

# Union Calendar No. 402

108<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4518

[Report No. 108-660]

To extend the statutory license for secondary transmissions under section 119 of title 17, United States Code.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2004

Mr. SMITH of Texas (for himself, Mr. CONYERS, and Mr. BERMAN) introduced the following bill; which was referred to the Committee on the Judiciary

SEPTEMBER 7, 2004

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on June 4, 2004]

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## A BILL

To extend the statutory license for secondary transmissions under section 119 of title 17, United States Code.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) *SHORT TITLE.*—*This Act may be cited as the “Sat-*  
 3 *ellite Home Viewer Extension and Reauthorization Act of*  
 4 *2004”.*

5 (b) *TABLE OF CONTENTS.*—

*Sec. 1. Short title; table of contents.*

*TITLE I—STATUTORY LICENSE FOR SATELLITE CARRIERS*

*Sec. 101. Extension of authority.*

*Sec. 102. Reporting of subscribers; significantly viewed and other signals; technical amendments.*

*Sec. 103. Statutory license for satellite carriers outside local markets.*

*Sec. 104. Waivers.*

*Sec. 105. Study.*

*Sec. 106. Effect on certain proceedings.*

*Sec. 107. Expedited consideration of voluntary agreements to provide satellite secondary transmissions to local markets.*

6 **TITLE I—STATUTORY LICENSE**  
 7 **FOR SATELLITE CARRIERS**

8 **SEC. 101. EXTENSION OF AUTHORITY.**

9 (a) *IN GENERAL.*—*Section 4(a) of the Satellite Home*  
 10 *Viewer Act of 1994 (17 U.S.C. 119 note; Public Law 103–*  
 11 *369; 108 Stat. 3481) is amended by striking “December 31,*  
 12 *2004” and inserting “December 31, 2009”.*

13 (b) *EXTENSION FOR CERTAIN SUBSCRIBERS.*—*Section*  
 14 *119(e) of title 17, United States Code, is amended by strik-*  
 15 *ing “December 31, 2004” and inserting “December 31,*  
 16 *2009”.*

1 **SEC. 102. REPORTING OF SUBSCRIBERS; SIGNIFICANTLY**  
2 **VIEWED AND OTHER SIGNALS; TECHNICAL**  
3 **AMENDMENTS.**

4 *Section 119(a) of title 17, United States Code, is*  
5 *amended—*

6 *(1) in paragraph (1)—*

7 *(A) in the paragraph heading, by striking*  
8 *“AND PBS SATELLITE FEED”;*

9 *(B) in the first sentence, by striking “(3),*  
10 *(4), and (6)” and inserting “(5), (6), and (8)”;*

11 *(C) in the first sentence, by striking “or by*  
12 *the Public Broadcasting Service satellite feed”;*

13 *and*

14 *(D) by striking the second sentence;*

15 *(2) in paragraph (2)—*

16 *(A) in subparagraph (A), by striking “(3),*  
17 *(4), (5), and (6)” and inserting “(5), (6), (7),*  
18 *and (8)”;* and

19 *(B) by striking subparagraph (C) and in-*  
20 *serting the following:*

21 *“(C) EXCEPTIONS.—*

22 *“(i) STATES WITH SINGLE FULL-*  
23 *POWER NETWORK STATION.—In a State in*  
24 *which there is licensed by the Federal Com-*  
25 *munications Commission a single full-*  
26 *power station that was a network station on*

1           *January 1, 1995, the statutory license pro-*  
2           *vided for in subparagraph (A) shall apply*  
3           *to the secondary transmission by a satellite*  
4           *carrier of the signal of that station to any*  
5           *subscriber in a community that is located*  
6           *within that State and that is not within the*  
7           *first 50 television markets as listed in the*  
8           *regulations of the Commission as in effect*  
9           *on such date (47 C.F.R. 76.51).*

10           “(i) CERTAIN ADDITIONAL STA-  
11           TIONS.—*The statutory license provided for*  
12           *in subparagraph (A) shall apply to the sec-*  
13           *ondary transmission, by a satellite carrier*  
14           *to subscribers in no more than two counties*  
15           *in a State that are in local market prin-*  
16           *cipally comprised of counties in another*  
17           *State, of the signals of any network station*  
18           *located in the capital of the State in which*  
19           *such counties are located, if the total num-*  
20           *ber of television households in the two coun-*  
21           *ties combined did not exceed 10,000 for the*  
22           *year 2003 according to Nielsen Media Re-*  
23           *search.*

