

111TH CONGRESS
1ST SESSION

S. 1670

To reform and modernize the limitations on exclusive rights relating to secondary transmissions of certain signals.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 2009

Mr. LEAHY (for himself, Mr. SESSIONS, Mr. KOHL, Mr. HATCH, and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To reform and modernize the limitations on exclusive rights relating to secondary transmissions of certain 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 “Satellite Television
5 Modernization Act of 2009”.

1 **SEC. 2. LIMITATIONS ON EXCLUSIVE RIGHTS: SECONDARY**
2 **TRANSMISSIONS OF SUPERSTATIONS AND**
3 **NETWORK STATIONS FOR PRIVATE HOME**
4 **VIEWING.**

5 Section 119 of title 17, United States Code, is
6 amended—

7 (1) in subsection (a)—

8 (A) in paragraph (2)—

9 (i) in subparagraph (A)—

10 (I) by striking “subparagraphs
11 (B) and (C)” and inserting “subpara-
12 graph (B)”; and

13 (II) by striking “(5), (6), (7),
14 and (8)” and inserting “(4), (5), (6),
15 and (7)”; and

16 (ii) in subparagraph (B)—

17 (I) in clause (i), by striking the
18 second sentence; and

19 (II) in clause (ii)—

20 (aa) in subclause (I)—

21 (AA) by striking “the
22 Individual Location” and all
23 that follows through “No.
24 98–201,” and inserting “the
25 predictive digital model es-
26 tablished by the Federal

1 Communications Commis-
2 sion,”; and

3 (BB) by striking
4 “under section 339(c)(3) of
5 the Communications Act of
6 1934 (47 U.S.C.
7 339(c)(3))”; and

8 (bb) in subclause (II), by
9 striking “section 339(c)(4) of the
10 Communications Act of 1934 (47
11 U.S.C. 339(c)(4))” and inserting
12 “rules established by the Federal
13 Communications Commission”;

14 (iii) by striking subparagraph (C);

15 (iv) by redesignating subparagraph
16 (D) as subparagraph (C); and

17 (v) in subparagraph (C) (as so reded-
18 igned)—

19 (I) in clause (i), by striking “net-
20 work station—” and all that follows
21 through the period at the end and in-
22 serting “network station a list, aggre-
23 gated by designated market area (as
24 that term is defined in section
25 122(j)), identifying (by name and ad-

1 dress, including street or rural route
2 number, city, State, and zip code) all
3 subscribers to which the satellite car-
4 rier makes secondary transmissions of
5 that primary transmission to sub-
6 scribers in unserved households.”;

7 (II) in clause (ii), by striking
8 “the network—” and all that follows
9 through the period at the end and in-
10 sserting “the network a list, aggre-
11 gated by designated market area (as
12 that term is defined in section
13 122(j)), identifying (by name and ad-
14 dress, including street or rural route
15 number, city, State, and zip code) any
16 persons who have been added or
17 dropped as subscribers under clause
18 (i)(I) since the last submission under
19 clause (i).”; and

20 (III) in clause (iv), at the end of
21 the second sentence, by striking the
22 ending quotation mark and semicolon;

23 (B) by striking paragraph (3);

1 (C) by redesignating paragraphs (4)
2 through (14) as paragraphs (3) through (13),
3 respectively;

4 (D) by amending paragraph (3) (as so re-
5 designated) to read as follows:

6 “(3) STATUTORY LICENSE WHERE RETRANS-
7 MISSIONS INTO LOCAL MARKET AVAILABLE.—

8 “(A) FUTURE APPLICABILITY.—The statu-
9 tory license under paragraph (2) shall not apply
10 to the secondary transmission by a satellite car-
11 rier of a primary transmission of a network sta-
12 tion to a person who—

13 “(i) is not a subscriber lawfully receiv-
14 ing such secondary transmission as of De-
15 cember 31, 2009; and

16 “(ii) at the time such person seeks to
17 subscribe to receive such secondary trans-
18 mission, resides in a local market where
19 the satellite carrier makes available to that
20 person the secondary transmission of the
21 primary transmission of a local network
22 station affiliated with the same television
23 network pursuant to the statutory license
24 under section 122, and such secondary

1 transmission of such primary transmission
2 can reach such person.

