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2d Session
HOUSE OF REPRESENTATIVES
REPT. 105–661
Part 1

MULTICHANNEL VIDEO COMPETITION AND CONSUMER PROTECTION ACT OF 1998

JULY 30, 1998.—Ordered to be printed

Mr. BLILEY, from the Committee on Commerce, submitted the following

REPORT

[To accompany H.R. 2921]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill (H.R. 2921) to amend the Communications Act of 1934 to require the Federal Communications Commission to conduct an inquiry into the impediments to the development of competition in the market for multichannel video programming distribution, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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59–006

AMENDMENT

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multichannel Video Competition and Consumer Protection Act of 1998".

SEC. 2. INQUIRY REQUIRED.

Section 623 of the Communications Act of 1934 (47 U.S.C. 543) is amended by adding at the end the following new subsection:

"(o) INQUIRY ON IMPEDIMENTS TO DEVELOPMENT OF EFFECTIVE COMPETITION.—

"(1) INQUIRY REQUIRED.—Within 30 days after the date of enactment of this subsection, the Commission shall initiate an inquiry on the extent to which the differential fee decision constitutes an impediment to the development of effective competition in the market for multichannel video programming distribution from multichannel video programming distributors described in subsection (l)(1)(B).

"(2) REPORT REQUIRED.—Within 90 days after the date of enactment of this subsection, the Commission shall submit a report on the results of the inquiry to the Committee on Commerce and the Committee on the Judiciary of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on the Judiciary of the Senate.

"(3) RULEMAKING.—Within 180 days after the date of enactment of this subsection, the Commission shall complete any actions necessary (including any reconsideration) to make such changes as the Commission may determine to be necessary to its regulations on the basis of the inquiry required by this subsection.

"(4) DEFINITION.—For the purposes of this subsection, the term 'differential fee decision' means the decision of the Librarian of Congress on October 27, 1997, relating to the per subscriber per month royalty fee for the retransmission of superstation and distant network signals by direct-to-home satellite service providers.".

SEC. 3. DIRECT-TO-HOME SATELLITE PIRACY PREVENTION.

Section 705(d)(6) of the Communications Act of 1934 (47 U.S.C. 605(d)(6)) is amended by inserting "or direct-to-home satellite services (as defined in section 303(v))" after "satellite cable programming".

SEC. 4. STAY PENDING COMPLETION OF INQUIRY.

During the period beginning January 1, 1998, and ending 275 days after the submission of the report required by section 623(o) of the Communications Act of 1934 (as added by section 2 of this Act), no officer or employee of the United States shall take any action to implement or enforce, and no obligation or liability shall accrue pursuant to, the differential fee decision described in paragraph (4) of such section.

PURPOSE AND SUMMARY

The purpose of H.R. 2921, the Multichannel Video Competition and Consumer Protection Act of 1998, is to promote the competitive viability of satellite broadcast services, such as direct broadcast satellite (DBS) service and other direct-to-home (DTH) satellite services (e.g., traditional "C-band" service) and, as a result, to promote competition in the market for multichannel video programming distribution.

There are three key provisions to H.R. 2921. Section 2 of the bill would require the Federal Communications Commission (FCC) to conduct an inquiry into the effect the "differential fee decision" will have on the development of effective competition to cable. The "differential fee decision" is the decision by the Librarian of Congress on October 27, 1997, to increase the per subscriber, per month royalty fee paid by satellite broadcasters for the retransmission of superstation and distant network signals. Section 3 of the bill

would clarify satellite broadcasters" legal standing to sue those who pirate satellite broadcast signals. And Section 4 of the bill would stay enforcement of the "differential fee decision".

BACKGROUND AND NEED FOR LEGISLATION

Promoting competition to incumbent cable systems

The FCC's recent report on the status of competition in the market for multichannel video programming competition found that non-cable competitors (e.g., satellite broadcasters, cable overbuilders, wireless cable) continue to experience substantial rates of growth.[1] For example, the FCC estimates that about 9 million households (predominately in rural areas) subscribe to satellite broadcast service. But while non-cable competitors continue to grow, incumbent cable operators continue to retain a dominant position in the market for multichannel video programming distribution (MVPD), with about 87 percent of American households that subscribe to video services still relying on the local incumbent cable operator for service. The FCC also found that cable operators increased their rates 8.5 percent for regulated programming and equipment over the 12-month period from July 1996 to July 1997.

