 “(2) *REGULATIONS.—Not later than 180 days*
23 *after the date of enactment of the Advanced Tele-*
24 *communications and Opportunities Reform Act, the*
25 *Commission shall promulgate regulations to require a*

1 *video service to prevent the offering of child pornog-*
 2 *raphy (as such term is defined in section*
 3 *254(h)(7)(F)).”.*

4 **SEC. 802. ADDITIONAL CHILD PORNOGRAPHY AMEND-**
 5 **MENTS.**

6 *(a) INCREASE IN FINE FOR FAILURE TO REPORT.—*
 7 *Section 227(b)(4) of the Crime Control Act of 1990 (42*
 8 *U.S.C. 13032(b)(4)) is amended—*

9 *(1) by striking “\$50,000;” in subparagraph (A)*
 10 *and inserting “\$150,000;” and*

11 *(2) by striking “\$100,000.” in subparagraph (B)*
 12 *and inserting “\$300,000.”.*

13 *(b) WARNING LABELS FOR WEBSITES DEPICTING SEX-*
 14 *UALLY EXPLICIT MATERIAL.—*

15 *(1) IN GENERAL.—*

16 *(A) NOTICE REQUIREMENT.—It is unlawful*
 17 *for the operator of a website that is primarily*
 18 *operated for commercial purposes knowingly,*
 19 *and with knowledge of the character of the mate-*
 20 *rial, to place sexually explicit material on the*
 21 *website unless—*

22 *(i) the first page of the website*
 23 *viewable on the Internet does not include*
 24 *any sexually explicit material; and*

1 (ii) each page or screen of the website
2 that does contain sexually explicit material
3 also displays the matter prescribed by the
4 Federal Trade Commission under para-
5 graph (2).

6 (B) *EXCEPTION FOR RESTRICTED ACCESS*
7 WEBSITES.—Subparagraph (A)(ii) does not
8 apply to any website access to which is restricted
9 to a specific set of individuals through a pass-
10 word or other access restriction mechanism.

11 (2) *MARKS OR NOTICES.*—Within 90 days after
12 the date of enactment of this Act, the Federal Trade
13 Commission shall, in consultation with the Attorney
14 General, promulgate regulations establishing clearly
15 identifiable marks or notices to be included in the
16 code, if technologically feasible, or on the pages or
17 screens of a website that contains sexually explicit
18 material to inform any person who accesses that
19 website of the nature of the material and to facilitate
20 the filtering of such pages or screens.

21 (3) *INAPPLICABILITY TO CARRIERS AND OTHER*
22 *SERVICE PROVIDERS.*—Subsection (a) does not apply
23 to a person to the extent that the person is—

1 (A) a telecommunications carrier (as de-
2 fined in section 3(44) of the Communications Act
3 of 1934 (47 U.S.C. 153(44));

4 (B) engaged in the business of providing an
5 Internet access service; or

6 (C) engaged in the transmission, storage, re-
7 trieval, hosting, formatting, or translation of a
8 communication made by another person, without
9 selection or alteration of the content (other than
10 by translation or by lawful selection or deletion
11 of matter).

12 (4) *DEFINITIONS.*—In this subsection:

13 (A) *WEBSITE.*—The term “website” means
14 any collection of material placed in a computer
15 server-based file archive so that it is publicly ac-
16 cessible over the Internet using hypertext transfer
17 protocol, or any successor protocol.

18 (B) *SEXUALLY EXPLICIT MATERIAL.*—The
19 term “sexually explicit material” means mate-
20 rial that depicts sexually explicit conduct (as de-
21 fined in section 2256(2)(A) of section 2256 of
22 title 18, United States Code), unless that depic-
23 tion constitutes a small and insignificant part of
24 the whole, the remainder of which is not pri-
25 marily devoted to sexual matters.

1 (C) *INTERNET*.—The term “Internet” means
2 the combination of computer facilities and elec-
3 tromagnetic transmission media, and related
4 equipment and software, comprising the inter-
5 connected worldwide network of computer net-
6 works that employ the Internet protocol or any
7 successor protocol to transmit information.

8 (D) *INTERNET ACCESS SERVICE*.—The term
9 “Internet access service” means a service that en-
10 ables users to access content, information, elec-
11 tronic mail, or other services offered over the
12 Internet and may also include access to propri-
13 etary content, information, and other services as
14 part of a package of services offered to the public
15 other than telecommunications service (as de-
16 fined in section 3(46) of the Communications Act
17 of 1934 (47 U.S.C. 153(46))).

18 (5) *PENALTY*.—Violation of this subsection is
19 punishable by a fine under title 18, United States
20 Code, or imprisonment for not more than 5 years, or
21 both.

22 (c) *PROHIBITION ON DECEPTIVE WEBSITE DEVICES*
23 *TO TRICK INDIVIDUALS INTO ACCESSING MATTER THAT IS*
24 *OBSCENE OR HARMFUL TO CHILDREN*.—

1 (1) *IN GENERAL.*—Chapter 110 of title 18,
2 *United States Code*, is amended by inserting after sec-
3 tion 2252B the following:

4 **“§ 2252C. Misleading words or images on the Internet**

5 “(a) *IN GENERAL.*—

6 “(1) *MATTER THAT IS OBSCENE.*—It is unlawful
7 for any person knowingly to embed words, symbols, or
8 digital images into the source code of a website with
9 the intent to deceive another person into viewing ma-
10 terial that is obscene.

11 “(2) *MATTER THAT IS HARMFUL TO CHIL-*
12 *DREN.*—It is unlawful for any person knowingly to
13 embed words, symbols, or digital images into the
14 source code of a website with the intent to deceive a
15 minor into viewing material that is harmful to mi-
16 nors.

17 “(3) *IDENTIFIED MATTER NOT DECEPTIVE.*—For
18 purposes of this section, a word, symbol, or image
19 that clearly indicates the sexual content of a website
20 as sexual, pornographic, or similar terms shall not be
21 considered to be misleading or deceptive.

22 “(b) *DEFINITIONS.*—In this section:

23 “(1) *MATERIAL HARMFUL TO MINORS.*—The
24 term ‘material that is harmful to minors’ means a
25 communication consisting of nudity, sex, or excretion

1 *that, taken as a whole and with reference to its con-*
2 *tent—*

3 “(A) *predominantly appeals to a prurient*
4 *interest of a minor;*

5 “(B) *is patently offensive to prevailing*
6 *standards in the adult community as a whole*
7 *with respect to what is suitable material for mi-*
8 *nors; and*

9 “(C) *lacks serious literary, artistic, polit-*
10 *ical, or scientific value for minors.*

11 “(2) *SEX.—The term ‘sex’ means acts of mas-*
12 *turbation, sexual intercourse, or physical contact with*
13 *a person’s genitals, or the condition of human male*
14 *or female genitals when in a state of sexual stimula-*
15 *tion or arousal.*

16 “(3) *SOURCE CODE.—The term ‘source code’*
17 *means the combination of text and other characters*
18 *comprising the content, both viewable and*
19 *nonviewable, of a web page, including any website*
20 *publishing language, programming language, pro-*
21 *TOCOL, or functional content.*

22 “(c) *PENALTIES.—*

23 “(1) *OBSCENE MATERIAL.—Violation of sub-*
24 *section (a)(1) is punishable by a fine under this title,*
25 *or imprisonment for not more than 2 years, or both.*

1 “(2) *MATERIAL HARMFUL TO MINORS.*—*Viola-*
 2 *tion of subsection (a)(2) is punishable by a fine under*
 3 *this title, or imprisonment for not more than 4 years,*
 4 *or both.*”.

5 (2) *CONFORMING AMENDMENT.*—*The chapter*
 6 *analysis for chapter 110 of title 18, United States*
 7 *Code, is amended by inserting after the item relating*
 8 *to section 2252B the following:*

 “2252C. *Misleading words or images on the Internet.*”.

9 (d) *CIVIL REMEDIES.*—

10 (1) *IN GENERAL.*—*Section 2255(a) of title 18,*
 11 *United States Code, is amended—*

12 (A) *by striking “(a) Any minor who is” in*
 13 *the first sentence and inserting “(a) IN GEN-*
 14 *ERAL.—Any person who, while a minor, was”;*

15 (B) *by striking “such violation” in the first*
 16 *sentence and inserting “such violation, regardless*
 17 *of whether the injury occurred while such person*
 18 *was a minor,”;*

19 (C) *by striking “such minor” in the first*
 20 *sentence and inserting “such person”;*

21 (D) *by striking “Any minor” in the second*
 22 *sentence and inserting “Any person”; and*

23 (E) *by striking “\$50,000” in the second sen-*
 24 *tence and inserting “\$150,000”.*

1 (2) *CONFORMING AMENDMENT.*—Section 2255(b)
 2 of title 18, United States Code, is amended by strik-
 3 ing “(b) Any action” and inserting “(b) STATUTE OF
 4 LIMITATIONS.—Any action”.

5 **SEC. 803. PREVENTION OF INTERACTIVITY WITH COMMER-**
 6 **CIAL MATTER DURING CHILDREN’S PRO-**
 7 **GRAMMING.**

8 (a) *IN GENERAL.*—It shall be the duty of each cable
 9 operator, video service provider, multichannel video pro-
 10 gramming distributor, satellite carrier, or any other pro-
 11 vider of cable or over-the-air broadcast programming to pre-
 12 vent interactivity with commercial matter during any chil-
 13 dren’s programming whether on, broadcast, cable, satellite
 14 television, or any other means of delivering programming
 15 to children, as well as during advertisements aired during
 16 or adjacent to such programs.

17 (b) *RULE OF CONSTRUCTION.*—For purposes of this
 18 section, the term “commercial matter” means any inter-
 19 activity designed with the purpose of selling or promoting
 20 a product, service, or brand.