3 “(B) OTHER PROVISIONS NOT AF-
4 FECTED.—This paragraph shall not affect the
5 applicability of the statutory license to sec-
6 ondary transmissions to unserved households
7 included under paragraph (11).

8 “(C) WAIVER.—A subscriber who is denied
9 the secondary transmission of a network station
10 under this paragraph may request a waiver
11 from such denial by submitting a request,
12 through the subscriber’s satellite carrier, to the
13 network station in the local market affiliated
14 with the same network where the subscriber is
15 located. The network station shall accept or re-
16 ject the subscriber’s request for a waiver within
17 30 days after receipt of the request. If the net-
18 work station fails to accept or reject the sub-
19 scriber’s request for a waiver within that 30-
20 day period, that network station shall be
21 deemed to agree to the waiver request. Unless
22 specifically stated by the network station, a
23 waiver that was granted before the date of the
24 enactment of the Satellite Home Viewer Exten-
25 sion and Reauthorization Act of 2004 under

1 section 339(c)(2) of the Communications Act of
2 1934 (47 U.S.C. 339(c)(2)) shall not constitute
3 a waiver for purposes of this subparagraph.

4 “(D) AVAILABLE DEFINED.—For purposes
5 of this paragraph, a satellite carrier makes
6 available a secondary transmission of the pri-
7 mary transmission of a local station to a sub-
8 scriber or person if the satellite carrier offers
9 that secondary transmission to other sub-
10 scribers who reside in the same zip code as that
11 subscriber or person.”;

12 (E) in paragraph (4) (as so redesignated),
13 by striking “section 509”;

14 (F) in paragraph (6) (as so redesign-
15 ated)—

16 (i) in subparagraph (A)(ii), by strik-
17 ing “\$5” and inserting “\$250”; and

18 (ii) in subparagraph (B)—

19 (I) in clause (i), by striking
20 “\$250,000” and inserting
21 “\$2,500,000”; and

22 (II) in clause (ii), by striking
23 “\$250,000” and inserting
24 “\$2,500,000”;

25 (G) by striking paragraph (15); and

1 (H) by redesignating paragraph (16) as
2 paragraph (14);

3 (2) in subsection (b)—

4 (A) by striking the subsection heading and
5 inserting “(b) DEPOSITS AND DISTRIBUTION
6 OF ROYALTY FEES.—”; and

7 (B) in paragraph (1), by striking the mat-
8 ter following subparagraph (B);

9 (3) by amending subsection (c) to read as fol-
10 lows:

11 “(c) ADJUSTMENT OF ROYALTY FEES.—

12 “(1) APPLICABILITY AND DETERMINATION OF
13 ROYALTY FEES.—

14 “(A) INITIAL FEE.—The appropriate fee
15 for purposes of determining the royalty fee
16 under subsection (b)(1)(B) for the secondary
17 transmission of the primary transmissions of
18 network stations and superstations shall be the
19 appropriate fee set forth in subchapter E of
20 chapter III of title 37, Code of Federal Regula-
21 tions, as in effect on July 1, 2009, as modified
22 under this paragraph.

23 “(B) FEE SET BY VOLUNTARY NEGOTIA-
24 TION.—On or before January 4, 2010, Copy-
25 right Royalty Judges shall cause to be pub-

1 lished in the Federal Register of the initiation
2 of voluntary negotiation proceedings for the
3 purpose of determining the royalty fee to be
4 paid by satellite carriers for the secondary
5 transmission of the primary transmission of
6 network stations and superstations under sub-
7 section (b)(1)(B).

8 “(C) NEGOTIATIONS.—Satellite carriers,
9 distributors, and copyright owners entitled to
10 royalty fees under this section shall negotiate in
11 good faith in an effort to reach a voluntary
12 agreement or agreements for the payment of
13 royalty fees. Any such satellite carriers, dis-
14 tributors, and copyright owners may at any
15 time negotiate and agree to the royalty fee, and
16 may designate common agents to negotiate,
17 agree to, or pay such fees. If the parties fail to
18 identify common agents, Copyright Royalty
19 Judges shall do so, after requesting rec-
20 ommendations from the parties to the negotia-
21 tion proceeding. The parties to each negotiation
22 proceeding shall bear the cost thereof.

