to focus or move the eyes to the extent that would be normally acceptable for reading; and

(4) ''print instructional materials'' has the meaning given under section 674(e)(3)(C) of the Individuals with Disabilities Education Act.

(Added Pub. L. 104–197, title III, § 316(a), Sept. 16, 1996, 110 Stat. 2416; amended Pub. L. 106–379, § 3(b), Oct. 27, 2000, 114 Stat. 1445; Pub. L. 107–273, div. C, title III, § 13210(3)(A), Nov. 2, 2002, 116 Stat. 1909; Pub. L. 108–446, title III, § 306, Dec. 3, 2004, 118 Stat. 2807; Pub. L. 115–261, § 2(a)(1), Oct. 9, 2018, 132 Stat. 3667.)

Editorial Notes

REFERENCES IN TEXT

Sections 612, 613, and 674 of the Individuals with Disabilities Education Act, referred to in subsecs. (c) and (d)(4), are classified to sections 1412, 1413, and 1474, respectively, of Title 20, Education.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–261, § 2(a)(1)(A), inserted ''in the United States'' after ''distribute'' and ''or of a previously published musical work that has been fixed in the form of text or notation'' after ''literary work'', struck out '', nondramatic'' after ''previously published'', and substituted ''accessible formats'' for ''specialized formats'' and ''eligible persons'' for ''blind or other persons with disabilities''.

Subsec. (b)(1)(A). Pub. L. 115–261, § 2(a)(1)(B)(i), inserted ''in the United States'' after ''distributed'' and substituted ''an accessible format'' for ''a specialized format'' and ''eligible persons'' for ''blind or other persons with disabilities''.

Subsec. (b)(1)(B). Pub. L. 115–261, § 2(a)(1)(B)(ii), substituted ''an accessible format'' for ''a specialized format''.

Subsec. (c)(3). Pub. L. 115–261, § 2(a)(1)(C), substituted ''accessible formats'' for ''specialized formats''.

Subsec. (d). Pub. L. 115–261, § 2(a)(1)(D), added pars. (1) and (3), redesignated former pars. (1) and (3) as (2) and (4), respectively, substituted a period for ''; and'' at end of par. (4), and struck out former pars. (2) and (4) which defined ''blind or other persons with disabilities'' and ''specialized formats'', respectively.

2004—Subsec. (c). Pub. L. 108–446, § 306(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 108–446, § 306(1), redesignated subsec. (c) as (d).

Subsec. (d)(3), (4). Pub. L. 108–446, § 306(3), added pars. (3) and (4) and struck out former par. (3) which read as follows: '' 'specialized formats' means braille, audio, or digital text which is exclusively for use by blind or other persons with disabilities.''

2002—Pub. L. 107–273 substituted ''Reproduction'' for ''reproduction'' in section catchline.

2000—Subsec. (a). Pub. L. 106–379 substituted ''section 106'' for ''sections 106 and 710''.

§ 121A. Limitations on exclusive rights: reproduction for blind or other people with disabilities in Marrakesh Treaty countries

(a) Notwithstanding the provisions of sections 106 and 602, it is not an infringement of copyright for an authorized entity, acting pursuant to this section, to export copies or phonorecords of a previously published literary work or of a previously published musical work that has been fixed in the form of text or notation in accessible formats to another country when the exportation is made either to—

(1) an authorized entity located in a country that is a Party to the Marrakesh Treaty; or

(2) an eligible person in a country that is a Party to the Marrakesh Treaty,

if prior to the exportation of such copies or phonorecords, the authorized entity engaged in the exportation did not know or have reasonable grounds to know that the copies or phonorecords would be used other than by eligible persons.

(b) Notwithstanding the provisions of sections 106 and 602, it is not an infringement of copyright for an authorized entity or an eligible person, or someone acting on behalf of an eligible person, acting pursuant to this section, to import copies or phonorecords of a previously published literary work or of a previously published musical work that has been fixed in the form of text or notation in accessible formats.

(c) In conducting activities under subsection (a) or (b), an authorized entity shall establish and follow its own practices, in keeping with its particular circumstances, to—

(1) establish that the persons the authorized entity serves are eligible persons;

(2) limit to eligible persons and authorized entities the distribution of accessible format copies by the authorized entity;

(3) discourage the reproduction and distribution of unauthorized copies;

(4) maintain due care in, and records of, the handling of copies of works by the authorized entity, while respecting the privacy of eligible persons on an equal basis with others; and

(5) facilitate effective cross-border exchange of accessible format copies by making publicly available—

(A) the titles of works for which the authorized entity has accessible format copies or phonorecords and the specific accessible formats in which they are available; and

(B) information on the policies, practices, and authorized entity partners of the authorized entity for the cross-border exchange of accessible format copies.

