

Union Calendar No. 51

106TH CONGRESS
1ST Session

H. R. 851

[Report No. 106-79, Part I]

A BILL

To require the Federal Communications Commission to establish improved predictive models for determining the availability of television broadcast signals.

APRIL 16, 1999

Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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To require the Federal Communications Commission to establish improved predictive models for determining the availability of television broadcast signals.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 1999

Mr. TAUZIN (for himself, Mr. MARKEY, Mr. BLILEY, Mr. DINGELL, Mr. OXLEY, Mr. UPTON, Mr. GILLMOR, Mrs. CUBIN, Mr. STEARNS, Mr. LARGENT, Mr. PICKERING, Mr. BLUNT, Mr. BILBRAY, Mr. HILL of Montana, Mr. LEWIS of California, Mr. HILLEARY, Mr. JOHN, Mr. GOSS, and Mr. BOEHLERT) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

APRIL 7, 1999

Reported from the Committee on Commerce with an amendment
[Strike out all after the enacting clause and insert the part printed in *italic*]

APRIL 7, 1999

Referral to the Committee on the Judiciary extended for a period ending not later than April 16, 1999

APRIL 16, 1999

Additional sponsors: Mr. SANDERS, Mr. EWING, Mr. BOUCHER, Mr. TAYLOR of North Carolina, Mr. GILMAN, Mr. DEFazio, Mr. BEREUTER, Mrs. WILSON, Mr. TURNER, Mrs. EMERSON, Mr. BARRETT of Nebraska, Mr. MCHUGH, Mr. SAWYER, Mrs. CAPPS, Mr. SANDLIN, Mr. MCINNIS, Mr. BASS, Mr. PETERSON of Pennsylvania, Mr. SUNUNU, Mr. HUTCHINSON, Mr. OBERSTAR, Mr. COLLINS, Mr. TIERNEY, Mr. LATOURETTE, Mr. OLVER, Mr. RUSH, Mr. EHRLICH, Mr. WALSH, Mr. BARCIA, Mr. SMITH of Michigan, Mr. REYES, Mr. CAMPBELL, Mrs. KELLY, Mr. LAMPSON,

Mr. GEORGE MILLER of California, Mr. NORWOOD, Mr. CASTLE, Mr. DEAL of Georgia, Mr. THOMPSON of Mississippi, Mr. DICKEY, Mr. MOORE, Mr. PETRI, Mr. NEY, Mr. BURTON of Indiana, Mr. CALVERT, Mr. YOUNG of Alaska, Mr. THOMPSON of California, Mr. ADERHOLT, Mr. MINGE, Mr. TRAFICANT, and Mr. HINCHEY

APRIL 16, 1999

Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To require the Federal Communications Commission to establish improved predictive models for determining the availability of television broadcast signals.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Save Our Satellites
 5 Act of 1999”.

6 **SEC. 2. FEDERAL COMMUNICATIONS COMMISSION RULE-**
 7 **MAKING REQUIRED.**

8 Title I of the Communications Act of 1934 is amend-
 9 ed by inserting after section 11 (47 U.S.C. 161) the fol-
 10 lowing new section:

11 **“SEC. 12. FEDERAL COMMUNICATIONS COMMISSION RULE-**
 12 **MAKING REQUIRED.**

13 “(a) **ESTABLISHMENT OF IMPROVED PREDICTIVE**
 14 **MODELS REQUIRED.**—Within 90 days after the date of
 15 enactment of this section, the Commission shall establish

1 different predictive models for making determinations of
2 the boundaries of areas within the predicted Grade B Con-
3 tour of television broadcast stations for purposes of this
4 Act and for purposes of other Federal statutes and regula-
5 tions. Such models shall include a model based on one of
6 the models described in the Commission's report and order
7 adopted February 2, 1999 (CS Docket 98-201).

8 “(b) TREATMENT AS UNSERVED HOUSEHOLD.—Any
9 subscriber who on February 24, 1999, is receiving from
10 a satellite carrier for private home viewing secondary
11 transmissions of programming contained in a primary
12 transmission made by a network station shall, during the
13 period beginning February 24, 1999, and until the Com-
14 mission completes the action required by subsection (a),
15 be treated as residing in an unserved household for pur-
16 poses of section 119 of title 17, United States Code.

17 “(c) DEFINITIONS.—The terms used in this section
18 have the meanings provided by section 119(d) of title 17,
19 United States Code.”.

20 **SECTION 1. SHORT TITLE.**

21 *This Act may be cited as the “Satellite Competition*
22 *and Consumer Protection Act”.*

1 **TITLE I—AMENDMENTS TO THE**
2 **COMMUNICATIONS ACT OF 1934**

3 **SEC. 101. RETRANSMISSION CONSENT.**

4 *Section 325(b) of the Communications Act of 1934 (47*
5 *U.S.C. 325(b)) is amended—*

6 *(1) by amending paragraphs (1) and (2) to read*
7 *as follows:*

8 *“(b)(1) No cable system or other multichannel video*
9 *programming distributor shall retransmit the signal of a*
10 *television broadcast station, or any part thereof, except—*

11 *“(A) with the express authority of the origi-*
12 *nating station;*

13 *“(B) pursuant to section 614, in the case of a*
14 *station electing, in accordance with this subsection, to*
15 *assert the right to carriage under such section; or*

16 *“(C) pursuant to section 338, in the case of a*
17 *station electing, in accordance with this subsection, to*
18 *assert the right to carriage under such section.*

19 *“(2) The provisions of this subsection shall not*
20 *apply—*

21 *“(A) to retransmission of the signal of a non-*
22 *commercial television broadcast station;*

23 *“(B) to retransmission of the signal of a tele-*
24 *vision broadcast station outside the station’s local*

1 *market by a satellite carrier directly to its sub-*
2 *scribers, if—*

3 *“(i) such station was a superstation on May*
4 *1, 1991;*

5 *“(ii) as of July 1, 1998, such station was*
6 *retransmitted by a satellite carrier under the*
7 *compulsory license of section 119 of title 17,*
8 *United States Code; and*