23 “(D)(i) AGREEMENTS BINDING ON PAR-
24 TIES; FILING OF AGREEMENTS; PUBLIC NO-
25 TICE.—Voluntary agreements negotiated at any

1 time in accordance with this paragraph shall be
2 binding upon all satellite carriers, distributors,
3 and copyright owners that are parties thereto.
4 Copies of such agreements shall be filed with
5 the Copyright Office within 30 days after exe-
6 cution in accordance with regulations that the
7 Register of Copyrights shall prescribe.

8 “(ii)(I) Within 10 days after publication in
9 the Federal Register of a notice of the initiation
10 of voluntary negotiation proceedings, parties
11 who have reached a voluntary agreement may
12 request that the royalty fees in that agreement
13 be applied to all satellite carriers, distributors,
14 and copyright owners without convening a pro-
15 ceeding pursuant to subparagraph (F).

16 “(II) Upon receiving a request under sub-
17 clause (I), the Copyright Royalty Judges shall
18 immediately provide public notice of the royalty
19 fees from the voluntary agreement and afford
20 parties an opportunity to state that they object
21 to those fees.

22 “(III) The Copyright Royalty Judges shall
23 adopt the royalty fees from the voluntary agree-
24 ment for all satellite carriers, distributors, and
25 copyright owners without convening a pro-

1 ceeding unless a party with an intent to partici-
2 pate in the proceeding and a significant interest
3 in the outcome of that proceeding objects under
4 subclause (II).

5 “(E) PERIOD AGREEMENT IS IN EF-
6 FECT.—The obligation to pay the royalty fees
7 established under a voluntary agreement which
8 has been filed with the Copyright Office in ac-
9 cordance with this paragraph shall become ef-
10 fective on the date specified in the agreement,
11 and shall remain in effect until December 31,
12 2014, or in accordance with the terms of the
13 agreement, whichever is later.

14 “(F) PROCEEDING TO ESTABLISH ROY-
15 ALTY FEES.—

16 “(i) NOTICE OF INITIATION OF PRO-
17 CEEDINGS; VOLUNTARY AGREEMENTS.—

18 On or before May 3, 2010, the Copyright
19 Royalty Judges shall cause notice to be
20 published in the Federal Register of the
21 initiation of proceedings for the purpose of
22 determining the royalty fee to be paid for
23 the secondary transmission of primary
24 transmission of network stations and

1 superstations under subsection (b)(1)(B)
2 by satellite carriers and distributors—

3 “(I) in the absence of a voluntary
4 agreement filed in accordance with
5 subparagraph (D) that establishes
6 royalty fees to be paid by all satellite
7 carriers and distributors; or

8 “(II) if an objection to the fees
9 from a voluntary agreement submitted
10 for adoption by the Copyright Royalty
11 Judges to apply to all satellite car-
12 riers, distributors, and copyright own-
13 ers is received under subparagraph
14 (D) from a party with an intent to
15 participate in the proceeding and a
16 significant interest in the outcome of
17 that proceeding.

18 Such proceeding shall be conducted as pro-
19 vided under chapter 8 of this title.

20 “(ii) ESTABLISHMENT OF ROYALTY
21 FEES.—In determining royalty fees under
22 this paragraph, the Copyright Royalty
23 Judges shall establish fees for the sec-
24 ondary transmissions of the primary trans-
25 mission of network stations and supersta-

1 tions that most clearly represent the fair
2 market value of secondary transmissions,
3 except that the Copyright Royalty Judges
4 shall adjust those fees to account for the
5 obligations of the parties under any appli-
6 cable voluntary agreement filed with the
7 Copyright Office pursuant to subparagraph
8 (D). In determining the fair market value,
9 the Copyright Royalty Judges shall base
10 their decision on economic, competitive,
11 and programming information presented
12 by the parties, including—

13 “(I) the competitive environment
14 in which such programming is distrib-
15 uted, the cost of similar signals in
16 similar private and compulsory license
17 marketplaces, and any special features
18 and conditions of the retransmission
19 marketplace;

20 “(II) the economic impact of
21 such fees on copyright owners and
22 satellite carriers; and

23 “(III) the impact on the contin-
24 ued availability of secondary trans-
25 missions to the public.