(d) Nothing in this section shall be construed to establish—

(1) a cause of action under this title; or

(2) a basis for regulation by any Federal agency.

(e) Nothing in this section shall be construed to limit the ability to engage in any activity otherwise permitted under this title.

(f) For purposes of this section—

(1) the terms ''accessible format'', ''authorized entity'', and ''eligible person'' have the meanings given those terms in section 121; and

(2) the term ''Marrakesh Treaty'' means the Marrakesh Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities concluded at Marrakesh, Morocco, on June 28, 2013.

(Added Pub. L. 115–261, § 2(a)(2), Oct. 9, 2018, 132 Stat. 3668.)

§ 122. Limitations on exclusive rights: Secondary transmissions of local television programming by satellite

(a) SECONDARY TRANSMISSIONS INTO LOCAL MARKETS.—

(1) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS WITHIN A LOCAL MARKET.—

A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station into the station's local market shall be subject to statutory licensing under this section if—

(A) the secondary transmission is made by a satellite carrier to the public;

(B) with regard to secondary transmissions, the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals; and

(C) the satellite carrier makes a direct or indirect charge for the secondary transmission to—

(i) each subscriber receiving the secondary transmission; or

(ii) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

(2) SIGNIFICANTLY VIEWED STATIONS.—

(A) IN GENERAL.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a network station or a non-network station to a subscriber who resides outside the station's local market but within a community in which the signal has been determined by the Federal Communications Commission to be significantly viewed in such community, pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, applicable to determining with respect to a cable system whether signals are significantly viewed in a community.

(B) WAIVER.—A subscriber who is denied the secondary transmission of the primary transmission of a network station or a non-network station under subparagraph (A) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station or non-network station in the local market affiliated with the same network or non-network where the subscriber is located. The network station or non-network station shall accept or reject the subscriber's request for a waiver within 30 days after receipt of the request. If the network station or non-network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station or non-network station shall be deemed to agree to the waiver request.

(3) SECONDARY TRANSMISSION OF LOW POWER PROGRAMMING.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a television broadcast station that is licensed as a low power television station, to a subscriber who resides within the same designated market area as the station that originates the transmission.

(B) NO APPLICABILITY TO REPEATERS AND TRANSLATORS.—Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.

(C) NO IMPACT ON OTHER SECONDARY TRANSMISSIONS OBLIGATIONS.—A satellite carrier that makes secondary transmissions of a primary transmission of a low power television station under a statutory license provided under this section is not required, by reason of such secondary transmissions, to make any other secondary transmissions.

(4) SPECIAL EXCEPTIONS.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall, if the secondary transmission is made by a satellite carrier that complies with the requirements of paragraph (1), be subject to statutory licensing under this paragraph as follows:

(A) STATES WITH SINGLE FULL-POWER NETWORK STATION.—In a State in which there is licensed by the Federal Communications Commission a single full-power station that was a network station on January 1, 1995, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmission of that station to any subscriber in a community that is located within that State and that is not within the first 50 television markets as listed in the regulations of the Commission as in effect on such date (47 C.F.R. 76.51).

(B) STATES WITH ALL NETWORK STATIONS AND NON-NETWORK STATIONS IN SAME LOCAL MARKET.—In a State in which all network stations and non-network stations licensed by the Federal Communications Commission within that State as of January 1, 1995, are assigned to the same local market and that local market does not encompass all counties of that State, the statutory license provided under this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmissions of such station to all subscribers in the State who reside in a local market that is within the first 50 major television markets as listed in the regulations of the Commission as in effect on such date (section 76.51 of title 47, Code of Federal Regulations).

(C) ADDITIONAL STATIONS.—In the case of that State in which are located 4 counties that—

(i) on January 1, 2004, were in local markets principally comprised of counties in another State, and

(ii) had a combined total of 41,340 television households, according to the U.S. Television Household Estimates by Nielsen Media Research for 2004,

the statutory license provided under this paragraph shall apply to secondary transmissions by a satellite carrier to subscribers in any such county of the primary transmissions of any network station located in that State, if the satellite carrier was making such secondary transmissions to any subscribers in that county on January 1, 2004.