21 **SEC. 804. FCC STUDY OF BUS-CASTING.**

22 (a) *IN GENERAL.*—The Federal Communications Com-
 23 mission shall conduct a study of commercial proposals to
 24 broadcast radio or television programs for reception on-
 25 board specially equipped school buses operated by, or under

1 *contract with, local public educational agencies. In the*
 2 *study, the Commission shall examine—*

3 *(1) the nature of the material proposed to be*
 4 *broadcast and whether it is age appropriate for the*
 5 *passengers;*

6 *(2) the amount and nature of commercial adver-*
 7 *tising to be broadcast; and*

8 *(3) whether such broadcasts for reception by pub-*
 9 *lic school buses are in the public interest.*

10 *(b) REPORT.—The Commission shall report its find-*
 11 *ings and recommendations to the Senate Committee on*
 12 *Commerce, Science, and Transportation and the House of*
 13 *Representatives Committee on Energy and Commerce with-*
 14 *in 6 months after the date of enactment of this Act.*

15 ***TITLE IX—INTERNET CONSUMER***
 16 ***BILL OF RIGHTS ACT***

17 ***SEC. 901. SHORT TITLE.***

18 *This title may be cited as the “Internet Consumer Bill*
 19 *of Rights Act of 2006”.*

20 ***SEC. 902. FINDINGS.***

21 *Congress finds that the Federal Communications Com-*
 22 *mission should seek to—*

23 *(1) preserve the free-flow of ideas and informa-*
 24 *tion on the Internet;*

25 *(2) promote public discourse on the Internet;*

1 (3) *preserve the vibrant and competitive free*
2 *market that presently exists for the Internet and other*
3 *interactive computer services unfettered by Federal or*
4 *State regulation;*

5 (4) *encourage investment and innovation in*
6 *Internet networks and applications markets through a*
7 *diversity of business models; and*

8 (5) *promote deployment of broadband networks*
9 *nationwide.*

10 **SEC. 903. CONSUMER INTERNET BILL OF RIGHTS.**

11 (a) *IN GENERAL.*—*Except as otherwise provided in*
12 *this title, with respect to Internet services, each Internet*
13 *service provider shall allow each subscriber to—*

14 (1) *access and post any lawful content of that*
15 *subscriber's choosing;*

16 (2) *access any web page of that subscriber's*
17 *choosing;*

18 (3) *access and run any voice application, soft-*
19 *ware, or service of that subscriber's choosing;*

20 (4) *access and run any video application, soft-*
21 *ware, or service of that subscriber's choosing;*

22 (5) *access and run any email application, soft-*
23 *ware, or service of that subscriber's choosing;*

24 (6) *access and run any search engine of that sub-*
25 *scriber's choosing;*

1 (7) access and run any other application, soft-
2 ware, or service of that subscriber's choosing;

3 (8) connect any legal device of that subscriber's
4 choosing to the Internet access equipment of that sub-
5 scriber, if such device does not harm the network of
6 the Internet service provider; and

7 (9) receive clear and conspicuous information, in
8 plain language, about the estimated speeds, capabili-
9 ties, limitations, and pricing of any Internet service
10 offered to the public.

11 (b) *NO INTERFERENCE WITH THE INTERNET.*—A sub-
12 scriber may exercise any of the rights enumerated in sub-
13 section (a)—

14 (1) without interference from any Federal, State,
15 or local government, except as specifically authorized
16 by law;

17 (2) without interference from an Internet service
18 provider, except as otherwise provided by law;

19 (3) for any legal purpose; and

20 (4) subject to the limitations of the Internet serv-
21 ice such subscriber has purchased.

22 **SEC. 904. APPLICATION OF THE FIRST AMENDMENT.**

23 Consistent with the First Amendment to the United
24 States Constitution, as applied to the States through the
25 Fourteenth Amendment to the United States Constitution—

1 (1) *no Federal, State, or local government may*
 2 *limit, restrict, ban, prohibit, or otherwise regulate*
 3 *content on the Internet because of the religious views,*
 4 *political views, or any other views expressed in such*
 5 *content unless specifically authorized by law; and*

6 (2) *no Internet service provider engaged in inter-*
 7 *state commerce may limit, restrict, ban, prohibit, or*
 8 *otherwise regulate content on the Internet because of*
 9 *the religious views, political views, or any other views*
 10 *expressed in such content unless specifically author-*
 11 *ized by law.*

12 **SEC. 905. STAND-ALONE INTERNET SERVICE SHALL BE OF-**
 13 **FERED TO THE PUBLIC.**

14 *An Internet service provider shall offer to any poten-*
 15 *tial subscriber any Internet service such provider offers*
 16 *without requiring that subscriber to purchase or use any*
 17 *telecommunications service, information service, IP-enabled*
 18 *voice service, video service, or other service offered by such*
 19 *Internet service provider.*

20 **SEC. 906. NETWORK SECURITY, WORMS, VIRUSES, DENIAL**
 21 **OF SERVICE, PARENTAL CONTROLS, AND**
 22 **BLOCKING CHILD PORNOGRAPHY.**

23 *An Internet service provider may—*

24 (1) *protect the security, privacy, or integrity of*
 25 *the network or facilities of such provider, the com-*

1 *puter of any subscriber, or any service, including*
2 *by—*

3 *(A) blocking worms or viruses; or*

4 *(B) preventing denial of service attacks;*

5 *(2) facilitate diagnostics, technical support,*
6 *maintenance, network management, or repair of the*
7 *network or service of such provider;*

8 *(3) prevent or detect unauthorized, fraudulent, or*
9 *otherwise unlawful uses of the network or service of*
10 *such provider;*

11 *(4) block access to content, applications, or serv-*
12 *ices that Federal or State law expressly authorizes to*
13 *be blocked, including child pornography;*

14 *(5) provide consumers Parental Control applica-*
15 *tions, devices, or services, including—*

16 *(A) blocking access to websites with obscene*
17 *or adult content;*

18 *(B) blocking display of video content based*
19 *on a common rating; or*

20 *(C) offering a family friendly tier of service;*
21 *and*

22 *(6) allow a subscriber to elect to have content,*
23 *applications, or services blocked at the request of such*
24 *subscriber.*

1 **SEC. 907. ENFORCEMENT.**

2 (a) *IN GENERAL.*—*The Federal Communications Com-*
3 *mission shall, by rule, establish an adjudicatory enforce-*
4 *ment procedure under which—*

5 (1) *any subscriber aggrieved by a violation of the*
6 *requirements of section 903 may initiate an enforce-*
7 *ment action by filing a complaint, in such form and*
8 *in such manner as the Commission may prescribe;*
9 *and*

10 (2) *the Commission shall make a determination,*
11 *after notice and an opportunity for a hearing, with*
12 *respect to any bona fide complaint not later than 120*
13 *days after the date on which such complaint is re-*
14 *ceived.*

15 (b) *PENALTY FOR VIOLATIONS.*—*Any person who vio-*
16 *lates any provision of this title shall be subject to enforce-*
17 *ment action by the Commission under title IV and section*
18 *503 of the Communications Act of 1934. For purposes of*
19 *any forfeiture imposed pursuant to section 503 for such a*
20 *violation, the maximum forfeiture for a violation of this*
21 *title shall be \$500,000 for each such violation.*

22 (c) *EQUITABLE RELIEF AVAILABLE.*—*In response to*
23 *any complaint of a violation of this title, the Commission*
24 *may—*

25 (1) *issue an injunction or temporary restraining*
26 *order; or*

1 (2) *provide such other equitable relief as the*
2 *Commission determines appropriate.*

3 **SEC. 908. COMMISSION PROHIBITED FROM ISSUING REGU-**
4 **LATIONS.**

5 *Except as provided in section 907(a), the Commission*
6 *shall not—*

7 (1) *promulgate any regulations implementing*
8 *this title; nor*

9 (2) *enlarge or modify the obligations imposed on*
10 *Internet service providers through the adjudicatory*
11 *process under section 907.*

12 **SEC. 909. FCC REVIEW.**

13 (a) *IN GENERAL.—Beginning 1 year after the date of*
14 *enactment of this Act, the Federal Communications Com-*
15 *mission shall report annually to the Committee on Com-*
16 *merce, Science, and Transportation of the Senate and the*
17 *Committee on Energy and Commerce of the House of Rep-*
18 *resentatives regarding—*

19 (1) *the developments in Internet traffic proc-*
20 *essing, routing, peering, transport, and interconnec-*
21 *tion;*

22 (2) *how such developments impact the free-flow*
23 *of information over the public Internet and the con-*
24 *sumer and small business experience using the public*
25 *Internet;*

1 (3) *business relationships between Internet serv-*
 2 *ice providers and applications and online user service*
 3 *providers; and*

4 (4) *the development of and services available over*
 5 *public and private Internet offerings.*

6 (b) *DETERMINATIONS AND RECOMMENDATIONS.—The*
 7 *Federal Communications Commission shall make such rec-*
 8 *ommendations under subsection (a), as the Commission de-*
 9 *termines appropriate.*

10 **SEC. 910. EXCEPTIONS.**

11 *Nothing in this title shall—*

12 (1) *preclude an Internet service provider from*
 13 *displaying advertisements in connection with a*
 14 *broadband service; or*

15 (2) *apply to a service in which Internet service*
 16 *is not the primary service, such as a video service of-*
 17 *fered under Title VI of the Communications Act of*
 18 *1934 (47 U.S.C. 521 et seq.).*

19 **SEC. 911. FCC TO REVISIT BROADBAND SPEEDS.**

20 *Within 90 days after the date of enactment of this Act*
 21 *and biennially thereafter, the Federal Communications*
 22 *Commission shall revise its definition of broadband to re-*
 23 *flect a data rate—*

1 (1) *greater than the 200 kilobits per second*
2 *standard established in its Section 706 Report (14*
3 *FCC Rec. 2406); and*

4 (2) *consistent with data rates for broadband*
5 *communications services generally available to the*
6 *public on the date of enactment of this Act and there-*
7 *after, upon the date of the Commission’s review.*

8 **SEC. 912. PROTECTION OF EMERGENCY COMMUNICATIONS.**

9 *An Internet service provider shall prioritize, to the ex-*
10 *tent technically feasible, 911 and E–911 emergency commu-*
11 *nications to ensure timely and effective emergency commu-*
12 *nications in a manner that is not inconsistent with other*
13 *priority levels needed in times of Federal, State, and local*
14 *emergencies and for other public safety and homeland secu-*
15 *rity needs or requirements.*

16 **SEC. 913. DEFINITIONS.**

17 *In this title:*

18 (1) *INTERNET SERVICE.*—*The term “Internet*
19 *service” means any service that provides access to the*
20 *public Internet directly to the public.*

21 (2) *SUBSCRIBER.*—*The term “subscriber” means*
22 *a retail end user that purchases Internet service.*

1 ***TITLE X—MISCELLANEOUS***

2 ***SEC. 1001. COMMISSIONER PARTICIPATION IN FORUMS AND***
 3 ***MEETINGS.***

4 (a) *IN GENERAL.*—Section 5 (47 U.S.C. 155) is
 5 amended by adding at the end the following:

6 “(f) *MEETINGS.*—

7 “(1) *ATTENDANCE REQUIRED.*—Notwithstanding
 8 552b of title 5, United States Code, and section 4(h)
 9 of this Act, the Commission may conduct a meeting
 10 that is not open to the public if the meeting is at-
 11 tended by—

12 “(A) all members of the Commission; or

13 “(B) at least 1 member of the political
 14 party whose members are in the minority.