1 “(iii) PERIOD DURING WHICH DECI-
2 SION OF COPYRIGHT ROYALTY JUDGES EF-
3 FECTIVE.—The obligation to pay the roy-
4 alty fee established under a determination
5 which is made by the Copyright Royalty
6 Judges under this paragraph shall be ef-
7 fective as of January 1, 2010.

8 “(iv) PERSONS SUBJECT TO ROYALTY
9 FEE.—The royalty fee referred to clause
10 (iii) shall be binding on all satellite car-
11 riers, distributors, and copyright owners,
12 who are not party to a voluntary agree-
13 ment filed with the Copyright Office under
14 subparagraph (D).

15 “(2) ROYALTY FEE ANNUAL ADJUSTMENT.—
16 The royalty fee payable under subsection (b)(1)(B)
17 for the secondary transmission of the primary trans-
18 mission of network stations and superstations shall
19 be adjusted annually by the Copyright Royalty
20 Judges to reflect any changes occurring during the
21 preceding 12 months in the cost of living as deter-
22 mined by the most recent Consumer Price Index (for
23 all consumers and items) published by the Secretary
24 of Labor prior to December 1. Notification of the

1 adjusted rates shall be published in the Federal Reg-
2 ister prior to December 1 of that year.”;

3 (4) in subsection (d)—

4 (A) in paragraph (10)—

5 (i) by amending subparagraph (A) to
6 read as follows:

7 “(A)(i) is located in a local market in
8 which there is no primary network station affili-
9 ated with such network licensed to a community
10 within such local market; or

11 “(ii) cannot receive, through the use of a
12 conventional, stationary, outdoor rooftop receiv-
13 ing antenna, an over-the-air signal of a primary
14 network station affiliated with that network
15 that does not exceed the signal intensity stand-
16 ard in section 73.622(e)(1) of title 47 of the
17 Code of Federal Regulations as in effect on
18 January 1, 2010;”;

19 (ii) in subparagraph (B), by striking
20 “(a)(14)” and inserting “(a)(13)”; and

21 (iii) in subparagraph (D), by striking
22 “(a)(12)” and inserting “(a)(101”;

23 (B) in paragraph (11), by striking “, ex-
24 cept that” and all that follows through “lo-
25 cated”;

1 (C) by striking paragraph (12); and

2 (D) by redesignating paragraph (13) as
3 paragraph (12); and

4 (5) by striking subsection (f).

5 **SEC. 3. LIMITATIONS ON EXCLUSIVE RIGHTS: SECONDARY**
6 **TRANSMISSIONS BY SATELLITE CARRIERS**
7 **WITHIN LOCAL MARKETS.**

8 Section 122 of title 17, United States Code, is
9 amended—

10 (1) by amending subsections (a), (b), and (c) to
11 read as follows:

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

14 “(1) **SECONDARY TRANSMISSIONS OF TELE-**
15 **VISION BROADCAST STATIONS WITHIN A LOCAL MAR-**
16 **KET.—**A secondary transmission of a performance
17 or display of a work embodied in a primary trans-
18 mission of a television broadcast station into the sta-
19 tion’s local market shall be subject to statutory li-
20 censing under this section if—

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

23 “(B) with regard to secondary trans-
24 missions, the satellite carrier is in compliance
25 with the rules, regulations, or authorizations of

1 the Federal Communications Commission gov-
2 erning the carriage of television broadcast sta-
3 tion signals; and

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

7 “(i) each subscriber receiving the sec-
8 ondary transmission; or

9 “(ii) a distributor that has contracted
10 with the satellite carrier for direct or indi-
11 rect delivery of the secondary transmission
12 to the public.