24           “(D) SUBMISSION OF SUBSCRIBER LISTS TO  
25           NETWORKS.—

1           “(i) *INITIAL LISTS.*—A satellite carrier  
2           that makes secondary transmissions of a  
3           primary transmission made by a network  
4           station pursuant to subparagraph (A) shall,  
5           90 days after commencing such secondary  
6           transmissions, submit to the network that  
7           owns or is affiliated with the network sta-  
8           tion—

9                   “(I) a list identifying (by name  
10                   and street address, including county  
11                   and zip code) all subscribers to which  
12                   the satellite carrier makes secondary  
13                   transmissions of that primary trans-  
14                   mission to subscribers in unserved  
15                   households; and

16                   “(II) a separate list, aggregated  
17                   by designated market area (as defined  
18                   in section 122(j)) (by name and street  
19                   address, including county and zip  
20                   code), which shall indicate those sub-  
21                   scribers being served pursuant to sub-  
22                   section (a)(3), relating to significantly  
23                   viewed stations.

24           “(ii) *MONTHLY LISTS.*—After the sub-  
25           mission of the initial lists under clause (i),

1           on the 15th of each month, the satellite car-  
2           rier shall submit to the network—

3                   “(I) a list identifying (by name  
4                   and street address, including county  
5                   and zip code) any persons who have  
6                   been added or dropped as subscribers  
7                   under clause (i)(I) since the last sub-  
8                   mission under clause (i); and

9                   “(II) a separate list, aggregated  
10                  by designated market area (by name  
11                  and street address, including county  
12                  and zip code), identifying those sub-  
13                  scribers whose service pursuant to sub-  
14                  section (a)(3), relating to significantly  
15                  viewed stations, has been added or  
16                  dropped.

17                  “(iii) *USE OF SUBSCRIBER INFORMA-*  
18                  *TION.*—Subscriber information submitted by  
19                  a satellite carrier under this subparagraph  
20                  may be used only for purposes of moni-  
21                  toring compliance by the satellite carrier  
22                  with this subsection.

23                  “(iv) *APPLICABILITY.*—The submission  
24                  requirements of this subparagraph shall  
25                  apply to a satellite carrier only if the net-

1           *work to whom the submissions are to be*  
2           *made places on file with the Register of*  
3           *Copyrights a document identifying the*  
4           *name and address of the person to whom*  
5           *such submissions are to be made. The Reg-*  
6           *ister shall maintain for public inspection a*  
7           *file of all such documents.”;*

8           *(3) by striking paragraph (8);*

9           *(4) by redesignating paragraphs (9) through (12)*  
10          *as paragraphs (10) through (13), respectively;*

11          *(5) by redesignating paragraphs (3) through (7)*  
12          *as paragraphs (5) through (9), respectively;*

13          *(6) by inserting after paragraph (2) the fol-*  
14          *lowing:*

15            “(3) *SECONDARY TRANSMISSIONS OF SIGNIFI-*  
16            *CANTLY VIEWED SIGNALS.—*

17            “(A) *IN GENERAL.—Notwithstanding the*  
18            *provisions of paragraph (2)(B), and subject to*  
19            *subparagraph (B) of this paragraph, the statu-*  
20            *tory license provided for in paragraphs (1) and*  
21            *(2) shall apply to the secondary transmission of*  
22            *the signal of a network station or a superstation*  
23            *to a subscriber who resides outside the station’s*  
24            *local market (as defined in section 122(j)) but*  
25            *within a community in which the signal of that*

1            *station was determined by the Federal Commu-*  
2            *nications Commission, on or before the date of*  
3            *the enactment of the Satellite Home Viewer Ex-*  
4            *tension and Reauthorization Act of 2004, to be*  
5            *significantly viewed in accordance with the pro-*  
6            *visions of section 76.54 of title 47, Code of Fed-*  
7            *eral Regulations, as in effect on such date of en-*  
8            *actment.*

9            *“(B) LIMITATION.—Subparagraph (A) shall*  
10           *apply only to secondary transmissions of net-*  
11           *work stations and superstations to subscribers*  
12           *who receive secondary transmissions from a sat-*  
13           *ellite carrier pursuant to the statutory license*  
14           *under section 122.”; and*

15           *(7) in paragraph (2)(B)(i), by adding at the end*  
16           *the following new sentence: “The limitation in this*  
17           *clause shall not apply to secondary transmissions*  
18           *under paragraph (3).”.*

