

111TH CONGRESS
2D SESSION

S. 3191

To reauthorize the Satellite Home Viewer Extension and Reauthorization Act of 2004, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 26 (legislative day, MARCH 25), 2010

Mrs. HUTCHISON introduced the following bill; which was considered, amended, read the third time, and passed

A BILL

To reauthorize the Satellite Home Viewer Extension and Reauthorization Act of 2004, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Satellite Television Extension and Localism Act of 2010”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—STATUTORY LICENSES

Sec. 101. Reference.

Sec. 102. Modifications to statutory license for satellite carriers.

- Sec. 103. Modifications to statutory license for satellite carriers in local markets.
- Sec. 104. Modifications to cable system secondary transmission rights under section 111.
- Sec. 105. Certain waivers granted to providers of local-into-local service for all DMAs.
- Sec. 106. Copyright Office fees.
- Sec. 107. Termination of license.
- Sec. 108. Construction.

TITLE II—COMMUNICATIONS PROVISIONS

- Sec. 201. Reference.
- Sec. 202. Extension of authority.
- Sec. 203. Significantly viewed stations.
- Sec. 204. Digital television transition conforming amendments.
- Sec. 205. Application pending completion of rulemakings.
- Sec. 206. Process for issuing qualified carrier certification.
- Sec. 207. Nondiscrimination in carriage of high definition digital signals of noncommercial educational television stations.
- Sec. 208. Savings clause regarding definitions.
- Sec. 209. State public affairs broadcasts.

TITLE III—REPORTS AND SAVINGS PROVISION

- Sec. 301. Definition.
- Sec. 302. Report on market based alternatives to statutory licensing.
- Sec. 303. Report on communications implications of statutory licensing modifications.
- Sec. 304. Report on in-state broadcast programming.
- Sec. 305. Local network channel broadcast reports.
- Sec. 306. Savings provision regarding use of negotiated licenses.
- Sec. 307. Effective date; Noninfringement of copyright.

TITLE IV—SEVERABILITY

- Sec. 401. Severability.

TITLE V—DETERMINATION OF BUDGETARY EFFECTS

- Sec. 501. Determination of Budgetary Effects.

1 **TITLE I—STATUTORY LICENSES**

2 **SEC. 101. REFERENCE.**

3 Except as otherwise provided, whenever in this title
 4 an amendment is made to a section or other provision,
 5 the reference shall be considered to be made to such sec-
 6 tion or provision of title 17, United States Code.

1 **SEC. 102. MODIFICATIONS TO STATUTORY LICENSE FOR**
 2 **SATELLITE CARRIERS.**

3 (a) HEADING RENAMED.—

4 (1) IN GENERAL.—The heading of section 119
 5 is amended by striking “**superstations and net-**
 6 **work stations for private home viewing**”
 7 and inserting “**distant television program-**
 8 **ming by satellite**”.

9 (2) TABLE OF CONTENTS.—The table of con-
 10 tents for chapter 1 is amended by striking the item
 11 relating to section 119 and inserting the following:

“119. Limitations on exclusive rights: Secondary transmissions of distant tele-
 vision programming by satellite.”.

12 (b) UNSERVED HOUSEHOLD DEFINED.—

13 (1) IN GENERAL.—Section 119(d)(10) is
 14 amended—

15 (A) by striking subparagraph (A) and in-
 16 serting the following:

17 “(A) cannot receive, through the use of an
 18 antenna, an over-the-air signal containing the
 19 primary stream, or, on or after the qualifying
 20 date, the multicast stream, originating in that
 21 household’s local market and affiliated with
 22 that network of—

23 “(i) if the signal originates as an ana-
 24 log signal, Grade B intensity as defined by

1 the Federal Communications Commission
 2 in section 73.683(a) of title 47, Code of
 3 Federal Regulations, as in effect on Janu-
 4 ary 1, 1999; or

5 “(ii) if the signal originates as a dig-
 6 ital signal, intensity defined in the values
 7 for the digital television noise-limited serv-
 8 ice contour, as defined in regulations
 9 issued by the Federal Communications
 10 Commission (section 73.622(e) of title 47,
 11 Code of Federal Regulations), as such reg-
 12 ulations may be amended from time to
 13 time;”;

14 (B) in subparagraph (B)—

15 (i) by striking “subsection (a)(14)”
 16 and inserting “subsection (a)(13),”; and

17 (ii) by striking “Satellite Home View-
 18 er Extension and Reauthorization Act of
 19 2004” and inserting “Satellite Television
 20 Extension and Localism Act of 2010”; and

21 (C) in subparagraph (D), by striking
 22 “(a)(12)” and inserting “(a)(11)”.

23 (2) QUALIFYING DATE DEFINED.—Section
 24 119(d) is amended by adding at the end the fol-
 25 lowing:

1 “(14) QUALIFYING DATE.—The term ‘quali-
2 fying date’, for purposes of paragraph (10)(A),
3 means—

4 “(A) July 1, 2010, for multicast streams
5 that exist on December 31, 2009; and

6 “(B) January 1, 2011, for all other
7 multicast streams.”.

8 (c) FILING FEE.—Section 119(b)(1) is amended—

9 (1) in subparagraph (A), by striking “and”
10 after the semicolon at the end;

11 (2) in subparagraph (B), by striking the period
12 and inserting “; and”; and

13 (3) by adding at the end the following:

14 “(C) a filing fee, as determined by the
15 Register of Copyrights pursuant to section
16 708(a).”.

17 (d) DEPOSIT OF STATEMENTS AND FEES;

18 VERIFICATION PROCEDURES.—Section 119(b) is amend-
19 ed—

20 (1) by amending the subsection heading to read
21 as follows: “(b) DEPOSIT OF STATEMENTS AND
22 FEES; VERIFICATION PROCEDURES.—”;

23 (2) in paragraph (1), by striking subparagraph
24 (B) and inserting the following:

1 “(B) a royalty fee payable to copyright
2 owners pursuant to paragraph (4) for that 6-
3 month period, computed by multiplying the
4 total number of subscribers receiving each sec-
5 ondary transmission of a primary stream or
6 multicast stream of each non-network station or
7 network station during each calendar year
8 month by the appropriate rate in effect under
9 this subsection; and”;

10 (3) by redesignating paragraphs (2), (3), and
11 (4) as paragraphs (3), (4), and (5), respectively;

12 (4) by inserting after paragraph (1) the fol-
13 lowing:

14 “(2) VERIFICATION OF ACCOUNTS AND FEE
15 PAYMENTS.—The Register of Copyrights shall issue
16 regulations to permit interested parties to verify and
17 audit the statements of account and royalty fees
18 submitted by satellite carriers under this sub-
19 section.”;

20 (5) in paragraph (3), as redesignated, in the
21 first sentence—

22 (A) by inserting “(including the filing fee
23 specified in paragraph (1)(C))” after “shall re-
24 ceive all fees”; and

1 (B) by striking “paragraph (4)” and in-
2 serting “paragraph (5)”;

3 (6) in paragraph (4), as redesignated—

4 (A) by striking “paragraph (2)” and in-
5 serting “paragraph (3)”;

6 (B) by striking “paragraph (4)” each place
7 it appears and inserting “paragraph (5)”;

8 (7) in paragraph (5), as redesignated, by strik-
9 ing “paragraph (2)” and inserting “paragraph (3)”.

10 (e) ADJUSTMENT OF ROYALTY FEES.—Section
11 119(e) is amended as follows:

12 (1) Paragraph (1) is amended—

13 (A) in the heading for such paragraph, by
14 striking “ANALOG”;

15 (B) in subparagraph (A)—

16 (i) by striking “primary analog trans-
17 missions” and inserting “primary trans-
18 missions”;

19 (ii) by striking “July 1, 2004” and in-
20 serting “July 1, 2009”;

21 (C) in subparagraph (B)—

22 (i) by striking “January 2, 2005, the
23 Librarian of Congress” and inserting
24 “May 1, 2010, the Copyright Royalty
25 Judges”;

1 (ii) by striking “primary analog trans-
 2 mission” and inserting “primary trans-
 3 missions”;

4 (D) in subparagraph (C), by striking “Li-
 5 brarian of Congress” and inserting “Copyright
 6 Royalty Judges”;

7 (E) in subparagraph (D)—

8 (i) in clause (i)—

9 (I) by striking “(i) Voluntary
 10 agreements” and inserting the fol-
 11 lowing:

12 “(i) VOLUNTARY AGREEMENTS; FIL-
 13 ING.—Voluntary agreements”; and

14 (II) by striking “that a parties”
 15 and inserting “that are parties”; and

16 (ii) in clause (ii)—

17 (I) by striking “(ii)(I) Within”
 18 and inserting the following:

19 “(ii) PROCEDURE FOR ADOPTION OF
 20 FEES.—

21 “(I) PUBLICATION OF NOTICE.—
 22 Within”;

23 (II) in subclause (I), by striking
 24 “an arbitration proceeding pursuant
 25 to subparagraph (E)” and inserting

1 “a proceeding under subparagraph
2 (F)”;

3 (III) in subclause (II), by strik-
4 ing “(II) Upon receiving a request
5 under subclause (I), the Librarian of
6 Congress” and inserting the following:

7 “(II) PUBLIC NOTICE OF
8 FEES.—Upon receiving a request
9 under subclause (I), the Copyright
10 Royalty Judges”; and

11 (IV) in subclause (III)—

12 (aa) by striking “(III) The
13 Librarian” and inserting the fol-
14 lowing:

15 “(III) ADOPTION OF FEES.—The
16 Copyright Royalty Judges”;

17 (bb) by striking “an arbitra-
18 tion proceeding” and inserting
19 “the proceeding under subpara-
20 graph (F)”;

21 (cc) by striking “the arbitra-
22 tion proceeding” and inserting
23 “that proceeding”;

24 (F) in subparagraph (E)—

1 (i) by striking “Copyright Office” and
2 inserting “Copyright Royalty Judges”; and

3 (ii) by striking “April 30, 2010” and
4 inserting “December 31, 2020”; and

5 (G) in subparagraph (F)—

6 (i) in the heading, by striking “COM-
7 PULSORY ARBITRATION” and inserting
8 “COPYRIGHT ROYALTY JUDGES PRO-
9 CEEDING”;

10 (ii) in clause (i)—

11 (I) in the heading, by striking
12 “PROCEEDINGS” and inserting “THE
13 PROCEEDING”;

14 (II) in the matter preceding sub-
15 clause (I)—

16 (aa) by striking “May 1,
17 2005, the Librarian of Congress”
18 and inserting “July 1, 2010, the
19 Copyright Royalty Judges”;

20 (bb) by striking “arbitration
21 proceedings” and inserting “a
22 proceeding”;

23 (cc) by striking “fee to be
24 paid” and inserting “fees to be
25 paid”;

1 (dd) by striking “primary
2 analog transmission” and insert-
3 ing “the primary transmissions”;
4 and

5 (ee) by striking “distribu-
6 tors” and inserting “distribu-
7 tors—”;

8 (III) in subclause (II)—

9 (aa) by striking “Librarian
10 of Congress” and inserting
11 “Copyright Royalty Judges”; and

12 (bb) by striking “arbitra-
13 tion”; and

14 (IV) by amending the last sen-
15 tence to read as follows: “Such pro-
16 ceeding shall be conducted under
17 chapter 8.”;

18 (iii) in clause (ii), by amending the
19 matter preceding subclause (I) to read as
20 follows:

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

1 missions of network stations and non-net-
2 work stations that most clearly represent
3 the fair market value of secondary trans-
4 missions, except that the Copyright Roy-
5 alty Judges shall adjust royalty fees to ac-
6 count for the obligations of the parties
7 under any applicable voluntary agreement
8 filed with the Copyright Royalty Judges in
9 accordance with subparagraph (D). In de-
10 termining the fair market value, the
11 Judges shall base their decision on eco-
12 nomic, competitive, and programming in-
13 formation presented by the parties, includ-
14 ing—”;

15 (iv) by amending clause (iii) to read
16 as follows:

17 “(iii) EFFECTIVE DATE FOR DECISION
18 OF COPYRIGHT ROYALTY JUDGES.—The
19 obligation to pay the royalty fees estab-
20 lished under a determination that is made
21 by the Copyright Royalty Judges in a pro-
22 ceeding under this paragraph shall be ef-
23 fective as of January 1, 2010.”; and

24 (v) in clause (iv)—

1 (I) in the heading, by striking
2 “FEE” and inserting “FEES”; and
3 (II) by striking “fee referred to
4 in (iii)” and inserting “fees referred
5 to in clause (iii)”.

6 (2) Paragraph (2) is amended to read as fol-
7 lows:

8 “(2) ANNUAL ROYALTY FEE ADJUSTMENT.—
9 Effective January 1 of each year, the royalty fee
10 payable under subsection (b)(1)(B) for the sec-
11 ondary transmission of the primary transmissions of
12 network stations and non-network stations shall be
13 adjusted by the Copyright Royalty Judges to reflect
14 any changes occurring in the cost of living as deter-
15 mined by the most recent Consumer Price Index (for
16 all consumers and for all items) published by the
17 Secretary of Labor before December 1 of the pre-
18 ceding year. Notification of the adjusted fees shall
19 be published in the Federal Register at least 25 days
20 before January 1.”.