13 “(2) SIGNIFICANTLY VIEWED AND LOW POWER
14 STATIONS.—A secondary transmission of a perform-
15 ance or a display of a work embodied in a primary
16 transmission of a television broadcast station or low
17 power television station to subscribers who receive
18 secondary transmissions of primary transmissions
19 under paragraph (1) shall, if the secondary trans-
20 mission is made by a satellite carrier that complies
21 with the requirements of paragraph (1), be subject
22 to statutory licensing under this paragraph as fol-
23 lows:

24 “(A) SECONDARY TRANSMISSIONS OF SIG-
25 NIFICANTLY VIEWED SIGNALS.—The statutory

1 license shall apply to the secondary trans-
2 mission of the primary transmission of a net-
3 work station or a superstation to a subscriber
4 who resides outside the station's local market
5 but within a community in which the signal has
6 been determined by the Federal Communica-
7 tions Commission, to be significantly viewed in
8 such community, pursuant to the rules, regula-
9 tions, and authorizations of the Federal Com-
10 munications Commission in effect on April 15,
11 1976, applicable to determining with respect to
12 a cable system whether signals are significantly
13 viewed in a community.

14 “(B) CARRIAGE OF LOW POWER TELE-
15 VISION STATIONS.—

16 “(i) IN GENERAL.—The statutory li-
17 cense shall apply to the secondary trans-
18 mission of the primary transmission of a
19 network station or a superstation that is li-
20 censed as a low power television station, to
21 a subscriber who resides within the same
22 local market.

23 “(ii) NO APPLICABILITY TO REPEAT-
24 ERS AND TRANSLATORS.—Secondary
25 transmissions provided for in subpara-

1 graph (A) shall not apply to any low power
2 television station that retransmits the pro-
3 grams and signals of another television
4 station for more than 2 hours each day.

5 “(3) SPECIAL EXCEPTIONS.—A secondary
6 transmission of a performance or a display of a work
7 embodied in a primary transmission of a television
8 broadcast station to subscribers who receive sec-
9 ondary transmissions of primary transmissions
10 under paragraph (1) shall, if the secondary trans-
11 mission is made by a satellite carrier that complies
12 with the requirements of paragraph (1), be subject
13 to statutory licensing under this paragraph as fol-
14 lows:

15 “(A) STATES WITH SINGLE FULL-POWER
16 NETWORK STATION.—In a State in which there
17 is licensed by the Federal Communications
18 Commission a single full-power station that was
19 a network station on January 1, 1995, the stat-
20 utory license provided for in this paragraph
21 shall apply to the secondary transmission by a
22 satellite carrier of the primary transmission of
23 that station to any subscriber in a community
24 that is located within that State and that is not
25 within the first 50 television markets as listed

1 in the regulations of the Commission as in ef-
2 fect on such date (47 C.F.R. 76.51).

3 “(B) STATES WITH ALL NETWORK STA-
4 TIONS AND SUPERSTATIONS IN SAME LOCAL
5 MARKET.—In a State in which all network sta-
6 tions and superstations licensed by the Federal
7 Communications Commission within that State
8 as of January 1, 1995, are assigned to the
9 same local market and that local market does
10 not encompass all counties of that State, the
11 statutory license provided under this paragraph
12 shall apply to the secondary transmission by a
13 satellite carrier of the primary transmissions of
14 such station to all subscribers in the State who
15 reside in a local market that is within the first
16 50 major television markets as listed in the reg-
17 ulations of the Commission as in effect on such
18 date (section 76.51 of title 47 of the Code of
19 Federal Regulations).

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

23 “(i) on January 1, 2004, were in local
24 markets principally comprised of counties
25 in another State; and

1 “(ii) had a combined total of 41,340
2 television households, according to the U.S.
3 Television Household Estimates by Nielsen
4 Media Research for 2004,
5 the statutory license provided under this para-
6 graph shall apply to secondary transmissions by
7 a satellite carrier to subscribers in any such
8 county of the primary transmissions of any net-
9 work station located in that State, if the sat-
10 ellite carrier was making such secondary trans-
11 missions to any subscribers in that county on
12 January 1, 2004.

13 “(D) CERTAIN ADDITIONAL STATIONS.—If
14 2 adjacent counties in a single State are in a
15 local market comprised principally of counties
16 located in another State, the statutory license
17 provided for in this paragraph shall apply to
18 the secondary transmission by a satellite carrier
19 to subscribers in those 2 counties of the pri-
20 mary transmissions of any network station lo-
21 cated in the capital of the State in which such
22 2 counties are located, if—

23 “(i) the 2 counties are located in a
24 local market that is in the top 100 markets

1 for the year 2003 according to Nielsen
2 Media Research; and

3 “(ii) the total number of television
4 households in the 2 counties combined did
5 not exceed 10,000 for the year 2003 ac-
6 cording to Nielsen Media Research.

7 “(E) NETWORKS OF NONCOMMERCIAL
8 EDUCATIONAL BROADCAST STATIONS.—In the
9 case of a system of 3 or more noncommercial
10 educational broadcast stations licensed by a sin-
11 gle State, political, educational, or special pur-
12 pose subdivision of a State, or a public agency,
13 the statutory license provided for in this para-
14 graph shall apply to the secondary transmission
15 of that system to any subscriber in any county
16 or county equivalent within that State that is
17 located in a designated market that is not oth-
18 erwise eligible to receive secondary trans-
19 missions of a noncommercial television broad-
20 cast station located within that State pursuant
21 to paragraph (1). If a satellite carrier makes
22 secondary transmissions to an adjacent under-
23 served county, local noncommercial educational
24 broadcast stations shall not be repositioned in

1 the channel lineup as a consequence of these re-
2 transmissions.

3 “(4) SHORT MARKETS.—A secondary trans-
4 mission of a performance of a display of a work em-
5 bodied in a primary transmission of a television
6 broadcast station to subscribers who receive sec-
7 ondary transmissions of primary transmissions
8 under paragraph (1) shall be subject to statutory li-
9 censing under this paragraph if the secondary trans-
10 mission is of a primary transmission of a network
11 station from a market adjacent to such local market
12 and no station affiliated with such network is li-
13 censed to a community within the local market.

14 “(5) APPLICABILITY OF ROYALTY RATES.—The
15 royalty rates under section 119(b)(1)(B) shall apply
16 to the secondary transmissions to which the statu-
17 tory license under paragraphs (3) and (4) apply.

18 “(b) REPORTING REQUIREMENTS.—

19 “(1) INITIAL LISTS.—A satellite carrier that
20 makes secondary transmissions of a primary trans-
21 mission made by a network station under subsection
22 (a) shall, within 90 days after commencing such sec-
23 ondary transmissions, submit to the network that
24 owns or is affiliated with the network station—

1 “(A) a list, aggregated by designated mar-
2 ket area (as that term is defined in subsection
3 (j)), identifying (by name in alphabetical order
4 and street address, including county and zip
5 code) all subscribers to which the satellite car-
6 rier makes secondary transmissions of that pri-
7 mary transmission under subsection (a); and

8 “(B) a list, to be prepared and submitted
9 separately from the list required under subpara-
10 graph (A), aggregated by designated market
11 area (by name and address, including street or
12 rural route number, city, State, and zip code),
13 which shall indicate those subscribers being
14 served pursuant to paragraphs (2), (3), or (4)
15 of subsection (a).

16 “(2) SUBSEQUENT LISTS.—After the list is sub-
17 mitted under paragraph (1), the satellite carrier
18 shall, on the 15th of each month, submit to the net-
19 work—

20 “(A) a list, aggregated by designated mar-
21 ket area (as that term is defined in subsection
22 (j)), identifying (by name in alphabetical order
23 and street address, including county and zip
24 code) any subscribers who have been added or

1 dropped as subscribers since the last submission
2 under this subsection; and

3 “(B) a list, to be prepared and submitted
4 separately from the list required under subpara-
5 graph (A), aggregated by designated market
6 area (by name and street address, including
7 street or rural route number, city, State, and
8 zip code), identifying those subscribers whose
9 service pursuant to paragraphs (2), (3), or (4)
10 of subsection (a) has been added or dropped.

11 “(3) USE OF SUBSCRIBER INFORMATION.—Sub-
12 scriber information submitted by a satellite carrier
13 under this subsection may be used only for the pur-
14 poses of monitoring compliance by the satellite car-
15 rier with this section.

16 “(4) REQUIREMENTS OF NETWORKS.—The sub-
17 mission requirements of this subsection shall apply
18 to a satellite carrier only if the network to which the
19 submissions are to be made places on file with the
20 Register of Copyrights a document identifying the
21 name and address of the person to whom such sub-
22 missions are to be made. The Register of Copyrights
23 shall maintain for public inspection a file of all such
24 documents.

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

6 (2) in subsection (f)—

7 (A) in paragraph (1)(B), by striking “\$5”
8 and inserting “\$250”; and

9 (B) in paragraph (2)—

10 (i) in subparagraph (A)(ii), by strik-
11 ing “\$250,000” and inserting
12 “\$2,500,000”; and

13 (ii) in subparagraph (B)(ii), by strik-
14 ing “\$250,000” and inserting
15 “\$2,500,000”; and

16 (3) in subsection (j)—

17 (A) by redesignating paragraphs (3), (4),
18 and (5) as paragraphs (4), (5), and (6), respec-
19 tively; and

20 (B) by inserting after paragraph (2) the
21 following new paragraph:

22 “(3) LOW POWER TELEVISION STATION.—The
23 term ‘low power television station’ means a low
24 power television as defined under section 74.701(f)
25 of title 47, Code of Federal Regulations, as in effect

1 on June 1, 2004. For purposes of this paragraph,
2 the term ‘low power television station’ includes a low
3 power television station that has been accorded pri-
4 mary status as a Class A television licensee under
5 section 73.6001(a) of title 47, Code of Federal Reg-
6 ulations.”.

7 **SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.**

8 Section 338(a) of the Communications Act of 1934
9 (47 U.S.C. 338(a)) is amended—

10 (1) by amending the first paragraph (3) to read
11 as follows:

12 “(3) CARRIAGE OF LOW POWER, SIGNIFICANTLY
13 VIEWED, AND SPECIAL EXCEPTION STATIONS OP-
14 TIONAL.—No station whose signal is provided under
15 paragraph (2) or (3) of section 122(a) of title 17,
16 United States Code, shall be entitled to insist on
17 carriage under this section, regardless of whether
18 the satellite carrier provides secondary transmissions
19 of the primary transmissions of other stations in the
20 same local market pursuant to such section 122, nor
21 shall any such carriage be considered in connection
22 with the requirements of subsection (c) of this sec-
23 tion.”; and

1 (2) by redesignating the second paragraph (3)
2 (relating to effective date) and paragraph (4) as
3 paragraphs (4) and (5), respectively.

4 **SEC. 5. EXTENSION OF AUTHORITY.**

5 Section 4(a) of the Satellite Home Viewer Act of
6 1994 (17 U.S.C. 119 note; Public Law 103–369) is
7 amended by striking “December 31, 2009” and inserting
8 “December 31, 2014”.

9 **SEC. 6. MODIFICATIONS TO THE CABLE STATUTORY LI-**
10 **CENSE.**

11 (a) UPDATE AND CLARIFICATION OF ROYALTY CAL-
12 CULATION METHODOLOGY.—Section 111(d)(1) of title 17,
13 United States Code, is amended by striking subpara-
14 graphs (B), (C), and (D) and inserting the following:

15 “(B) except in the case of a cable system
16 whose royalty fee is specified in subparagraph
17 (C) or (D), a total royalty fee for the period
18 covered by the statement, computed on the
19 basis of specified percentages of the gross re-
20 ceipts from subscribers to the cable service dur-
21 ing said period for the basic service of providing
22 secondary transmissions of primary broadcast
23 transmitters, as follows:

24 “(i) 1.064 per centum for the privi-
25 lege of further transmitting any nonnet-

1 work programming of a primary trans-
2 mitter in whole or in part beyond the local
3 service area of such primary transmitter,
4 such amount to be applied against the fee,
5 if any, payable pursuant to clauses (ii)
6 through (iv).

7 “(ii) 1.064 per centum of such gross
8 receipts for the first distant signal equiva-
9 lent.