19    **SEC. 103. STATUTORY LICENSE FOR SATELLITE CARRIERS**  
20                            **OUTSIDE LOCAL MARKETS.**

21           *Section 119 of title 17, United States Code, is amended*  
22    *as follows:*

23           *(1) Subsection (a) is amended by inserting after*  
24           *paragraph (3), as added by section 102 of this Act,*  
25           *the following:*

1           “(4) *STATUTORY LICENSE WHERE RETRANS-*  
2           *MISSIONS INTO LOCAL MARKET AVAILABLE.—*—

3           “(A) *RULES FOR SUBSCRIBERS UNDER SUB-*  
4           *SECTION (e).—*

5           “(i) *FOR THOSE RECEIVING DISTANT*  
6           *SIGNALS.—In the case of a subscriber of a*  
7           *satellite carrier who is eligible to receive the*  
8           *signal of a network station solely by reason*  
9           *of subsection (e) (in this subparagraph re-*  
10           *ferred to as a ‘distant signal’), and who is*  
11           *receiving the distant signal of a network*  
12           *station on the date of the enactment of the*  
13           *Satellite Home Viewer Extension and Reau-*  
14           *thorization Act of 2004, the following shall*  
15           *apply:*

16           “(I) *In a case in which the signal*  
17           *of a local network station affiliated*  
18           *with the same television network is*  
19           *made available by that satellite carrier*  
20           *to the subscriber pursuant to the statu-*  
21           *tory license under section 122, the statu-*  
22           *tory license under paragraph (2)*  
23           *shall apply only to secondary trans-*  
24           *missions by that satellite carrier to*  
25           *that subscriber of the distant signal of*

1           *a station affiliated with the same tele-*  
2           *vision network—*

3                     *“(aa) if, within 60 days after*  
4                     *receiving the notice of the satellite*  
5                     *carrier under section 338(h) of the*  
6                     *Communications Act of 1934, the*  
7                     *subscriber elects to retain the dis-*  
8                     *tant signal; but*

9                     *“(bb) only until such time as*  
10                    *the subscriber elects to receive such*  
11                    *local signal.*

12                    *“(II) Notwithstanding subclause*  
13                    *(I), the statutory license under para-*  
14                    *graph (2) shall not apply with respect*  
15                    *to any subscriber who is eligible to re-*  
16                    *ceive the distant signal of a television*  
17                    *network station solely by reason of sub-*  
18                    *section (e) and to whom subclause (I)*  
19                    *applies unless the satellite carrier,*  
20                    *within 60 days after the date of the en-*  
21                    *actment of the Satellite Home Viewer*  
22                    *Extension and Reauthorization Act of*  
23                    *2004, submits to that television net-*  
24                    *work a list, aggregated by designated*

1                   *market area (as defined in section*  
2                   *122(j)(2)(C)), that—*

3                   “*(aa) identifies that sub-*  
4                   *scriber by name and address*  
5                   *(street or RFD number, city,*  
6                   *State, and zip code) and specifies*  
7                   *the distant signals received by the*  
8                   *subscriber; and*

9                   “*(bb) states, to the best of the*  
10                  *satellite carrier’s knowledge and*  
11                  *belief, after having made diligent*  
12                  *and good faith inquiries, that the*  
13                  *subscriber is eligible under sub-*  
14                  *section (e) to receive the distant*  
15                  *signals.*

16                  “*(ii) FOR THOSE NOT RECEIVING DIS-*  
17                  *TANT SIGNALS.—In the case of any sub-*  
18                  *scriber of a satellite carrier who is eligible*  
19                  *to receive the distant signal of a network*  
20                  *station solely by reason of subsection (e)*  
21                  *and who did not receive a distant signal of*  
22                  *a station affiliated with the same network*  
23                  *on July 1, 2004, the statutory license under*  
24                  *paragraph (2) shall not apply to secondary*

1                   *transmissions by that satellite carrier to that*  
2                   *subscriber of that distant signal.*

3                   “(B) *RULES FOR OTHER SUBSCRIBERS.—In*  
4                   *the case of a subscriber of a satellite carrier who*  
5                   *is eligible to receive the signal of a network sta-*  
6                   *tion under the statutory license under paragraph*  
7                   *(2) (in this subparagraph referred to as a ‘dis-*  
8                   *tant signal’), other than subscribers to whom*  
9                   *subparagraph (A) applies, the following shall*  
10                   *apply:*