21 (f) DEFINITIONS.—

22 (1) SUBSCRIBER.—Section 119(d)(8) is amend-
23 ed to read as follows:

24 “(8) SUBSCRIBER; SUBSCRIBE.—

1 “(A) SUBSCRIBER.—The term ‘subscriber’
2 means a person or entity that receives a sec-
3 ondary transmission service from a satellite car-
4 rier and pays a fee for the service, directly or
5 indirectly, to the satellite carrier or to a dis-
6 tributor.

7 “(B) SUBSCRIBE.—The term ‘subscribe’
8 means to elect to become a subscriber.”.

9 (2) LOCAL MARKET.—Section 119(d)(11) is
10 amended to read as follows:

11 “(11) LOCAL MARKET.—The term ‘local mar-
12 ket’ has the meaning given such term under section
13 122(j).”.

14 (3) LOW POWER TELEVISION STATION.—Sec-
15 tion 119(d) is amended by striking paragraph (12)
16 and redesignating paragraphs (13) and (14) as
17 paragraphs (12) and (13), respectively.

18 (4) MULTICAST STREAM.—Section 119(d), as
19 amended by paragraph (3), is further amended by
20 adding at the end the following new paragraph:

21 “(14) MULTICAST STREAM.—The term
22 ‘multicast stream’ means a digital stream containing
23 programming and program-related material affili-
24 ated with a television network, other than the pri-
25 mary stream.”.

1 (5) PRIMARY STREAM.—Section 119(d), as
2 amended by paragraph (4), is further amended by
3 adding at the end the following new paragraph:

4 “(15) PRIMARY STREAM.—The term ‘primary
5 stream’ means—

6 “(A) the single digital stream of program-
7 ming as to which a television broadcast station
8 has the right to mandatory carriage with a sat-
9 ellite carrier under the rules of the Federal
10 Communications Commission in effect on July
11 1, 2009; or

12 “(B) if there is no stream described in
13 subparagraph (A), then either—

14 “(i) the single digital stream of pro-
15 gramming associated with the network last
16 transmitted by the station as an analog
17 signal; or

18 “(ii) if there is no stream described in
19 clause (i), then the single digital stream of
20 programming affiliated with the network
21 that, as of July 1, 2009, had been offered
22 by the television broadcast station for the
23 longest period of time.”.

1 (6) CLERICAL AMENDMENT.—Section 119(d) is
2 amended in paragraphs (1), (2), and (5) by striking
3 “which” each place it appears and inserting “that”.

4 (g) SUPERSTATION REDESIGNATED AS NON-NET-
5 WORK STATION.—Section 119 is amended—

6 (1) by striking “superstation” each place it ap-
7 pears in a heading and each place it appears in text
8 and inserting “non-network station”; and

9 (2) by striking “superstations” each place it ap-
10 pears in a heading and each place it appears in text
11 and inserting “non-network stations”.

12 (h) REMOVAL OF CERTAIN PROVISIONS.—

13 (1) REMOVAL OF PROVISIONS.—Section 119(a)
14 is amended—

15 (A) in paragraph (2), by striking subpara-
16 graph (C) and redesignating subparagraph (D)
17 as subparagraph (C);

18 (B) by striking paragraph (3) and redesi-
19 gnating paragraphs (4) through (14) as para-
20 graphs (3) through (13), respectively; and

21 (C) by striking paragraph (15) and redesi-
22 gnating paragraph (16) as paragraph (14).

23 (2) CONFORMING AMENDMENTS.—Section 119
24 is amended—

25 (A) in subsection (a)—

1 (i) in paragraph (1), by striking “(5),
2 (6), and (8)” and inserting “(4), (5), and
3 (7)”;

4 (ii) in paragraph (2)—

5 (I) in subparagraph (A), by strik-
6 ing “subparagraphs (B) and (C) of
7 this paragraph and paragraphs (5),
8 (6), (7), and (8)” and inserting “sub-
9 paragraph (B) of this paragraph and
10 paragraphs (4), (5), (6), and (7)”;

11 (II) in subparagraph (B)(i), by
12 striking the second sentence; and

13 (III) in subparagraph (C) (as re-
14 designated), by striking clauses (i)
15 and (ii) and inserting the following:

16 “(i) INITIAL LISTS.—A satellite car-
17 rier that makes secondary transmissions of
18 a primary transmission made by a network
19 station pursuant to subparagraph (A)
20 shall, not later than 90 days after com-
21 mencing such secondary transmissions,
22 submit to the network that owns or is af-
23 filiated with the network station a list
24 identifying (by name and address, includ-
25 ing street or rural route number, city,

1 State, and 9-digit zip code) all subscribers
2 to which the satellite carrier makes sec-
3 ondary transmissions of that primary
4 transmission to subscribers in unserved
5 households.

6 “(ii) MONTHLY LISTS.—After the sub-
7 mission of the initial lists under clause (i),
8 the satellite carrier shall, not later than
9 the 15th of each month, submit to the net-
10 work a list, aggregated by designated mar-
11 ket area, identifying (by name and ad-
12 dress, including street or rural route num-
13 ber, city, State, and 9-digit zip code) any
14 persons who have been added or dropped
15 as subscribers under clause (i) since the
16 last submission under this subparagraph.”;
17 and

18 (iii) in subparagraph (E) of para-
19 graph (3) (as redesignated)—

20 (I) by striking “under paragraph
21 (3) or”; and

22 (II) by striking “paragraph (12)”
23 and inserting “paragraph (11)”; and

24 (B) in subsection (b)(1), by striking the
25 final sentence.

1 (i) MODIFICATIONS TO PROVISIONS FOR SECONDARY
2 TRANSMISSIONS BY SATELLITE CARRIERS.—

3 (1) PREDICTIVE MODEL.—Section
4 119(a)(2)(B)(ii) is amended by adding at the end
5 the following:

6 “(III) ACCURATE PREDICTIVE
7 MODEL WITH RESPECT TO DIGITAL
8 SIGNALS.—Notwithstanding subclause
9 (I), in determining presumptively
10 whether a person resides in an
11 unserved household under subsection
12 (d)(10)(A) with respect to digital sig-
13 nals, a court shall rely on a predictive
14 model set forth by the Federal Com-
15 munications Commission pursuant to
16 a rulemaking as provided in section
17 339(c)(3) of the Communications Act
18 of 1934 (47 U.S.C. 339(c)(3)), as
19 that model may be amended by the
20 Commission over time under such sec-
21 tion to increase the accuracy of that
22 model. Until such time as the Com-
23 mission sets forth such model, a court
24 shall rely on the predictive model as
25 recommended by the Commission with

1 respect to digital signals in its Report
2 to Congress in ET Docket No. 05–
3 182, FCC 05–199 (released December
4 9, 2005).”.

5 (2) MODIFICATIONS TO STATUTORY LICENSE
6 WHERE RETRANSMISSIONS INTO LOCAL MARKET
7 AVAILABLE.—Section 119(a)(3) (as redesignated) is
8 amended—

9 (A) by striking “analog” each place it ap-
10 pears in a heading and text;

11 (B) by striking subparagraphs (B), (C),
12 and (D), and inserting the following:

13 “(B) RULES FOR LAWFUL SUBSCRIBERS
14 AS OF DATE OF ENACTMENT OF 2010 ACT.—In
15 the case of a subscriber of a satellite carrier
16 who, on the day before the date of the enact-
17 ment of the Satellite Television Extension and
18 Localism Act of 2010, was lawfully receiving
19 the secondary transmission of the primary
20 transmission of a network station under the
21 statutory license under paragraph (2) (in this
22 subparagraph referred to as the ‘distant sig-
23 nal’), other than subscribers to whom subpara-
24 graph (A) applies, the statutory license under
25 paragraph (2) shall apply to secondary trans-

1 missions by that satellite carrier to that sub-
2 scriber of the distant signal of a station affili-
3 ated with the same television network, and the
4 subscriber's household shall continue to be con-
5 sidered to be an unserved household with re-
6 spect to such network, until such time as the
7 subscriber elects to terminate such secondary
8 transmissions, whether or not the subscriber
9 elects to subscribe to receive the secondary
10 transmission of the primary transmission of a
11 local network station affiliated with the same
12 network pursuant to the statutory license under
13 section 122.

14 “(C) FUTURE APPLICABILITY.—

15 “(i) WHEN LOCAL SIGNAL AVAILABLE
16 AT TIME OF SUBSCRIPTION.—The statu-
17 tory license under paragraph (2) shall not
18 apply to the secondary transmission by a
19 satellite carrier of the primary trans-
20 mission of a network station to a person
21 who is not a subscriber lawfully receiving
22 such secondary transmission as of the date
23 of the enactment of the Satellite Television
24 Extension and Localism Act of 2010 and,
25 at the time such person seeks to subscribe

1 to receive such secondary transmission, re-
2 sides in a local market where the satellite
3 carrier makes available to that person the
4 secondary transmission of the primary
5 transmission of a local network station af-
6 filiated with the same network pursuant to
7 the statutory license under section 122.

8 “(ii) WHEN LOCAL SIGNAL AVAILABLE
9 AFTER SUBSCRIPTION.—In the case of a
10 subscriber who lawfully subscribes to and
11 receives the secondary transmission by a
12 satellite carrier of the primary trans-
13 mission of a network station under the
14 statutory license under paragraph (2) (in
15 this clause referred to as the ‘distant sig-
16 nal’) on or after the date of the enactment
17 of the Satellite Television Extension and
18 Localism Act of 2010, the statutory license
19 under paragraph (2) shall apply to sec-
20 ondary transmissions by that satellite car-
21 rier to that subscriber of the distant signal
22 of a station affiliated with the same tele-
23 vision network, and the subscriber’s house-
24 hold shall continue to be considered to be
25 an unserved household with respect to such

1 network, until such time as the subscriber
2 elects to terminate such secondary trans-
3 missions, but only if such subscriber sub-
4 scribes to the secondary transmission of
5 the primary transmission of a local net-
6 work station affiliated with the same net-
7 work within 60 days after the satellite car-
8 rier makes available to the subscriber such
9 secondary transmission of the primary
10 transmission of such local network sta-
11 tion.”;

12 (C) by redesignating subparagraphs (E),
13 (F), and (G) as subparagraphs (D), (E), and
14 (F), respectively;

15 (D) in subparagraph (E) (as redesignated),
16 by striking “(C) or (D)” and inserting “(B) or
17 (C)”;

18 (E) in subparagraph (F) (as redesignated),
19 by inserting “9-digit” before “zip code”.

20 (3) STATUTORY DAMAGES FOR TERRITORIAL
21 RESTRICTIONS.—Section 119(a)(6) (as redesignated)
22 is amended—

23 (A) in subparagraph (A)(ii), by striking
24 “\$5” and inserting “\$250”;

25 (B) in subparagraph (B)—

1 (i) in clause (i), by striking
2 “\$250,000 for each 6-month period” and
3 inserting “\$2,500,000 for each 3-month
4 period”; and

5 (ii) in clause (ii), by striking
6 “\$250,000” and inserting “\$2,500,000”;
7 and

8 (C) by adding at the end the following
9 flush sentences:

10 “The court shall direct one half of any statu-
11 tory damages ordered under clause (i) to be de-
12 posited with the Register of Copyrights for dis-
13 tribution to copyright owners pursuant to sub-
14 section (b). The Copyright Royalty Judges shall
15 issue regulations establishing procedures for
16 distributing such funds, on a proportional basis,
17 to copyright owners whose works were included
18 in the secondary transmissions that were the
19 subject of the statutory damages.”.

20 (4) TECHNICAL AMENDMENT.—Section
21 119(a)(4) (as redesignated) is amended by striking
22 “and 509”.

23 (5) CLERICAL AMENDMENT.—Section
24 119(a)(2)(B)(iii)(II) is amended by striking “In this
25 clause” and inserting “In this clause,”.

1 (j) MORATORIUM EXTENSION.—Section 119(e) is
 2 amended by striking “April 30, 2010” and inserting “De-
 3 cember 31, 2020”.

4 (k) CLERICAL AMENDMENTS.—Section 119 is
 5 amended—

6 (1) by striking “of the Code of Federal Regula-
 7 tions” each place it appears and inserting “, Code
 8 of Federal Regulations”; and

9 (2) in subsection (d)(6), by striking “or the Di-
 10 rect” and inserting “, or the Direct”.

11 **SEC. 103. MODIFICATIONS TO STATUTORY LICENSE FOR**
 12 **SATELLITE CARRIERS IN LOCAL MARKETS.**

13 (a) HEADING RENAMED.—

14 (1) IN GENERAL.—The heading of section 122
 15 is amended by striking “**by satellite carriers**
 16 **within local markets**” and inserting “**of local**
 17 **television programming by satellite**”.