The Committee is thus seeking ways to promote competition to cable. The FCC noted in its report that when incumbent cable operators face head-to-head competition, cable operators typically respond with a mix of increased programming choices, lower rates, and improved customer service. And given it has the second largest share of the MVPD market, the satellite broadcast industry still appears to be incumbent cable operators" strongest competitor. Indeed, as the FCC stated in its most recent report, direct broadcast satellite (DBS) service in particular "is widely available and constitutes the most significant alternative to cable television."[2]

The FCC additionally noted, however, that satellite broadcasters face several impediments (legal as well as technological) in their efforts to compete with cable. Satellite broadcasters, for example, are prohibited by law (and, to a certain degree, by technology) from retransmitting local broadcast signals to their subscribers. Because local broadcast signals typically attract the largest share of viewers, many consumers may treat satellite broadcast service as an imperfect substitute for cable television service, which can and does retransmit local broadcast signals.

Thus, the purpose of this legislation is to identify and remove as many of the existing impediments to competition as possible. By approving H.R. 2921, the Committee reaffirms its traditional preference for competitive solutions. The Committee believes that it is through competition that consumers are best protected from increasing prices and poor service.

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[1] Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, CS Dkt. No. 97–141, Fourth Annual Report, ¶ 55 (1998) (hereinafter "1998 Report") (noting that "[s]ome industry analysts expect the [direct broadcast satellite service] industry growth to continue, reaching 15 million subscribers by 2001 (14.5% of the total television market')).

[2] 1998 Report, ¶ 11.

Protecting against piracy

Like any other encrypted video system, satellite broadcast systems have experienced widespread piracy. The traditional C-band systems, in particular, suffered substantial piracy in the late 1980s and into the early 1990s. It is estimated that, when C-band signal piracy was at its peak, as little as 25 percent of C-band subscribers were lawfully receiving service.

Piracy undermined the satellite broadcast industry's ability to grow and innovate, and thus served as a serious impediment to competition in the MVPD market. While it is true that encryption technology in recent years has substantially reduced satellite signal piracy, it is conceivable that criminal elements will at some point be able to circumvent today's encryption technology. Indeed, DBS operators have indicated to the Committee that signal pirates never cease in attempting to decrypt their signals. The Committee views satellite signal piracy as a serious threat to the viability of satellite broadcast service and, hence, an impediment to competition in the MVPD market.

Differential fee decision

In 1988, Congress enacted the Satellite Home Viewer Act (SHVA) (Public Law 101–667) to provide for a compulsory license and a copyright royalty payment mechanism for satellite broadcasters that retransmit superstation and distant network signals. Given the competitive relationship between satellite broadcast service and cable service in the market for multichannel video programming distribution, Congress intended then that the satellite compulsory license would be comparable to the cable compulsory license first established in 1976. Accordingly, Congress established that, through 1992, satellite broadcasters would pay copyright owners (via the Copyright Office) $0.03 per subscriber, per month for the retransmission of each distant network signal, and $0.12 per subscriber, per month for the retransmission of each superstation signal.

In 1994, Congress extended the satellite compulsory license through the end of 1999 (Public Law 103–369). At the same time, Congress marginally increased the royalty rates through 1997 to $0.06 per subscriber, per month for each distant network signal, $0.14 per subscriber, per month for each so-called "syndex-proof" superstation signal, and $0.175 per subscriber, per month for each "non-syndex-proof" superstation signal. In 1996, as the rates established by Congress in 1994 approached sunset, and in the absence of an arbitrated solution, the United States Copyright Office convened a copyright arbitration royalty panel (CARP) to determine the royalty rates for the remaining two years of the satellite compulsory license. On August 28, 1997, the CARP recommended to the Librarian of Congress that satellite broadcasters pay $0.27 per subscriber, per month for all broadcast signals (superstation and distant network signals alike). The Librarian of Congress accepted most of the CARP's recommendation on October 27, 1997, and established January 1, 1998, as the effective date for the new royalty rates.

Meanwhile, the statutorily prescribed royalty rate for cable retransmission remains, on average, $0.0245 per subscriber, per

month for distant network signals, and $0.097 cents per subscriber, per month for superstation signals. These cable royalty rates served as a benchmark for Congress when it first established the satellite compulsory license in 1988, and then again when Congress marginally increased the satellite royalty rates in 1994. The comparability of the cable and satellite royalty rates reflected Congress" belief that, while not perfect substitutes, cable service and satellite broadcast service effectively compete in the same market for the same subscribers.