9 *“(iii) the satellite carrier complies with all*
10 *network nonduplication, syndicated exclusivity,*
11 *and sports blackout rules adopted by the Com-*
12 *mission pursuant to section 712 of this Act;*

13 *“(C) until 7 months after the date of enactment*
14 *of the Satellite Competition and Consumer Protection*
15 *Act, to retransmission of the signal of a television net-*
16 *work station directly to a satellite antenna, if the sub-*
17 *scriber receiving the signal is located in an area out-*
18 *side the local market of such station; or*

19 *“(D) to retransmission by a cable operator or*
20 *other multichannel video provider, other than a sat-*
21 *ellite carrier, of the signal of a television broadcast*
22 *station outside the station’s local market if such sig-*
23 *nal was obtained from a satellite carrier and—*

24 *“(i) the originating station was a supersta-*
25 *tion on May 1, 1991; and*

1 “(i) as of July 1, 1998, such station was
2 retransmitted by a satellite carrier under the
3 compulsory license of section 119 of title 17,
4 United States Code.”;

5 (2) by adding at the end of paragraph (3) the
6 following new subparagraph:

7 “(C) Within 45 days after the date of enactment of
8 the *Satellite Competition and Consumer Protection Act*, the
9 Commission shall commence a rulemaking proceeding to re-
10 vise the regulations governing the exercise by television
11 broadcast stations of the right to grant retransmission con-
12 sent under this subsection, and such other regulations as
13 are necessary to administer the limitations contained in
14 paragraph (2). The Commission shall complete all actions
15 necessary to prescribe such regulations within one year
16 after such date of enactment. Such regulations shall—

17 “(i) establish election time periods that cor-
18 respond with those regulations adopted under sub-
19 paragraph (B) of this paragraph; and

20 “(ii) prohibit television broadcast stations that
21 provide retransmission consent from engaging in dis-
22 criminatory practices, understandings, arrangements,
23 and activities, including exclusive contracts for car-
24 riage, that prevent a satellite carrier from obtaining
25 retransmission consent from such stations.”;

1 (3) in paragraph (4), by adding at the end the
2 following new sentence: “If an originating television
3 station elects under paragraph (3)(C) to exercise its
4 right to grant retransmission consent under this sub-
5 section with respect to a satellite carrier, the provi-
6 sions of section 338 shall not apply to the carriage of
7 the signal of such station by such satellite carrier.”;

8 (4) in paragraph (5), by striking “614 or 615”
9 and inserting “338, 614, or 615”; and

10 (5) by adding at the end the following new para-
11 graph:

12 “(7) For purposes of this subsection, the term ‘tele-
13 vision broadcast station’ means an over-the-air commercial
14 or noncommercial television broadcast station licensed by
15 the Commission under subpart E of part 73 of title 47, Code
16 of Federal Regulations, except that such term does not in-
17 clude a low-power or translator television station.”.

18 **SEC. 102. MUST-CARRY FOR SATELLITE CARRIERS RE-**
19 **TRANSMITTING TELEVISION BROADCAST SIG-**
20 **NALS.**

21 Title III of the Communications Act of 1934 is amend-
22 ed by inserting after section 337 (47 U.S.C. 337) the fol-
23 lowing new section:

1 **“SEC. 338. CARRIAGE OF LOCAL TELEVISION SIGNALS BY**
2 **SATELLITE CARRIERS.**

3 *“(a) CARRIAGE OBLIGATIONS.—*

4 *“(1) IN GENERAL.—Subject to the limitations of*
5 *subparagraph (2), each satellite carrier providing sec-*
6 *ondary transmissions to subscribers located within the*
7 *local market of a television broadcast station of a pri-*
8 *mary transmission made by that station shall carry*
9 *upon request all television broadcast stations located*
10 *within that local market, subject to section 325(b), by*
11 *retransmitting the signal or signals of such stations*
12 *that are identified by Commission regulations for*
13 *purposes of this section.*

14 *“(2) EFFECTIVE DATE.—No satellite carrier shall*
15 *be required to carry local television broadcast stations*
16 *under paragraph (1) until January 1, 2002.*

17 *“(b) GOOD SIGNAL REQUIRED.—*

18 *“(1) COSTS.—A television broadcast station as-*
19 *serting its right to carriage under subsection (a) shall*
20 *be required to bear the costs associated with delivering*
21 *a good quality signal to the designated local receive*
22 *facility of the satellite carrier or to another facility*
23 *that is acceptable to at least one-half the stations as-*
24 *serting the right to carriage in the local market.*

1 “(2) *REGULATIONS.*—*The regulations issued*
2 *under subsection (g) shall set forth the obligations*
3 *necessary to carry out this subsection.*

4 “(c) *DUPLICATION NOT REQUIRED.*—

5 “(1) *COMMERCIAL STATIONS.*—*Notwithstanding*
6 *subsection (a), a satellite carrier shall not be required*
7 *to carry upon request the signal of any local commer-*
8 *cial television broadcast station that substantially du-*
9 *plicates the signal of another local commercial tele-*
10 *vision broadcast station which is secondarily trans-*
11 *mitted by the satellite carrier within the same local*
12 *market, or to carry upon request the signals of more*
13 *than 1 local commercial television broadcast station*
14 *in a single local market that is affiliated with a par-*
15 *ticular television network.*

16 “(2) *NONCOMMERCIAL STATIONS.*—*The Commis-*
17 *sion shall prescribe regulations limiting the carriage*
18 *requirements under subsection (a) of satellite carriers*
19 *with respect to the carriage of multiple local non-*
20 *commercial television broadcast stations. To the ex-*
21 *tent possible, such regulations shall provide the same*
22 *degree of carriage by satellite carriers of such mul-*
23 *tiples stations as is provided by cable systems under*
24 *section 615.*

1 “(d) *CHANNEL POSITIONING.*—No satellite carrier
2 shall be required to provide the signal of a local television
3 broadcast station to subscribers in that station’s local mar-
4 ket on any particular channel number or to provide the
5 signals in any particular order, except that the satellite car-
6 rier shall retransmit the signal of the local television broad-
7 cast stations to subscribers in the stations’ local market on
8 contiguous channels and provide access to such station’s sig-
9 nals at a nondiscriminatory price and in a nondiscrim-
10 inatory manner on any navigational device, on-screen pro-
11 gram guide, or menu.

