II

113TH CONGRESS
1ST SESSION

S. 1789

To amend the Communications Act of 1934 to establish signal quality and content requirements for the carriage of public, educational, and governmental channels, to preserve support of such channels, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 10, 2013

Ms. BALDWIN (for herself and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To amend the Communications Act of 1934 to establish signal quality and content requirements for the carriage of public, educational, and governmental channels, to preserve support of such channels, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PEG SIGNAL QUALITY AND CONTENT; PRESERVATION OF SUPPORT OF PEG USE.

(a) IN GENERAL.—Section 611 of the Communications Act of 1934 (47 U.S.C. 531) is amended—

(1) by redesignating subsection (f) as subsection (h); and

(2) by inserting after subsection (e) the following:

"(f) SIGNAL QUALITY AND CONTENT.—

"(1) IN GENERAL.—A cable operator that operates a cable system with channel capacity designated under subsection (b) or that is required to provide channel capacity under subsection (g)(6) shall, with respect to such channel capacity—

"(A) carry signals for public, educational, or governmental use from the point of origin of such signals to subscribers without material degradation and without altering or removing content or data provided as part of the public, educational, or governmental use;

"(B) provide such signals to, and make such signals viewable by, every subscriber of the cable system without additional service or equipment charges; and

"(C) provide to the appropriate local government subdivision, free of charge, any transmission services and the use of any transmission facilities that are necessary to meet the requirements of subparagraph (A).

"(2) ENFORCEMENT.—The requirements of this subsection may be enforced by—

"(A) a local government subdivision; or

"(B) a State.

"(g) PRESERVATION OF SUPPORT OF PUBLIC, EDUCATIONAL, AND GOVERNMENTAL USE.—

"(1) LEVEL OF SUPPORT REQUIRED.—In a State that adopts legislation affecting cable system franchising requirements relating to support for public, educational, or governmental use of a cable system that becomes effective after May 31, 2005, notwithstanding such legislation, a cable operator owes to any local government subdivision in which the operator provides cable service during a year beginning after the date of enactment of this subsection an amount for such year to be determined by the local government subdivision, but not to exceed the greatest of the following:

"(A) The amount of support provided in the last calendar year ending before the effective date of such State legislation.

"(B) The average annual amount of support provided over the term of the franchise under which the cable operator was operating on the day before the effective date of such State legislation.

"(C) The amount of support that the cable operator is required to provide to such local government subdivision under such State legislation during the year involved.

"(D) An amount of support equal to 2 percent of the gross revenues of the cable operator from the operation of the cable system to provide cable services in such local government subdivision during the year involved.

"(2) FORMS OF SUPPORT.—For purposes of paragraph (1), support for public, educational, or governmental use of a cable system means all cash payments, in-kind support, and free services that the operator of the cable system, or its predecessor, provides to the local government subdivision for such use of the cable system.

"(3) ADJUSTMENT FOR INFLATION.—For a year beginning on or after the effective date described in subparagraphs (A) and (B) of paragraph (1), on the date that the Gross National Product Price Index is first published by the Bureau of Economic Analysis after the end of June of such year, the amounts specified in such subparagraphs shall be increased by the percentage increase, if any, in the Index published on such date from the Index first published after the end of June of the preceding year.

"(4) CASH PAYMENTS.—A cable operator that owes amounts under paragraph (1) shall, beginning not later than 30 days after the date of enactment of this subsection, pay such amounts in cash—

"(A) in accordance with the schedule for payment of franchise fees, communications taxes, or other similar assessments under any applicable franchise; or

"(B) if there is no payment schedule for such assessments under an applicable franchise, in accordance with the most frequent payment schedule for such assessments under applicable State or local law.

"(5) USES; DISPUTES.—

"(A) USES.—Support provided to any local government subdivision under this subsection shall be dedicated to public, educational, or governmental use of channel capacity.

"(B) DISPUTES.—

"(i) MEDIATION.—If there is a dispute as to amounts owed under this subsection, undisputed amounts shall be paid to the local government subdivision, disputed amounts shall be paid into an escrow account, and the parties shall submit to nonbinding mediation.

"(ii) COURT PROCEEDINGS.—If the dispute cannot be settled using mediation, either party may seek relief from a court of competent jurisdiction.

"(6) CHANNELS.—In a State that adopts legislation affecting cable system franchising requirements relating to the number of channels for public, educational, or governmental use of a cable system that becomes effective after May 31, 2005, a cable operator shall, notwithstanding such legislation, provide in a local government subdivision at least the greater of the following number of channels for such use:

"(A) The number of channels for such use that the operator was providing in the local government subdivision on the day before the effective date of such State legislation.

"(B) If the operator provided fewer than 3 channels for such use in the local government subdivision on the day before the effective date of such State legislation, a number specified by the local government subdivision, but not to exceed 3.

"(7) ENFORCEMENT.—The requirements of this subsection may be enforced by—

"(A) a local government subdivision; or

"(B) a State.".

(b) DEFINITIONS.—

(1) CABLE SERVICE.—Section 602(6) of the Communications Act of 1934 (47 U.S.C. 522(6)) is amended by striking "means" and inserting "means, regardless of the technology or transmission protocol used in the provision of service".

(2) LOCAL GOVERNMENT SUBDIVISION.—Section 602 of the Communications Act of 1934 (47 U.S.C. 522) is amended—

(A) by redesignating paragraphs (13) through (20) as paragraphs (14) through (21), respectively; and

(B) by inserting after paragraph (12) the following:

"(13) the term 'local government subdivision' means—

"(A) except as provided in subparagraph (B), a franchising authority that derives its power to grant a franchise from State or local law; and

"(B) in a State that adopts legislation affecting cable system franchising requirements relating to support for public, educational, or governmental use of a cable system that becomes effective after May 31, 2005, an entity that was considered a franchising authority deriving its power to grant a franchise from State or local law as of the day before the effective date of such State legislation;".

(3) FRANCHISE FEE.—Section 622(g)(2) of the Communications Act of 1934 (47 U.S.C. 542(g)(2)) is amended—

(A) in subparagraph (B), by striking "in the case of any franchise in effect on the date of enactment of this title,";

(B) by striking subparagraph (C); and

(C) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

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