The cable royalty rates, however, bear no relationship to the rates established by the CARP decision. (See Figure 1.) The Committee is concerned that, in establishing the new royalty rates, the CARP decision overlooks Congress' clear direction in SHVA to give consideration to the impact royalty rates would have on competition in the market for multichannel video programming distribution. Congress has always recognized the interrelationship between telecommunications policy and copyright law. Indeed, while the compulsory license is a tool of copyright law, it is used to promote certain goals related to telecommunications policy, namely the efficient distribution of cable and satellite programming.

The CARP decision, however, appears to overlook the impact a royalty rate increase of as much as 350 percent will have on competition in the distribution of cable and satellite programming. The decision adds about $50 million to the annual costs of the satellite broadcast industry. The Committee views the CARP decision with great concern. The decision not only reduces the likelihood that satellite broadcasters will be able to effectively compete against incumbent cable operators, but it also means consumers will inevitably bear the cost of this government-mandated surcharge. (See Figure 2.) The Committee expects that, through enactment of H.R. 2921, the FCC will help to precisely identify the extent to which the CARP decision impedes effective competition to cable (as defined in the Communications Act of 1934), and to the extent possible, remove any barriers to competition through changes to its rules.

	Cable*		Satellite**	
	Network	Superstation	Network	Superstation
Pre-CARP	$0.0245	$0.0970	$0.0600	$0.1400***
Post-CARP	$0.0245	$0.0970	$0.2700	$0.2700

* The rates under the cable compulsory license are determined as a percentage of a cable system's gross revenue.

** The rates under the satellite compulsory license are determined on a per month, per subscriber basis.

*** This is the rate for "syndex-proof" superstation signals.

Figure 1

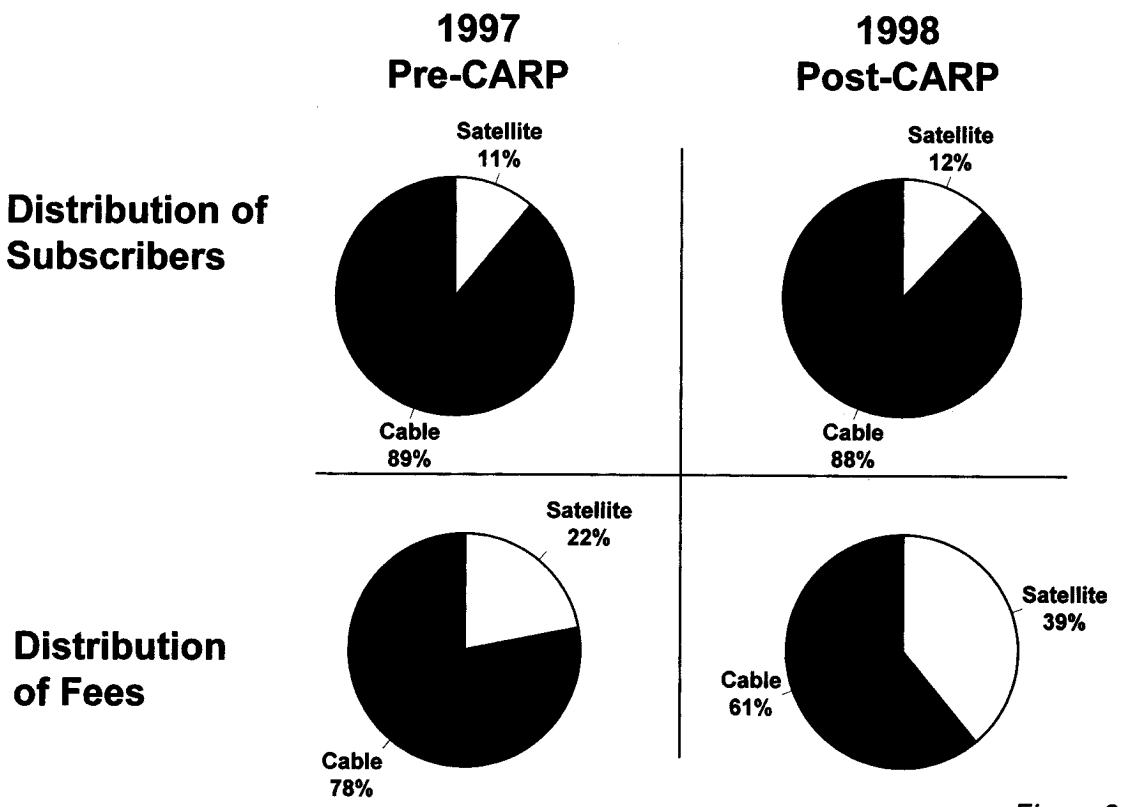
1997
Pre-CARP
1998
Post-CARP
Distribution of Subscribers
Satellite 11%
Cable 89%
Satellite 12%
Cable 88%
Distribution of Fees
Satellite 22%
Cable 78%
Satellite 39%
Cable 61%