15 “(2) *VOTING PROHIBITED.*—The Commission
 16 may not vote or make any final decision on any mat-
 17 ter pending before it in a meeting that is not open
 18 to the public, unless—

19 “(A) otherwise authorized by section
 20 552b(b) of title 5, United States Code; or

21 “(B) the Commission has moved its oper-
 22 ations outside Washington, D.C., pursuant to a
 23 Continuity of Operations Plan.

24 “(3) *PUBLICATION OF SUMMARY.*—If the Com-
 25 mission conducts a meeting that is not open to the

1 *public under this section, the Commission shall*
2 *promptly publish an executive summary describing*
3 *the matters discussed at that meeting after the meet-*
4 *ing ends, except for such matters as the Commission*
5 *determines may be withheld under section 552b(c) of*
6 *title 5, United States Code. This paragraph does not*
7 *apply to a meeting described in paragraph (4).*

8 “(4) *QUORUM UNNECESSARY FOR CERTAIN*
9 *MEETINGS.—Neither section 552b of title 5, United*
10 *States Code, nor paragraph (1) of this subsection ap-*
11 *plies to—*

12 “(A) *a meeting of 3 or more members of the*
13 *Commission with the President, any person em-*
14 *ployed by the Office of the President, any official*
15 *of a Federal, State, or local agency, a Member of*
16 *Congress or his staff;*

17 “(B) *the attendance, by 3 or more members*
18 *of the Commission, at a forum or conference to*
19 *discuss general communications issues; or*

20 “(C) *a meeting of 3 or more members of the*
21 *Commission when the Continuity of Operations*
22 *Plan is in effect and the Commission is oper-*
23 *ating under the terms of that Plan.*

24 “(5) *SAVINGS CLAUSE.—Nothing in this sub-*
25 *section shall be construed to prohibit the Commission*

1 *from doing anything authorized by section 552b of*
2 *title 5, United States Code.”.*

3 **SEC. 1002. OFFICE OF INDIAN AFFAIRS.**

4 *(a) IN GENERAL.—There is established within the Fed-*
5 *eral Communications Commission an Office of Indian Af-*
6 *fairs.*

7 *(b) RELATIONSHIP TO TRIBAL GOVERNMENTS.—The*
8 *Office shall recognize—*

9 *(1) that the Federal government has a long-*
10 *standing policy of promoting tribal self-sufficiency*
11 *and economic development as embodied in various*
12 *Federal statutes;*

13 *(2) that the Federal government has a trust re-*
14 *sponsibility to and a government-to-government rela-*
15 *tionship with recognized tribes;*

16 *(3) its own general trust relationship with, and*
17 *responsibility to, Federally-recognized Indian Tribes;*
18 *and*

19 *(4) the rights of Tribal governments to establish*
20 *and implement their own communications priorities*
21 *and goals for the welfare of their membership.*

22 *(c) PURPOSES.—The Office shall—*

23 *(1) work with Indian Tribes on a government-*
24 *to-government basis consistent with the principles of*
25 *Tribal self-governance to ensure, through regulations*

1 *and policy initiatives, and consistent with section 1*
2 *of the Communications Act of 1934 (47 U.S.C. 151),*
3 *that Indian Tribes have adequate access to commu-*
4 *nications services and to further the goals and prior-*
5 *ities herein;*

6 *(2) consult with Tribal governments prior to im-*
7 *plementing any regulatory action or policy that will*
8 *significantly or uniquely affect Tribal governments,*
9 *their members, land, and resources;*

10 *(3) advise directly the Commission, offices, and*
11 *Bureaus on matters of Tribal law and sovereignty,*
12 *conducting outreach to Indian Tribes, coordinating*
13 *and preparing an annual report on status of tele-*
14 *communications in Indian country, and such other*
15 *duties as the Commission shall determine;*

16 *(4) strive to develop working relationships with*
17 *Tribal governments, and endeavor to identify innova-*
18 *tive mechanisms to facilitate Tribal consultation in*
19 *agency regulatory processes that uniquely affect tele-*
20 *communications compliance activities, radio spec-*
21 *trum policies, and other telecommunications service-*
22 *related issues on Tribal lands;*

23 *(5) endeavor to streamline its administrative*
24 *process and procedures to remove undue burdens that*
25 *its decisions and actions place on Indian Tribes and*

1 *seek to remove those impediments to the extent author-*
2 *ized by law;*

3 *(6) assist Indian Tribes in complying with Fed-*
4 *eral communications statutes and regulations;*

5 *(7) seek to identify and establish procedures and*
6 *mechanisms to educate Commission staff about Tribal*
7 *governments and Tribal cultures, sovereignty rights,*
8 *Indian law, and Tribal communications needs;*

9 *(8) work cooperatively with other Federal de-*
10 *partments and agencies, Tribal, State, and local gov-*
11 *ernments to further the goals of this policy and to ad-*
12 *dress communications problems, such as low penetra-*
13 *tion rates and poor quality services on reservations,*
14 *and other problems of mutual concern;*

15 *(9) welcome submission from Tribal governments*
16 *and other concerned parties as to other actions the*
17 *Commission might take to further the goals and prin-*
18 *ciples presented herein;*

19 *(10) facilitate incorporation of these Indian pol-*
20 *icy goals into the Commission's ongoing and long-*
21 *term planning and management activities, including*
22 *its policy proposals, management accountability sys-*
23 *tem, and ongoing policy development processes; and*

1 (11) *perform such other tasks as are necessary to*
 2 *preserve and advance the trust relationship between*
 3 *the Federal government and Tribal governments.*

4 **SEC. 1003. OFFICE OF CONSUMER ADVOCATE.**

5 (a) *IN GENERAL.*—*There is established within the Fed-*
 6 *eral Communications Commission an Office of Consumer*
 7 *Advocate. The Office shall be headed by a Director, ap-*
 8 *pointed by the Commission.*

9 (b) *INDEPENDENCE OF THE OFFICE.*—*The Office shall*
 10 *be independent of the other bureaus and offices of the Com-*
 11 *mission. The Office and its staff shall be bound by the same*
 12 *code of conduct, personnel practices, procurement proce-*
 13 *dures, contracting procedures, and other relevant practices*
 14 *and procedures as the Commission.*

15 (c) *APPOINTMENT OF DIRECTOR; GROUNDS FOR RE-*
 16 *MOVAL FROM OFFICE.*—

17 (1) *IN GENERAL.*—*The Director shall be ap-*
 18 *pointed by the Commissioners of the Commission, in*
 19 *consultation with each other and with the advisory*
 20 *committee established under subsection (h).*

21 (2) *INITIAL APPOINTMENT.*—*The initial Director*
 22 *shall be appointed within 180 days after the date of*
 23 *enactment of this Act.*

24 (3) *TERM; REMOVAL.*—*The Director—*

25 (A) *shall be appointed for a term of 4 years;*

1 (B) may be removed by the Chairman of the
2 Commission only for cause, such as malfeasance
3 or the failure to carry out the duties of the posi-
4 tion; and

5 (C) shall be eligible for reappointment.

6 (4) QUALIFICATIONS.—The Director shall—

7 (A) be a citizen of the United States;

8 (B) be admitted to the practice of law;

9 (C) be knowledgeable about the various
10 areas within the Commission's jurisdiction;

11 (D) have experience in public interest advo-
12 cacy; and

13 (E) be independent of, and have no substan-
14 tial pecuniary interest in, any business regulated
15 by the Commission for at least 3 years preceding
16 appointment.

17 (5) COMPENSATION.—The Director shall be com-
18 pensated at the rate established for GS-15 of the Gen-
19 eral Schedule under section 5104 of title 5, United
20 States Code. The salaries paid to any members of the
21 staff of the Office shall be consistent with and in the
22 range applicable to salaries paid to employees of the
23 Commission.