(D) CERTAIN ADDITIONAL STATIONS.—If 2 adjacent counties in a single State are in a local market comprised principally of counties located in another State, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier to subscribers in those 2 counties of the primary transmissions of any network station located in the capital of the State in which such 2 counties are located, if—

(i) the 2 counties are located in a local market that is in the top 100 markets for the year 2003 according to Nielsen Media Research; and

(ii) the total number of television households in the 2 counties combined did not exceed 10,000 for the year 2003 according to Nielsen Media Research.

(E) NETWORKS OF NONCOMMERCIAL EDUCATIONAL BROADCAST STATIONS.—In the case of a system of three or more noncommercial educational broadcast stations licensed to a single State, public agency, or political, educational, or special purpose subdivision of a State, the statutory license provided for in this paragraph shall apply to the secondary transmission of the primary transmission of such system to any subscriber in any county or county equivalent within such State, if such subscriber is located in a designated market area that is not otherwise eligible to receive the secondary transmission of the primary transmission of a noncommercial educational broadcast station located within the State pursuant to paragraph (1).

(5) APPLICABILITY OF ROYALTY RATES AND PROCEDURES.—The royalty rates and procedures under section 119(b) shall apply to the secondary transmissions to which the statutory license under paragraph (4) applies.

(b) REPORTING REQUIREMENTS.—

(1) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station under subsection (a) shall, within 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station—

(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission under subsection (a); and

(B) a separate list, aggregated by designated market area (by name and address, including street or rural route number, city, State, and 9-digit zip code), which shall indicate those subscribers being served pursuant to paragraph (2) of subsection (a).

(2) SUBSEQUENT LISTS.—After the list is submitted under paragraph (1), the satellite carrier shall, on the 15th of each month, submit to the network—

(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection; and

(B) a separate list, aggregated by designated market area (by name and street address, including street or rural route number, city, State, and 9-digit zip code), identifying those subscribers whose service pursuant to paragraph (2) of subsection (a) has been added or dropped since the last submission under this subsection.

(3) USE OF SUBSCRIBER INFORMATION.—Subscriber information submitted by a satellite carrier under this subsection may be used only for the purposes of monitoring compliance by the satellite carrier with this section.

(4) REQUIREMENTS OF NETWORKS.—The submission requirements of this subsection shall apply to a satellite carrier only if the network to which the submissions are to be made places on file with the Register of Copyrights a document identifying the name and address of the person to whom such submissions are to be made. The Register of Copyrights shall maintain for public inspection a file of all such documents.

(c) NO ROYALTY FEE REQUIRED FOR CERTAIN SECONDARY TRANSMISSIONS.—A satellite carrier whose secondary transmissions are subject to statutory licensing under paragraphs (1), (2), and (3) of subsection (a) shall have no royalty obligation for such secondary transmissions.

(d) NONCOMPLIANCE WITH REPORTING AND REGULATORY REQUIREMENTS.—Notwithstanding subsection (a), the willful or repeated secondary transmission to the public by a satellite carrier into the local market of a television broadcast station of a primary transmission embodying a performance or display of a work made by that television broadcast station is actionable as an act of infringement under section 501, and is fully subject to the remedies provided under sections 502 through 506, if the satellite carrier has not complied with the reporting requirements of subsection (b) or with the rules, regulations, and authorizations of the Federal Communications Commission concerning the carriage of television broadcast signals.

(e) WILLFUL ALTERATIONS.—Notwithstanding subsection (a), the secondary transmission to the public by a satellite carrier into the local market of a television broadcast station of a performance or display of a work embodied in a primary transmission made by that television broadcast station is actionable as an act of in-

fringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and section 510, if the content of the particular program in which the performance or display is embodied, or any commercial advertising or station announcement transmitted by the primary transmitter during, or immediately before or after, the transmission of such program, is in any way willfully altered by the satellite carrier through changes, deletions, or additions, or is combined with programming from any other broadcast signal.

(f) VIOLATION OF TERRITORIAL RESTRICTIONS ON STATUTORY LICENSE FOR TELEVISION BROADCAST STATIONS.—

(1) INDIVIDUAL VIOLATIONS.—The willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission embodying a performance or display of a work made by a television broadcast station to a subscriber who does not reside in that station's local market, and is not subject to statutory licensing under section 119, subject to statutory licensing by reason of paragraph (2)(A), (3), or (4) of subsection (a), or subject to a private licensing agreement, is actionable as an act of infringement under section 501 and is fully subject to the remedies provided by sections 502 through 506, except that—

(A) no damages shall be awarded for such act of infringement if the satellite carrier took corrective action by promptly withdrawing service from the ineligible subscriber; and

(B) any statutory damages shall not exceed $250 for such subscriber for each month during which the violation occurred.