12 “(e) *COMPENSATION FOR CARRIAGE.*—A satellite car-
13 rier shall not accept or request monetary payment or other
14 valuable consideration in exchange either for carriage of
15 local television broadcast stations in fulfillment of the re-
16 quirements of this section or for channel positioning rights
17 provided to such stations under this section, except that any
18 such station may be required to bear the costs associated
19 with delivering a good quality signal to the local receive
20 facility of the satellite carrier.

21 “(f) *REMEDIES.*—

22 “(1) *COMPLAINTS BY BROADCAST STATIONS.*—
23 Whenever a local television broadcast station believes
24 that a satellite carrier has failed to meet its obliga-
25 tions under this section, such station shall notify the

1 carrier, in writing, of the alleged failure and identify
2 its reasons for believing that the satellite carrier is ob-
3 ligated to carry upon request the signal of such sta-
4 tion or has otherwise failed to comply with other re-
5 quirements of this section. The satellite carrier shall,
6 within 30 days of such written notification, respond
7 in writing to such notification and either begin car-
8 rying the signal of such station in accordance with
9 the terms requested or state its reasons for believing
10 that it is not obligated to carry such signal or is in
11 compliance with other requirements of this section, as
12 the case may be. A local television broadcast station
13 that is denied carriage in accordance with this section
14 by a satellite carrier or is otherwise harmed by a re-
15 sponse by a satellite carrier that it is in compliance
16 with other requirements of this section may obtain re-
17 view of such denial or response by filing a complaint
18 with the Commission. Such complaint shall allege the
19 manner in which such satellite carrier has failed to
20 meet its obligations and the basis for such allegations.

21 “(2) OPPORTUNITY TO RESPOND.—The Commis-
22 sion shall afford the satellite carrier against which a
23 complaint is filed under subparagraph (A) an oppor-
24 tunity to present data and arguments to establish

1 *that there has been no failure to meet its obligations*
2 *under this section.*

3 “(3) *REMEDIAL ACTIONS; DISMISSAL.*—*Within*
4 *120 days after the date a complaint is filed under*
5 *subparagraph (A), the Commission shall determine*
6 *whether the satellite carrier has met its obligations*
7 *under this chapter. If the Commission determines that*
8 *the satellite carrier has failed to meet such obliga-*
9 *tions, the Commission shall order the satellite carrier,*
10 *in the case of an obligation to carry a station, to*
11 *begin carriage of the station and to continue such*
12 *carriage for at least 12 months, or, in the case of the*
13 *failure to meet other obligations under this section,*
14 *shall take other appropriate remedial action. If the*
15 *Commission determines that the satellite carrier has*
16 *fully met the requirements of this chapter, the Com-*
17 *mission shall dismiss the complaint.*

18 “(g) *REGULATIONS BY COMMISSION.*—*Within 180*
19 *days after the date of enactment of this section, the Commis-*
20 *sion shall, following a rulemaking proceeding, issue regula-*
21 *tions implementing this section.*

22 “(h) *DEFINITIONS.*—*As used in this section:*

23 “(1) *SUBSCRIBER.*—*The term ‘subscriber’ means*
24 *an entity that receives a secondary transmission serv-*
25 *ice by means of a secondary transmission from a sat-*

1 *ellite and pays a fee for the service, directly or indi-*
2 *rectly, to the satellite carrier or to a distributor.*

3 “(2) *DISTRIBUTOR.*—*The term ‘distributor’*
4 *means an entity which contracts to distribute sec-*
5 *ondary transmissions from a satellite carrier and, ei-*
6 *ther as a single channel or in a package with other*
7 *programming, provides the secondary transmission*
8 *either directly to individual subscribers or indirectly*
9 *through other program distribution entities.*

10 “(3) *LOCAL RECEIVE FACILITY.*—*The term ‘local*
11 *receive facility’ means the reception point in each*
12 *local market which a satellite carrier designates for*
13 *delivery of the signal of the station for purposes of re-*
14 *transmission.*

15 “(4) *TELEVISION BROADCAST STATION.*—*The*
16 *term ‘television broadcast station’ has the meaning*
17 *given such term in section 325(b)(7).*

18 “(5) *SECONDARY TRANSMISSION.*—*The term ‘sec-*
19 *ondary transmission’ has the meaning given such*
20 *term in section 119(c) of title 17, United States*
21 *Code.’’.*

22 **SEC. 103. NONDUPLICATION OF PROGRAMMING BROAD-**
23 **CAST BY LOCAL STATIONS.**

24 *Section 712 of the Communications Act of 1934 (47*
25 *U.S.C. 612) is amended to read as follows:*

1 **“SEC. 712. NONDUPLICATION OF PROGRAMMING BROAD-**
2 **CAST BY LOCAL STATIONS.**

3 “(a) *EXTENSION OF NETWORK NONDUPLICATION, SYN-*
4 *DICATED EXCLUSIVITY, AND SPORTS BLACKOUT TO SAT-*
5 *ELLITE RETRANSMISSION.*—*Within 45 days after the date*
6 *of enactment of the Satellite Competition and Consumer*
7 *Protection Act, the Commission shall commence a single*
8 *rulemaking proceeding to establish regulations that apply*
9 *network nonduplication protection, syndicated exclusivity*
10 *protection, and sports blackout protection to the retrans-*
11 *mission of broadcast signals by satellite carriers to sub-*
12 *scribers. To the extent possible consistent with subsection*
13 *(b), such regulations shall provide the same degree of protec-*
14 *tion against retransmission of broadcast signals as is pro-*
15 *vided by the network nonduplication (47 C.F.R. 76.92),*
16 *syndicated exclusivity (47 C.F.R. 151), and sports blackout*
17 *(47 C.F.R. 76.67) rules applicable to cable television sys-*
18 *tems. The Commission shall complete all actions necessary*
19 *to prescribe regulations required by this section so that the*
20 *regulations shall become effective within 1 year after such*
21 *date of enactment.*