Figure 2

HEARINGS

The Subcommittee on Telecommunications, Trade, and Consumer Protection held a legislative hearing on H.R. 2921 on Wednesday, April 1, 1998. The Subcommittee received testimony from: Mr. John Logan, Acting Bureau Chief, Cable Services Bureau, Federal Communications Commission; Mr. Dave Carson, General Counsel, Register of Copyright; Mr. Charles W. Ergen, CEO, EchoStar; Mr. James F. Goodmon, President & CEO, Capitol Broadcasting Co.; Mr. Larry Chapman, Executive Vice President, DIRECTV; Mr. Jack Valenti, President & CEO, Motion Picture Association of America, accompanied by Mr. Fritz Attaway, Vice President and General Counsel, Motion Picture Association of America; Mr. Gene Kimmelman, Co-Director, Consumers Union; Mr. Michael J. Guidry, General Manager, South Louisiana Electric Cooperative Association; Mr. H. Thomas Casey, President & CEO, PrimeTime 24; Mr. Decker Anstrom, President & CEO, National Cable Television Association; and Mr. James J. Popham, Vice President & General Counsel, Association of Local Television Stations.

COMMITTEE CONSIDERATION

On June 17, 1998, the Subcommittee on Telecommunications, Trade, and Consumer Protection met in open markup session and approved H.R. 2921, the Multichannel Video Competition and Consumer Protection Act of 1998, for Full Committee consideration, without amendment, by a voice vote, a quorum being present. On June 24, 1998, the Committee on Commerce met in open markup session and ordered H.R. 2921 reported to the House, amended, by a voice vote, a quorum being present.

ROLLCALL VOTES

Clause 2(l)(2)(B) of rule XI of the Rules of the House requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. There were no recorded votes taken in connection with ordering H.R. 2921 reported. An amendment by Mr. Tauzin to extend the stay of the copyright arbitration royalty panel (CARP) rate increase from seven months to one year, was agreed to by a voice vote. A motion by Mr. Bliley to order H.R. 2921 reported to the House, as amended, was agreed to by a voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee held a legislative hearing and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform and Oversight.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee finds that H.R. 2921, the Multichannel Video Competition and Consumer Protection Act of 1998, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 9, 1998.

Hon. TOM BLILEY,
Chairman, Committee on Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2921, the Multichannel Video Competition and Consumer Protection Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kim Cawley (for federal costs), Hester Grippando (for revenues), Pepper Santalucia (for the state and local impact), and Jean Wooster (for the private-sector impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 2921—Multichannel Video Competition and Consumer Protection Act of 1997

Summary: Through the compulsory copyright license created by the Satellite Home Viewer Act of 1988, satellite carriers pay a royalty fee per subscriber per month to the Copyright Office and may retransmit network and superstation signals by satellite to subscribers for private home viewing. The Copyright Office later distributes these fees to those who own copyrights on the material retransmitted by satellite.

H.R. 2921 would delay for 18 months an increase that went into effect in January in royalty fees paid by satellite carriers to the federal government. Under current law, the Copyright Office expects to collect $114 million from satellite carriers for calendar year 1998 and $75 million for the first half of 1999. If H.R. 2921 is enacted, CBO estimates the Office would collect only $41 million for

1998 and $27 million for the first 6 months of 1999—a loss of $121 million in revenues over fiscal years 1998 and 1999. Following the review of an arbitration panel, the royalty fees will be paid to copyright owners in 2000 and 2001, along with accrued interest earnings. With lower collections, the payments in 2000 and 2001 will also be lower, by an estimated $130 million over those two years.