24 (d) DUTIES.—The Director of the Office shall act as
25 an attorney for and represent all residential consumers gen-

1 *erally, in any matters relating to matters within the juris-*
2 *diction of the Commission.*

3 *(e) AUTHORITY.—The Director may—*

4 *(1) comment, intervene, or otherwise be a party*
5 *in any Commission proceeding or investigation con-*
6 *cerning matters within the Commission’s jurisdiction*
7 *that affect residential consumers;*

8 *(2) have the same access to Commission records*
9 *as enjoyed by other Commission officials;*

10 *(3) appeal any determination, finding, or order*
11 *of the Commission in any proceeding in which the Of-*
12 *fice has participated;*

13 *(4) appear on behalf of residential consumers be-*
14 *fore other Federal agencies and Federal courts in*
15 *cases as the Director may determine is consistent with*
16 *the Office’s goals;*

17 *(5) participate in any Commission-established*
18 *committees or other bodies that consider or review*
19 *matters that affect residential consumers of services*
20 *within the Commission’s jurisdiction; and*

21 *(6) appear and testify before Congress regarding*
22 *matters within the scope of the Office’s duties.*

23 *(f) RESPONSIBILITIES OF DIRECTOR.—The Director*
24 *shall be responsible for effectuating the purpose, goals, and*
25 *administration of the Office, including the provision of any*

1 *necessary technical and professional staff, equipment and*
2 *other facilities. The members of the staff of the Office shall*
3 *be subject to the same protections and privileges as other*
4 *equivalent staff of the Commission. The Director shall have*
5 *the authority to conduct or contract for studies, surveys,*
6 *research, or expert witness testimony relating to matters af-*
7 *fecting the interests of residential consumers of services*
8 *within the Commission's jurisdiction. The Director shall*
9 *have the authority to request the assistance of personnel*
10 *from State consumer advocate offices to effectuate its re-*
11 *sponsibilities, so that Commission resources are not over-*
12 *burdened. On no less frequent than an annual basis, the*
13 *Office shall issue a written report that contains a descrip-*
14 *tion of its activities and budget allocation for the previous*
15 *fiscal year, and a proposed budget and description of prior-*
16 *ities for the following fiscal year.*

17 (g) *REPRESENTATION OF CONSUMERS.—In exercising*
18 *the discretion of whether the Office will represent or refrain*
19 *from representing residential consumers in a particular*
20 *matter, the Director shall consider the importance and ex-*
21 *tent of residential consumers' interests and whether those*
22 *interests would be adequately represented. If the Director*
23 *determines there may be a conflict among or between classes*
24 *of residential consumers in a particular matter, the Direc-*

1 *tor may choose to represent one of the interests or none of*
2 *the interests.*

3 *(h) ADVISORY COMMITTEE.—*

4 *(1) APPOINTMENT.—There is established an Ad-*
5 *visory Committee to assist the Director in carrying*
6 *out the Director's duties, as appropriate and reason-*
7 *able. The Advisory Committee shall be composed of—*

8 *(A) 3 members chosen by a national asso-*
9 *ciation of State utility consumer advocates; and*

10 *(B) 4 members chosen by the Chairman of*
11 *the Commission.*

12 *(2) QUALIFICATIONS.—Each member of the advi-*
13 *sory committee shall have experience in consumer in-*
14 *terests in matters within the jurisdiction of the Com-*
15 *mission.*

16 *(3) COMPENSATION AND REIMBURSEMENT FOR*
17 *EXPENSES.—Members of the advisory committee shall*
18 *serve without compensation and may not be reim-*
19 *bursed for travel or related expenses even while en-*
20 *gaged in official business of the advisory committee.*

21 *(i) FUNDING.—The annual budget of the Commission*
22 *shall include an account separate from the other bureaus*
23 *and offices of the Commission, which account shall be used*
24 *exclusively by the Office in the performance of its duties.*
25 *The budget for the Office shall be separately identified in*

1 *the Commission's annual budget request. There are author-*
 2 *ized to be made available to the Office for fiscal year*
 3 *\$200,000.*

4 *(j) STANDING OF STATE OFFICIALS.—The creation of*
 5 *the Office shall in no way derogate the standing of any*
 6 *State consumer advocate or any national association of*
 7 *State utility consumer advocates to appear before the Com-*
 8 *mission, or appeal any Commission decision.*

9 **SEC. 1004. DATA ON LOCAL COMPETITION IN DIFFERENT**
 10 **PRODUCT MARKETS.**

11 *(a) INQUIRY.—Not later than 180 days after the date*
 12 *of enactment of this Act, and every year thereafter, the Com-*
 13 *mission shall conduct an inquiry regarding the extent to*
 14 *which providers of communications service have deployed*
 15 *their own local transmission facilities.*

16 *(b) DATA COLLECTION.—In connection with its in-*
 17 *quiry, the Commission shall require that all providers of*
 18 *communications service submit annual reports to the Com-*
 19 *mission describing the extent to which they have deployed*
 20 *their own local transmission facilities. At a minimum, pro-*
 21 *viders shall report separately on their deployment of loop*
 22 *facilities in each wire center used to provide service in dif-*
 23 *ferent product markets served by communications service*
 24 *providers. In defining product markets for these purposes,*
 25 *the Commission shall utilize the methodology set forth in*

1 *the United States Department of Justice and Federal Trade*
 2 *Commission Horizontal Merger Guidelines and shall, at a*
 3 *minimum, distinguish among the products demanded by—*

4 *(1) residential customers;*

5 *(2) small and medium-sized business customers;*

6 *and*

7 *(3) large business customers.*

8 *(c) REPORT TO CONGRESS.—Not later than one year*
 9 *after the date of enactment of this Act, and each year there-*
 10 *after, the Commission shall submit a report to Congress de-*
 11 *scribing the extent to which providers of telecommuni-*
 12 *cations service, broadband service, and IP-enabled voice*
 13 *service have deployed their own local transmission facilities.*
 14 *Such report shall analyze separately the extent of actual*
 15 *facilities-based competition in each wire center in the prod-*
 16 *uct markets described in subsection (b).*

17 *(d) DEFINITIONS.—In this section:*

18 *(1) BROADBAND SERVICE.—The term*
 19 *“broadband service” means any service used for*
 20 *transmission of information of a user’s choosing with*
 21 *a transmission speed of at least 200 kilobits per sec-*
 22 *ond in at least 1 direction, regardless of the trans-*
 23 *mission medium or technology employed, that con-*
 24 *nects to the public Internet for a fee directly—*

25 *(A) to the public; or*

1 (B) to such classes of users as to be effec-
2 tively available directly to the public.

3 (2) *COMMUNICATIONS SERVICE*.—The term “com-
4 munications service” means telecommunications serv-
5 ice, broadband service, or IP-enabled voice service
6 (whether offered separately or as part of a bundle of
7 services).

8 (3) *IP-ENABLED VOICE SERVICE*.—The term “IP-
9 enabled voice service” means the provision of real-
10 time 2-way voice communications offered to the pub-
11 lic, or such classes of users as to be effectively avail-
12 able to the public, transmitted through customer
13 premises equipment using Internet protocol, or a suc-
14 cessor protocol, for a fee (whether part of a bundle of
15 services or separately) with 2-way interconnection ca-
16 pability such that the service can originate traffic to,
17 and terminate traffic from, the public switched tele-
18 phone network.

19 (4) *LOCAL TRANSMISSION FACILITIES*.—The term
20 “local transmission facilities” means wireless and
21 wireline transmission facilities used to transmit in-
22 formation or signals to, from or among locations
23 within a wire center.

1 **SEC. 1005. IMPROVED ENFORCEMENT OPTIONS.**

2 (a) *INCREASED PENALTIES.*—Section 503(b)(2)(B)
3 (47 U.S.C. 503(b)(2)(B)) is amended—

4 (1) by striking “\$100,000” and inserting
5 “\$1,000,000”; and

6 (2) by striking “\$1,000,000” and inserting
7 “\$10,000,000”.

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

10 (1) by striking “or” after the semicolon in sub-
11 paragraph (A)(ii);

12 (2) redesignating subparagraph (B) as subpara-
13 graph (C); and

14 (3) inserting after subparagraph (A) the fol-
15 lowing:

16 “(B) such person is a common carrier subject to
17 the provisions of this Act or an applicant for any
18 common carrier license, permit, certificate, or other
19 instrument of authorization issued by the Commission
20 and if the violation charged occurred more than 3
21 years prior to the date of issuance of the required no-
22 tice or notice of apparent liability; or”.

23 (c) *INDEPENDENT NETWORK AFFILIATES.*—Section
24 503(b) (47 U.S.C. 503(b)), as amended by section 338, is
25 further amended by adding at the end the following:

26 “(8) *INDEPENDENT NETWORK AFFILIATES.*—

1 “(A) *IN GENERAL.*—No forfeiture penalty
 2 shall be determined or imposed under paragraph
 3 (2) of this subsection against an independent
 4 network affiliate for a violation of any section of
 5 title 18, United States Code, referred to in para-
 6 graph (1)(D) with respect to network-originated
 7 programming—

8 “(i) that the affiliate has not been af-
 9 forded the reasonable opportunity to pre-
 10 view prior to its scheduled air time; or

11 “(ii) for which the network has failed
 12 to advise the affiliate prior to the scheduled
 13 air time that the programming contains
 14 content that could be in violation of any
 15 such section.

16 “(B) *INDEPENDENT NETWORK AFFILIATE*
 17 *DEFINED.*—In this paragraph, the term ‘inde-
 18 pendent network affiliate’ means a television
 19 broadcast station licensee that is neither owned
 20 nor controlled by a television network (as defined
 21 in section 340(d)(5) of this Act.”.

22 **SEC. 1006. MOBILE SERVICES TERMS AND CONDITIONS.**

23 (a) *IN GENERAL.*—Subparagraph (A) of section
 24 332(c)(3) (47 U.S.C. 332(c)(3)) is amended—

1 (1) *by striking the first sentence and inserting*
2 *“(i) Notwithstanding sections 2(b) and 221(b) or any*
3 *other provision of law, a State or local government*
4 *shall not regulate or adjudicate—*

5 *“(I) the entry of or the rates charged by any*
6 *provider of commercial mobile service or private*
7 *mobile service for any such mobile service or any*
8 *or any other service that is primarily intended*
9 *for receipt on or use with a wireless device that*
10 *is utilized by a customer of such mobile service*
11 *in connection with such mobile service; or*

12 *“(II) any terms and conditions of such mo-*
13 *bile service or any other such service, except pur-*
14 *suant to a law or regulation generally applicable*
15 *to businesses in the State other than a law or*
16 *regulation that regulates or has the effect of regu-*
17 *lating the entry or rates for any such service.”;*

18 (2) *by inserting after the first sentence, as so*
19 *amended the following:*

20 *“(ii) Nothing in this section shall affect the au-*
21 *thority of the Commission under this Act to adopt*
22 *consumer protection requirements applicable to pro-*
23 *viders of commercial mobile service or private mobile*
24 *services.”;*

1 (3) by indenting the sentence beginning “Nothing
2 in this subparagraph” 4 ems from the left margin
3 and inserting “(iii)” before “Nothing”; and

4 (4) by redesignating clauses (i) and (ii) in the
5 third sentence as subclauses (I) and (II), respectively,
6 and indenting them 6 ems from the left margin.