22 “(b) *ESTABLISHMENT OF NETWORK NONDUPLICATION*
23 *BOUNDARIES.*—

24 “(1) *ESTABLISHMENT OF SIGNAL STANDARD FOR*
25 *NETWORK NONDUPLICATION REQUIRED.*—*The Com-*
26 *mission shall establish a signal intensity standard for*

1 *purposes of determining the network nonduplication*
2 *rights of local television broadcast stations. Until re-*
3 *vised pursuant to subsection (c), such standard shall*
4 *be the Grade B field strength standard prescribed by*
5 *the Commission in section 73.683 of the Commission’s*
6 *regulations (47 C.F.R. 73.683). For purposes of this*
7 *section, the standard established under this paragraph*
8 *is referred to as the ‘Network Nonduplication Signal*
9 *Standard’.*

10 *“(2) ESTABLISHMENT OF IMPROVED PREDICTIVE*
11 *MODEL REQUIRED.—Within 180 days after the date*
12 *of enactment of the Satellite Competition and Con-*
13 *sumer Protection Act, the Commission shall take all*
14 *actions necessary, including any reconsideration, to*
15 *develop and prescribe by rule a point-to-point pre-*
16 *dictive model for reliably and presumptively deter-*
17 *mining the ability of individual locations to receive*
18 *signals in accordance with the Network Nonduplica-*
19 *tion Signal Standard. In prescribing such model, the*
20 *Commission shall ensure that such model takes into*
21 *account terrain, building structures, and other land*
22 *cover variations. The Commission shall establish pro-*
23 *cedures for the continued refinement in the applica-*
24 *tion of the model by the use of additional data as it*
25 *becomes available. For purposes of this section, such*

1 *model is referred to as the ‘Network Nonduplication*
2 *Reception Model’, and the area encompassing loca-*
3 *tions that are predicted to have the ability to receive*
4 *such a signal of a particular broadcast station is re-*
5 *ferred to as that station’s ‘Reception Model Area’.*

6 *“(3) NETWORK NONDUPLICATION.—The network*
7 *nonduplication regulations required under subsection*
8 *(a) shall allow a television network station to assert*
9 *nonduplication rights as follows:*

10 *“(A) If a satellite carrier is retransmitting*
11 *that station, or any other television broadcast*
12 *stations located in the same local market, to sub-*
13 *scribers located in that station’s local market, the*
14 *television network station may assert non-*
15 *duplication rights against the satellite carrier*
16 *throughout the area within which that station*
17 *may assert such rights under the rules applicable*
18 *to cable television systems (47 C.F.R. 76.92), ex-*
19 *cept as provided in subparagraph (C).*

20 *“(B) If a satellite carrier is not retransmit-*
21 *ting any television broadcast stations located in*
22 *the television network station’s local market to*
23 *subscribers located in such market, the television*
24 *network station may assert nonduplication*
25 *rights against the satellite carrier in the geo-*

1 *graphic area that is within such station's Recep-*
2 *tion Model Area, but such geographic area shall*
3 *not extend beyond the local market of such sta-*
4 *tion.*

5 “(C) *If there are 2 or more television net-*
6 *work stations that are each affiliates of a single*
7 *television network within the same local market,*
8 *neither such station may assert under subpara-*
9 *graph (A) nonduplication rights against a sat-*
10 *ellite carrier in an area that is outside the Re-*
11 *ception Model Area of that station.*

12 “(4) *WAIVERS.—The network nonduplication*
13 *protection described in paragraph (3) shall not apply*
14 *to a subscriber who files with the satellite carrier a*
15 *written waiver with respect to that subscriber ob-*
16 *tained from a television network station allowing the*
17 *subscriber to receive satellite retransmission of an-*
18 *other network station affiliated with that same net-*
19 *work. The television network station shall accept or*
20 *reject a subscriber's request for a waiver within 30*
21 *days after receipt of the request. The television net-*
22 *work station and the satellite carrier shall maintain*
23 *a file available to the public that contains such wai-*
24 *ver requests and the acceptances and rejections thereof.*

1 “(5) *OBJECTIVE VERIFICATION.*—*If a subscriber*
2 *submits a petition to the Commission or an entity*
3 *designated by the Commission by rule—*

4 “(A) *that alleges that such subscriber does*
5 *not receive a signal that meets or exceeds the*
6 *Network Nonduplication Signal Standard; and*

7 “(B) *includes a processing fee in an amount*
8 *prescribed by regulation to recover the cost of ad-*
9 *ministering the provisions of this paragraph;*

10 *the network nonduplication rights described in para-*
11 *graph (3) shall not apply to that subscriber unless*
12 *such station submits to the Commission or such entity*
13 *and to the subscriber the written findings and conclu-*
14 *sions of a test conducted in accordance with the pro-*
15 *visions of section 73.686(d) of title 47, Code of Fed-*
16 *eral Regulations, or any successor regulation, dem-*
17 *onstrating that the subscriber receives a signal that*
18 *meets or exceeds the Network Nonduplication Signal*
19 *Standard. A subscriber is required to file a waiver re-*
20 *quest under paragraph (4) before filing a petition*
21 *under this paragraph. A subscriber may not be re-*
22 *quired to bear any portion of the cost of such test.*

23 “(6) *RECREATIONAL VEHICLE LOCATION.*—*In the*
24 *case of a subscriber to a satellite carrier who has in-*
25 *stalled satellite reception equipment in a recreational*

1 *vehicle, and who has permitted any television network*
2 *station seeking to assert network nonduplication*
3 *rights to verify the motor vehicle registration, license,*
4 *and proof of ownership of such vehicle, the subscriber*
5 *shall be considered to be outside the local market and*
6 *Reception Model Area of such station. For purposes of*
7 *this paragraph, the term ‘recreational vehicle’ does*
8 *not include any residential manufactured home, as*
9 *defined in section 603(6) of the National Manufac-*
10 *tured Housing Construction and Safety Standards*
11 *Act of 1974 (42 U.S.C. 5402(6)).*