(2) PATTERN OF VIOLATIONS.—If a satellite carrier engages in a willful or repeated pattern or practice of secondarily transmitting to the public a primary transmission embodying a performance or display of a work made by a television broadcast station to subscribers who do not reside in that station's local market, and are not subject to statutory licensing under section 119, subject to statutory licensing by reason of paragraph (2)(A), (3), or (4) of subsection (a), or subject to a private licensing agreement, then in addition to the remedies under paragraph (1)—

(A) if the pattern or practice has been carried out on a substantially nationwide basis, the court—

(i) shall order a permanent injunction barring the secondary transmission by the satellite carrier of the primary transmissions of that television broadcast station (and if such television broadcast station is a network station, all other television broadcast stations affiliated with such network); and

(ii) may order statutory damages not exceeding $2,500,000 for each 6-month period during which the pattern or practice was carried out; and

(B) if the pattern or practice has been carried out on a local or regional basis with respect to more than one television broadcast station, the court—

(i) shall order a permanent injunction barring the secondary transmission in that locality or region by the satellite carrier of the primary transmissions of any television broadcast station; and

(ii) may order statutory damages not exceeding $2,500,000 for each 6-month period during which the pattern or practice was carried out.

(g) BURDEN OF PROOF.—In any action brought under subsection (f), the satellite carrier shall have the burden of proving that its secondary transmission of a primary transmission by a television broadcast station is made only to subscribers located within that station's local market or subscribers being served in compliance with section 119, paragraph (2)(A), (3), or (4) of subsection (a), or a private licensing agreement.

(h) GEOGRAPHIC LIMITATIONS ON SECONDARY TRANSMISSIONS.—The statutory license created by this section shall apply to secondary transmissions to locations in the United States.

(i) EXCLUSIVITY WITH RESPECT TO SECONDARY TRANSMISSIONS OF BROADCAST STATIONS BY SATELLITE TO MEMBERS OF THE PUBLIC.—No provision of section 111 or any other law (other than this section and section 119) shall be construed to contain any authorization, exemption, or license through which secondary transmissions by satellite carriers of programming contained in a primary transmission made by a television broadcast station may be made without obtaining the consent of the copyright owner.

(j) DEFINITIONS.—In this section—

(1) DISTRIBUTOR.—The term ''distributor'' means an entity that contracts to distribute secondary transmissions from a satellite carrier and, either as a single channel or in a package with other programming, provides the secondary transmission either directly to individual subscribers or indirectly through other program distribution entities.

(2) LOCAL MARKET.—

(A) IN GENERAL.—The term ''local market'', in the case of both commercial and noncommercial television broadcast stations, means the designated market area in which a station is located, and—

(i) in the case of a commercial television broadcast station, all commercial television broadcast stations licensed to a community within the same designated market area are within the same local market; and

(ii) in the case of a noncommercial educational television broadcast station, the market includes any station that is licensed to a community within the same designated market area as the noncommercial educational television broadcast station.

(B) COUNTY OF LICENSE.—In addition to the area described in subparagraph (A), a station's local market includes the county in which the station's community of license is located.

(C) DESIGNATED MARKET AREA.—For purposes of subparagraph (A), the term ''designated market area'' means a designated market area, as determined by Nielsen

Media Research and published in the 1999–2000 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication.

(D) CERTAIN AREAS OUTSIDE OF ANY DESIGNATED MARKET AREA.—Any census area, borough, or other area in the State of Alaska that is outside of a designated market area, as determined by Nielsen Media Research, shall be deemed to be part of one of the local markets in the State of Alaska. A satellite carrier may determine which local market in the State of Alaska will be deemed to be the relevant local market in connection with each subscriber in such census area, borough, or other area.

(E) MARKET DETERMINATIONS.—The local market of a commercial television broadcast station may be modified by the Federal Communications Commission in accordance with section 338(*l*) of the Communications Act of 1934 (47 U.S.C. 338).

(3) LOW POWER TELEVISION STATION.—The term ''low power television station'' means a low power TV station as defined in section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term ''low power television station'' includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.

(4) NETWORK STATION; NON-NETWORK STATION; SATELLITE CARRIER; SECONDARY TRANSMISSION.—The terms ''network station'', ''non-network station'', ''satellite carrier'', and ''secondary transmission'' have the meanings given such terms under section 119(d).

(5) NONCOMMERCIAL EDUCATIONAL BROADCAST STATION.—The term ''noncommercial educational broadcast station'' means a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.

(6) SUBSCRIBER.—The term ''subscriber'' means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

(7) TELEVISION BROADCAST STATION.—The term ''television broadcast station''—

(A) means an over-the-air, commercial or noncommercial television broadcast station licensed by the Federal Communications Commission under subpart E of part 73 of title 47, Code of Federal Regulations, except that such term does not include a low-power or translator television station; and

(B) includes a television broadcast station licensed by an appropriate governmental authority of Canada or Mexico if the station broadcasts primarily in the English language and is a network station as defined in section 119(d)(2)(A).

(Added Pub. L. 106–113, div. B, § 1000(a)(9) [title I, § 1002(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–523; amended Pub. L. 107–273, div. C, title III, § 13210(2)(A), Nov. 2, 2002, 116 Stat. 1909; Pub. L. 108–447, div. J, title IX [title I, § 111(b)], Dec. 8, 2004, 118 Stat. 3409; Pub. L. 110–403, title II, § 209(a)(5), Oct. 13, 2008, 122 Stat. 4264; Pub. L. 111–175, title I, § 103(a)(1), (b)–(f), May 27, 2010, 124 Stat. 1227–1230; Pub. L. 113–200, title II, § 204, Dec. 4, 2014, 128 Stat. 2067.)

Editorial Notes

REFERENCES IN TEXT

Section 397 of the Communications Act of 1934, referred to in subsec. (j)(5), is classified to section 397 of Title 47, Telecommunications.

The date of the enactment of the Satellite Television Extension and Localism Act of 2010, referred to in subsec. (j)(5), is the date of enactment of Pub. L. 111–175, which shall be deemed to refer to Feb. 27, 2010, see section 307(a) of Pub. L. 111–175, set out as an Effective Date of 2010 Amendment note under section 111 of this title.

AMENDMENTS

2014—Subsec. (j)(2)(B) to (D). Pub. L. 113–200, § 204(1), realigned margins.

Subsec. (j)(2)(E). Pub. L. 113–200, § 204(2), added subpar. (E).

2010—Pub. L. 111–175, § 103(a)(1), substituted ''of local television programming by satellite'' for ''by satellite carriers within local markets'' in section catchline.

Subsec. (a). Pub. L. 111–175, § 103(b), amended subsec. (a) generally. Prior to amendment, subsec. (a) related to secondary transmissions of television broadcast stations by satellite carriers.

Subsec. (b)(1). Pub. L. 111–175, § 103(c)(1), substituted ''station—'' for ''station a list identifying (by name in alphabetical order and street address, including county and zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission under subsection (a).'' and added subpars. (A) and (B).

Subsec. (b)(2). Pub. L. 111–175, § 103(c)(2), substituted ''network—'' for ''network a list identifying (by name in alphabetical order and street address, including county and zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection.'' and added subpars. (A) and (B).

Subsec. (c). Pub. L. 111–175, § 103(d), inserted ''for Certain Secondary Transmissions'' after ''Required'' in heading and substituted ''paragraphs (1), (2), and (3) of subsection (a)'' for ''subsection (a)'' in text.

Subsec. (f)(1). Pub. L. 111–175, § 103(e)(2)(A), substituted ''section 119, subject to statutory licensing by reason of paragraph (2)(A), (3), or (4) of subsection (a), or subject to'' for ''section 119 or'' in introductory provisions.

Subsec. (f)(1)(B). Pub. L. 111–175, § 103(e)(1)(A), substituted ''$250'' for ''$5''.

Subsec. (f)(2). Pub. L. 111–175, § 103(e)(2)(A), substituted ''section 119, subject to statutory licensing by reason of paragraph (2)(A), (3), or (4) of subsection (a), or subject to'' for ''section 119 or'' in introductory provisions.

Subsec. (f)(2)(A)(ii), (B)(ii). Pub. L. 111–175, § 103(e)(1)(B), substituted ''$2,500,000'' for ''$250,000''.

Subsec. (g). Pub. L. 111–175, § 103(e)(2)(B), substituted ''section 119, paragraph (2)(A), (3), or (4) of subsection (a), or'' for ''section 119 or''.

Subsec. (j)(1). Pub. L. 111–175, § 103(f)(1), substituted ''that contracts'' for ''which contracts''.

Subsec. (j)(3). Pub. L. 111–175, § 103(f)(4), added par. (3). Former par. (3) redesignated (4).

Subsec. (j)(4). Pub. L. 111–175, § 103(f)(3), redesignated par. (3) as (4) and inserted ''non-network station;'' after

''Network station;'' in heading and '' 'non-network station','' after '' 'network station','' in text. Former par. (4) redesignated (6).

Subsec. (j)(5). Pub. L. 111–175, §103(f)(5), added par. (5). Former par. (5) redesignated (7).

Subsec. (j)(6). Pub. L. 111–175, §103(f)(6), amended par. (6) generally. Prior to amendment, text read as follows: ''The term 'subscriber' means a person who receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.''

Pub. L. 111–175, §103(f)(2), redesignated par. (4) as (6).

Subsec. (j)(7). Pub. L. 111–175, §103(f)(2), redesignated par. (5) as (7).

2008—Subsec. (d). Pub. L. 110–403, §209(a)(5)(A), struck out ''and 509'' after ''506''.

Subsec. (e). Pub. L. 110–403, §209(a)(5)(B), substituted ''section 510'' for ''sections 509 and 510''.

Subsec. (f)(1). Pub. L. 110–403, §209(a)(5)(C), struck out ''and 509'' after ''506'' in introductory provisions.

2004—Subsec. (j)(2)(D). Pub. L. 108–447 added subpar. (D).

2002—Pub. L. 107–273 substituted ''rights: Secondary'' for ''rights; secondary'' in section catchline.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–175 effective Feb. 27, 2010, see section 307(a) of Pub. L. 111–175, set out as a note under section 111 of this title.

EFFECTIVE DATE

Section effective July 1, 1999, see section 1000(a)(9) [title I, §1012] of Pub. L. 106–113, set out as an Effective Date of 1999 Amendment note under section 101 of this title.

CHAPTER 2—COPYRIGHT OWNERSHIP AND TRANSFER

§201. Ownership of copyright

(a) INITIAL OWNERSHIP.—Copyright in a work protected under this title vests initially in the author or authors of the work. The authors of a joint work are coowners of copyright in the work.

(b) WORKS MADE FOR HIRE.—In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.

(c) CONTRIBUTIONS TO COLLECTIVE WORKS.—Copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In the absence of an express transfer of the copyright or of any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.

(d) TRANSFER OF OWNERSHIP.—

(1) The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession.

(2) Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by section 106, may be transferred as provided by clause (1) and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner by this title.

(e) INVOLUNTARY TRANSFER.—When an individual author's ownership of a copyright, or of any of the exclusive rights under a copyright, has not previously been transferred voluntarily by that individual author, no action by any governmental body or other official or organization purporting to seize, expropriate, transfer, or exercise rights of ownership with respect to the copyright, or any of the exclusive rights under a copyright, shall be given effect under this title, except as provided under title 11.

(Pub. L. 94–553, title I, §101, Oct. 19, 1976, 90 Stat. 2568; Pub. L. 95–598, title III, §313, Nov. 6, 1978, 92 Stat. 2676.)

HISTORICAL AND REVISION NOTES

HOUSE REPORT NO. 94–1476

Initial Ownership. Two basic and well-established principles of copyright law are restated in section 201(a): that the source of copyright ownership is the author of the work, and that, in the case of a ''joint work,'' the coauthors of the work are likewise coowners of the copyright. Under the definition of section 101, a work is ''joint'' if the authors collaborated with each other, or if each of the authors prepared his or her contribution with the knowledge and intention that it would be merged with the contributions of other authors as ''inseparable or interdependent parts of a unitary whole.'' The touchstone here is the intention, at the time the writing is done, that the parts be absorbed or combined into an integrated unit, although the parts themselves may be either ''inseparable'' (as the case of a novel or painting) or ''interdependent'' (as in the case of a motion picture, opera, or the words and music of a song). The definition of ''joint work'' is to be contrasted with the definition of ''collective work,'' also in section 101, in which the elements of merger and unity are lacking; there the key elements are assemblage or gathering of ''separate and independent works * * * into a collective whole.''

The definition of ''joint works'' has prompted some concern lest it be construed as converting the authors of previously written works, such as plays, novels, and music, into coauthors of a motion picture in which their work is incorporated. It is true that a motion picture would normally be a joint rather than a collective work with respect to those authors who actually work on the film, although their usual status as employees for hire would keep the question of coownership from coming up. On the other hand, although a novelist, playwright, or songwriter may write a work with the hope or expectation that it will be used in a motion picture, this is clearly a case of separate or independent authorship rather than one where the basic intention behind the writing of the work was for motion picture