We estimate that other provisions of the bill would not have a significant cost to the federal government. Because H.R. 2921 would affect both revenues and direct spending, it would be subject to pay-as-you-go procedures. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the federal government: The estimated budgetary impact of H.R. 2921 is shown in the following table. In addition to the revenue and direct spending effects shown in the table, section 2 of the bill would result in a small discretionary cost to complete a required report. CBO estimates that the cost of completing that report—within the required 90 days after enactment—would be significantly less than $500,000. The costs of this legislation fall within budget function 370 (commerce and housing credit).

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
Receipts and Spending Under Current Law:						
Estimated revenues [1]	210	240	215	175	178	182
Estimated budget authority [2]	238	268	241	208	217	225
Estimated outlays	347	250	250	250	216	205
Proposed Changes:						
Estimated revenues	−34	−87	0	0	0	0
Estimated budget authority	0	0	−78	−52	0	0
Estimated outlays	0	0	−78	−52	0	0
Receipts and Spending Under H.R. 2921:						
Estimated revenues [1]	176	153	215	175	178	182
Estimated budget authority [2]	238	268	163	156	217	225
Estimated outlays	347	250	172	198	216	205

[1] Includes royalty collections from cable television stations, jukebox licenses, satellite carriers, and digital audio devices.
[2] Payments to copyright owners include interest earnings on securities held by the Copyright Office.

Basis of estimate: For purposes of this estimate, we assume the bill will be enacted in July 1998. The Copyright Office has mailed payment notices to satellite carriers for the first 6 months of calendar 1998. If H.R. 2921 is enacted, we assume part of this money would be returned to satellite carriers before the end of fiscal year 1998. Based on information from the Copyright Office, CBO estimates that enacting the bill would reduce 1998 payments from satellite carriers (which are recorded as revenues) by $34 million in fiscal year 1998 and by $87 million in fiscal year 1999. Under the bill, the fee imposed on satellite carriers would revert to its current level starting in July 1999.

We estimate that payments from the federal government to copyright holders for satellite transmissions would not occur until fiscal year 2000 for collections made for calendar year 1998, and that these payments (including interest) would be about $78 million lower than under current law because H.R. 2921 would delay the scheduled fee increase for a year and one-half. Payments for collections made for calendar year 1999 would occur in fiscal year 2001,

and we estimate they would be about $52 million lower than under current law.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays	0	0	−78	−52	0	0	0	0	0	0	0
Changes in receipts	−34	−87	0	0	0	0	0	0	0	0	0

Previous CBO estimate: On March 26, 1998, CBO prepared a cost estimate for S. 1422, the Federal Communications Commission Satellite Carrier Oversight Act, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on March 12, 1998. The House bill would postpone the scheduled increase in royalty fees paid by satellite carriers until July 1999—six months longer than the Senate bill. Consequently, the revenue loss and reduced spending associated with postponement of the royalty fee increase are about $50 million greater under H.R. 2921 than they would be under S. 1244.

Intergovernmental and private-sector impact: This bill would impose no intergovernmental or private-sector mandates as defined in UMRA. However, the 18-month delay in the scheduled increase in copyright royalty fees would impose costs on the copyright holders, including some state and local government entities, while reducing costs of the satellite carriers compared to the current fee schedule. Satellite carriers pay copyright royalty fees to copyright holders through the Copyright Office to retransmit signals from local network affiliates and superstations. Because of this delay, the fees collected in 1998 and 1999 that the Copyright Office would distribute in 2000 and 2001 to the industry groups that represent copyright holders would be reduced by $130 million, including interest income.

Estimate prepared by: Federal costs—Kim Cawley; Revenues—Hester Grippando; impact on state, local, and tribal governments—Pepper Santalucia; impact on the private sector—Jean Wooster.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 establishes the short title as the "Multichannel Video Competition and Consumer Protection Act of 1998."