12 “(c) *REVIEW AND REVISION OF STANDARDS AND*
13 *MODEL.—*

14 “(1) *ONGOING INQUIRY REQUIRED.—Not later*
15 *than 2 years after the date of enactment of the Sat-*
16 *ellite Competition and Consumer Protection Act, the*
17 *Commission shall conduct an inquiry of the extent to*
18 *which the Network Nonduplication Signal Standard,*
19 *the Network Nonduplication Reception Model, and the*
20 *Reception Model Areas of television stations are ade-*
21 *quate to reliably measure the ability of consumers to*
22 *receive an acceptable over-the-air television broadcast*
23 *signal.*

24 “(2) *DATA TO BE CONSIDERED.—In conducting*
25 *the inquiry required by paragraph (1), the Commis-*

1 *sion shall consider as evidence that consumers are not*
2 *receiving a signal of the quality described in such*
3 *paragraph—*

4 *“(A) the number of subscribers requesting*
5 *waivers under subsection (b)(4), and the number*
6 *of waivers that are denied;*

7 *“(B) the number of subscribers submitting*
8 *petitions under subsection (b)(5), and the num-*
9 *ber of such petitions that are granted;*

10 *“(C) the results of any consumer research*
11 *study that may be undertaken to carry out the*
12 *purposes of this section; and*

13 *“(D) the extent to which consumers are not*
14 *legally entitled to install broadcast reception de-*
15 *vices assumed in the Commission’s standard.*

16 *“(3) REPORT AND ACTION.—The Commission*
17 *shall submit to the Congress a report on the inquiry*
18 *required by this subsection not later than the end of*
19 *the 2-year period described in paragraph (1). The*
20 *Commission shall complete any actions necessary to*
21 *revise the Network Nonduplication Signal Standard,*
22 *the Network Nonduplication Reception Model, and the*
23 *Reception Model Areas of television stations in ac-*
24 *cordance with the findings of such inquiry not later*
25 *than 6 months after the end of such 2-year period.*

1 “(4) *DATA SUBMISSION.*—*The Commission shall*
2 *prescribe by rule the data required to be submitted by*
3 *television broadcast stations and by satellite carriers*
4 *to the Commission or such designated entity to carry*
5 *out this subsection, and the format for submission of*
6 *such data.*”.

7 **SEC. 104. CONSENT OF MEMBERSHIP TO RETRANSMISSION**
8 **OF PUBLIC BROADCASTING SERVICE SAT-**
9 **ELLITE FEED.**

10 *Section 396 of the Communications Act of 1934 (47*
11 *U.S.C. 396) is amended by adding at the end the following*
12 *new subsection:*

13 “(n) *The Public Broadcasting Service shall certify to*
14 *the Board on an annual basis that a majority of its mem-*
15 *bership supports or does not support the secondary trans-*
16 *mission of the Public Broadcasting Service satellite feed,*
17 *and provide notice to each satellite carrier carrying such*
18 *feed of such certification.*”.

19 **SEC. 105. INQUIRY ON RURAL SERVICE REQUIRED.**

20 “(a) *INQUIRY REQUIRED.*—*Within 180 days after the*
21 *enactment of this section, the National Telecommunications*
22 *and Information Administration shall complete an inquiry*
23 *into the availability of local television broadcast signals in*
24 *small and rural markets as part of a service that competes*
25 *with, or supplements, video programming delivered by sat-*

1 *elite carriers or cable operators. The Administration shall*
2 *submit to the Committee on Commerce of the House of Rep-*
3 *resentatives and the Committee on Commerce, Science, and*
4 *Transportation of the Senate a report on the results of such*
5 *inquiry.*

6 (b) *ANALYSIS REQUIRED.—The inquiry under sub-*
7 *section (a) shall include an analysis of—*

8 (1) *the technological capability of dual satellite*
9 *dish technology to receive effectively over-the-air*
10 *broadcast transmissions from the local market, the*
11 *availability of such capability in small and rural*
12 *markets and the affordability of such capability;*

13 (2) *the technological capability (including inter-*
14 *ference), availability, and affordability of wireless*
15 *cable (or terrestrial wireless) delivery of local broad-*
16 *cast stations, including the feasibility and desir-*
17 *ability of the expedited licensing of such competitive*
18 *wireless technologies for rural and small markets; and*

19 (3) *the technological capability, availability, and*
20 *affordability of a broadcast-only basic tier of cable*
21 *service.*

22 **SEC. 106. DEFINITIONS.**

23 *Section 3 of the Communications Act of 1934 (47*
24 *U.S.C. 153) is amended—*

25 (1) *by redesignating—*

1 (A) paragraphs (49) through (52) as para-
2 graphs (52) through (55), respectively;

3 (B) paragraphs (39) through (48) as para-
4 graphs (41) through (50), respectively; and

5 (C) paragraphs (27) through (38) as para-
6 graph (28) through (39), respectively;

7 (2) by inserting after paragraph (26) the fol-
8 lowing new paragraph:

9 “(27) LOCAL MARKET.—

10 “(A) IN GENERAL.—The term ‘local mar-
11 ket’, in the case of both commercial and non-
12 commercial television broadcast stations, means
13 the designated market area in which a station is
14 located, and—

15 “(i) in the case of a commercial tele-
16 vision broadcast station, all commercial tel-
17 evision broadcast stations licensed to a com-
18 munity within the same designated market
19 area are within the same local market; and

20 “(ii) in the case of a noncommercial
21 educational television broadcast station, the
22 market includes any station that is licensed
23 to a community within the same designated
24 market area as the noncommercial edu-
25 cational television broadcast station.

1 “(B) COUNTY OF LICENSE.—In addition to
2 the area described in subparagraph (A), a sta-
3 tion’s local market includes the county in which
4 the station’s community of license is located.

