

Public Law 100-626
100th Congress

An Act

To amend and extend the authorization of appropriations for public broadcasting,
and for other purposes.

Nov. 7, 1988
[H.R. 4118]

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

Public
Telecommunications
Act of 1988.

SHORT TITLE

SECTION 1. This Act may be cited as the "Public Telecommuni-
cations Act of 1988".

47 USC 609 note.

PUBLIC TELECOMMUNICATIONS FACILITIES AUTHORIZATIONS

SEC. 2. Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended—

- (1) by striking "and" after "1987,"; and
- (2) by inserting "\$36,000,000 for fiscal year 1989, \$39,000,000 for fiscal year 1990, and \$42,000,000 for fiscal year 1991," immediately after "1988,".

CORPORATION FOR PUBLIC BROADCASTING AUTHORIZATIONS

SEC. 3. Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

- (1) by striking "and 1990" and inserting in lieu thereof "1990, 1991, 1992, and 1993";
- (2) by striking "50 percent" and inserting in lieu thereof "40 percent";
- (3) by striking "and" after "fiscal year 1989,"; and
- (4) by inserting before the period at the end thereof the following: ", \$245,000,000 for fiscal year 1991, \$265,000,000 for fiscal year 1992, and \$285,000,000 for fiscal year 1993".

PUBLIC BROADCASTING SATELLITE INTERCONNECTION FUND

SEC. 4. (a) Section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended by adding at the end thereof the following new paragraph:

"(10)(A) There is hereby established in the Treasury a fund which shall be known as the Public Broadcasting Satellite Interconnection Fund (hereinafter in this subsection referred to as the 'Satellite Interconnection Fund'), to be administered by the Secretary of the Treasury.

"(B) There is authorized to be appropriated to the Satellite Interconnection Fund, for fiscal year 1991, the amount of \$200,000,000. If such amount is not appropriated in full for fiscal year 1991, the portion of such amount not yet appropriated is authorized to be appropriated for fiscal years 1992 and 1993. Funds appropriated to the Satellite Interconnection Fund shall remain available until expended.

“(C) The Secretary of the Treasury shall make available and disburse to the Corporation, at the beginning of fiscal year 1991 and of each succeeding fiscal year thereafter, such funds as have been appropriated to the Satellite Interconnection Fund for the fiscal year in which such disbursement is to be made.

“(D) Notwithstanding any other provision of this subsection except paragraphs (4), (5), (8), and (9), all funds appropriated to the Satellite Interconnection Fund and interest thereon—

“(i) shall be distributed by the Corporation to the licensees and permittees of noncommercial educational television broadcast stations providing public telecommunications services or the national entity they designate for satellite interconnection purposes and to those public telecommunications entities participating in the public radio satellite interconnection system or the national entity they designate for satellite interconnection purposes, exclusively for the capital costs of the replacement, refurbishment, or upgrading of their national satellite interconnection systems and associated maintenance of such systems; and

“(ii) shall not be used for the administrative costs of the Corporation, the salaries or related expenses of Corporation personnel and members of the Board, or for expenses of consultants and advisers to the Corporation.”

Reports.
47 USC 396 note.

(b) On or before March 1, 1990, the Corporation for Public Broadcasting, on behalf of the public radio and public television licensees and permittees (or their designated representatives), shall submit to Congress a report by such licensees or permittees (or their representatives) detailing the satellite replacement needs of public radio and public television, the difference in cost between leasing satellite transponder capacity and buying such capacity, and the availability of private sector rather than Federal financing.

FINDING WITH RESPECT TO CERTAIN PROGRAMMING

SEC. 5. Section 396(a) of the Communications Act of 1934 (47 U.S.C. 396(a)) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting immediately after paragraph (5) the following new paragraph:

“(6) it is in the public interest to encourage the development of programming that involves creative risks and that addresses the needs of unserved and underserved audiences, particularly children and minorities;”.

EXERCISE OF BUSINESS JUDGMENT BY CORPORATION

SEC. 6. Section 396(g)(2)(B)(ii) of the Communications Act of 1934 (47 U.S.C. 396(g)(2)(B)(ii)) is amended by striking “contract or”.