Section 2. Inquiry required

Section 2 of H.R. 2921 amends Section 623 of the Communications Act of 1934 (47 U.S.C. § 543) to require the FCC to analyze and report to Congress on the impact of the CARP decision on the development of competition in the MVPD market. In particular, new subsection 623(o)(1) requires the FCC to initiate an inquiry within 30 days of enactment into the impact the CARP decision will have on the ability of satellite broadcasters to effectively compete (as defined in subsection 623(l)(1)(B)) against incumbent cable operators. New subsection 623(o)(2) requires the FCC to issue a report, within 90 days of enactment, on the results of its inquiry to the Committee on Commerce and the Committee on the Judiciary of the House of Representatives, and the Committee on Commerce, Science, and Transportation and the Committee on the Judiciary of the Senate. Finally, new subsection 623(o)(3) authorizes the FCC to make any changes to its rules it deems necessary on the basis of its findings from its inquiry required by new subsection 623(o)(1).

Section 3. Direct-to-home satellite piracy prevention

Section 705 of the Communications Act of 1934 (47 U.S.C. § 605) provides a broad measure of protection against the unauthorized reception of various forms of radio communications, including satellite-delivered video programming services. Consistent with the intent of Section 705, the courts have construed the provision as affording both retail and wholesale distributors of satellite-delivered video programming networks (e.g., cable operators, cable programming networks, wireless cable operators, and direct-to-home satellite distributors) with a legal remedy against signal pirates, as well as those who assist pirates through the manufacturing or sale of devices that enable piracy.

Section 3 of H.R. 2921, as reported by the Committee on Commerce, amends Section 705(d)(6) to clarify that the persons with standing to seek relief under this provision include not only retail and wholesale distributors of satellite programming that is pri-

marily intended for direct receipt by cable operators for retransmission to their subscribers, but also retail and wholesale distributors of satellite programming that is intended primarily for retransmission to direct-to-home satellite service subscribers. In amending Section 705, it is the Committee's intent not to narrow the scope of the existing provision. Indeed, all communications that previously have been held to be covered under Section 705 will continue to be protected under the provision as amended.

Section 4. Stay pending completion of inquiry

Section 4 of H.R. 2921 relates back to Section 2 in that it stays enforcement of the CARP decision during the period beginning January 1, 1998 (the effective date of the CARP decision pursuant to the Librarian's ruling), and ending 275 days after the FCC submits its report as required under Section 2. As previously stated, Section 2 requires the FCC to make any changes to its rules it deems necessary on the basis of its findings from its inquiry required by new subsection 623(o)(1). The Committee believes that it is necessary to give the FCC, and possibly Congress as well, enough time after the submission of the report to make any necessary changes to existing law. Indeed, to the extent the CARP decision impedes competition (and the Committee believes that it does), it is necessary to stay enforcement of the decision for a period long enough to both identify and amend the rules and/or laws that necessitate change.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

* * * * * * *

TITLE VI—CABLE COMMUNICATIONS

* * * * * * *

PART III—FRANCHISING AND REGULATION

* * * * * * *

SEC. 623. REGULATION OF RATES.

(a) * * *

* * * * * * *

(o) INQUIRY ON IMPEDIMENTS TO DEVELOPMENT OF EFFECTIVE COMPETITION.—

(1) INQUIRY REQUIRED.—Within 30 days after the date of enactment of this subsection, the Commission shall initiate an inquiry on the extent to which the differential fee decision constitutes an impediment to the development of effective competition in the market for multichannel video programming dis-

tribution from multichannel video programming distributors described in subsection (l)(1)(B).

(2) REPORT REQUIRED.—Within 90 days after the date of enactment of this subsection, the Commission shall submit a report on the results of the inquiry to the Committee on Commerce and the Committee on the Judiciary of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on the Judiciary of the Senate.

(3) RULEMAKING.—Within 180 days after the date of enactment of this subsection, the Commission shall complete any actions necessary (including any reconsideration) to make such changes as the Commission may determine to be necessary to its regulations on the basis of the inquiry required by this subsection.

(4) DEFINITION.—For the purposes of this subsection, the term "differential fee decision" means the decision of the Librarian of Congress on October 27, 1997, relating to the per subscriber per month royalty fee for the retransmission of superstation and distant network signals by direct-to-home satellite service providers.

TITLE VII—MISCELLANEOUS PROVISIONS

* * * * * * *

SEC. 705. UNAUTHORIZED PUBLICATION OF COMMUNICATIONS.

(a) * * *

* * * * * * *

(d) For purposes of this section—

(1) * * *

* * * * * * *

(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 *or direct-to-home satellite services (as defined in section 303(v))*.

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