7 (b) *RULEMAKING.*—Within 1 year after the date of en-
8 actment of this Act, the Federal Communications Commis-
9 sion shall adopt a final rule establishing customer service
10 and consumer protection requirements for providers of com-
11 mercial mobile service or private mobile service (as such
12 terms are defined in section 332(d)(1) and (3), respectively,
13 of the Communications Act of 1934 (47 U.S.C. 332(d)(1)
14 and (3))).

15 (c) *EFFECTIVE DATE.*—The amendments made by sub-
16 section (a) shall take effect 180 days after the date on which
17 the Commission adopts the final rule described in subsection
18 (b).

19 (d) *TRUTH IN BILLING.*—

20 (1) *FINDINGS.*—Congress finds the following:

21 (A) In recent years, carriers have signifi-
22 cantly increased their use of separate, line-item
23 fees for so called “regulatory compliance”
24 charges, that are generally not included in the
25 advertised price of communications services.

1 (B) *These line-item fees often fail to ade-*
2 *quately inform consumers of the specific costs*
3 *being recovered through such charges and as to*
4 *whether such charges are required by government*
5 *law or rule, or alternatively, are imposed at the*
6 *discretion of the carrier.*

7 (C) *The proliferation of discretionary line*
8 *item surcharges and fees can lead to consumer*
9 *confusion and can impede the delivery of basic*
10 *information necessary for consumers to compare*
11 *the cost of communications services offered by*
12 *different carriers and to make informed deci-*
13 *sions.*

14 (D) *The proper functioning of competitive*
15 *markets is predicated on consumers having ac-*
16 *cess to accurate, meaningful information in a*
17 *format that they can understand.*

18 (E) *The Federal Communications Commis-*
19 *sion has an obligation under the Communica-*
20 *tions Act of 1934 and that Act's Truth-in-Billing*
21 *principles to ensure that consumers receive clear,*
22 *accurate, and understandable bills from pro-*
23 *viders of communications services.*

24 (2) COMMISSION TO ISSUE TRUTH-IN-TELE-
25 PHONE-BILLING REGULATIONS.—Not later than 180

1 *days after the date of enactment of this Act, the Fed-*
2 *eral Communications Commission shall initiate and*
3 *conclude a proceeding under part I of title II of the*
4 *Communications Act of 1934 (47 U.S.C. 201 et seq.)*
5 *to prevent a telecommunications carrier from listing*
6 *any charge or fee on the billing statement or other*
7 *billing charge of a subscriber as a separately stated*
8 *charge or fee other than a charge or fee—*

9 *(A) for telecommunications service or other*
10 *services provided to a subscriber;*

11 *(B) for nonpayment, early termination of*
12 *service, or other lawful penalty;*

13 *(C) for Federal, State, or local sales, excise,*
14 *or other taxes; or*

15 *(D) expressly authorized by a Federal,*
16 *State, or local statute, regulation, or rule to ap-*
17 *pear on a subscriber's billing statement or other*
18 *billing charge as a separately stated charge or*
19 *fee.*

20 *(3) ENFORCEMENT.—The Commission may en-*
21 *force the regulations promulgated under paragraph*
22 *(2) under section 220 and other appropriate provi-*
23 *sions of the Communications Act of 1934 (47 U.S.C.*
24 *151 et seq.).*

25 *(4) DEFINITIONS.—In this subsection:*

1 (A) COMMISSION.—The term “Commission”
 2 means the Federal Communications Commission.

3 (B) TELECOMMUNICATIONS CARRIER.—The
 4 term “telecommunications carrier” has the
 5 meaning given that term by section 3(44) of the
 6 Communications Act of 1934 (47 U.S.C.
 7 153(44)).

8 (C) TELECOMMUNICATIONS SERVICE.—The
 9 term “telecommunications service” has the mean-
 10 ing given that term by section 3(46) of the Com-
 11 munications Act of 1934 (47 U.S.C. 153(46)).

12 **SEC. 1007. SEVERABILITY.**

13 *If any provision of this Act, an amendment made by*
 14 *this Act, or the application of such provision or amendment*
 15 *to any person or circumstance is held to be unconstitu-*
 16 *tional, the remainder of this Act, the amendments made by*
 17 *this Act, and the application of such provisions to any per-*
 18 *son or circumstance shall not be affected thereby.*

19 **SEC. 1008. CLARIFICATION OF CERTAIN JURISDICTIONAL**
 20 **ISSUES.**

21 (a) IN GENERAL.—Notwithstanding any other provi-
 22 sion of law, the Commission shall have authority to issue,
 23 and shall not undermine, alter, or amend decisions made
 24 in *Vonage Holdings Corp. Petition for Declaratory Ruling*
 25 *Concerning an Order of the Minnesota Public Utilities*

1 *Commission, WC Docket No. 03-211, Memorandum Opin-*
 2 *ion and Order, FCC 04-267 (November 9, 2004) or Petition*
 3 *for Declaratory Ruling that pulver.com's Free World*
 4 *Dialup is Neither Telecommunications Nor a Telecommuni-*
 5 *cations Service, WC Docket No. 03-45, Memorandum Opin-*
 6 *ion and Order, FCC 04-27 (February, 19, 2004), except to*
 7 *apply such decisions to other similar services that share*
 8 *similar basic characteristics.*

9 (b) *PENDING CHALLENGES.*—Any pending challenges
 10 to the decisions described in subsection (a) shall be dis-
 11 missed.

12 (c) *CLARIFICATION.*—Nothing in this section shall be
 13 construed to supersede or preempt the consumer protection
 14 laws of any State, including any privacy or anti-child por-
 15 nography law of a State, except to the extent that such laws
 16 regulate the rates for entry or exit by a provider of such
 17 services.

18 **SEC. 1009. FCC TO ISSUE A FURTHER NOTICE OF PROPOSED**
 19 **RULEMAKING BEFORE CHANGING BROAD-**
 20 **CAST MEDIA OWNERSHIP RULES.**

21 (a) *IN GENERAL.*—Before making any changes to sec-
 22 tion 73.3555 of its regulations (47 C.F.R. 73.3555), as those
 23 regulations were in effect on June 1, 2003, the Federal Com-
 24 munications Commission shall issue a further Notice of
 25 Proposed Rulemaking with respect to any such changes.

1 (b) *CLARIFICATION OF APPLICABLE REGULATIONS.*—
 2 *The cross-media limits rule adopted by the Federal Commu-*
 3 *nications Commission on June 2, 2003, pursuant to its pro-*
 4 *ceeding on broadcast media ownership rules, Report and*
 5 *Order FCC–03–127, is declared null and void, and section*
 6 *73.3555 of the Commission’s regulations (47 C.F.R.*
 7 *73.3555), as those regulations were in effect before the adop-*
 8 *tion of the rule, are reinstated with effect from June 2,*
 9 *2003.*

10 **SEC. 1010. DIVERSITY IN MEDIA OWNERSHIP.**

11 *The Federal Communications Commission shall not*
 12 *promulgate rules regarding media ownership without first*
 13 *completing regulatory action in its proceeding DA 04–1690,*
 14 *entitled “Media Bureau Seeks Comment on Ways to Fur-*
 15 *ther Section 257 Mandate and to Build on Earlier Stud-*
 16 *ies,” initiated on June 15, 2004.*

17 **SEC. 1011. BROADBAND REPORTING REQUIREMENTS.**

18 (a) *REPORTING REQUIREMENTS.*—

19 (1) *GENERAL REQUIREMENTS.*—*The Commission*
 20 *shall revise FCC Form 477 reporting requirements*
 21 *within 180 days after the date of enactment of this*
 22 *Act to require broadband service providers to report*
 23 *the following information:*

24 (A) *Identification of where the provider pro-*
 25 *vides broadband service to customers, identified*

1 *by zip code plus four digit location (hereinafter*
2 *referred to as “service area”).*

3 *(B) Percentage of households and businesses*
4 *in each service area that are offered broadband*
5 *service by the provider, and the percentage of*
6 *such households that subscribe to each service*
7 *plan offered.*

8 *(C) The average price per megabyte of*
9 *download speed and upload speed in each service*
10 *area.*

11 *(D) Identification by service area of the*
12 *provider’s broadband service’s—*

13 *(i) actual average throughput; and*

14 *(ii) contention ratio of the number of*
15 *users sharing the same line.*

16 *(2) EXCEPTION.—The Commission shall exempt*
17 *a broadband service provider from the requirements*
18 *in subsection (1) if the Commission determines that*
19 *a provider’s compliance with the reporting require-*
20 *ments is cost prohibitive, as defined by the Commis-*
21 *sion.*

22 *(b) DEMOGRAPHIC INFORMATION FOR UNSERVED*
23 *AREAS.—The Commission, using available Census Bureau*
24 *data, shall provide to Congress on an annual basis a report*

1 *containing the following information for each service area*
2 *that is not served by any broadband service provider—*

3 *(1) population;*

4 *(2) population density; and*

5 *(3) average per capita income.*

6 **SEC. 1012. APPLICATION OF ONE-YEAR RESTRICTIONS TO**
7 **CERTAIN POSITIONS.**

8 *For purposes of section 207 of title 18, United States*
9 *Code, an individual serving in any of the following posi-*
10 *tions, or in any successor position, at the Federal Commu-*
11 *nications Commission is deemed to be a person described*
12 *in section 207(c)(2)(A)(ii) of that title, regardless of the in-*
13 *dividual's rate of basic pay:*