18 (2) TABLE OF CONTENTS.—The table of con-
 19 tents for chapter 1 is amended by striking the item
 20 relating to section 122 and inserting the following:

“122. Limitations on exclusive rights: Secondary transmissions of local television
 programming by satellite.”.

21 (b) STATUTORY LICENSE.—Section 122(a) is amend-
 22 ed to read as follows:

23 “(a) SECONDARY TRANSMISSIONS INTO LOCAL MAR-
 24 KETS.—

1 “(1) SECONDARY TRANSMISSIONS OF TELE-
2 VISION BROADCAST STATIONS WITHIN A LOCAL MAR-
3 KET.—A secondary transmission of a performance
4 or display of a work embodied in a primary trans-
5 mission of a television broadcast station into the sta-
6 tion’s local market shall be subject to statutory li-
7 censing under this section if—

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

10 “(B) with regard to secondary trans-
11 missions, the satellite carrier is in compliance
12 with the rules, regulations, or authorizations of
13 the Federal Communications Commission gov-
14 erning the carriage of television broadcast sta-
15 tion signals; and

16 “(C) the satellite carrier makes a direct or
17 indirect charge for the secondary transmission
18 to—

19 “(i) each subscriber receiving the sec-
20 ondary transmission; or

21 “(ii) a distributor that has contracted
22 with the satellite carrier for direct or indi-
23 rect delivery of the secondary transmission
24 to the public.

25 “(2) SIGNIFICANTLY VIEWED STATIONS.—

1 “(A) IN GENERAL.—A secondary trans-
2 mission of a performance or display of a work
3 embodied in a primary transmission of a tele-
4 vision broadcast station to subscribers who re-
5 ceive secondary transmissions of primary trans-
6 missions under paragraph (1) shall be subject
7 to statutory licensing under this paragraph if
8 the secondary transmission is of the primary
9 transmission of a network station or a non-net-
10 work station to a subscriber who resides outside
11 the station’s local market but within a commu-
12 nity in which the signal has been determined by
13 the Federal Communications Commission to be
14 significantly viewed in such community, pursu-
15 ant to the rules, regulations, and authorizations
16 of the Federal Communications Commission in
17 effect on April 15, 1976, applicable to deter-
18 mining with respect to a cable system whether
19 signals are significantly viewed in a community.

20 “(B) WAIVER.—A subscriber who is denied
21 the secondary transmission of the primary
22 transmission of a network station or a non-net-
23 work station under subparagraph (A) may re-
24 quest a waiver from such denial by submitting
25 a request, through the subscriber’s satellite car-

1 rier, to the network station or non-network sta-
2 tion in the local market affiliated with the same
3 network or non-network where the subscriber is
4 located. The network station or non-network
5 station shall accept or reject the subscriber's re-
6 quest for a waiver within 30 days after receipt
7 of the request. If the network station or non-
8 network station fails to accept or reject the sub-
9 scriber's request for a waiver within that 30-
10 day period, that network station or non-network
11 station shall be deemed to agree to the waiver
12 request.

13 “(3) SECONDARY TRANSMISSION OF LOW
14 POWER PROGRAMMING.—

15 “(A) IN GENERAL.—Subject to subpara-
16 graphs (B) and (C), a secondary transmission
17 of a performance or display of a work embodied
18 in a primary transmission of a television broad-
19 cast station to subscribers who receive sec-
20 ondary transmissions of primary transmissions
21 under paragraph (1) shall be subject to statu-
22 tory licensing under this paragraph if the sec-
23 ondary transmission is of the primary trans-
24 mission of a television broadcast station that is
25 licensed as a low power television station, to a

1 subscriber who resides within the same des-
2 igned market area as the station that origi-
3 nates the transmission.

4 “(B) NO APPLICABILITY TO REPEATERS
5 AND TRANSLATORS.—Secondary transmissions
6 provided for in subparagraph (A) shall not
7 apply to any low power television station that
8 retransmits the programs and signals of an-
9 other television station for more than 2 hours
10 each day.

11 “(C) NO IMPACT ON OTHER SECONDARY
12 TRANSMISSIONS OBLIGATIONS.—A satellite car-
13 rier that makes secondary transmissions of a
14 primary transmission of a low power television
15 station under a statutory license provided under
16 this section is not required, by reason of such
17 secondary transmissions, to make any other sec-
18 ondary transmissions.

19 “(4) SPECIAL EXCEPTIONS.—A secondary
20 transmission of a performance or display of a work
21 embodied in a primary transmission of a television
22 broadcast station to subscribers who receive sec-
23 ondary transmissions of primary transmissions
24 under paragraph (1) shall, if the secondary trans-
25 mission is made by a satellite carrier that complies

1 with the requirements of paragraph (1), be subject
2 to statutory licensing under this paragraph as fol-
3 lows:

4 “(A) STATES WITH SINGLE FULL-POWER
5 NETWORK STATION.—In a State in which there
6 is licensed by the Federal Communications
7 Commission a single full-power station that was
8 a network station on January 1, 1995, the stat-
9 utory license provided for in this paragraph
10 shall apply to the secondary transmission by a
11 satellite carrier of the primary transmission of
12 that station to any subscriber in a community
13 that is located within that State and that is not
14 within the first 50 television markets as listed
15 in the regulations of the Commission as in ef-
16 fect on such date (47 C.F.R. 76.51).

17 “(B) STATES WITH ALL NETWORK STA-
18 TIONS AND NON-NETWORK STATIONS IN SAME
19 LOCAL MARKET.—In a State in which all net-
20 work stations and non-network stations licensed
21 by the Federal Communications Commission
22 within that State as of January 1, 1995, are
23 assigned to the same local market and that
24 local market does not encompass all counties of
25 that State, the statutory license provided under

1 this paragraph shall apply to the secondary
2 transmission by a satellite carrier of the pri-
3 mary transmissions of such station to all sub-
4 scribers in the State who reside in a local mar-
5 ket that is within the first 50 major television
6 markets as listed in the regulations of the Com-
7 mission as in effect on such date (section 76.51
8 of title 47, Code of Federal Regulations).

9 “(C) ADDITIONAL STATIONS.—In the case
10 of that State in which are located 4 counties
11 that—

12 “(i) on January 1, 2004, were in local
13 markets principally comprised of counties
14 in another State, and

15 “(ii) had a combined total of 41,340
16 television households, according to the U.S.
17 Television Household Estimates by Nielsen
18 Media Research for 2004,

19 the statutory license provided under this para-
20 graph shall apply to secondary transmissions by
21 a satellite carrier to subscribers in any such
22 county of the primary transmissions of any net-
23 work station located in that State, if the sat-
24 ellite carrier was making such secondary trans-

1 missions to any subscribers in that county on
2 January 1, 2004.

3 “(D) CERTAIN ADDITIONAL STATIONS.—If
4 2 adjacent counties in a single State are in a
5 local market comprised principally of counties
6 located in another State, the statutory license
7 provided for in this paragraph shall apply to
8 the secondary transmission by a satellite carrier
9 to subscribers in those 2 counties of the pri-
10 mary transmissions of any network station lo-
11 cated in the capital of the State in which such
12 2 counties are located, if—

13 “(i) the 2 counties are located in a
14 local market that is in the top 100 markets
15 for the year 2003 according to Nielsen
16 Media Research; and

17 “(ii) the total number of television
18 households in the 2 counties combined did
19 not exceed 10,000 for the year 2003 ac-
20 cording to Nielsen Media Research.

21 “(E) NETWORKS OF NONCOMMERCIAL
22 EDUCATIONAL BROADCAST STATIONS.—In the
23 case of a system of three or more noncommer-
24 cial educational broadcast stations licensed to a
25 single State, public agency, or political, edu-

1 cational, or special purpose subdivision of a
2 State, the statutory license provided for in this
3 paragraph shall apply to the secondary trans-
4 mission of the primary transmission of such
5 system to any subscriber in any county or coun-
6 ty equivalent within such State, if such sub-
7 scriber is located in a designated market area
8 that is not otherwise eligible to receive the sec-
9 ondary transmission of the primary trans-
10 mission of a noncommercial educational broad-
11 cast station located within the State pursuant
12 to paragraph (1).

13 “(5) APPLICABILITY OF ROYALTY RATES AND
14 PROCEDURES.—The royalty rates and procedures
15 under section 119(b) shall apply to the secondary
16 transmissions to which the statutory license under
17 paragraph (4) applies.”.

18 (c) REPORTING REQUIREMENTS.—Section 122(b) is
19 amended—

20 (1) in paragraph (1), by striking “station a
21 list” and all that follows through the end and insert-
22 ing the following: “station—

23 “(A) a list identifying (by name in alpha-
24 betical order and street address, including coun-
25 ty and 9-digit zip code) all subscribers to which

1 the satellite carrier makes secondary trans-
2 missions of that primary transmission under
3 subsection (a); and

4 “(B) a separate list, aggregated by des-
5 ignated market area (by name and address, in-
6 cluding street or rural route number, city,
7 State, and 9-digit zip code), which shall indicate
8 those subscribers being served pursuant to
9 paragraph (2) of subsection (a).”; and

10 (2) in paragraph (2), by striking “network a
11 list” and all that follows through the end and insert-
12 ing the following: “network—

13 “(A) a list identifying (by name in alpha-
14 betical order and street address, including coun-
15 ty and 9-digit zip code) any subscribers who
16 have been added or dropped as subscribers
17 since the last submission under this subsection;
18 and

19 “(B) a separate list, aggregated by des-
20 ignated market area (by name and street ad-
21 dress, including street or rural route number,
22 city, State, and 9-digit zip code), identifying
23 those subscribers whose service pursuant to
24 paragraph (2) of subsection (a) has been added

1 or dropped since the last submission under this
2 subsection.”.

3 (d) NO ROYALTY FEE FOR CERTAIN SECONDARY
4 TRANSMISSIONS.—Section 122(c) is amended—

5 (1) in the heading, by inserting “FOR CERTAIN
6 SECONDARY TRANSMISSIONS” after “REQUIRED”;
7 and

8 (2) by striking “subsection (a)” and inserting
9 “paragraphs (1), (2), and (3) of subsection (a)”.

10 (e) VIOLATIONS FOR TERRITORIAL RESTRICTIONS.—

11 (1) MODIFICATION TO STATUTORY DAMAGES.—
12 Section 122(f) is amended—

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

15 (B) in paragraph (2), by striking
16 “\$250,000” each place it appears and inserting
17 “\$2,500,000”.

18 (2) CONFORMING AMENDMENTS FOR ADDI-
19 TIONAL STATIONS.—Section 122 is amended—

20 (A) in subsection (f), by striking “section
21 119 or” each place it appears and inserting the
22 following: “section 119, subject to statutory li-
23 censing by reason of paragraph (2)(A), (3), or
24 (4) of subsection (a), or subject to”; and

1 (B) in subsection (g), by striking “section
2 119 or” and inserting the following: “section
3 119, paragraph (2)(A), (3), or (4) of subsection
4 (a), or”.

5 (f) DEFINITIONS.—Section 122(j) is amended—

6 (1) in paragraph (1), by striking “which con-
7 tracts” and inserting “that contracts”;

8 (2) by redesignating paragraphs (4) and (5) as
9 paragraphs (6) and (7), respectively;

10 (3) in paragraph (3)—

11 (A) by redesignating such paragraph as
12 paragraph (4);

13 (B) in the heading of such paragraph, by
14 inserting “NON-NETWORK STATION;” after
15 “NETWORK STATION;”; and

16 (C) by inserting “‘non-network station’,”
17 after “‘network station’”;

18 (4) by inserting after paragraph (2) the fol-
19 lowing:

20 “(3) LOW POWER TELEVISION STATION.—The
21 term ‘low power television station’ means a low
22 power TV station as defined in section 74.701(f) of
23 title 47, Code of Federal Regulations, as in effect on
24 June 1, 2004. For purposes of this paragraph, the
25 term ‘low power television station’ includes a low

1 power television station that has been accorded pri-
 2 mary status as a Class A television licensee under
 3 section 73.6001(a) of title 47, Code of Federal Reg-
 4 ulations.”;

5 (5) by inserting after paragraph (4) (as redesign-
 6 nated) the following:

7 “(5) NONCOMMERCIAL EDUCATIONAL BROAD-
 8 CAST STATION.—The term ‘noncommercial edu-
 9 cational broadcast station’ means a television broad-
 10 cast station that is a noncommercial educational
 11 broadcast station as defined in section 397 of the
 12 Communications Act of 1934, as in effect on the
 13 date of the enactment of the Satellite Television Ex-
 14 tension and Localism Act of 2010.”; and

15 (6) by amending paragraph (6) (as redesign-
 16 nated) to read as follows:

17 “(6) SUBSCRIBER.—The term ‘subscriber’
 18 means a person or entity that receives a secondary
 19 transmission service from a satellite carrier and pays
 20 a fee for the service, directly or indirectly, to the sat-
 21 ellite carrier or to a distributor.”.