11                   “(i) *In a case in which the signal of a*  
12                   *local network station affiliated with the*  
13                   *same television network is made available*  
14                   *by that satellite carrier, on January 1,*  
15                   *2005, to the subscriber pursuant to the stat-*  
16                   *utory license under section 122, the statu-*  
17                   *tory license under paragraph (2) shall*  
18                   *apply only to secondary transmissions by*  
19                   *that satellite carrier to that subscriber of the*  
20                   *distant signal of a station affiliated with*  
21                   *the same television network if the sub-*  
22                   *scriber’s satellite carrier, within 60 days*  
23                   *after such date, submits to that television*  
24                   *network a list, aggregated by designated*  
25                   *market area (as defined in section*

1           122(j)(2)(C)), that identifies that subscriber  
2           by name and address (street or RFD num-  
3           ber, city, State, and zip code) and specifies  
4           the distant signals received by the sub-  
5           scriber.

6           “(ii) In a case in which the signal of  
7           a local network station affiliated with the  
8           same television network is not made avail-  
9           able by that satellite carrier, on January 1,  
10          2005, to a subscriber pursuant to the statu-  
11          tory license under section 122, the statutory  
12          license under paragraph (2) shall apply  
13          only to secondary transmissions by that sat-  
14          ellite carrier of the distant signal of a sta-  
15          tion affiliated with the same network to any  
16          person—

17                   “(I) who is a subscriber of that  
18                   satellite carrier on such date, or

19                   “(II) who becomes a subscriber of  
20                   that satellite carrier after such date but  
21                   before the local signal is available,

22          but only until such time as the subscriber  
23          elects to receive the local signal from that  
24          satellite carrier.

1           “(C) *FUTURE APPLICABILITY.*—*The statu-*  
2           *tory license under paragraph (2) shall not apply*  
3           *to the secondary transmission by a satellite car-*  
4           *rier of a primary transmission of a network sta-*  
5           *tion to a subscriber who—*

6                     “(i) *does not receive such secondary*  
7                     *transmission as of the date of the enactment*  
8                     *of the Satellite Home Viewer Extension and*  
9                     *Reauthorization Act of 2004; and*

10                    “(ii) *resides in a local market where*  
11                    *the satellite carrier makes available a net-*  
12                    *work station affiliated with the same tele-*  
13                    *vision network pursuant to the statutory li-*  
14                    *cence under section 122.*

15           “(D) *OTHER PROVISIONS NOT AFFECTED.*—  
16           *This paragraph shall not affect the applicability*  
17           *of the statutory license to secondary trans-*  
18           *missions under paragraph (3) or to unserved*  
19           *households included under paragraph (12).*

20                    “(E) *AVAILABLE DEFINED.*—*For purposes*  
21                    *of this paragraph, a local signal has been made*  
22                    *available by a satellite carrier to a subscriber or*  
23                    *person if the satellite carrier offers that local sig-*  
24                    *nal to other subscribers who reside in the same*  
25                    *zipcode as that subscriber or person.”.*

1           (2) *Subsection (b)(1) is amended by striking sub-*  
2 *paragraph (B) and inserting the following:*

3                   “(B) *a royalty fee for that 6-month period,*  
4 *computed by multiplying the total number of*  
5 *subscribers receiving each secondary trans-*  
6 *mission of each superstation or network station*  
7 *during each calendar month by the appropriate*  
8 *rate in effect under this section.”.*

9           (3) *Subsection (b)(1) is further amended by add-*  
10 *ing at the end the following flush sentence:*

11                   “*Notwithstanding the provisions of subparagraph (B),*  
12 *a satellite carrier whose secondary transmissions are*  
13 *subject to statutory licensing under paragraph (1) or*  
14 *(2) of subsection (a) shall have no royalty obligation*  
15 *for secondary transmissions to a subscriber who re-*  
16 *sides outside the station’s local market (as defined in*  
17 *section 122(j)(2)) but within a community in which*  
18 *the signal of that station was determined by the Fed-*  
19 *eral Communications Commission, on or before the*  
20 *date of the enactment of the Satellite Home Viewer*  
21 *Extension and Reauthorization Act of 2004, to be sig-*  
22 *nificantly viewed in accordance with the provisions of*  
23 *section 76.54 of title 47, Code of Federal Regulations,*  
24 *as in effect on such date of enactment.”.*

25           (4) *Subsection (c) is amended—*

1           (A) by amending paragraph (1) to read as  
2 follows:

3           “(1) *APPLICABILITY AND DETERMINATION OF*  
4 *ROYALTY FEES.*—*The appropriate rate for purposes of*  
5 *determining the royalty fee under subsection (b)(1)(B)*  
6 *shall be the appropriate rate set forth in part 258 of*  
7 *title 37, Code of Federal Regulations, as in effect on*  
8 *the date of the enactment of the Satellite Home View-*  
9 *er Extension and Reauthorization Act of 2004, as*  
10 *modified under this subsection.”;*

11           (B) by striking paragraph (2);

12           (C) in paragraph (3)—

13                 (i) by redesignating that paragraph as  
14 paragraph (2);

15                 (ii) in subparagraph (A)—

16                         (I) by striking “January 1,  
17 1997,” and inserting “January 1,  
18 2005,”; and

19                         (II) by striking “who are not par-  
20 ties to a voluntary agreement filed  
21 with the Copyright Office in accord-  
22 ance with paragraph (2)”;

23                         (iii) in subparagraph (C), by striking  
24 “as provided” and all that follows through

1           *“later” and inserting “on January 1,*  
2           *2006”;* and

3                   *(iv) by striking subparagraph (D); and*  
4           *(D) by striking paragraphs (4) and (5) and*  
5           *inserting the following:*

6           *“(3) COST OF LIVING ADJUSTMENT.—The royalty*  
7           *rates set forth in subsection (b)(1)(B), as adjusted*  
8           *under paragraph (2) of this subsection, shall be ad-*  
9           *justed by the Librarian of Congress—*

10                   *“(A) on January 1, 2005, to reflect any*  
11           *changes occurring during the period beginning*  
12           *on January 1, 2000, and ending on November*  
13           *30, 2004, in the cost of living as determined by*  
14           *the most recent Consumer Price Index (for all*  
15           *consumers and items) published by the Secretary*  
16           *of Labor during that period; and*

17                   *“(B) on January 1, 2007, and on January*  
18           *1 of each year thereafter, to reflect any changes*  
19           *occurring during the preceding 12 months in the*  
20           *cost of living as determined by the most recent*  
21           *Consumer Price Index so published.*

22           *“(4) REDUCTIONS.—The rate of the royalty fee*  
23           *determined under paragraph (2)—*

24                   *“(A) for superstations shall be reduced by*  
25           *30 percent; and*

1           “(B) for network stations shall be reduced  
2           by 45 percent.”.

3           (5) Subsection (d) is amended—

4           (A) by amending paragraph (9) to read as  
5           follows:

6           “(9) SUPERSTATION.—The term ‘superstation’  
7           means a television broadcast station, other than a  
8           network station, licensed by the Federal Communica-  
9           tions Commission that is secondarily transmitted by  
10          a satellite carrier.”;

11          (B) in paragraph (10)(D), by striking  
12          “(a)(11)” and inserting “(a)(12)”; and

13          (C) by striking paragraph (12).

14          (6) Subsection (a)(7), as redesignated by section  
15          102(5) of this Act, is amended—

16          (A) in subparagraph (A), by striking “who  
17          does not reside in an unserved household” and  
18          inserting “who is not eligible to receive the  
19          transmission under this section”;

20          (B) in subparagraph (B), by striking “who  
21          do not reside in unserved households” and insert-  
22          ing “who are not eligible to receive the trans-  
23          mission under this section”; and

24          (C) in subparagraph (D), by striking “is  
25          for private home viewing to an unserved house-

1           *hold” and inserting “is to a subscriber who is el-*  
2           *igible to receive the transmission under this sec-*  
3           *tion”.*

4 **SEC. 104. WAIVERS.**

5           *Section 119(a) of title 17, United States Code, is*  
6 *amended by adding at the end the following new paragraph:*

7           “(14) *WAIVERS.—A subscriber who is denied the*  
8           *secondary transmission of a network station under*  
9           *paragraph (4)(C), or is denied the secondary trans-*  
10          *mission of a network station or a superstation under*  
11          *paragraph (3)(B), may request a waiver from such*  
12          *denial by submitting a request, through the sub-*  
13          *scriber’s satellite carrier, to the network station or*  
14          *superstation in the local market where the subscriber*  
15          *is located. The network station or superstation shall*  
16          *accept or reject the subscriber’s request for a waiver*  
17          *within 30 days after receipt of the request. If the net-*  
18          *work station or superstation fails to accept or reject*  
19          *the subscriber’s request for a waiver within that 30-*  
20          *day period, that network station or superstation, as*  
21          *the case may be, shall be deemed to agree to the waiv-*  
22          *er request. Unless specifically stated by the network*  
23          *station or superstation, a waiver under section*  
24          *339(c)(2) of the Communications Act shall not con-*  
25          *stitute a waiver for purposes of this paragraph.”.*