14 *(1) Chief, Office of Engineering and Technology.*

15 *(2) Director, Office of Legislative Affairs.*

16 *(3) Inspector General, Office of Inspector Gen-*
17 *eral.*

18 *(4) Managing Director, Office of Managing Di-*
19 *rector.*

20 *(5) General Counsel, Office of General Counsel.*

21 *(6) Chief, Office of Strategic Planning and Pol-*
22 *icy Analysis.*

23 *(7) Chief, Consumer and Governmental Affairs*
24 *Bureau.*

25 *(8) Chief, Enforcement Bureau.*

1 (9) *Chief, International Bureau.*

2 (10) *Chief, Media Bureau.*

3 (11) *Chief, Wireline Competition Bureau.*

4 (12) *Chief, Wireless Telecommunications Bureau.*

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

8 **SEC. 1013. INTERNET TAX FREEDOM ACT AMENDMENT.**

9 *Section 1101(a) of the Internet Tax Freedom Act (47*
 10 *U.S.C. 151 note) is amended by striking “taxes during the*
 11 *period beginning November 1, 2003, and ending November*
 12 *1, 2007:” and inserting “taxes:”.*

13 **SEC. 1014. STATUS OF E-911 IMPLEMENTATION AND CO-**
 14 **ORDINATION OFFICE.**

15 *Within 90 days after the date of enactment of this Act,*
 16 *the Assistant Secretary of the National Telecommunications*
 17 *and Information Administration (NTIA) and the Adminis-*
 18 *trator of the National Highway Traffic Safety Administra-*
 19 *tion (NHTSA) shall submit a report to the Committee on*
 20 *Commerce, Science, and Transportation of the Senate and*
 21 *the Committee on Energy and Commerce of the House of*
 22 *Representatives on the progress of the E-911 Implementa-*
 23 *tion and Coordination Office and plans of the Office to meet*
 24 *the requirements of the Office established in Public Law*
 25 *108-494.*

1 **SEC. 1015. FEDERAL COMMUNICATIONS COMMISSION TELE-**
2 **MEDICINE REPORT.**

3 *The Commission shall conduct a study and report to*
4 *Congress within 180 days after the date of enactment of*
5 *this Act of the following:*

6 (1) *Speed of a broadband connection necessary to*
7 *run low, medium, and high capacity telemedicine ap-*
8 *plications.*

9 (2) *Precise statistics of availability of broadband*
10 *connections capable of running telemedicine applica-*
11 *tions in any given service area (zip code plus four*
12 *digit area).*

13 (3) *Number of providers in any given service*
14 *area (zip code plus four digit area) offering*
15 *broadband connections capable of running telemedi-*
16 *cine applications.*

17 (4) *Average monthly price per megabit of*
18 *download and upload speeds for broadband connec-*
19 *tions capable of running telemedicine applications in*
20 *any given service area (zip code plus four digit area).*

21 **SEC. 1016. FEDERAL INFORMATION AND COMMUNICATIONS**
22 **TECHNOLOGY RESEARCH.**

23 (a) **ADVANCED INFORMATION AND COMMUNICATIONS**
24 **TECHNOLOGY RESEARCH.—**

25 (1) **NATIONAL SCIENCE FOUNDATION INFORMA-**
26 **TION AND COMMUNICATIONS TECHNOLOGY RE-**

1 *SEARCH.—The Director of the National Science Foun-*
2 *dation shall establish a program of basic research in*
3 *advanced information and communications tech-*
4 *nologies focused on enhancing or facilitating the*
5 *availability and affordability of advanced commu-*
6 *nications services to all Americans. In developing and*
7 *carrying out the program, the Director shall consult*
8 *with the Board established under paragraph (2).*

9 *(2) FEDERAL ADVANCED INFORMATION AND COM-*
10 *MUNICATIONS TECHNOLOGY RESEARCH BOARD.—*
11 *There is established within the National Science*
12 *Foundation a Federal Advanced Information and*
13 *Communications Technology Board which shall ad-*
14 *vice the Director of the National Science Foundation*
15 *in carrying out the program authorized by paragraph*
16 *(1). The Board Shall be composed of individuals with*
17 *expertise in information and communications tech-*
18 *nologies, including representatives from the National*
19 *Telecommunications and Information Administra-*
20 *tion, the Federal Communications Commission, the*
21 *National Institute of Standards and Technology, and*
22 *the Department of Defense.*

23 *(3) GRANT PROGRAM.—The Director, in con-*
24 *sultation with the Board, shall award grants for basic*
25 *research into advanced information and communica-*

1 *tions technologies that will contribute to enhancing or*
2 *facilitating the availability and affordability of ad-*
3 *vanced communications services to all Americans.*
4 *Areas of research to be supported through these grants*
5 *include—*

6 *(A) affordable broadband access, including*
7 *wireless technologies;*

8 *(B) network security and reliability;*

9 *(C) communications interoperability;*

10 *(D) networking protocols and architectures,*
11 *including resilience to outages or attacks;*

12 *(E) trusted software;*

13 *(F) privacy;*

14 *(G) nanoelectronics for communications ap-*
15 *plications;*

16 *(H) low-power communications electronics;*

17 *and*

18 *(I) such other related areas as the Director,*
19 *in consultation with the Board, finds appro-*
20 *priate.*

21 *(4) CENTERS.—The Director shall award*
22 *multiyear grants, subject to the availability of appro-*
23 *priations, to institutions of higher education (as de-*
24 *defined in section 101(a) of the Higher Education Act*
25 *of 1965 (20 U.S.C. 1001(a)), nonprofit research insti-*

1 *tutions, or consortia thereof to establish multidisci-*
2 *plinary Centers for Communications Research. The*
3 *purpose of the Centers shall be to generate innovative*
4 *approaches to problems in communications and infor-*
5 *mation technology research, including the research*
6 *areas described in paragraph (3). Institutions of*
7 *higher education nonprofit research, institutions, or*
8 *consortia receiving such grants may partner with 1*
9 *or more government laboratories or for-profit institu-*
10 *tions, or other institutions of higher education or non-*
11 *profit research institutions.*

12 (5) *APPLICATIONS.—The Director, in consulta-*
13 *tion with the Board, shall establish criteria for the*
14 *award of grants under paragraphs (3) and (4).*
15 *Grants shall be awarded under the program on a*
16 *merit-reviewed competitive basis. The Director shall*
17 *give priority to grants that offer the potential for rev-*
18 *olutionary rather than evolutionary breakthroughs.*

19 (6) *AUTHORIZATION OF APPROPRIATIONS.—*
20 *There are authorized to be appropriated to the Na-*
21 *tional Science Foundation to carry out this sub-*
22 *section—*

23 (A) *\$40,000,000 for fiscal year 2007;*

24 (B) *\$45,000,000 for fiscal year 2008;*

25 (C) *\$50,000,000 for fiscal year 2009;*

1 (D) \$55,000,000 for fiscal year 2010; and

2 (E) \$60,000,000 for fiscal year 2011.

3 (b) *SPECTRUM-SHARING INNOVATION TESTBED*.—

4 (1) *SPECTRUM-SHARING PLAN*.—Within 1 year
5 after the date of enactment of this Act, the Federal
6 Communications Commission and the Assistant Sec-
7 retary of Commerce for Communications and Infor-
8 mation, in coordination with other Federal agencies,
9 shall—

10 (A) develop a plan to increase sharing of
11 spectrum between Federal and non-Federal gov-
12 ernment users; and

13 (B) establish a pilot program for implemen-
14 tation of the plan.

15 (2) *TECHNICAL SPECIFICATIONS*.—The Commis-
16 sion and the Assistant Secretary—

17 (A) shall each identify a segment of spec-
18 trum of equal bandwidth within their respective
19 jurisdiction for the pilot program that is ap-
20 proximately 10 megaHertz in width for assign-
21 ment on a shared basis to Federal and non-Fed-
22 eral government use; and

23 (B) may take the spectrum for the pilot pro-
24 gram from bands currently allocated on either
25 an exclusive or shared basis.

1 (3) *REPORT.—The Commission and the Assist-*
2 *ant Secretary shall transmit a report to the Senate*
3 *Committee on Commerce, Science, and Transpor-*
4 *tation and the House of Representatives Committee*
5 *on Energy and Commerce 2 years after the inception*
6 *of the pilot program describing the results of the pro-*
7 *gram and suggesting appropriate procedures for ex-*
8 *panding the program as appropriate.*

9 (c) *NATIONAL INSTITUTE OF STANDARDS AND TECH-*
10 *NOLOGY RESPONSIBILITIES.—The Director of the National*
11 *Institute of Standards and Technology shall continue to*
12 *support research and support standards development in ad-*
13 *vanced information and communications technologies fo-*
14 *cused on enhancing or facilitating the availability and af-*
15 *fordability of advanced communications services to all*
16 *Americans, in order to implement the Institute’s respon-*
17 *sibilities under section 2(c)(12) of the National Institute of*
18 *Standards and Technology Act (15 U.S.C. 272(c)(12)). The*
19 *Director shall support intramural research and cooperative*
20 *research with institutions of higher education (as defined*
21 *in section 101(a) of the Higher Education Act of 1965 (20*
22 *U.S.C. 1001(a)) and industry.*

23 **SEC. 1017. FORBEARANCE.**

24 *Section 10(c) (47 U.S.C. 160(c)) is amended—*

1 (1) by striking “deemed granted” and inserting
 2 “voted on by the Commission”; and
 3 (2) by inserting “by majority vote” after “part”
 4 in the last sentence.