5 “(C) DESIGNATED MARKET AREA.—For
6 purposes of subparagraph (A), the term ‘des-
7 ignated market area’ means a designated market
8 area, as determined by Nielsen Media Research
9 and published in the DMA Market and Demo-
10 graphic Report.”;

11 (3) by inserting after paragraph (39) (as redes-
12 ignated by paragraph (1) of this section) the fol-
13 lowing new paragraph:

14 “(40) SATELLITE CARRIER.—The term ‘satellite
15 carrier’ means an entity that uses the facilities of a
16 satellite or satellite service licensed by the Commis-
17 sion, and operates in the Fixed-Satellite Service
18 under part 25 of title 47 of the Code of Federal Regu-
19 lations or the Direct Broadcast Satellite Service
20 under part 100 of title 47 of the Code of Federal Reg-
21 ulations, to establish and operate a channel of com-
22 munications for point-to-multipoint distribution of
23 television station signals, and that owns or leases a
24 capacity or service on a satellite in order to provide
25 such point-to-multipoint distribution, except to the

1 *extent that such entity provides such distribution pur-*
2 *suant to tariff under this Act.”; and*

3 *(3) by inserting after paragraph (50) (as reded-*
4 *ignated by paragraph (1) of this section) the fol-*
5 *lowing new paragraph:*

6 *“(51) TELEVISION NETWORK; TELEVISION NET-*
7 *WORK STATION.—*

8 *“(A) TELEVISION NETWORK.—The term ‘tel-*
9 *evision network’ means a television network in*
10 *the United States which offers an interconnected*
11 *program service on a regular basis for 15 or*
12 *more hours per week to at least 25 affiliated*
13 *broadcast stations in 10 or more States.*

14 *“(B) TELEVISION NETWORK STATION.—The*
15 *term ‘television network station’ means a tele-*
16 *vision broadcast station that is owned or oper-*
17 *ated by, or affiliated with, a television network.”.*

18 **SEC. 107. COMPLETION OF BIENNIAL REGULATORY REVIEW.**

19 *Within 180 days after the date of enactment of this*
20 *Act, the Commission shall complete the biennial review re-*
21 *quired by section 202(h) of the Telecommunications Act of*
22 *1996.*

1 **TITLE II—AMENDMENTS TO**
2 **TITLE 17, UNITED STATES CODE**

3 **SEC. 201. LIMITATIONS ON EXCLUSIVE RIGHTS; SEC-**
4 **ONDARY TRANSMISSIONS BY SATELLITE CAR-**
5 **RIERS WITHIN LOCAL MARKETS.**

6 (a) *IN GENERAL.*—Section 119 of title 17, United
7 States Code, is amended to read as follows:

8 **“§119. Limitations on exclusive rights; Secondary**
9 **transmissions by satellite carriers**

10 “(a) *SECONDARY TRANSMISSIONS OF TELEVISION*
11 *BROADCAST STATIONS BY SATELLITE CARRIERS.*—

12 “(1) *STATUTORY LICENSE.*—Subject to the provi-
13 sions of paragraphs (2), (3), (4), and (5) of this sub-
14 section and section 114(d), a secondary transmission
15 that is in compliance with the rules, regulations, and
16 authorizations of the Federal Communications Com-
17 mission of a primary transmission made by a tele-
18 vision broadcast station and embodying a perform-
19 ance or display of a work may have a statutory li-
20 cense under this section if the satellite carrier makes
21 a direct or indirect charge to subscribers for the sec-
22 ondary transmission or to a distributor that has con-
23 tracted with the satellite carrier for direct or indirect
24 delivery of the secondary transmission. For purposes
25 of this section, the Public Broadcasting Service sat-

1 *ellite feed shall be considered a primary transmission*
2 *made by a television broadcast station that is in com-*
3 *pliance with the rules, regulations, and authorizations*
4 *of the Federal Communications Commission, except*
5 *that subsequent to—*

6 *“(A) the date when a majority of sub-*
7 *scribers to satellite carriers are able to receive the*
8 *signal of at least one noncommercial educational*
9 *television broadcast station from their satellite*
10 *carrier within such stations’ local market, or*

11 *“(B) 2 years after the effective date of the*
12 *Satellite Competition and Consumer Protection*
13 *Act,*

14 *whichever is earlier, the statutory license created by*
15 *this section with respect to such satellite feed shall be*
16 *conditioned on the annual certification of support*
17 *under section 396(n) of the Communications Act of*
18 *1934.*

19 *“(2) SUBMISSION OF SUBSCRIBER LISTS.—(A) A*
20 *satellite carrier that makes secondary transmissions*
21 *of a primary transmission of a television broadcast*
22 *station under paragraph (1) shall, within 90 days*
23 *after commencing such secondary transmissions, sub-*
24 *mit to that station a list identifying all subscribers*
25 *to which the satellite carrier currently makes sec-*

1 *ondary transmissions of that primary transmission.*
2 *Such list shall be organized by State, identifying all*
3 *subscribers by name (including street address, county,*
4 *and 9-digit zip code) in that State that receive sec-*
5 *ondary transmissions of that primary transmission.*

6 *“(B) After the list is submitted under subpara-*
7 *graph (A), the satellite carrier shall, on the 15th of*
8 *each month, submit to the television broadcast station*
9 *a list identifying by State the names (including street*
10 *address, county, and 9-digit zip code) of any sub-*
11 *scribers who have been added or dropped as sub-*
12 *scribers since the last submission under this para-*
13 *graph.*

14 *“(C) Subscriber information submitted by a sat-*
15 *ellite carrier under this paragraph may be used only*
16 *for purposes of monitoring compliance by the satellite*
17 *carrier with the statutory license created by this sec-*
18 *tion. The submission of subscriber lists is only re-*
19 *quired for those television broadcast stations that*
20 *place on file with the Register of Copyrights a docu-*
21 *ment identifying the name and address of the person*
22 *to whom such submissions are to be made. The Reg-*
23 *ister shall maintain for public inspection a file of all*
24 *such documents.*

1 “(3) *NONCOMPLIANCE WITH REPORTING AND*
2 *PAYMENT REQUIREMENTS.*—*Notwithstanding the pro-*
3 *visions of paragraph (1), the willful or repeated sec-*
4 *ondary transmission to the public that is in compli-*
5 *ance with the rules, regulations, and authorizations of*
6 *the Federal Communications Commission by a sat-*
7 *ellite carrier of a primary transmission made by a*
8 *television broadcast station and embodying a per-*
9 *formance or display of a work is actionable as an act*
10 *of infringement under section 501, and is fully subject*
11 *to the remedies provided by sections 502 through 506*
12 *and 509, if the satellite carrier has not deposited the*
13 *statement of account and royalty fees required by sub-*
14 *section (b).*

15 “(4) *WILLFUL ALTERATIONS.*—*Notwithstanding*
16 *the provisions of paragraph (1), the secondary trans-*
17 *mission to the public that is in compliance with the*
18 *rules, regulations, and authorizations of the Federal*
19 *Communications Commission by a satellite carrier of*
20 *a primary transmission made by a television broad-*
21 *cast station and embodying a performance or display*
22 *of a work is actionable as an act of infringement*
23 *under section 501, and is fully subject to the remedies*
24 *provided by sections 502 through 506 and sections*
25 *509 and 510, if the content of the particular program*

1 *in which the performance or display is embodied, or*
2 *any commercial advertising or station announcement*
3 *transmitted by a primary transmitter during, or im-*
4 *mediately before or after the transmission of such pro-*
5 *gram, is in any way willfully altered by the satellite*
6 *carrier through changes, deletions, or additions, or is*
7 *combined with programming from any other broad-*
8 *cast signal.*

9 *“(5) DISCRIMINATION BY SATELLITE CARRIER.—*
10 *Notwithstanding the provisions of paragraph (1), the*
11 *willful or repeated secondary transmission to the pub-*
12 *lic that is in compliance with the rules, regulations,*
13 *and authorizations of the Federal Communications*
14 *Commission by a satellite carrier of a primary trans-*
15 *mission made by a television broadcast station and*
16 *embodying the performance or display of a work is*
17 *actionable as an act of infringement under section*
18 *501, and is fully subject to the remedies provided by*
19 *sections 502 through 506 and 509, if the satellite car-*
20 *rier unlawfully discriminates against a distributor.*

21 *“(6) GEOGRAPHIC LIMITATION ON SECONDARY*
22 *TRANSMISSIONS.—The statutory license created by*
23 *this section shall apply only to secondary trans-*
24 *missions to subscribers located in the United States.*

1 “(b) *STATUTORY LICENSE FOR SECONDARY TRANS-*
2 *MISSIONS OF TELEVISION BROADCAST STATIONS.—*

3 “(1) *DEPOSITS WITH THE REGISTER OF COPY-*
4 *RIGHTS.—A satellite carrier whose secondary trans-*
5 *missions are subject to statutory licensing under sub-*
6 *section (a) shall, on a semiannual basis, deposit with*
7 *the Register of Copyrights, in accordance with the re-*
8 *quirements that the Register shall prescribe by*
9 *regulation—*

10 “(A) *a statement of account, covering the*
11 *preceding 6-month period, specifying the names*
12 *and locations of all television broadcast stations*
13 *whose signals were retransmitted at any time*
14 *during that period to subscribers, the total num-*
15 *ber of subscribers that received such secondary*
16 *transmissions, and such other data as the Reg-*
17 *ister of Copyrights may from time to time pre-*
18 *scribe by regulation, and*

19 “(B) *a royalty fee for that 6-month period,*
20 *computed as follows:*

21 “(i) *For each television network station*
22 *that is retransmitted to subscribers located*
23 *outside the local market of that station, by*
24 *multiplying the total number of subscribers*
25 *receiving such secondary transmission dur-*

1 *ing each calendar month by the royalty fee*
2 *prescribed in section 258.3(b)(2) of title 37,*
3 *Code of Federal Regulations, as in effect on*
4 *January 1, 1998.*

5 *“(ii) For each superstation that is re-*
6 *transmitted to subscribers located outside*
7 *the local market of that station, by multi-*
8 *plying the total number of subscribers re-*
9 *ceiving such secondary transmission during*
10 *each calendar month by the royalty fee pre-*
11 *scribed in section 258.3(b)(1) of title 37,*
12 *Code of Federal Regulations, as in effect on*
13 *January 1, 1998.*

14 *“(iii) By adding together the totals*
15 *computed under clauses (i) and (ii).*

16 *For secondary transmissions of a television broadcast*
17 *station to subscribers who reside within the local mar-*
18 *ket of that station, there shall be no royalty fee.*

19 *“(2) INVESTMENT OF FEES.—The Register of*
20 *Copyrights shall receive all fees deposited under this*
21 *section and, after deducting the reasonable costs in-*
22 *curring by the Copyright Office under this section*
23 *(other than the costs deducted under paragraph (4)),*
24 *shall deposit the balance in the Treasury of the*
25 *United States, in such manner as the Secretary of the*

1 *Treasury directs. Any funds held by the Secretary of*
2 *the Treasury shall be invested in interest bearing se-*
3 *curities of the United States for later distribution*
4 *with interest by the Librarian of Congress as pro-*
5 *vided by this title. The Register may, in the Register's*
6 *discretion, at any time after four years have elapsed*
7 *since the close of any calendar year, close out the roy-*
8 *alty payments account for that calendar year, and*
9 *may treat any funds remaining in such account and*
10 *any subsequent deposits that would otherwise be at-*
11 *tributable to that calendar year as attributable to the*
12 *succeeding calendar year.*

13 “(3) *PERSONS TO WHOM FEES ARE DISTRIB-*
14 *UTED.—The royalty fees deposited under paragraph*
15 *(2) shall, in accordance with the procedures provided*
16 *by paragraph (4), be distributed to those copyright*
17 *owners whose works were included in a secondary*
18 *transmission to the public made by a satellite carrier*
19 *during the applicable 6-month accounting period and*
20 *who file a claim with the Librarian of Congress under*
21 *paragraph (4). For purposes of section 802 of this*
22 *title, with respect to royalty fees paid by satellite car-*
23 *riers for retransmitting the Public Broadcasting Serv-*
24 *ice satellite feed, the Public Broadcasting Service*
25 *shall be agent for all public television copyright*

1 *claimants and all Public Broadcasting Service mem-*
2 *ber stations.*

3 “(4) *PROCEDURES FOR DISTRIBUTION.*—*The*
4 *royalty fees deposited under paragraph (2) shall be*
5 *distributed in accordance with the following proce-*
6 *dures:*