10 “(iii) 0.701 of 1 per centum of such
11 gross receipts for each of the second, third,
12 and fourth distant signal equivalents.

13 “(iv) 0.330 of 1 per centum of such
14 gross receipts for the fifth distant signal
15 equivalent and each distant signal equiva-
16 lent thereafter;

17 “(C) in computing the amounts payable
18 under clauses (ii) through (iv), any fraction of
19 a distant signal equivalent shall be computed at
20 its fractional value or in the case of any cable
21 system located partly within and partly without
22 the local service area of a primary transmitter,
23 gross receipts shall be limited to those gross re-
24 cepts derived from subscribers located without

1 the local service area of such primary trans-
2 mitter;

3 “(D) in computing the amounts payable
4 under clauses (ii) through (iv), if a cable system
5 provides a secondary transmission of a primary
6 transmitter to some but not all communities
7 served by that cable system, the gross receipts
8 and the distant signal equivalent values for
9 each secondary transmission shall be derived
10 solely on the basis of the subscribers in those
11 communities where the cable system provides
12 each such secondary transmission, provided,
13 however, that the total royalty fee for the pe-
14 riod paid by such system shall in no event be
15 less than the royalty fee calculated in accord-
16 ance with clause (i) multiplied by the gross re-
17 cepts from all subscribers to the system; and
18 provided further, that a cable system that on a
19 statement submitted prior to the date of enact-
20 ment of the Satellite Television Modernization
21 Act of 2009, computed its royalty fee consistent
22 with the methodology in this subparagraph or
23 that amends a statement filed prior to the date
24 of enactment of such Act to compute the roy-
25 alty fee due using this methodology shall not be

1 subject to an action for infringement, or eligible
2 for any royalty refund, arising out of its use of
3 such methodology on such statement;

4 “(E) if the actual gross receipts paid by
5 subscribers to a cable system for the period cov-
6 ered by the statement for the basic service of
7 providing secondary transmissions of primary
8 broadcast transmitters total \$263,800 or less,
9 gross receipts of the cable system for the pur-
10 pose of this subparagraph shall be computed by
11 subtracting from such actual gross receipts the
12 amount by which \$263,800 exceeds such actual
13 gross receipts, except that in no case shall a
14 cable system’s gross receipts be reduced to less
15 than \$10,400. The royalty fee payable under
16 this subparagraph shall be 0.5 of 1 per centum,
17 regardless of the number of distant signal
18 equivalents, if any; and

19 “(F) if the actual gross receipts paid by
20 subscribers to a cable system for the period cov-
21 ered by the statement for the basic service of
22 providing secondary transmissions of primary
23 broadcast transmitters are more than \$263,800
24 but less than \$527,600, the royalty fee payable
25 under this subparagraph shall be—

1 “(i) 0.5 of 1 per centum of any gross
2 receipts up to \$263,800; and

3 “(ii) 1 per centum of any gross re-
4 ceipts in excess of \$263,800 but less than
5 \$527,600 regardless of the number of dis-
6 tant signal equivalents, if any.”.

7 (b) NO QUINQUENNIAL ADJUSTMENTS UNTIL
8 2015.—Section 804(b) of title 17, United States Code, is
9 amended by striking “2005” each place that term appears
10 and inserting “2015”.

11 (c) ACCEPTANCE OF ADDITIONAL DEPOSITS.—Any
12 royalty fee payments received by the Copyright Office
13 from cable systems for the secondary transmission of pri-
14 mary broadcast transmitters (as such terms are defined
15 in subsection (f) of section 111 of title 17, United States
16 Code) that are in addition to the payments calculated and
17 deposited in accordance with subsection (d) of such section
18 111 shall be deemed to have been deposited for the par-
19 ticular accounting period during which they are received
20 and shall be distributed as specified in subsection (d) of
21 such section 111.

22 (d) EFFECTIVE DATE OF NEW ROYALTY FEE
23 RATES.—The royalty fee rates established in section
24 111(d)(1)(B) of title 17, United States Code, as amended
25 by subsection (a), shall take effect beginning with the

- 1 statement of account covering the first accounting period
- 2 in 2010.