ALLOCATION OF CORPORATION FUNDING

SEC. 7. (a) Section 396(k)(3)(A)(i) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(i)) is amended—

(1) by amending subclause (I) to read as follows:

“(I) \$10,200,000 shall be available for the administrative expenses of the Corporation for fiscal year 1989, and for each succeeding fiscal year the amount which shall be available for

such administrative expenses shall be the sum of the amount made available to the Corporation under this subclause for such expenses in the preceding fiscal year plus the greater of 4 percent of such amount or a percentage of such amount equal to the percentage change in the Consumer Price Index, except that none of the amounts allocated under subclauses (II), (III), and (IV) and clause (v) shall be used for any administrative expenses of the Corporation and not more than 5 percent of all the amounts appropriated into the Fund available for allocation for any fiscal year shall be available for such administrative expenses.”;

(2) subclause (II) is amended to read as follows:

“(II) 6 percent of such amounts shall be available for expenses incurred by the Corporation for capital costs relating to telecommunications satellites, the payment of programming royalties and other fees, the costs of interconnection facilities and operations (as provided in clause (iv)(I)), and grants which the Corporation may make for assistance to stations that broadcast programs in languages other than English, and if the available funding level permits, for projects and activities that will enhance public broadcasting;”;

(3) in subclause (III), by striking “clause (ii)(I)” and inserting in lieu thereof “clause (ii)”.

(b) Section 396(k)(3)(A)(ii)(II) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(ii)(II)) is amended by striking “for public” and inserting in lieu thereof the following: “, and in accordance with any plan implemented under paragraph (6)(A), for national public”.

(c) Clause (iii) of section 396(k)(3)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)) is amended to read as follows:

“(iii) Of the amounts allocated under clause (i)(IV) for any fiscal year—

“(I) 70 percent of such amounts shall be available for distribution among the licensees and permittees of public radio stations pursuant to paragraph (6)(B);

“(II) 7 percent of such amounts shall be available for distribution under subparagraph (B)(i) for public radio programming; and

“(III) 23 percent of such amounts shall be available for distribution among the licensees and permittees of public radio stations pursuant to paragraph (6)(B), solely to be used for acquiring or producing programming that is to be distributed nationally and is designed to serve the needs of a national audience.”.

(d) Clause (v) of section 396(k)(3)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)) is amended to read as follows:

“(v) Of the interest on the amounts appropriated into the Fund which is available for allocation for any fiscal year—

“(I) 75 percent shall be available for distribution for the purposes referred to in clause (ii)(II); and

“(II) 25 percent shall be available for distribution for the purposes referred to in clause (iii) (II) and (III).”.

(e) Section 396(k)(3)(A)(iv)(I) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(iv)(I)) is amended by striking “Subject to the provisions of clause (v),” and inserting in lieu thereof the following: “From the amount provided pursuant to clause (i)(II),”.

(f) Subparagraph (B)(i) of section 396(k)(3) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)) is amended to read as follows:

Grants.

"(B)(i) The Corporation shall utilize the funds allocated pursuant to subparagraph (A)(ii)(II) and subparagraph (A)(iii)(II) to make grants for production of public television or radio programs by independent producers and production entities and public telecommunications entities, producers of national children's educational programming, and producers of programs addressing the needs and interests of minorities, and for acquisition of such programs by public telecommunications entities. The Corporation may make grants to public telecommunications entities and producers for the production of programs in languages other than English. Of the funds utilized pursuant to this clause, a substantial amount shall be distributed to independent producers and production entities, producers of national children's educational programming, and producers of programming addressing the needs and interests of minorities for the production of programs."

(g) Section 396(k)(3) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)) is amended by striking subparagraphs (C) and (D).

(h) Paragraph (6)(A) of section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended to read as follows:

"(6)(A) The Corporation shall conduct a study and prepare a plan, in consultation with public television licensees (or designated representatives of those licensees) and the Public Broadcasting Service, on how funds available to the Corporation under paragraph (3)(A)(ii)(II) can be best allocated to meet the objectives of this Act with regard to national public television programming. The plan, which shall be based on the conclusions resulting from the study, shall be submitted by the Corporation to the Congress not later than January 31, 1990. Unless directed otherwise by an Act of Congress, the Corporation shall implement the plan during the first fiscal year beginning after the fiscal year in which the plan is submitted to Congress."