22 **SEC. 104. MODIFICATIONS TO CABLE SYSTEM SECONDARY**
 23 **TRANSMISSION RIGHTS UNDER SECTION 111.**

24 (a) **HEADING RENAMED.—**

1 (1) IN GENERAL.—The heading of section 111
 2 is amended by inserting at the end the following:
 3 **“of broadcast programming by cable”**.

4 (2) TABLE OF CONTENTS.—The table of con-
 5 tents for chapter 1 is amended by striking the item
 6 relating to section 111 and inserting the following:

“111. Limitations on exclusive rights: Secondary transmissions of broadcast pro-
 gramming by cable.”.

7 (b) TECHNICAL AMENDMENT.—Section 111(a)(4) is
 8 amended by striking “; or” and inserting “or section
 9 122;”.

10 (c) STATUTORY LICENSE FOR SECONDARY TRANS-
 11 MISSIONS BY CABLE SYSTEMS.—Section 111(d) is amend-
 12 ed—

13 (1) in paragraph (1)—

14 (A) in the matter preceding subparagraph

15 (A)—

16 (i) by striking “A cable system whose
 17 secondary” and inserting the following:

18 “STATEMENT OF ACCOUNT AND ROYALTY
 19 FEES.—Subject to paragraph (5), a cable
 20 system whose secondary”; and

21 (ii) by striking “by regulation—” and
 22 inserting “by regulation the following:”;

23 (B) in subparagraph (A)—

1 (i) by striking “a statement of ac-
2 count” and inserting “A statement of ac-
3 count”; and

4 (ii) by striking “; and” and inserting
5 a period; and

6 (C) by striking subparagraphs (B), (C),
7 and (D) and inserting the following:

8 “(B) Except in the case of a cable system
9 whose royalty fee is specified in subparagraph
10 (E) or (F), a total royalty fee payable to copy-
11 right owners pursuant to paragraph (3) for the
12 period covered by the statement, computed on
13 the basis of specified percentages of the gross
14 receipts from subscribers to the cable service
15 during such period for the basic service of pro-
16 viding secondary transmissions of primary
17 broadcast transmitters, as follows:

18 “(i) 1.064 percent of such gross re-
19 ceipts for the privilege of further transmit-
20 ting, beyond the local service area of such
21 primary transmitter, any non-network pro-
22 gramming of a primary transmitter in
23 whole or in part, such amount to be ap-
24 plied against the fee, if any, payable pursu-
25 ant to clauses (ii) through (iv);

1 “(ii) 1.064 percent of such gross re-
2 receipts for the first distant signal equiva-
3 lent;

4 “(iii) 0.701 percent of such gross re-
5 cepts for each of the second, third, and
6 fourth distant signal equivalents; and

7 “(iv) 0.330 percent of such gross re-
8 cepts for the fifth distant signal equivalent
9 and each distant signal equivalent there-
10 after.

11 “(C) In computing amounts under clauses
12 (ii) through (iv) of subparagraph (B)—

13 “(i) any fraction of a distant signal
14 equivalent shall be computed at its frac-
15 tional value;

16 “(ii) in the case of any cable system
17 located partly within and partly outside of
18 the local service area of a primary trans-
19 mitter, gross receipts shall be limited to
20 those gross receipts derived from sub-
21 scribers located outside of the local service
22 area of such primary transmitter; and

23 “(iii) if a cable system provides a sec-
24 ondary transmission of a primary trans-

1 mitter to some but not all communities
2 served by that cable system—

3 “(I) the gross receipts and the
4 distant signal equivalent values for
5 such secondary transmission shall be
6 derived solely on the basis of the sub-
7 scribers in those communities where
8 the cable system provides such sec-
9 ondary transmission; and

10 “(II) the total royalty fee for the
11 period paid by such system shall not
12 be less than the royalty fee calculated
13 under subparagraph (B)(i) multiplied
14 by the gross receipts from all sub-
15 scribers to the system.

16 “(D) A cable system that, on a statement
17 submitted before the date of the enactment of
18 the Satellite Television Extension and Localism
19 Act of 2010, computed its royalty fee consistent
20 with the methodology under subparagraph
21 (C)(iii), or that amends a statement filed before
22 such date of enactment to compute the royalty
23 fee due using such methodology, shall not be
24 subject to an action for infringement, or eligible

1 for any royalty refund or offset, arising out of
2 its use of such methodology on such statement.

3 “(E) If the actual gross receipts paid by
4 subscribers to a cable system for the period cov-
5 ered by the statement for the basic service of
6 providing secondary transmissions of primary
7 broadcast transmitters are \$263,800 or less—

8 “(i) gross receipts of the cable system
9 for the purpose of this paragraph shall be
10 computed by subtracting from such actual
11 gross receipts the amount by which
12 \$263,800 exceeds such actual gross re-
13 cepts, except that in no case shall a cable
14 system’s gross receipts be reduced to less
15 than \$10,400; and

16 “(ii) the royalty fee payable under this
17 paragraph to copyright owners pursuant to
18 paragraph (3) shall be 0.5 percent, regard-
19 less of the number of distant signal equiva-
20 lents, if any.

21 “(F) If the actual gross receipts paid by
22 subscribers to a cable system for the period cov-
23 ered by the statement for the basic service of
24 providing secondary transmissions of primary
25 broadcast transmitters are more than \$263,800

1 but less than \$527,600, the royalty fee payable
2 under this paragraph to copyright owners pur-
3 suant to paragraph (3) shall be—

4 “(i) 0.5 percent of any gross receipts
5 up to \$263,800, regardless of the number
6 of distant signal equivalents, if any; and

7 “(ii) 1 percent of any gross receipts in
8 excess of \$263,800, but less than
9 \$527,600, regardless of the number of dis-
10 tant signal equivalents, if any.

11 “(G) A filing fee, as determined by the
12 Register of Copyrights pursuant to section
13 708(a).”;

14 (2) in paragraph (2), in the first sentence—

15 (A) by striking “The Register of Copy-
16 rights” and inserting the following “HANDLING
17 OF FEES.—The Register of Copyrights”; and

18 (B) by inserting “(including the filing fee
19 specified in paragraph (1)(G))” after “shall re-
20 ceive all fees”;

21 (3) in paragraph (3)—

22 (A) by striking “The royalty fees” and in-
23 serting the following: “DISTRIBUTION OF ROY-
24 ALTY FEES TO COPYRIGHT OWNERS.—The roy-
25 alty fees”;

1 (B) in subparagraph (A)—

2 (i) by striking “any such” and insert-
3 ing “Any such”; and

4 (ii) by striking “; and” and inserting
5 a period;

6 (C) in subparagraph (B)—

7 (i) by striking “any such” and insert-
8 ing “Any such”; and

9 (ii) by striking the semicolon and in-
10 sserting a period; and

11 (D) in subparagraph (C), by striking “any
12 such” and inserting “Any such”;

13 (4) in paragraph (4), by striking “The royalty
14 fees” and inserting the following: “PROCEDURES
15 FOR ROYALTY FEE DISTRIBUTION.—The royalty
16 fees”; and

17 (5) by adding at the end the following new
18 paragraphs:

19 “(5) 3.75 PERCENT RATE AND SYNDICATED EX-
20 CLUSIVITY SURCHARGE NOT APPLICABLE TO
21 MULTICAST STREAMS.—The royalty rates specified
22 in sections 256.2(c) and 256.2(d) of title 37, Code
23 of Federal Regulations (commonly referred to as the
24 ‘3.75 percent rate’ and the ‘syndicated exclusivity
25 surcharge’, respectively), as in effect on the date of

1 the enactment of the Satellite Television Extension
2 and Localism Act of 2010, as such rates may be ad-
3 justed, or such sections redesignated, thereafter by
4 the Copyright Royalty Judges, shall not apply to the
5 secondary transmission of a multicast stream.

6 “(6) VERIFICATION OF ACCOUNTS AND FEE
7 PAYMENTS.—The Register of Copyrights shall issue
8 regulations to provide for the confidential
9 verification by copyright owners whose works were
10 embodied in the secondary transmissions of primary
11 transmissions pursuant to this section of the infor-
12 mation reported on the semiannual statements of ac-
13 count filed under this subsection on or after January
14 1, 2010, in order that the auditor designated under
15 subparagraph (A) is able to confirm the correctness
16 of the calculations and royalty payments reported
17 therein. The regulations shall—

18 “(A) establish procedures for the designa-
19 tion of a qualified independent auditor—

20 “(i) with exclusive authority to re-
21 quest verification of such a statement of
22 account on behalf of all copyright owners
23 whose works were the subject of secondary
24 transmissions of primary transmissions by
25 the cable system (that deposited the state-

1 ment) during the accounting period cov-
2 ered by the statement; and

3 “(ii) who is not an officer, employee,
4 or agent of any such copyright owner for
5 any purpose other than such audit;

6 “(B) establish procedures for safeguarding
7 all non-public financial and business informa-
8 tion provided under this paragraph;

9 “(C)(i) require a consultation period for
10 the independent auditor to review its conclu-
11 sions with a designee of the cable system;

12 “(ii) establish a mechanism for the cable
13 system to remedy any errors identified in the
14 auditor’s report and to cure any underpayment
15 identified; and

16 “(iii) provide an opportunity to remedy any
17 disputed facts or conclusions;

18 “(D) limit the frequency of requests for
19 verification for a particular cable system and
20 the number of audits that a multiple system op-
21 erator can be required to undergo in a single
22 year; and

23 “(E) permit requests for verification of a
24 statement of account to be made only within 3

1 years after the last day of the year in which the
2 statement of account is filed.

3 “(7) ACCEPTANCE OF ADDITIONAL DEPOSITS.—
4 Any royalty fee payments received by the Copyright
5 Office from cable systems for the secondary trans-
6 mission of primary transmissions that are in addi-
7 tion to the payments calculated and deposited in ac-
8 cordance with this subsection shall be deemed to
9 have been deposited for the particular accounting pe-
10 riod for which they are received and shall be distrib-
11 uted as specified under this subsection.”.

12 (d) EFFECTIVE DATE OF NEW ROYALTY FEE
13 RATES.—The royalty fee rates established in section
14 111(d)(1)(B) of title 17, United States Code, as amended
15 by subsection (c)(1)(C) of this section, shall take effect
16 commencing with the first accounting period occurring in
17 2010.

18 (e) DEFINITIONS.—Section 111(f) is amended—

19 (1) by striking the first undesignated paragraph
20 and inserting the following:

21 “(1) PRIMARY TRANSMISSION.—A ‘primary
22 transmission’ is a transmission made to the public
23 by a transmitting facility whose signals are being re-
24 ceived and further transmitted by a secondary trans-
25 mission service, regardless of where or when the per-

1 formance or display was first transmitted. In the
2 case of a television broadcast station, the primary
3 stream and any multicast streams transmitted by
4 the station constitute primary transmissions.”;

5 (2) in the second undesignated paragraph—

6 (A) by striking “A ‘secondary trans-
7 mission’” and inserting the following:

8 “(2) SECONDARY TRANSMISSION.—A ‘secondary
9 transmission’”; and

10 (B) by striking “‘cable system’” and in-
11 serting “cable system”;

12 (3) in the third undesignated paragraph—

13 (A) by striking “A ‘cable system’” and in-
14 serting the following:

15 “(3) CABLE SYSTEM.—A ‘cable system’”; and

16 (B) by striking “Territory, Trust Terri-
17 tory, or Possession” and inserting “territory,
18 trust territory, or possession of the United
19 States”;

20 (4) in the fourth undesignated paragraph, in
21 the first sentence—

22 (A) by striking “The ‘local service area of
23 a primary transmitter’, in the case of a tele-
24 vision broadcast station, comprises the area in

1 which such station is entitled to insist” and in-
2 serting the following:

3 “(4) LOCAL SERVICE AREA OF A PRIMARY
4 TRANSMITTER.—The ‘local service area of a primary
5 transmitter’, in the case of both the primary stream
6 and any multicast streams transmitted by a primary
7 transmitter that is a television broadcast station,
8 comprises the area where such primary transmitter
9 could have insisted”;

10 (B) by striking “76.59 of title 47 of the
11 Code of Federal Regulations” and inserting the
12 following: “76.59 of title 47, Code of Federal
13 Regulations, or within the noise-limited contour
14 as defined in 73.622(e)(1) of title 47, Code of
15 Federal Regulations”; and

16 (C) by striking “as defined by the rules
17 and regulations of the Federal Communications
18 Commission,”;

19 (5) by amending the fifth undesignated para-
20 graph to read as follows:

21 “(5) DISTANT SIGNAL EQUIVALENT.—

22 “(A) IN GENERAL.—Except as provided
23 under subparagraph (B), a ‘distant signal
24 equivalent’—

1 “(i) is the value assigned to the sec-
2 ondary transmission of any non-network
3 television programming carried by a cable
4 system in whole or in part beyond the local
5 service area of the primary transmitter of
6 such programming; and

7 “(ii) is computed by assigning a value
8 of one to each primary stream and to each
9 multicast stream (other than a simulcast)
10 that is an independent station, and by as-
11 signing a value of one-quarter to each pri-
12 mary stream and to each multicast stream
13 (other than a simulcast) that is a network
14 station or a noncommercial educational
15 station.

16 “(B) EXCEPTIONS.—The values for inde-
17 pendent, network, and noncommercial edu-
18 cational stations specified in subparagraph (A)
19 are subject to the following:

20 “(i) Where the rules and regulations
21 of the Federal Communications Commis-
22 sion require a cable system to omit the fur-
23 ther transmission of a particular program
24 and such rules and regulations also permit
25 the substitution of another program em-

1 bodying a performance or display of a
2 work in place of the omitted transmission,
3 or where such rules and regulations in ef-
4 fect on the date of the enactment of the
5 Copyright Act of 1976 permit a cable sys-
6 tem, at its election, to effect such omission
7 and substitution of a nonlive program or to
8 carry additional programs not transmitted
9 by primary transmitters within whose local
10 service area the cable system is located, no
11 value shall be assigned for the substituted
12 or additional program.

13 “(ii) Where the rules, regulations, or
14 authorizations of the Federal Communica-
15 tions Commission in effect on the date of
16 the enactment of the Copyright Act of
17 1976 permit a cable system, at its election,
18 to omit the further transmission of a par-
19 ticular program and such rules, regula-
20 tions, or authorizations also permit the
21 substitution of another program embodying
22 a performance or display of a work in
23 place of the omitted transmission, the
24 value assigned for the substituted or addi-
25 tional program shall be, in the case of a

1 live program, the value of one full distant
2 signal equivalent multiplied by a fraction
3 that has as its numerator the number of
4 days in the year in which such substitution
5 occurs and as its denominator the number
6 of days in the year.

7 “(iii) In the case of the secondary
8 transmission of a primary transmitter that
9 is a television broadcast station pursuant
10 to the late-night or specialty programming
11 rules of the Federal Communications Com-
12 mission, or the secondary transmission of a
13 primary transmitter that is a television
14 broadcast station on a part-time basis
15 where full-time carriage is not possible be-
16 cause the cable system lacks the activated
17 channel capacity to retransmit on a full-
18 time basis all signals that it is authorized
19 to carry, the values for independent, net-
20 work, and noncommercial educational sta-
21 tions set forth in subparagraph (A), as the
22 case may be, shall be multiplied by a frac-
23 tion that is equal to the ratio of the broad-
24 cast hours of such primary transmitter re-
25 transmitted by the cable system to the

1 total broadcast hours of the primary trans-
2 mitter.

3 “(iv) No value shall be assigned for
4 the secondary transmission of the primary
5 stream or any multicast streams of a pri-
6 mary transmitter that is a television broad-
7 cast station in any community that is with-
8 in the local service area of the primary
9 transmitter.”;

10 (6) by striking the sixth undesignated para-
11 graph and inserting the following:

12 “(6) NETWORK STATION.—

13 “(A) TREATMENT OF PRIMARY STREAM.—

14 The term ‘network station’ shall be applied to
15 a primary stream of a television broadcast sta-
16 tion that is owned or operated by, or affiliated
17 with, one or more of the television networks in
18 the United States providing nationwide trans-
19 missions, and that transmits a substantial part
20 of the programming supplied by such networks
21 for a substantial part of the primary stream’s
22 typical broadcast day.

23 “(B) TREATMENT OF MULTICAST
24 STREAMS.—The term ‘network station’ shall be
25 applied to a multicast stream on which a tele-

1 vision broadcast station transmits all or sub-
2 stantially all of the programming of an inter-
3 connected program service that—

4 “(i) is owned or operated by, or affili-
5 ated with, one or more of the television
6 networks described in subparagraph (A);
7 and

8 “(ii) offers programming on a regular
9 basis for 15 or more hours per week to at
10 least 25 of the affiliated television licensees
11 of the interconnected program service in
12 10 or more States.”;

13 (7) by striking the seventh undesignated para-
14 graph and inserting the following:

15 “(7) INDEPENDENT STATION.—The term ‘inde-
16 pendent station’ shall be applied to the primary
17 stream or a multicast stream of a television broad-
18 cast station that is not a network station or a non-
19 commercial educational station.”;

20 (8) by striking the eighth undesignated para-
21 graph and inserting the following:

22 “(8) NONCOMMERCIAL EDUCATIONAL STA-
23 TION.—The term ‘noncommercial educational sta-
24 tion’ shall be applied to the primary stream or a
25 multicast stream of a television broadcast station

1 that is a noncommercial educational broadcast sta-
2 tion as defined in section 397 of the Communica-
3 tions Act of 1934, as in effect on the date of the en-
4 actment of the Satellite Television Extension and
5 Localism Act of 2010.”; and

6 (9) by adding at the end the following:

7 “(9) PRIMARY STREAM.—A ‘primary stream’
8 is—

9 “(A) the single digital stream of program-
10 ming that, before June 12, 2009, was substan-
11 tially duplicating the programming transmitted
12 by the television broadcast station as an analog
13 signal; or

14 “(B) if there is no stream described in
15 subparagraph (A), then the single digital
16 stream of programming transmitted by the tele-
17 vision broadcast station for the longest period
18 of time.

19 “(10) PRIMARY TRANSMITTER.—A ‘primary
20 transmitter’ is a television or radio broadcast station
21 licensed by the Federal Communications Commis-
22 sion, or by an appropriate governmental authority of
23 Canada or Mexico, that makes primary trans-
24 missions to the public.

1 “(11) MULTICAST STREAM.—A ‘multicast
2 stream’ is a digital stream of programming that is
3 transmitted by a television broadcast station and is
4 not the station’s primary stream.

5 “(12) SIMULCAST.—A ‘simulcast’ is a multicast
6 stream of a television broadcast station that dupli-
7 cates the programming transmitted by the primary
8 stream or another multicast stream of such station.

9 “(13) SUBSCRIBER; SUBSCRIBE.—

10 “(A) SUBSCRIBER.—The term ‘subscriber’
11 means a person or entity that receives a sec-
12 ondary transmission service from a cable sys-
13 tem and pays a fee for the service, directly or
14 indirectly, to the cable system.

15 “(B) SUBSCRIBE.—The term ‘subscribe’
16 means to elect to become a subscriber.”.

17 (f) TIMING OF SECTION 111 PROCEEDINGS.—Section
18 804(b)(1) is amended by striking “2005” each place it ap-
19 pears and inserting “2015”.

20 (g) TECHNICAL AND CONFORMING AMENDMENTS.—

21 (1) CORRECTIONS TO FIX LEVEL DESIGNA-
22 TIONS.—Section 111 is amended—

23 (A) in subsections (a), (c), and (e), by
24 striking “clause” each place it appears and in-
25 serting “paragraph”;

1 (B) in subsection (c)(1), by striking
2 “clauses” and inserting “paragraphs”; and

3 (C) in subsection (e)(1)(F), by striking
4 “subclause” and inserting “subparagraph”.

5 (2) CONFORMING AMENDMENT TO HYPHENATE
6 NONNETWORK.—Section 111 is amended by striking
7 “nonnetwork” each place it appears and inserting
8 “non-network”.

9 (3) PREVIOUSLY UNDESIGNATED PARA-
10 GRAPH.—Section 111(e)(1) is amended by striking
11 “second paragraph of subsection (f)” and inserting
12 “subsection (f)(2)”.

13 (4) REMOVAL OF SUPERFLUOUS ANDS.—Sec-
14 tion 111(e) is amended—

15 (A) in paragraph (1)(A), by striking “and”
16 at the end;

17 (B) in paragraph (1)(B), by striking
18 “and” at the end;

19 (C) in paragraph (1)(C), by striking “and”
20 at the end;

21 (D) in paragraph (1)(D), by striking
22 “and” at the end; and

23 (E) in paragraph (2)(A), by striking “and”
24 at the end.

1 (5) REMOVAL OF VARIANT FORMS REF-
2 ERENCES.—Section 111 is amended—

3 (A) in subsection (e)(4), by striking “, and
4 each of its variant forms,”; and

5 (B) in subsection (f), by striking “and
6 their variant forms”.

7 (6) CORRECTION TO TERRITORY REFERENCE.—
8 Section 111(e)(2) is amended in the matter pre-
9 ceding subparagraph (A) by striking “three terri-
10 tories” and inserting “five entities”.

11 (h) EFFECTIVE DATE WITH RESPECT TO
12 MULTICAST STREAMS.—

13 (1) IN GENERAL.—Subject to paragraphs (2)
14 and (3), the amendments made by this section, to
15 the extent such amendments assign a distant signal
16 equivalent value to the secondary transmission of the
17 multicast stream of a primary transmitter, shall take
18 effect on the date of the enactment of this Act.

19 (2) DELAYED APPLICABILITY.—

20 (A) SECONDARY TRANSMISSIONS OF A
21 MULTICAST STREAM BEYOND THE LOCAL SERV-
22 ICE AREA OF ITS PRIMARY TRANSMITTER BE-
23 FORE 2010 ACT.—In any case in which a cable
24 system was making secondary transmissions of
25 a multicast stream beyond the local service area

1 of its primary transmitter before the date of the
2 enactment of this Act, a distant signal equiva-
3 lent value (referred to in paragraph (1)) shall
4 not be assigned to secondary transmissions of
5 such multicast stream that are made on or be-
6 fore June 30, 2010.

7 (B) MULTICAST STREAMS SUBJECT TO
8 PREEXISTING WRITTEN AGREEMENTS FOR THE
9 SECONDARY TRANSMISSION OF SUCH
10 STREAMS.—In any case in which the secondary
11 transmission of a multicast stream of a primary
12 transmitter is the subject of a written agree-
13 ment entered into on or before June 30, 2009,
14 between a cable system or an association rep-
15 resenting the cable system and a primary trans-
16 mitter or an association representing the pri-
17 mary transmitter, a distant signal equivalent
18 value (referred to in paragraph (1)) shall not be
19 assigned to secondary transmissions of such
20 multicast stream beyond the local service area
21 of its primary transmitter that are made on or
22 before the date on which such written agree-
23 ment expires.

24 (C) NO REFUNDS OR OFFSETS FOR PRIOR
25 STATEMENTS OF ACCOUNT.—A cable system

1 that has reported secondary transmissions of a
 2 multicast stream beyond the local service area
 3 of its primary transmitter on a statement of ac-
 4 count deposited under section 111 of title 17,
 5 United States Code, before the date of the en-
 6 actment of this Act shall not be entitled to any
 7 refund, or offset, of royalty fees paid on ac-
 8 count of such secondary transmissions of such
 9 multicast stream.

10 (3) DEFINITIONS.—In this subsection, the
 11 terms “cable system”, “secondary transmission”,
 12 “multicast stream”, and “local service area of a pri-
 13 mary transmitter” have the meanings given those
 14 terms in section 111(f) of title 17, United States
 15 Code, as amended by this section.

16 **SEC. 105. CERTAIN WAIVERS GRANTED TO PROVIDERS OF**
 17 **LOCAL-INTO-LOCAL SERVICE FOR ALL DMAS.**

18 Section 119 is amended by adding at the end the fol-
 19 lowing new subsection:

20 “(g) CERTAIN WAIVERS GRANTED TO PROVIDERS OF
 21 LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

22 “(1) INJUNCTION WAIVER.—A court that issued
 23 an injunction pursuant to subsection (a)(7)(B) be-
 24 fore the date of the enactment of this subsection
 25 shall waive such injunction if the court recognizes

1 the entity against which the injunction was issued as
2 a qualified carrier.

3 “(2) LIMITED TEMPORARY WAIVER.—

4 “(A) IN GENERAL.—Upon a request made
5 by a satellite carrier, a court that issued an in-
6 junction against such carrier under subsection
7 (a)(7)(B) before the date of the enactment of
8 this subsection shall waive such injunction with
9 respect to the statutory license provided under
10 subsection (a)(2) to the extent necessary to
11 allow such carrier to make secondary trans-
12 missions of primary transmissions made by a
13 network station to unserved households located
14 in short markets in which such carrier was not
15 providing local service pursuant to the license
16 under section 122 as of December 31, 2009.

17 “(B) EXPIRATION OF TEMPORARY WAIV-
18 ER.—A temporary waiver of an injunction
19 under subparagraph (A) shall expire after the
20 end of the 120-day period beginning on the
21 date such temporary waiver is issued unless ex-
22 tended for good cause by the court making the
23 temporary waiver.

24 “(C) FAILURE TO PROVIDE LOCAL-INTO-
25 LOCAL SERVICE TO ALL DMAS.—

1 “(i) FAILURE TO ACT REASONABLY
2 AND IN GOOD FAITH.—If the court issuing
3 a temporary waiver under subparagraph
4 (A) determines that the satellite carrier
5 that made the request for such waiver has
6 failed to act reasonably or has failed to
7 make a good faith effort to provide local-
8 into-local service to all DMAs, such fail-
9 ure—

10 “(I) is actionable as an act of in-
11 fringement under section 501 and the
12 court may in its discretion impose the
13 remedies provided for in sections 502
14 through 506 and subsection (a)(6)(B)
15 of this section; and

16 “(II) shall result in the termi-
17 nation of the waiver issued under sub-
18 paragraph (A).

19 “(ii) FAILURE TO PROVIDE LOCAL-
20 INTO-LOCAL SERVICE.—If the court issuing
21 a temporary waiver under subparagraph
22 (A) determines that the satellite carrier
23 that made the request for such waiver has
24 failed to provide local-into-local service to
25 all DMAs, but determines that the carrier

1 acted reasonably and in good faith, the
2 court may in its discretion impose financial
3 penalties that reflect—

4 “(I) the degree of control the
5 carrier had over the circumstances
6 that resulted in the failure;

7 “(II) the quality of the carrier’s
8 efforts to remedy the failure; and

9 “(III) the severity and duration
10 of any service interruption.

11 “(D) SINGLE TEMPORARY WAIVER AVAIL-
12 ABLE.—An entity may only receive one tem-
13 porary waiver under this paragraph.

14 “(E) SHORT MARKET DEFINED.—For pur-
15 poses of this paragraph, the term ‘short mar-
16 ket’ means a local market in which program-
17 ming of one or more of the four most widely
18 viewed television networks nationwide as meas-
19 ured on the date of the enactment of this sub-
20 section is not offered on the primary stream
21 transmitted by any local television broadcast
22 station.

23 “(3) ESTABLISHMENT OF QUALIFIED CARRIER
24 RECOGNITION.—

1 “(A) STATEMENT OF ELIGIBILITY.—An
2 entity seeking to be recognized as a qualified
3 carrier under this subsection shall file a state-
4 ment of eligibility with the court that imposed
5 the injunction. A statement of eligibility must
6 include—

7 “(i) an affidavit that the entity is pro-
8 viding local-into-local service to all DMAs;

9 “(ii) a request for a waiver of the in-
10 junction; and

11 “(iii) a certification issued pursuant
12 to section 342(a) of Communications Act
13 of 1934.

14 “(B) GRANT OF RECOGNITION AS A QUALI-
15 FIED CARRIER.—Upon receipt of a statement of
16 eligibility, the court shall recognize the entity as
17 a qualified carrier and issue the waiver under
18 paragraph (1).

19 “(C) VOLUNTARY TERMINATION.—At any
20 time, an entity recognized as a qualified carrier
21 may file a statement of voluntary termination
22 with the court certifying that it no longer wish-
23 es to be recognized as a qualified carrier. Upon
24 receipt of such statement, the court shall rein-

1 state the injunction waived under paragraph
2 (1).

3 “(D) LOSS OF RECOGNITION PREVENTS
4 FUTURE RECOGNITION.—No entity may be rec-
5 ognized as a qualified carrier if such entity had
6 previously been recognized as a qualified carrier
7 and subsequently lost such recognition or volun-
8 tarily terminated such recognition under sub-
9 paragraph (C).

10 “(4) QUALIFIED CARRIER OBLIGATIONS AND
11 COMPLIANCE.—

12 “(A) CONTINUING OBLIGATIONS.—

13 “(i) IN GENERAL.—An entity recog-
14 nized as a qualified carrier shall continue
15 to provide local-into-local service to all
16 DMAs.

17 “(ii) COOPERATION WITH GAO EXAM-
18 INATION.—An entity recognized as a quali-
19 fied carrier shall fully cooperate with the
20 Comptroller General in the examination re-
21 quired by subparagraph (B).

22 “(B) QUALIFIED CARRIER COMPLIANCE
23 EXAMINATION.—

24 “(i) EXAMINATION AND REPORT.—
25 The Comptroller General shall conduct an

1 examination and publish a report con-
2 cerning the qualified carrier's compliance
3 with the royalty payment and household
4 eligibility requirements of the license under
5 this section. The report shall address the
6 qualified carrier's conduct during the pe-
7 riod beginning on the date on which the
8 qualified carrier is recognized as such
9 under paragraph (3)(B) and ending on De-
10 cember 31, 2011.

11 “(ii) RECORDS OF QUALIFIED CAR-
12 RIER.—Beginning on the date that is one
13 year after the date on which the qualified
14 carrier is recognized as such under para-
15 graph (3)(B), but not later than October
16 1, 2011, the qualified carrier shall provide
17 the Comptroller General with all records
18 that the Comptroller General, in consulta-
19 tion with the Register of Copyrights, con-
20 siders to be directly pertinent to the fol-
21 lowing requirements under this section:

22 “(I) Proper calculation and pay-
23 ment of royalties under the statutory
24 license under this section.

1 “(II) Provision of service under
2 this license to eligible subscribers
3 only.

4 “(iii) SUBMISSION OF REPORT.—The
5 Comptroller General shall file the report
6 required by clause (i) not later than March
7 1, 2012, with the court referred to in para-
8 graph (1) that issued the injunction, the
9 Register of Copyrights, the Committees on
10 the Judiciary and on Energy and Com-
11 merce of the House of Representatives,
12 and the Committees on the Judiciary and
13 on Commerce, Science, and Transportation
14 of the Senate.

15 “(iv) EVIDENCE OF INFRINGEMENT.—
16 The Comptroller General shall include in
17 the report a statement of whether the ex-
18 amination by the Comptroller General indi-
19 cated that there is substantial evidence
20 that a copyright holder could bring a suc-
21 cessful action under this section against
22 the qualified carrier for infringement. The
23 Comptroller General shall consult with the
24 Register of Copyrights in preparing such
25 statement.

1 “(v) SUBSEQUENT EXAMINATION.—If
2 the report includes the Comptroller Gen-
3 eral’s statement that there is substantial
4 evidence that a copyright holder could
5 bring a successful action under this section
6 against the qualified carrier for infringe-
7 ment, the Comptroller General shall, not
8 later than 6 months after the report under
9 clause (i) is published, initiate another ex-
10 amination of the qualified carrier’s compli-
11 ance with the royalty payment and house-
12 hold eligibility requirements of the license
13 under this section since the last report was
14 filed under clause (iii). The Comptroller
15 General shall file a report on such exam-
16 ination with the court referred to in para-
17 graph (1) that issued the injunction, the
18 Register of Copyrights, the Committees on
19 the Judiciary and on Energy and Com-
20 merce of the House of Representatives,
21 and the Committees on the Judiciary and
22 on Commerce, Science, and Transportation
23 of the Senate. The report shall include a
24 statement described in clause (iv), pre-

1 pared in consultation with the Register of
2 Copyrights.

3 “(vi) COMPLIANCE.—Upon motion
4 filed by an aggrieved copyright owner, the
5 court recognizing an entity as a qualified
6 carrier shall terminate such designation
7 upon finding that the entity has failed to
8 cooperate with the examinations required
9 by this subparagraph.

10 “(C) AFFIRMATION.—A qualified carrier
11 shall file an affidavit with the district court and
12 the Register of Copyrights 30 months after
13 such status was granted stating that, to the
14 best of the affiant’s knowledge, it is in compli-
15 ance with the requirements for a qualified car-
16 rier.

17 “(D) COMPLIANCE DETERMINATION.—
18 Upon the motion of an aggrieved television
19 broadcast station, the court recognizing an enti-
20 ty as a qualified carrier may make a determina-
21 tion of whether the entity is providing local-
22 into-local service to all DMAs.

23 “(E) PLEADING REQUIREMENT.—In any
24 motion brought under subparagraph (D), the
25 party making such motion shall specify one or

1 more designated market areas (as such term is
2 defined in section 122(j)(2)(C)) for which the
3 failure to provide service is being alleged, and,
4 for each such designated market area, shall
5 plead with particularity the circumstances of
6 the alleged failure.

7 “(F) BURDEN OF PROOF.—In any pro-
8 ceeding to make a determination under sub-
9 paragraph (D), and with respect to a des-
10 ignated market area for which failure to provide
11 service is alleged, the entity recognized as a
12 qualified carrier shall have the burden of prov-
13 ing that the entity provided local-into-local serv-
14 ice with a good quality satellite signal to at
15 least 90 percent of the households in such des-
16 ignated market area (based on the most recent
17 census data released by the United States Cen-
18 sus Bureau) at the time and place alleged.

19 “(5) FAILURE TO PROVIDE SERVICE.—

20 “(A) PENALTIES.—If the court recognizing
21 an entity as a qualified carrier finds that such
22 entity has willfully failed to provide local-into-
23 local service to all DMAs, such finding shall re-
24 sult in the loss of recognition of the entity as
25 a qualified carrier and the termination of the

1 waiver provided under paragraph (1), and the
2 court may, in its discretion—

3 “(i) treat such failure as an act of in-
4 fringement under section 501, and subject
5 such infringement to the remedies provided
6 for in sections 502 through 506 and sub-
7 section (a)(6)(B) of this section; and

8 “(ii) impose a fine of not less than
9 \$250,000 and not more than \$5,000,000.

10 “(B) EXCEPTION FOR NONWILLFUL VIOLA-
11 TION.—If the court determines that the failure
12 to provide local-into-local service to all DMAs is
13 nonwillful, the court may in its discretion im-
14 pose financial penalties for noncompliance that
15 reflect—

16 “(i) the degree of control the entity
17 had over the circumstances that resulted in
18 the failure;

19 “(ii) the quality of the entity’s efforts
20 to remedy the failure and restore service;
21 and

22 “(iii) the severity and duration of any
23 service interruption.

24 “(6) PENALTIES FOR VIOLATIONS OF LI-
25 CENSE.—A court that finds, under subsection

1 (a)(6)(A), that an entity recognized as a qualified
2 carrier has willfully made a secondary transmission
3 of a primary transmission made by a network sta-
4 tion and embodying a performance or display of a
5 work to a subscriber who is not eligible to receive
6 the transmission under this section shall reinstate
7 the injunction waived under paragraph (1), and the
8 court may order statutory damages of not more than
9 \$2,500,000.

10 “(7) LOCAL-INTO-LOCAL SERVICE TO ALL DMAS
11 DEFINED.—For purposes of this subsection:

12 “(A) IN GENERAL.—An entity provides
13 ‘local-into-local service to all DMAs’ if the enti-
14 ty provides local service in all designated mar-
15 ket areas (as such term is defined in section
16 122(j)(2)(C)) pursuant to the license under sec-
17 tion 122.

18 “(B) HOUSEHOLD COVERAGE.—For pur-
19 poses of subparagraph (A), an entity that
20 makes available local-into-local service with a
21 good quality satellite signal to at least 90 per-
22 cent of the households in a designated market
23 area based on the most recent census data re-
24 leased by the United States Census Bureau

1 shall be considered to be providing local service
2 to such designated market area.

3 “(C) GOOD QUALITY SATELLITE SIGNAL
4 DEFINED.—The term ‘good quality signal’ has
5 the meaning given such term under section
6 342(e)(2) of Communications Act of 1934.”.

7 **SEC. 106. COPYRIGHT OFFICE FEES.**

8 Section 708(a) is amended—

9 (1) in paragraph (8), by striking “and” after
10 the semicolon;

11 (2) in paragraph (9), by striking the period and
12 inserting a semicolon;

13 (3) by inserting after paragraph (9) the fol-
14 lowing:

15 “(10) on filing a statement of account based on
16 secondary transmissions of primary transmissions
17 pursuant to section 119 or 122; and

18 “(11) on filing a statement of account based on
19 secondary transmissions of primary transmissions
20 pursuant to section 111.”; and

21 (4) by adding at the end the following new sen-
22 tence: “Fees established under paragraphs (10) and
23 (11) shall be reasonable and may not exceed one-half
24 of the cost necessary to cover reasonable expenses
25 incurred by the Copyright Office for the collection

1 and administration of the statements of account and
2 any royalty fees deposited with such statements.”.

3 **SEC. 107. TERMINATION OF LICENSE.**

4 Section 1003(a)(2)(A) of Public Law 111–118 is
5 amended by striking “April 30, 2010” and inserting “De-
6 cember 31, 2020”.

7 **SEC. 108. CONSTRUCTION.**

8 Nothing in section 111, 119, or 122 of title 17,
9 United States Code, including the amendments made to
10 such sections by this title, shall be construed to affect the
11 meaning of any terms under the Communications Act of
12 1934, except to the extent that such sections are specifi-
13 cally cross-referenced in such Act or the regulations issued
14 thereunder.

15 **TITLE II—COMMUNICATIONS**
16 **PROVISIONS**

17 **SEC. 201. REFERENCE.**

18 Except as otherwise provided, whenever in this title
19 an amendment is made to a section or other provision,
20 the reference shall be considered to be made to such sec-
21 tion or provision of the Communications Act of 1934 (47
22 U.S.C. 151 et seq.).