1 **SEC. 105. STUDY.**

2 *No later than June 30, 2008, the Register of Copy-*  
3 *rights shall report to the Committee on the Judiciary of*  
4 *the House of Representatives and the Committee on the Ju-*  
5 *diciary of the Senate the Register's findings and rec-*  
6 *ommendations on the operation and revision of the statu-*  
7 *tory licenses under sections 111, 119, and 122 of title 17,*  
8 *United States Code. The report should include, but not be*  
9 *limited to, the following:*

10 *(1) A comparison of the royalties paid by licens-*  
11 *ees under such sections, including historical rates of*  
12 *increases in these royalties, a comparison between the*  
13 *royalties under each such section and the prices paid*  
14 *in the marketplace for comparable programming.*

15 *(2) An analysis of the differences in the terms*  
16 *and conditions of the licenses under such sections, an*  
17 *analysis of whether these differences are required or*  
18 *justified by historical, technological, or regulatory dif-*  
19 *ferences that affect the satellite and cable industries,*  
20 *and an analysis of whether either the cable or satellite*  
21 *industry is placed in a competitive disadvantage due*  
22 *to these terms and conditions.*

23 *(3) An analysis of whether the licenses under*  
24 *such sections are still justified by the bases upon*  
25 *which they were originally created.*

1           (4) *An analysis of the correlation, if any, be-*  
2           *tween the royalties, or lack thereof, under such sec-*  
3           *tions and the fees charged to cable and satellite sub-*  
4           *scribers, addressing whether cable and satellite com-*  
5           *panies have passed to subscribers any savings realized*  
6           *as a result of the royalty structure and amounts*  
7           *under such sections.*

8   **SEC. 106. EFFECT ON CERTAIN PROCEEDINGS.**

9           *Nothing in this title shall modify any remedy imposed*  
10          *on a party that is required by the judgment of a court in*  
11          *any action that was brought before May 1, 2004, against*  
12          *that party for a violation of section 119 of title 17, United*  
13          *States Code.*

14   **SEC. 107. EXPEDITED CONSIDERATION OF VOLUNTARY**  
15                    **AGREEMENTS TO PROVIDE SATELLITE SEC-**  
16                    **ONDARY TRANSMISSIONS TO LOCAL MAR-**  
17                    **KETS.**

18          *Section 119 of title 17, United States Code, is amended*  
19          *by adding at the end the following:*

20            “(f) *EXPEDITED CONSIDERATION BY JUSTICE DE-*  
21            *PARTMENT OF VOLUNTARY AGREEMENTS TO PROVIDE SAT-*  
22            *ELLITE SECONDARY TRANSMISSIONS TO LOCAL MAR-*  
23            *KETS.—*

24                    “(1) *IN GENERAL.—In a case in which no sat-*  
25                    *ellite carrier makes available, to subscribers located in*

1        *a local market, as defined in section 122(j)(2), the*  
2        *secondary transmission into that market of a pri-*  
3        *mary transmission of one or more television broadcast*  
4        *stations licensed by the Federal Communications*  
5        *Commission, and two or more satellite carriers re-*  
6        *quest a business review letter in accordance with sec-*  
7        *tion 50.6 of title 28, Code of Federal Regulations (as*  
8        *in effect on July 7, 2004), in order to assess the legal-*  
9        *ity under the antitrust laws of proposed business con-*  
10       *duct to make or carry out an agreement to provide*  
11       *such secondary transmission into such local market,*  
12       *the appropriate official of the Department of Justice*  
13       *shall respond to the request no later than 90 days*  
14       *after the date on which the request is received.*

15            *“(2) DEFINITION.—For purposes of this sub-*  
16        *section, the term ‘antitrust laws’—*

17            *“(A) has the meaning given that term in*  
18        *subsection (a) of the first section of the Clayton*  
19        *Act (15 U.S.C. 12(a)), except that such term in-*  
20        *cludes section 5 of the Federal Trade Commis-*  
21        *sion Act (15 U.S.C. 45) to the extent such section*  
22        *5 applies to unfair methods of competition; and*

23            *“(B) includes any State law similar to the*  
24        *laws referred to in paragraph (1).”.*



Union Calendar No. 402

108<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 4518**

[Report No. 108-660]

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## **A BILL**

To extend the statutory license for secondary transmissions under section 119 of title 17, United States Code.

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SEPTEMBER 7, 2004

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed