

Editorial Notes

CODIFICATION

In subsec. (a), “subtitle IV of title 49” substituted for “the Interstate Commerce Act and all Acts amendatory thereof or supplemental thereto [49 U.S.C. 1 et seq.]” on authority of Pub. L. 95-473, §3(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§10101 et seq.) of Title 49, Transportation.

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

Office of Postmaster General of Post Office Department abolished and functions, powers, and duties of Postmaster General transferred to United States Postal Service by Pub. L. 91-375, §4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND
TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 1301 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 1301 of Title 49.

**§§ 602, 603. Repealed. Pub. L. 103-414, title III,
§ 304(a)(13), Oct. 25, 1994, 108 Stat. 4297**

Section 602, acts June 19, 1934, ch. 652, title VII, §702(a), (b), formerly title VI, §602(a), (b), 48 Stat. 1102; May 20, 1937, ch. 229, §15, 50 Stat. 197; Mar. 18, 1940, ch. 66, 54 Stat. 54; renumbered title VII, §702(a), (b), Oct. 30, 1984, Pub. L. 98-549, §6(a), 98 Stat. 2804, repealed certain prior provisions relating to communications and directed Commission to study and report, not later than Jan. 1, 1941, on radio requirements necessary for ships navigating Great Lakes and inland waters of the United States.

Section 603, act June 19, 1934, ch. 652, title VII, §703, formerly title VI, §603, 48 Stat. 1102; renumbered title VII, §703, Oct. 30, 1984, Pub. L. 98-549, §6(a), 98 Stat. 2804, related to transfers from Federal Radio Commission, Interstate Commerce Commission, and Postmaster General.

§ 604. Effect of transfer**(a) Orders, determinations, rules, regulations, permits, contracts, licenses, and privileges**

All orders, determinations, rules, regulations, permits, contracts, licenses, and privileges which have been issued, made, or granted by the Interstate Commerce Commission, the Federal Radio Commission, or the Postmaster General, under any provision of law repealed or amended by this chapter or in the exercise of duties, powers, or functions transferred to the Commission by this chapter, and which are in effect at the time this section takes effect, shall continue in effect until modified, terminated, superseded, or repealed by the Commission or by operation of law.

(b) Availability of records

All records transferred to the Commission under this chapter shall be available for use by the Commission to the same extent as if such records were originally records of the Commis-

sion. All final valuations and determinations of depreciation charges by the Interstate Commerce Commission with respect to common carriers engaged in radio or wire communication, and all orders of the Interstate Commerce Commission with respect to such valuations and determinations, shall have the same force and effect as though made by the Commission under this chapter.

(June 19, 1934, ch. 652, title VII, §704, formerly title VI, §604, 48 Stat. 1103; renumbered title VII, §704, Pub. L. 98-549, §6(a), Oct. 30, 1984, 98 Stat. 2804; amended Pub. L. 103-414, title III, §304(a)(14), Oct. 25, 1994, 108 Stat. 4297.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

1994—Subsecs. (b), (c). Pub. L. 103-414 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “Any proceeding, hearing, or investigation commenced or pending before the Federal Radio Commission, the Interstate Commerce Commission, or the Postmaster General, at the time of the organization of the Commission, shall be continued by the Commission in the same manner as though originally commenced before the Commission, if such proceeding, hearing, or investigation (1) involves the administration of duties, powers, and functions transferred to the Commission by this chapter, or (2) involves the exercise of jurisdiction similar to that granted to the Commission under the provisions of this chapter.”

Subsec. (d). Pub. L. 103-414, §303(a)(14)(A), struck out subsec. (d) which read as follows: “The provisions of this chapter shall not affect suits commenced prior to the date of the organization of the Commission; and all such suits shall be continued, proceedings therein had, appeals therein taken and judgments therein rendered, in the same manner and with the same effect as if this chapter had not been passed. No suit, action, or other proceeding lawfully commenced by or against any agency or officer of the United States, in relation to the discharge of official duties, shall abate by reason of any transfer of authority, power, and duties from such agency or officer to the Commission under the provisions of this chapter, but the court, upon motion or supplemental petition filed at any time within twelve months after such transfer, showing the necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the Commission.”

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§ 605. Unauthorized publication or use of communications

(a) Practices prohibited

Except as authorized by chapter 119, title 18, no person receiving, assisting in receiving, transmitting, or assisting in transmitting, any interstate or foreign communication by wire or radio shall divulge or publish the existence, contents, substance, purport, effect, or meaning thereof, except through authorized channels of transmission or reception, (1) to any person other than the addressee, his agent, or attorney, (2) to a person employed or authorized to forward such communication to its destination, (3) to proper accounting or distributing officers of the various communicating centers over which the communication may be passed, (4) to the master of a ship under whom he is serving, (5) in response to a subpoena issued by a court of competent jurisdiction, or (6) on demand of other lawful authority. No person not being authorized by the sender shall intercept any radio communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person. No person not being entitled thereto shall receive or assist in receiving any interstate or foreign communication by radio and use such communication (or any information therein contained) for his own benefit or for the benefit of another not entitled thereto. No person having received any intercepted radio communication or having become acquainted with the contents, substance, purport, effect, or meaning of such communication (or any part thereof) knowing that such communication was intercepted, shall divulge or publish the existence, contents, substance, purport, effect, or meaning of such communication (or any part thereof) or use such communication (or any information therein contained) for his own benefit or for the benefit of another not entitled thereto. This section shall not apply to the receiving, divulging, publishing, or utilizing the contents of any radio communication which is transmitted by any station for the use of the general public, which relates to ships, aircraft, vehicles, or persons in distress, or which is transmitted by an amateur radio station operator or by a citizens band radio operator.

(b) Exceptions

The provisions of subsection (a) shall not apply to the interception or receipt by any individual, or the assisting (including the manufacture or sale) of such interception or receipt, of any satellite cable programming for private viewing if—

- (1) the programming involved is not encrypted; and
- (2)(A) a marketing system is not established under which—

- (i) an agent or agents have been lawfully designated for the purpose of authorizing private viewing by individuals, and

- (ii) such authorization is available to the individual involved from the appropriate agent or agents; or

(B) a marketing system described in subparagraph (A) is established and the individuals receiving such programming has obtained authorization for private viewing under that system.

(c) Scrambling of Public Broadcasting Service programming

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.

(d) Definitions

For purposes of this section—

(1) the term “satellite cable programming” means video programming which is transmitted via satellite and which is primarily intended for the direct receipt by cable operators for their retransmission to cable subscribers;

(2) the term “agent”, with respect to any person, includes an employee of such person;

(3) the term “encrypt”, when used with respect to satellite cable programming, means to transmit such programming in a form whereby the aural and visual characteristics (or both) are modified or altered for the purpose of preventing the unauthorized receipt of such programming by persons without authorized equipment which is designed to eliminate the effects of such modification or alteration;

(4) the term “private viewing” means the viewing for private use in an individual’s dwelling unit by means of equipment, owned or operated by such individual, capable of receiving satellite cable programming directly from a satellite;

(5) the term “private financial gain” shall not include the gain resulting to any individual for the private use in such individual’s dwelling unit of any programming for which the individual has not obtained authorization for that use; and

(6) the term “any person aggrieved” shall include any person with proprietary rights in the intercepted communication by wire or radio, including wholesale or retail distributors of satellite cable programming, and, in the case of a violation of paragraph (4) of subsection (e), shall also include any person engaged in the lawful manufacture, distribution, or sale of equipment necessary to authorize or receive satellite cable programming.