(i) Section 396(k)(6)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(6)(B)) is amended by inserting immediately after the first sentence the following new sentence: "The Corporation shall assist radio stations to maintain and improve their service where public radio is the only broadcast service available."

(j) Section 396(k)(7) of the Communications Act of 1934 (47 U.S.C. 396(k)(7)) is amended by inserting "(ii)(I) and (iii)(I)" immediately after "paragraph (3)(A)".

INDEPENDENT PRODUCTION

SEC. 8. Section 396(k)(3)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)) is amended by adding at the end the following new clause:

"(iii)(I) For fiscal year 1990 and succeeding fiscal years, the Corporation shall, in carrying out its obligations under clause (i) with respect to public television programming, provide adequate funds for an independent production service.

"(II) Such independent production service shall be separate from the Corporation and shall be incorporated under the laws of the District of Columbia for the purpose of contracting with the Corporation for the expenditure of funds for the production of public television programs by independent producers and independent production entities.

"(III) The Corporation shall work with organizations or associations of independent producers or independent production entities to

develop a plan and budget for the operation of such service that is acceptable to the Corporation.

"(IV) The Corporation shall ensure that the funds provided to such independent production service shall be used exclusively in pursuit of the Corporation's obligation to expand the diversity and innovativeness of programming available to public broadcasting.

"(V) The Corporation shall report annually to Congress regarding the activities and expenditures of the independent production service. At the end of fiscal year 1992, the Corporation shall submit a report to Congress evaluating the performance of the independent production service in light of its mission to expand the diversity and innovativeness of programming available to public broadcasting."

Reports.

NEEDS OF MINORITIES AND OTHER GROUPS

SEC. 9. (a) Section 396 of the Communications Act of 1934 (47 U.S.C. 396) is amended by adding at the end the following new subsection:

"(m)(1) Prior to July 1, 1989, and every three years thereafter, the Corporation shall compile an assessment of the needs of minority and diverse audiences, the plans of public broadcasting entities and public telecommunications entities to address such needs, the ways radio and television can be used to help these underrepresented groups, and projections concerning minority employment by public broadcasting entities and public telecommunications entities. Such assessment shall address the needs of racial and ethnic minorities, new immigrant populations, people for whom English is a second language, and adults who lack basic reading skills.

"(2) Commencing July 1, 1989, the Corporation shall prepare an annual report on the provision by public broadcasting entities and public telecommunications entities of service to the audiences described in paragraph (1). Such report shall address programming (including that which is produced by minority producers), training, minority employment, and efforts by the Corporation to increase the number of minority public radio and television stations eligible for financial support from the Corporation.

Reports.

"(3) As soon as they have been prepared, each assessment and annual report required under paragraphs (1) and (2) shall be submitted to Congress."

(b) Section 398(b)(1) of the Communications Act of 1934 (47 U.S.C. 398(b)(1)) is amended by inserting, immediately after "recipients", the following: "in accordance with the equal employment opportunity regulations of the Commission,".

PROHIBITION AGAINST EDITORIALIZING

SEC. 10. (a) Section 399 of the Communications Act of 1934 (47 U.S.C. 399) is amended by striking the first sentence.

(b) The heading of such section is amended by striking "EDITORIALIZING AND".

SCRAMBLING OF PUBLIC BROADCASTING SERVICE PROGRAMMING

SEC. 11. Section 705 of the Communications Act of 1934 (47 U.S.C. 705) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

“(c) No person shall encrypt or continue to encrypt satellite delivered programs included in the National Program Service of the Public Broadcasting Service and intended for public viewing by retransmission by television broadcast stations; except that as long as at least one unencrypted satellite transmission of any program subject to this subsection is provided, this subsection shall not prohibit additional encrypted satellite transmissions of the same program.”.

EFFECTIVE DATES

47 USC 391 note.

SEC. 12. This Act and the amendments made by this Act are effective on the date of enactment of this Act, except that the amendments made by sections 6 and 7(d) are effective on October 1, 1989.

Approved November 7, 1988.

LEGISLATIVE HISTORY—H.R. 4118 (S. 2114):

HOUSE REPORTS: No. 100-825 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 100-444 accompanying S. 2114 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Oct. 7, S. 2114 considered and passed Senate.

Oct. 19, H.R. 4118 considered and passed House.

Oct. 20, considered and passed Senate.