23 **SEC. 202. EXTENSION OF AUTHORITY.**

24 Section 325(b) is amended—

1 (1) in paragraph (2)(C), by striking “April 30,
2 2010” and inserting “December 31, 2020”; and

3 (2) in paragraph (3)(C), by striking “May 1,
4 2010” each place it appears in clauses (ii) and (iii)
5 and inserting “January 1, 2021”.

6 **SEC. 203. SIGNIFICANTLY VIEWED STATIONS.**

7 (a) IN GENERAL.—Paragraphs (1) and (2) of section
8 340(b) are amended to read as follows:

9 “(1) SERVICE LIMITED TO SUBSCRIBERS TAK-
10 ING LOCAL-INTO-LOCAL SERVICE.—This section shall
11 apply only to retransmissions to subscribers of a sat-
12 ellite carrier who receive retransmissions of a signal
13 from that satellite carrier pursuant to section 338.

14 “(2) SERVICE LIMITATIONS.—A satellite carrier
15 may retransmit to a subscriber in high definition
16 format the signal of a station determined by the
17 Commission to be significantly viewed under sub-
18 section (a) only if such carrier also retransmits in
19 high definition format the signal of a station located
20 in the local market of such subscriber and affiliated
21 with the same network whenever such format is
22 available from such station.”.

23 (b) RULEMAKING REQUIRED.—Within 240 days after
24 the date of the enactment of this Act, the Federal Commu-
25 nications Commission shall take all actions necessary to

1 promulgate a rule to implement the amendments made by
2 subsection (a).

3 **SEC. 204. DIGITAL TELEVISION TRANSITION CONFORMING**
4 **AMENDMENTS.**

5 (a) SECTION 338.—Section 338 is amended—

6 (1) in subsection (a), by striking “(3) EFFEC-
7 TIVE DATE.—No satellite” and all that follows
8 through “until January 1, 2002.”; and

9 (2) by amending subsection (g) to read as fol-
10 lows:

11 “(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE
12 RECEPTION ANTENNA.—

13 “(1) SINGLE RECEPTION ANTENNA.—Each sat-
14 ellite carrier that retransmits the signals of local tel-
15 evision broadcast stations in a local market shall re-
16 transmit such stations in such market so that a sub-
17 scriber may receive such stations by means of a sin-
18 gle reception antenna and associated equipment.

19 “(2) ADDITIONAL RECEPTION ANTENNA.—If
20 the carrier retransmits the signals of local television
21 broadcast stations in a local market in high defini-
22 tion format, the carrier shall retransmit such signals
23 in such market so that a subscriber may receive
24 such signals by means of a single reception antenna
25 and associated equipment, but such antenna and as-

1 sociated equipment may be separate from the single
2 reception antenna and associated equipment used to
3 comply with paragraph (1).”.

4 (b) SECTION 339.—Section 339 is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1)(B), by striking “Such
7 two network stations” and all that follows
8 through “more than two network stations.”;
9 and

10 (B) in paragraph (2)—

11 (i) in the heading for subparagraph
12 (A), by striking “TO ANALOG SIGNALS”;

13 (ii) in subparagraph (A)—

14 (I) in the heading for clause (i),
15 by striking “ANALOG”;

16 (II) in clause (i)—

17 (aa) by striking “analog”
18 each place it appears; and

19 (bb) by striking “October 1,
20 2004” and inserting “October 1,
21 2009”;

22 (III) in the heading for clause
23 (ii), by striking “ANALOG”; and

24 (IV) in clause (ii)—

1 (aa) by striking “analog”
2 each place it appears; and

3 (bb) by striking “2004” and
4 inserting “2009”;

5 (iii) by amending subparagraph (B) to
6 read as follows:

7 “(B) RULES FOR OTHER SUBSCRIBERS.—

8 “(i) IN GENERAL.—In the case of a
9 subscriber of a satellite carrier who is eligi-
10 ble to receive the signal of a network sta-
11 tion under this section (in this subpara-
12 graph referred to as a ‘distant signal’),
13 other than subscribers to whom subpara-
14 graph (A) applies, the following shall
15 apply:

16 “(I) In a case in which the sat-
17 ellite carrier makes available to that
18 subscriber, on January 1, 2005, the
19 signal of a local network station affili-
20 ated with the same television network
21 pursuant to section 338, the carrier
22 may only provide the secondary trans-
23 missions of the distant signal of a sta-
24 tion affiliated with the same network
25 to that subscriber if the subscriber’s

1 satellite carrier, not later than March
2 1, 2005, submits to that television
3 network the list and statement re-
4 quired by subparagraph (F)(i).

5 “(II) In a case in which the sat-
6 ellite carrier does not make available
7 to that subscriber, on January 1,
8 2005, the signal of a local network
9 station pursuant to section 338, the
10 carrier may only provide the sec-
11 ondary transmissions of the distant
12 signal of a station affiliated with the
13 same network to that subscriber if—

14 “(aa) that subscriber seeks
15 to subscribe to such distant sig-
16 nal before the date on which such
17 carrier commences to carry pur-
18 suant to section 338 the signals
19 of stations from the local market
20 of such local network station; and

21 “(bb) the satellite carrier,
22 within 60 days after such date,
23 submits to each television net-
24 work the list and statement re-
25 quired by subparagraph (F)(ii).

1 “(ii) SPECIAL CIRCUMSTANCES.—A
2 subscriber of a satellite carrier who was
3 lawfully receiving the distant signal of a
4 network station on the day before the date
5 of enactment of the Satellite Television Ex-
6 tension and Localism Act of 2010 may re-
7 ceive both such distant signal and the local
8 signal of a network station affiliated with
9 the same network until such subscriber
10 chooses to no longer receive such distant
11 signal from such carrier, whether or not
12 such subscriber elects to subscribe to such
13 local signal.”;

14 (iv) in subparagraph (C)—

15 (I) by striking “analog”;

16 (II) in clause (i), by striking “the
17 Satellite Home Viewer Extension and
18 Reauthorization Act of 2004; and”
19 and inserting the following:

20 “the Satellite Television Extension and Lo-
21 calism Act of 2010 and, at the time such
22 person seeks to subscribe to receive such
23 secondary transmission, resides in a local
24 market where the satellite carrier makes
25 available to that person the signal of a

1 local network station affiliated with the
2 same television network pursuant to sec-
3 tion 338 (and the retransmission of such
4 signal by such carrier can reach such sub-
5 scriber); or”;

6 (III) by amending clause (ii) to
7 read as follows:

8 “(ii) lawfully subscribes to and re-
9 ceives a distant signal on or after the date
10 of enactment of the Satellite Television Ex-
11 tension and Localism Act of 2010, and,
12 subsequent to such subscription, the sat-
13 ellite carrier makes available to that sub-
14 scriber the signal of a local network station
15 affiliated with the same network as the dis-
16 tant signal (and the retransmission of such
17 signal by such carrier can reach such sub-
18 scriber), unless such person subscribes to
19 the signal of the local network station
20 within 60 days after such signal is made
21 available.”;

22 (v) in subparagraph (D)—

23 (I) in the heading, by striking
24 “DIGITAL”;

1 (II) by striking clauses (i), (iii)
2 through (v), (vii) through (ix), and
3 (xi);

4 (III) by redesignating clause (vi)
5 as clause (i) and transferring such
6 clause to appear before clause (ii);

7 (IV) by amending such clause (i)
8 (as so redesignated) to read as fol-
9 lows:

10 “(i) ELIGIBILITY AND SIGNAL TEST-
11 ING.—A subscriber of a satellite carrier
12 shall be eligible to receive a distant signal
13 of a network station affiliated with the
14 same network under this section if, with
15 respect to a local network station, such
16 subscriber—

17 “(I) is a subscriber whose house-
18 hold is not predicted by the model
19 specified in subsection (c)(3) to re-
20 ceive the signal intensity required
21 under section 73.622(e)(1) or, in the
22 case of a low-power station or trans-
23 lator station transmitting an analog
24 signal, section 73.683(a) of title 47,

1 Code of Federal Regulations, or a suc-
2 cessor regulation;

3 “(II) is determined, based on a
4 test conducted in accordance with sec-
5 tion 73.686(d) of title 47, Code of
6 Federal Regulations, or any successor
7 regulation, not to be able to receive a
8 signal that exceeds the signal intensity
9 standard in section 73.622(e)(1) or,
10 in the case of a low-power station or
11 translator station transmitting an
12 analog signal, section 73.683(a) of
13 such title, or a successor regulation;
14 or

15 “(III) is in an unserved house-
16 hold, as determined under section
17 119(d)(10)(A) of title 17, United
18 States Code.”;

19 (V) in clause (ii)—

20 (aa) by striking “DIGITAL”
21 in the heading;

22 (bb) by striking “digital”
23 the first two places such term ap-
24 pears;

1 (cc) by striking “Satellite
2 Home Viewer Extension and Re-
3 authorization Act of 2004” and
4 inserting “Satellite Television
5 Extension and Localism Act of
6 2010”; and

7 (dd) by striking “, whether
8 or not such subscriber elects to
9 subscribe to local digital signals”;

10 (VI) by inserting after clause (ii)
11 the following new clause:

12 “(iii) TIME-SHIFTING PROHIBITED.—
13 In a case in which the satellite carrier
14 makes available to an eligible subscriber
15 under this subparagraph the signal of a
16 local network station pursuant to section
17 338, the carrier may only provide the dis-
18 tant signal of a station affiliated with the
19 same network to that subscriber if, in the
20 case of any local market in the 48 contig-
21 uous States of the United States, the dis-
22 tant signal is the secondary transmission
23 of a station whose prime time network pro-
24 gramming is generally broadcast simulta-
25 neously with, or later than, the prime time

1 network programming of the affiliate of
2 the same network in the local market.”;
3 and

4 (VII) by redesignating clause (x)
5 as clause (iv); and

6 (vi) in subparagraph (E), by striking
7 “distant analog signal or” and all that fol-
8 lows through “(B), or (D))” and inserting
9 “distant signal”;

10 (2) in subsection (c)—

11 (A) by amending paragraph (3) to read as
12 follows:

13 “(3) ESTABLISHMENT OF IMPROVED PRE-
14 DICTIVE MODEL AND ON-LOCATION TESTING RE-
15 QUIRED.—

16 “(A) PREDICTIVE MODEL.—Within 240
17 days after the date of the enactment of the Sat-
18 ellite Television Extension and Localism Act of
19 2010, the Commission shall develop and pre-
20 scribe by rule a point-to-point predictive model
21 for reliably and presumptively determining the
22 ability of individual locations, through the use
23 of an antenna, to receive signals in accordance
24 with the signal intensity standard in section
25 73.622(e)(1) of title 47, Code of Federal Regu-

1 lations, or a successor regulation, including to
2 account for the continuing operation of trans-
3 lator stations and low power television stations.
4 In prescribing such model, the Commission
5 shall rely on the Individual Location Longley-
6 Rice model set forth by the Commission in CS
7 Docket No. 98–201, as previously revised with
8 respect to analog signals, and as recommended
9 by the Commission with respect to digital sig-
10 nals in its Report to Congress in ET Docket
11 No. 05–182, FCC 05–199 (released December
12 9, 2005). The Commission shall establish proce-
13 dures for the continued refinement in the appli-
14 cation of the model by the use of additional
15 data as it becomes available.

16 “(B) ON-LOCATION TESTING.—The Com-
17 mission shall issue an order completing its rule-
18 making proceeding in ET Docket No. 06–94
19 within 240 days after the date of enactment of
20 the Satellite Television Extension and Localism
21 Act of 2010. In conducting such rulemaking,
22 the Commission shall seek ways to minimize
23 consumer burdens associated with on-location
24 testing.”;

1 (B) by amending paragraph (4)(A) to read
2 as follows:

3 “(A) IN GENERAL.—If a subscriber’s re-
4 quest for a waiver under paragraph (2) is re-
5 jected and the subscriber submits to the sub-
6 scriber’s satellite carrier a request for a test
7 verifying the subscriber’s inability to receive a
8 signal of the signal intensity referenced in
9 clause (i) of subsection (a)(2)(D), the satellite
10 carrier and the network station or stations as-
11 serting that the retransmission is prohibited
12 with respect to that subscriber shall select a
13 qualified and independent person to conduct the
14 test referenced in such clause. Such test shall
15 be conducted within 30 days after the date the
16 subscriber submits a request for the test. If the
17 written findings and conclusions of a test con-
18 ducted in accordance with such clause dem-
19 onstrate that the subscriber does not receive a
20 signal that meets or exceeds the requisite signal
21 intensity standard in such clause, the subscriber
22 shall not be denied the retransmission of a sig-
23 nal of a network station under section
24 119(d)(10)(A) of title 17, United States
25 Code.”;

1 (C) in paragraph (4)(B), by striking “the
2 signal intensity” and all that follows through
3 “United States Code” and inserting “such req-
4 uisite signal intensity standard”; and

5 (D) in paragraph (4)(E), by striking
6 “Grade B intensity”.

7 (c) SECTION 340.—Section 340(i) is amended by
8 striking paragraph (4).