7 “(A) *FILING OF CLAIMS FOR FEES.*—*Dur-*
8 *ing the month of July in each year, each person*
9 *claiming to be entitled to statutory license fees*
10 *for secondary transmissions under this section*
11 *shall file a claim with the Librarian of Congress,*
12 *in accordance with requirements that the Librar-*
13 *ian shall prescribe by regulation. For purposes of*
14 *this paragraph, any claimants may agree among*
15 *themselves as to the proportionate division of*
16 *statutory license fees among them, may lump*
17 *their claims together and file them jointly or as*
18 *a single claim, or may designate a common*
19 *agent to receive payment on their behalf.*

20 “(B) *DETERMINATION OF CONTROVERSY;*
21 *DISTRIBUTIONS.*—*After the first day of August of*
22 *each year, the Librarian of Congress shall deter-*
23 *mine whether there exists a controversy con-*
24 *cerning the distribution of royalty fees. If the Li-*
25 *brarian determines that no such controversy ex-*

1 *ists, the Librarian shall, after deducting reason-*
2 *able administrative costs under this paragraph,*
3 *distribute such fees to the copyright owners enti-*
4 *tled to receive them, or to their designated*
5 *agents. If the Librarian finds the existence of a*
6 *controversy, the Librarian shall, pursuant to*
7 *chapter 8 of this title, convene a copyright arbi-*
8 *tration royalty panel to determine the distribu-*
9 *tion of fees.*

10 *“(C) WITHHOLDING OF FEES DURING CON-*
11 *TROVERSY.—During the pendency of any pro-*
12 *ceeding under this subsection, the Librarian of*
13 *Congress shall withhold from distribution an*
14 *amount sufficient to satisfy all claims with re-*
15 *spect to which a controversy exists, but shall*
16 *have discretion to proceed to distribute any*
17 *amounts that are not in controversy.*

18 *“(c) DEFINITIONS.—As used in this section—*

19 *“(1) DISTRIBUTOR.—The term ‘distributor’*
20 *means any entity which contracts to distribute sec-*
21 *ondary transmissions from a satellite carrier and, ei-*
22 *ther as a single channel or in a package with other*
23 *programming, provides the secondary transmission*
24 *either directly to individual subscribers or indirectly*
25 *through other program distribution entities.*

1 “(2) *LOCAL MARKET*.—The term ‘local market’ of
2 a television broadcast station has the meaning given
3 that term section 3 of the Communications Act of
4 1934 (47 U.S.C. 153) as interpreted under the rules,
5 regulations, and authorizations of the Federal Com-
6 munications Commission relating to carriage of tele-
7 vision broadcast signals by satellite carriers.

8 “(3) *PRIMARY TRANSMISSION*.—The term ‘pri-
9 mary transmission’ has the meaning given that term
10 in section 111(f) of this title.

11 “(4) *PUBLIC BROADCASTING SERVICE SATELLITE*
12 *FEED*.—The term ‘Public Broadcasting Service sat-
13 ellite feed’ means the national satellite feed distrib-
14 uted by the Public Broadcasting Service for purposes
15 of this section consisting of educational and informa-
16 tional programming, to which the Public Broad-
17 casting Service holds national terrestrial broadcast
18 rights.

19 “(5) *SATELLITE CARRIER*.—The term ‘satellite
20 carrier’ has the meaning given that term in section
21 3 of the Communications Act of 1934.

22 “(6) *SECONDARY TRANSMISSION*.—The term ‘sec-
23 ondary transmission’ has the meaning given that
24 term in section 111(f) of this title.

1 “(7) *SUBSCRIBER*.—The term ‘subscriber’ means
2 an entity that receives a secondary transmission serv-
3 ice by means of a secondary transmission from a sat-
4 ellite and pays a fee for the service, directly or indi-
5 rectly, to the satellite carrier or a distributor.

6 “(8) *SUPERSTATION*.—The term ‘superstation’
7 means a television broadcast station, other than a tel-
8 evision network station, licensed by the Federal Com-
9 munications Commission that is secondarily trans-
10 mitted by a satellite carrier, and includes the Public
11 Broadcasting Service satellite feed.

12 “(9) *TELEVISION BROADCAST STATION*.—The
13 term ‘television broadcast station’ has the meaning
14 given that term in section 325(b)(7) of the Commu-
15 nications Act of 1934.

16 “(10) *TELEVISION NETWORK STATION*.—The
17 term ‘television network station’ means—

18 “(A) a television network station (as defined
19 in section 3 of the Communications Act of 1934);
20 or

21 “(B) a noncommercial educational broad-
22 cast station (as defined in section 397 of such
23 Act).

24 “(d) *EXCLUSIVITY OF THIS SECTION WITH RESPECT*
25 *TO SECONDARY TRANSMISSIONS OF TELEVISION BROAD-*

1 *CAST STATIONS BY SATELLITE TO MEMBERS OF THE PUB-*
2 *LIC.—No provision of section 111 of this title or any other*
3 *law (other than this section) shall be construed to contain*
4 *any authorization, exemption, or license through which sec-*
5 *ondary transmissions by satellite carriers of programming*
6 *contained in a primary transmission may be made without*
7 *obtaining the consent of the copyright owner.”.*

8 (b) *CONFORMING AMENDMENTS.—*

9 (1) *TABLE OF CONTENTS.—The table of sections*
10 *for chapter 1 of title 17, United States Code, is*
11 *amended by striking the item relating to section 119*
12 *and inserting the following:*

“119. *Limitation on exclusive rights: Secondary transmissions by satellite car-*
riers.”.

13 (2) *STANDING.—Subsection (e) of section 501 of*
14 *title 17, United States Code, is repealed.*

15 **SEC. 202. REDUCTION IN ROYALTY FEES.**

16 *The royalty fee prescribed in section 119(b)(1)(B)(i)*
17 *of title 17, United States Code, as amended by section*
18 *201(a) of this Act, is reduced by 45 percent, effective upon*
19 *July 1, 1999. The royalty fee prescribed in section*
20 *119(b)(1)(B)(ii) of such title, as so amended, is reduced by*
21 *30 percent, effective upon July 1, 1999.*