5 **SEC. 1018. DEADLINE FOR CERTAIN COMMISSION PRO-**
 6 **CEEDINGS.**

7 *The Federal Communications Commission shall com-*
 8 *plete its proceedings on special access rates (FCC Docket*
 9 *Nos. 05–25 and 01–321) not later than 270 days after the*
 10 *date of enactment of this Act.*

11 **TITLE XI—LOCAL COMMUNITY**
 12 **RADIO ACT**

13 **SEC. 1101. SHORT TITLE.**

14 *This title may be cited as the “Local Community*
 15 *Radio Act of 2006”.*

16 **SEC. 1102. REPEAL OF PRIOR LAW.**

17 *Section 632 of the Departments of Commerce, Justice,*
 18 *and State, the Judiciary, and Related Agencies Appropria-*
 19 *tions Act, 2001 (Public Law 106–553; 114 Stat. 2762A–*
 20 *111), is repealed.*

21 **SEC. 1103. MINIMUM DISTANCE SEPARATION REQUIRE-**
 22 **MENTS.**

23 *The Federal Communications Commission shall mod-*
 24 *ify its rules to eliminate third-adjacent minimum distance*
 25 *separation requirements between—*

- 1 (1) *low-power FM stations; and*
- 2 (2) *full-service FM stations, FM translator sta-*
- 3 *tions, and FM booster stations.*

4 **SEC. 1104. PROTECTION OF RADIO READING SERVICES.**

5 *The Federal Communications Commission shall retain*
6 *its rules that provide third-adjacent channel protection for*
7 *full-power non-commercial FM stations that broadcast*
8 *radio reading services via a subcarrier frequency from po-*
9 *tential low-power FM station interference.*

10 **SEC. 1105. ENSURING AVAILABILITY OF SPECTRUM FOR**
11 **LPFM STATIONS.**

12 *The Federal Communications Commission when li-*
13 *censing FM translator stations shall ensure—*

- 14 (1) *that licenses are available to both FM trans-*
- 15 *lator stations and low-power FM stations; and*
- 16 (2) *that such decisions are made based on the*
- 17 *needs of the local community.*

18 **SEC. 1106. FEDERAL COMMUNICATIONS COMMISSION**
19 **RULES.**

20 *The Federal Communications Commission shall retain*
21 *its rules that provide third-adjacent channel protection for*
22 *full-power FM stations that are licensed in significantly*
23 *populated States with more than 3,000,000 housing units*
24 *and a population density greater than 1,000 people per*
25 *square mile land area.*

1 **TITLE XII—CELL PHONE TAX**
2 **MORATORIUM**

3 **SEC. 1201. SHORT TITLE.**

4 *This title may be cited as the “Cell Phone Tax Morato-*
5 *rium Act of 2006”.*

6 **SEC. 1202. MORATORIUM.**

7 *(a) IN GENERAL.—No State or political subdivision*
8 *thereof shall impose a new discriminatory tax on or with*
9 *respect to mobile services, mobile services providers, or mo-*
10 *bile services property, during the 3-year period beginning*
11 *on the date of enactment of this Act.*

12 *(b) DEFINITIONS.—In this title:*

13 *(1) MOBILE SERVICE.—The term “mobile serv-*
14 *ice” means commercial mobile radio service, as such*
15 *term is defined in section 20.3 of title 47, Code of*
16 *Federal Regulations, as in effect on June 22, 2006, or*
17 *any other service that is primarily intended for re-*
18 *ceipt on or use with a mobile telephone.*

19 *(2) MOBILE SERVICE PROVIDER.—The term “mo-*
20 *bile service provider” means any entity that markets,*
21 *sells, or provides mobile services.*

22 *(3) MOBILE SERVICE PROPERTY.—The term*
23 *“mobile services property” means any equipment used*
24 *in the transmission, reception, coordination, or*
25 *switching of mobile services.*

1 (4) *NEW DISCRIMINATORY TAX.*—

2 (A) *IN GENERAL.*—*The term “new discrimi-*
3 *natory tax” means any tax imposed by a State*
4 *or political subdivision thereof that—*

5 (i) *is imposed on or with respect to—*

6 (I) *any mobile service and is not*
7 *generally imposed, or is generally im-*
8 *posed at a lower rate, on or with re-*
9 *spect to other services or on or with re-*
10 *spect to transactions involving prop-*
11 *erty or goods;*

12 (II) *any mobile service provider*
13 *and is not generally imposed, or is*
14 *generally imposed at a lower rate, on*
15 *other persons that provide services*
16 *other than mobile services; or*

17 (III) *any mobile service property*
18 *and is not generally imposed, or is*
19 *generally imposed at a lower rate, on*
20 *or with respect to other commercial or*
21 *industrial property that is devoted to a*
22 *commercial or industrial use and sub-*
23 *ject to a property tax levy;*

1 (ii) was not generally imposed and ac-
2 tually enforced prior to the date of enact-
3 ment of this Act.

4 (B) *RULE OF CONSTRUCTION.*—For pur-
5 poses of subparagraph (A), all exemptions, de-
6 ductions, credits, incentives, exclusions, and
7 other similar factors shall be taken into account
8 in determining whether a tax is a “new dis-
9 criminatory tax”.

10 (5) *TAX.*—

11 (A) *IN GENERAL.*—The term “tax” means
12 any charge imposed by any governmental entity
13 for the purpose of generating revenues for govern-
14 mental purposes, and is not a fee imposed for a
15 specific privilege, service, or benefit conferred.

16 (B) *EXCLUSION.*—The term “tax” does not
17 include any fee or charge—

18 (i) used to preserve and advance Fed-
19 eral universal service or similar State pro-
20 grams authorized by section 254 of the
21 Communications Act of 1934 (47 U.S.C.
22 254); or

23 (ii) specifically dedicated by a State or
24 political subdivision thereof for the support
25 of E-911 communications systems.

1 ***TITLE XII—TRUTH IN CALLER ID***

2 ***SEC. 1301. SHORT TITLE.***

3 *This title may be cited as the “Truth in Caller ID Act*
 4 *of 2006”.*

5 ***SEC. 1302. PROHIBITION REGARDING MANIPULATION OF***
 6 ***CALLER IDENTIFICATION INFORMATION.***

7 *Section 227 (47 U.S.C. 227) is amended—*

8 *(1) by redesignating subsections (e), (f), and (g)*
 9 *as subsections (f), (g), and (h), respectively; and*

10 *(2) by inserting after subsection (d) the following*
 11 *new subsection:*

12 *“(e) PROHIBITION ON PROVISION OF INACCURATE*
 13 *CALLER IDENTIFICATION INFORMATION.—*

14 *“(1) IN GENERAL.—It shall be unlawful for any*
 15 *person within the United States, in connection with*
 16 *any telecommunications service or IP-enabled voice*
 17 *service, to cause any caller identification service to*
 18 *transmit misleading or inaccurate caller identifica-*
 19 *tion information, unless such transmission is exempt-*
 20 *ed pursuant to paragraph (3)(B).*

21 *“(2) PROTECTION FOR BLOCKING CALLER IDEN-*
 22 *TIFICATION INFORMATION.—Nothing in this sub-*
 23 *section may be construed to prevent or restrict any*
 24 *person from blocking the capability of any caller*

1 *identification service to transmit caller identification*
2 *information.*

3 “(3) *REGULATIONS.*—

4 “(A) *IN GENERAL.*—Not later than 6
5 *months after the enactment of the Truth in Call-*
6 *er ID Act of 2006, the Commission shall pre-*
7 *scribe regulations to implement this subsection.*

8 “(B) *CONTENT OF REGULATIONS.*—

9 “(i) *IN GENERAL.*—The regulations re-
10 *quired under subparagraph (A) shall in-*
11 *clude such exemptions from the prohibition*
12 *under paragraph (1) as the Commission de-*
13 *termines appropriate.*

14 “(ii) *SPECIFIC EXEMPTION FOR LAW*
15 *ENFORCEMENT AGENCIES, NATIONAL SECU-*
16 *RITY ACTIVITIES, OR COURT ORDERS.*—The
17 *regulations required under subparagraph*
18 *(A) shall exempt from the prohibition under*
19 *paragraph (1) transmissions in connection*
20 *with—*

21 “(I) *any authorized law enforce-*
22 *ment or national security activity of*
23 *an agency of the United States, a*
24 *State, or a political subdivision of a*
25 *State; or*

1 “(II) a court order that specifi-
2 cally authorizes the use of caller identi-
3 fication manipulation.

4 “(4) *REPORT*.—Not later than 6 months after the
5 enactment of the Truth in Caller ID Act of 2006, the
6 Commission shall report to Congress whether addi-
7 tional legislation is necessary to prohibit the provi-
8 sion of inaccurate caller identification information in
9 technologies that are successor or replacement tech-
10 nologies to telecommunications service or IP-enabled
11 voice service.

12 “(5) *PENALTIES*.—

13 “(A) *CIVIL FORFEITURE*.—

14 “(i) *IN GENERAL*.—Any person that is
15 determined by the Commission, in accord-
16 ance with paragraphs (3) and (4) of section
17 503(b), to have violated this subsection shall
18 be liable to the United States for a forfeiture
19 penalty. A forfeiture penalty under this
20 paragraph shall be in addition to any other
21 penalty provided for by this Act. The
22 amount of the forfeiture penalty determined
23 under this paragraph shall not exceed
24 \$10,000 for each violation, or 3 times that
25 amount for each day of a continuing viola-

tion, except that the amount assessed for any continuing violation shall not exceed a total of \$1,000,000 for any single act or failure to act.

“(ii) *RECOVERY*.—Any forfeiture penalty determined under clause (i) shall be recoverable pursuant to section 504(a).

“(iii) *PROCEDURE*.—No forfeiture liability shall be determined under clause (i) against any person unless such person receives the notice required by section 503(b)(3) or section 503(b)(4).

“(iv) *2-YEAR STATUTE OF LIMITATIONS*.—No forfeiture penalty shall be determined or imposed against any person under clause (i) if the violation charged occurred more than 2 years prior to the date of issuance of the required notice or notice or apparent liability.

“(B) *CRIMINAL FINE*.—Any person who willfully and knowingly violates this subsection shall upon conviction thereof be fined not more than \$10,000 for each violation, or 3 times that amount for each day of a continuing violation, in lieu of the fine provided by section 501 for

1 *such a violation. This subparagraph does not su-*
2 *persede the provisions of section 501 relating to*
3 *imprisonment or the imposition of a penalty of*
4 *both fine and imprisonment.*

5 *“(6) ENFORCEMENT BY STATES.—*

6 *“(A) IN GENERAL.—The chief legal officer of*
7 *a State, or any other State officer authorized by*
8 *law to bring actions on behalf of the residents of*
9 *a State, may bring a civil action, as parens*
10 *patriae, on behalf of the residents of that State*
11 *in an appropriate district court of the United*
12 *States to enforce this subsection or to impose the*
13 *civil penalties for violation of this subsection,*
14 *whenever the chief legal officer or other State of-*
15 *ficer has reason to believe that the interests of the*
16 *residents of the State have been or are being*
17 *threatened or adversely affected by a violation of*
18 *this subsection or a regulation under this sub-*
19 *section.*

20 *“(B) NOTICE.—The chief legal officer or*
21 *other State officer shall serve written notice on*
22 *the Commission of any civil action under sub-*
23 *paragraph (A) prior to initiating such civil ac-*
24 *tion. The notice shall include a copy of the com-*
25 *plaint to be filed to initiate such civil action, ex-*

cept that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

“(C) *AUTHORITY TO INTERVENE.*—Upon receiving the notice required by subparagraph (B), the Commission may intervene in such civil action and upon intervening—

“(i) be heard on all matters arising in such civil action; and

“(ii) file petitions for appeal of a decision in such civil action.

“(D) *CONSTRUCTION.*—For purposes of bringing any civil action under subparagraph (A), nothing in this paragraph shall prevent the chief legal officer or other State officer from exercising the powers conferred on that officer by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

“(E) *VENUE; SERVICE OF PROCESS.*—

“(i) *VENUE.*—An action brought under subparagraph (A) shall be brought in a district court of the United States that meets

1 *applicable requirements relating to venue*
2 *under section 1391 of title 28, United States*
3 *Code.*

4 “(ii) *SERVICE OF PROCESS.—In an ac-*
5 *tion brought under subparagraph (A)—*

6 “(I) *process may be served with-*
7 *out regard to the territorial limits of*
8 *the district or of the State in which the*
9 *action is instituted; and*

10 “(II) *a person who participated*
11 *in an alleged violation that is being*
12 *litigated in the civil action may be*
13 *joined in the civil action without re-*
14 *gard to the residence of the person.*

15 “(F) *LIMITATION ON STATE ACTION WHILE*
16 *FEDERAL ACTION IS PENDING.—If the Commis-*
17 *sion has instituted an enforcement action or pro-*
18 *ceeding for violation of this subsection, the chief*
19 *legal officer or other State officer of the State in*
20 *which the violation occurred may not bring an*
21 *action under this section during the pendency of*
22 *the proceeding against any person with respect*
23 *to whom the Commission has instituted the pro-*
24 *ceeding.*

1 “(7) *DEFINITIONS.*—*For purposes of this sub-*
2 *section:*

3 “(A) *CALLER IDENTIFICATION INFORMA-*
4 *TION.*—*The term ‘caller identification informa-*
5 *tion’ means information provided by a caller*
6 *identification service regarding the telephone*
7 *number of, or other information regarding the*
8 *origination of, a call made using a telecommuni-*
9 *cations service or IP-enabled voice service.*

10 “(B) *CALLER IDENTIFICATION SERVICE.*—
11 *The term ‘caller identification service’ means*
12 *any service or device designed to provide the user*
13 *of the service or device with the telephone number*
14 *of, or other information regarding the origina-*
15 *tion of, a call made using a telecommunications*
16 *service or IP-enabled voice service. Such term in-*
17 *cludes automatic number identification services.*

18 “(C) *IP-ENABLED VOICE SERVICE.*—*The*
19 *term ‘IP-enabled voice service’ means the provi-*
20 *sion of real-time 2-way voice communications of-*
21 *fered to the public, or such classes of users as to*
22 *be effectively available to the public, transmitted*
23 *through customer premises equipment using*
24 *Internet protocol, or a successor protocol, for a*
25 *fee (whether part of a bundle of services or sepa-*

1 *rately) with interconnection capability such that*
 2 *the service can originate traffic to, or terminate*
 3 *traffic from, the public switched telephone net-*
 4 *work.*

5 *“(8) LIMITATION.—Notwithstanding any other*
 6 *provision of this section, subsection (f) shall not apply*
 7 *to this subsection or to the regulations under this sub-*
 8 *section.”.*

9 ***TITLE XIV—RURAL WIRELESS*** 10 ***AND BROADBAND SERVICE***

11 ***SEC. 1401. SHORT TITLE.***

12 *This title may be cited as the “Rural Wireless and*
 13 *Broadband Service Act of 2006”.*

14 ***SEC. 1402. SMALL GEOGRAPHIC LICENSING AREAS.***

15 *Section 309(j)(4)(C) (47 U.S.C. 309(j)(4)(C)) is*
 16 *amended—*

17 *(1) by striking “service, prescribe” and inserting*
 18 *the following: “service—*

19 *“(i) prescribe”;*

20 *(2) by striking “(i) an” and inserting “(I) an”;*

21 *(3) by striking “(ii)” and inserting “(II)”;*

22 *(4) by striking “(iii)” and inserting “(III)”;*

23 *(5) by striking “services;” and inserting “serv-*
 24 *ices; and”; and*

25 *(6) by adding at the end the following:*

1 “(ii) consider the use of licensing spec-
 2 trum in smaller geographic areas in order
 3 to encourage wireless deployment and build-
 4 out in rural and underserved areas of li-
 5 censing spectrum in smaller geographic
 6 areas;”.

7 **SEC. 1403. REPORT ON THE IMPACT OF SECONDARY MAR-**
 8 **KET TRANSACTIONS.**

9 Section 309(j) (47 U.S.C. 309(j)) is amended by add-
 10 ing at the end the following:

11 “(17) *REPORT ON THE IMPACT OF SECONDARY*
 12 *MARKET TRANSACTIONS.*—Not later than 2 years after
 13 the date of enactment of the Rural Wireless and
 14 Broadband Service Act of 2006, and every 2 years
 15 thereafter until the database developed under para-
 16 graph (18) is available to the public, the Commission
 17 shall submit a report to Congress analyzing and eval-
 18 uating the impact of the Commission’s—

19 “(A) spectrum leasing; and

20 “(B) spectrum partitioning and
 21 disaggregation rules in facilitating, through the
 22 development of secondary markets, the deploy-
 23 ment of spectrum-based services to the public,
 24 particularly to those members of the public resid-
 25 ing in rural and underserved areas.

1 “(18) *PUBLICLY ACCESSIBLE INTEGRATED DATA*
2 *BASE.—The Commission, in coordination with the*
3 *Assistant Secretary of Commerce for Communications*
4 *and Information, shall develop an integrated national*
5 *database, accessible by the public, that identifies by*
6 *name, address, and contact information for each li-*
7 *censee, the spectrum assigned to each such licensee,*
8 *and the geographic area to which the spectrum is as-*
9 *signed or licensed. The database may not provide*
10 *public access to information protected from public*
11 *disclosure under chapter 5 of title 5, United States*
12 *Code, or the disclosure of which would compromise*
13 *national security.”.*

14 **SEC. 1404. RADIO SPECTRUM REVIEW.**

15 *Part I of title III (47 U.S.C. 301 et seq.), as amended*
16 *by sections 453 and 602 of this Act, is further amended*
17 *by adding at the end the following:*

18 **“SEC. 344. RADIO SPECTRUM REVIEW.**

19 “(a) *IN GENERAL.—Not later than 5 years after the*
20 *date of enactment of the Rural Wireless and Broadband*
21 *Service Act of 2006, and every 5 years thereafter, the Fed-*
22 *eral Communications Commission and the National Tele-*
23 *communications and Information Administration shall—*

24 “(1) *conduct a band-by-band analysis of the*
25 *spectrum managed by each such agency; and*

1 “(2) report to the Congress any such bands iden-
 2 tified, in the determination of each such agency, as
 3 not being utilized in an effective or efficient manner.

4 “(b) AGENCY AUTHORITY.—

5 “(1) COLLECTION OF INFORMATION.—In con-
 6 ducting the analysis required under subsection (a)(1),
 7 the Federal Communications Commission and the Na-
 8 tional Telecommunications and Information Admin-
 9 istration may require licensees and other spectrum
 10 users to provide information regarding spectrum
 11 usage.

12 “(2) EXEMPTION FROM PAPERWORK REDUCTION
 13 ACT.—The collection of any information required
 14 under paragraph (1) shall be exempt from the provi-
 15 sions of the Paperwork Reduction Act (44 U.S.C.
 16 3501 et seq.).”.

17 **SEC. 1405. 700 MHZ LICENSE AREAS.**

18 *The Federal Communications Commission shall, with-*
 19 *in 180 days after the date of enactment of this Act, initiate*
 20 *a rulemaking to reconfigure the band plans for the upper*
 21 *700 megaHertz band (currently designated Auction 31) and*
 22 *for the unauctioned portions of the lower 700 megaHertz*
 23 *band (currently designated as Channel Blocks A, B, and*
 24 *E) so as to designate up to 6 megaHertz of recovered analog*
 25 *spectrum (as defined in section 309(j)(15)(C)(vi) of the*

1 *Communications Act of 1934 (47 U.S.C. 309(j)(15)(C)(vi)))*
 2 *for small geographic license areas, taking into consider-*
 3 *ation—*

4 *(1) the January 28, 2008, commencement date*
 5 *for the auction of recovered analog spectrum as re-*
 6 *quired by section 3003 of Public Law 109-171 (47*
 7 *U.S.C. 309 note); and*

8 *(2) the desire to promote infrastructure build-out*
 9 *and service to rural and insular areas and the com-*
 10 *petitive benefits, unique characteristics, and special*
 11 *needs of regional and smaller wireless carriers.*

12 **SEC. 1406. NO INTERFERENCE WITH DTV TRANSITION.**

13 *The Commission shall not undertake any reconfigura-*
 14 *tion of the band plans described in section 1605 if that re-*
 15 *configuration is determined to be likely to delay the auction*
 16 *of recovered spectrum or the terminations of analog licenses*
 17 *required by section 3002(b) of Public Law 109-171 (47*
 18 *U.S.C. 309 note) to occur by February 18, 2009.*

19 **SEC. 1407. EFFECTIVE DATE.**

20 *This title and the amendments made by this title shall*
 21 *take effect on the expiration of the date which is 90 days*
 22 *after the date of enactment of this Act.*

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H. R. 5252

[Report No. 109-355]

AN ACT

To promote the deployment of broadband networks
and services.

SEPTEMBER 29, 2006

Reported with an amendment