9 **SEC. 205. APPLICATION PENDING COMPLETION OF**
10 **RULEMAKINGS.**

11 (a) IN GENERAL.—During the period beginning on
12 the date of the enactment of this Act and ending on the
13 date on which the Federal Communications Commission
14 adopts rules pursuant to the amendments to the Commu-
15 nications Act of 1934 made by section 203 and section
16 204 of this title, the Federal Communications Commission
17 shall follow its rules and regulations promulgated pursu-
18 ant to sections 338, 339, and 340 of the Communications
19 Act of 1934 as in effect on the day before the date of
20 the enactment of this Act.

21 (b) TRANSLATOR STATIONS AND LOW POWER TELE-
22 VISION STATIONS.—Notwithstanding subsection (a), for
23 purposes of determining whether a subscriber within the
24 local market served by a translator station or a low power
25 television station affiliated with a television network is eli-

1 gible to receive distant signals under section 339 of the
2 Communications Act of 1934, the rules and regulations
3 of the Federal Communications Commission for deter-
4 mining such subscriber's eligibility as in effect on the day
5 before the date of the enactment of this Act shall apply
6 until the date on which the translator station or low power
7 television station is licensed to broadcast a digital signal.

8 (c) DEFINITIONS.—As used in this subtitle:

9 (1) LOCAL MARKET; LOW POWER TELEVISION
10 STATION; SATELLITE CARRIER; SUBSCRIBER; TELE-
11 VISION BROADCAST STATION.—The terms “local
12 market”, “low power television station”, “satellite
13 carrier”, “subscriber”, and “television broadcast sta-
14 tion” have the meanings given such terms in section
15 338(k) of the Communications Act of 1934.

16 (2) NETWORK STATION; TELEVISION NET-
17 WORK.—The terms “network station” and “tele-
18 vision network” have the meanings given such terms
19 in section 339(d) of such Act.

20 **SEC. 206. PROCESS FOR ISSUING QUALIFIED CARRIER CER-**
21 **TIFICATION.**

22 Part I of title III is amended by adding at the end
23 the following new section:

1 **“SEC. 342. PROCESS FOR ISSUING QUALIFIED CARRIER**
2 **CERTIFICATION.**

3 “(a) CERTIFICATION.—The Commission shall issue a
4 certification for the purposes of section 119(g)(3)(A)(iii)
5 of title 17, United States Code, if the Commission deter-
6 mines that—

7 “(1) a satellite carrier is providing local service
8 pursuant to the statutory license under section 122
9 of such title in each designated market area; and

10 “(2) with respect to each designated market
11 area in which such satellite carrier was not providing
12 such local service as of the date of enactment of the
13 Satellite Television Extension and Localism Act of
14 2010—

15 “(A) the satellite carrier’s satellite beams
16 are designed, and predicted by the satellite
17 manufacturer’s pre-launch test data, to provide
18 a good quality satellite signal to at least 90 per-
19 cent of the households in each such designated
20 market area based on the most recent census
21 data released by the United States Census Bu-
22 reau; and

23 “(B) there is no material evidence that
24 there has been a satellite or sub-system failure
25 subsequent to the satellite’s launch that pre-

1 cludes the ability of the satellite carrier to sat-
2 isfy the requirements of subparagraph (A).

3 “(b) INFORMATION REQUIRED.—Any entity seeking
4 the certification provided for in subsection (a) shall submit
5 to the Commission the following information:

6 “(1) An affidavit stating that, to the best of the
7 affiant’s knowledge, the satellite carrier provides
8 local service in all designated market areas pursuant
9 to the statutory license provided for in section 122
10 of title 17, United States Code, and listing those
11 designated market areas in which local service was
12 provided as of the date of enactment of the Satellite
13 Television Extension and Localism Act of 2010.

14 “(2) For each designated market area not listed
15 in paragraph (1):

16 “(A) Identification of each such designated
17 market area and the location of its local receive
18 facility.

19 “(B) Data showing the number of house-
20 holds, and maps showing the geographic dis-
21 tribution thereof, in each such designated mar-
22 ket area based on the most recent census data
23 released by the United States Census Bureau.

24 “(C) Maps, with superimposed effective
25 isotropically radiated power predictions ob-

1 tained in the satellite manufacturer’s pre-
2 launch tests, showing that the contours of the
3 carrier’s satellite beams as designed and the ge-
4 ographic area that the carrier’s satellite beams
5 are designed to cover are predicted to provide
6 a good quality satellite signal to at least 90 per-
7 cent of the households in such designated mar-
8 ket area based on the most recent census data
9 released by the United States Census Bureau.

10 “(D) For any satellite relied upon for cer-
11 tification under this section, an affidavit stating
12 that, to the best of the affiant’s knowledge,
13 there have been no satellite or sub-system fail-
14 ures subsequent to the satellite’s launch that
15 would degrade the design performance to such
16 a degree that a satellite transponder used to
17 provide local service to any such designated
18 market area is precluded from delivering a good
19 quality satellite signal to at least 90 percent of
20 the households in such designated market area
21 based on the most recent census data released
22 by the United States Census Bureau.

23 “(E) Any additional engineering, des-
24 ignated market area, or other information the
25 Commission considers necessary to determine

1 whether the Commission shall grant a certifi-
2 cation under this section.

3 “(c) CERTIFICATION ISSUANCE.—

4 “(1) PUBLIC COMMENT.—The Commission shall
5 provide 30 days for public comment on a request for
6 certification under this section.

7 “(2) DEADLINE FOR DECISION.—The Commis-
8 sion shall grant or deny a request for certification
9 within 90 days after the date on which such request
10 is filed.

11 “(d) SUBSEQUENT AFFIRMATION.—An entity grant-
12 ed qualified carrier status pursuant to section 119(g) of
13 title 17, United States Code, shall file an affidavit with
14 the Commission 30 months after such status was granted
15 stating that, to the best of the affiant’s knowledge, it is
16 in compliance with the requirements for a qualified car-
17 rier.

18 “(e) DEFINITIONS.—For the purposes of this section:

19 “(1) DESIGNATED MARKET AREA.—The term
20 ‘designated market area’ has the meaning given such
21 term in section 122(j)(2)(C) of title 17, United
22 States Code.

23 “(2) GOOD QUALITY SATELLITE SIGNAL.—

24 “(A) IN GENERAL.—The term “good qual-
25 ity satellite signal” means—

1 “(i) a satellite signal whose power
2 level as designed shall achieve reception
3 and demodulation of the signal at an avail-
4 ability level of at least 99.7 percent
5 using—

6 “(I) models of satellite antennas
7 normally used by the satellite carrier’s
8 subscribers; and

9 “(II) the same calculation meth-
10 odology used by the satellite carrier to
11 determine predicted signal availability
12 in the top 100 designated market
13 areas; and

14 “(ii) taking into account whether a
15 signal is in standard definition format or
16 high definition format, compression meth-
17 odology, modulation, error correction,
18 power level, and utilization of advances in
19 technology that do not circumvent the in-
20 tent of this section to provide for non-dis-
21 criminatory treatment with respect to any
22 comparable television broadcast station sig-
23 nal, a video signal transmitted by a sat-
24 ellite carrier such that—

1 “(I) the satellite carrier treats all
 2 television broadcast stations’ signals
 3 the same with respect to statistical
 4 multiplexer prioritization; and

5 “(II) the number of video signals
 6 in the relevant satellite transponder is
 7 not more than the then current great-
 8 est number of video signals carried on
 9 any equivalent transponder serving
 10 the top 100 designated market areas.

11 “(B) DETERMINATION.—For the purposes
 12 of subparagraph (A), the top 100 designated
 13 market areas shall be as determined by Nielsen
 14 Media Research and published in the Nielsen
 15 Station Index Directory and Nielsen Station
 16 Index United States Television Household Esti-
 17 mates or any successor publication as of the
 18 date of a satellite carrier’s application for cer-
 19 tification under this section.”.

20 **SEC. 207. NONDISCRIMINATION IN CARRIAGE OF HIGH DEF-**
 21 **INITION DIGITAL SIGNALS OF NONCOMMER-**
 22 **CIAL EDUCATIONAL TELEVISION STATIONS.**

23 (a) IN GENERAL.—Section 338(a) is amended by
 24 adding at the end the following new paragraph:

1 “(5) NONDISCRIMINATION IN CARRIAGE OF
2 HIGH DEFINITION SIGNALS OF NONCOMMERCIAL
3 EDUCATIONAL TELEVISION STATIONS.—

4 “(A) EXISTING CARRIAGE OF HIGH DEFINITION SIGNALS.—If, before the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier is providing, under section 122 of title 17, United States Code, any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of qualified noncommercial educational television stations located within that local market in accordance with the following schedule:

19 “(i) By December 31, 2010, in at
20 least 50 percent of the markets in which
21 such satellite carrier provides such secondary transmissions in high definition
22 format.
23

24 “(ii) By December 31, 2011, in every
25 market in which such satellite carrier pro-

1 vides such secondary transmissions in high
2 definition format.

3 “(B) NEW INITIATION OF SERVICE.—If, on
4 or after the date of enactment of the Satellite
5 Television Extension and Localism Act of 2010,
6 an eligible satellite carrier initiates the provi-
7 sion, under section 122 of title 17, United
8 States Code, of any secondary transmissions in
9 high definition format to subscribers located
10 within the local market of a television broadcast
11 station of a primary transmission made by that
12 station, then such satellite carrier shall carry
13 the signals in high-definition format of all
14 qualified noncommercial educational television
15 stations located within that local market.”.

16 (b) DEFINITIONS.—Section 338(k) is amended—

17 (1) by redesignating paragraphs (2) through
18 (8) as paragraphs (3) through (9), respectively;

19 (2) by inserting after paragraph (1) the fol-
20 lowing new paragraph:

21 “(2) ELIGIBLE SATELLITE CARRIER.—The term
22 ‘eligible satellite carrier’ means any satellite carrier
23 that is not a party to a carriage contract that—

1 “(A) governs carriage of at least 30 quali-
2 fied noncommercial educational television sta-
3 tions; and

4 “(B) is in force and effect within 120 days
5 after the date of enactment of the Satellite Tel-
6 evision Extension and Localism Act of 2010.”;

7 (3) by redesignating paragraphs (6) through
8 (9) (as previously redesignated) as paragraphs (7)
9 through (10), respectively; and

10 (4) by inserting after paragraph (5) (as so re-
11 designated) the following new paragraph:

12 “(6) QUALIFIED NONCOMMERCIAL EDU-
13 CATIONAL TELEVISION STATION.—The term ‘quali-
14 fied noncommercial educational television station’
15 means any full-power television broadcast station
16 that—

17 “(A) under the rules and regulations of the
18 Commission in effect on March 29, 1990, is li-
19 censed by the Commission as a noncommercial
20 educational broadcast station and is owned and
21 operated by a public agency, nonprofit founda-
22 tion, nonprofit corporation, or nonprofit asso-
23 ciation; and

24 “(B) has as its licensee an entity that is el-
25 igible to receive a community service grant, or

1 any successor grant thereto, from the Corpora-
 2 tion for Public Broadcasting, or any successor
 3 organization thereto, on the basis of the for-
 4 mula set forth in section 396(k)(6)(B) of this
 5 title.”.

6 **SEC. 208. SAVINGS CLAUSE REGARDING DEFINITIONS.**

7 Nothing in this title or the amendments made by this
 8 title shall be construed to affect—

9 (1) the meaning of the terms “program re-
 10 lated” and “primary video” under the Communica-
 11 tions Act of 1934; or

12 (2) the meaning of the term “multicast” in any
 13 regulations issued by the Federal Communications
 14 Commission.

15 **SEC. 209. STATE PUBLIC AFFAIRS BROADCASTS.**

16 Section 335(b) is amended—

17 (1) by inserting “**STATE PUBLIC AFFAIRS,**”
 18 after “**EDUCATIONAL,**” in the heading;

19 (2) by striking paragraph (1) and inserting the
 20 following:

21 “(1) CHANNEL CAPACITY REQUIRED.—

22 “(A) IN GENERAL.—Except as provided in
 23 subparagraph (B), the Commission shall re-
 24 quire, as a condition of any provision, initial au-
 25 thorization, or authorization renewal for a pro-

1 vider of direct broadcast satellite service pro-
2 viding video programming, that the provider of
3 such service reserve a portion of its channel ca-
4 pacity, equal to not less than 4 percent nor
5 more than 7 percent, exclusively for non-
6 commercial programming of an educational or
7 informational nature.

8 “(B) REQUIREMENT FOR QUALIFIED SAT-
9 ELLITE PROVIDER.—The Commission shall re-
10 quire, as a condition of any provision, initial au-
11 thorization, or authorization renewal for a
12 qualified satellite provider of direct broadcast
13 satellite service providing video programming,
14 that such provider reserve a portion of its chan-
15 nel capacity, equal to not less than 3.5 percent
16 nor more than 7 percent, exclusively for non-
17 commercial programming of an educational or
18 informational nature.”;

19 (3) in paragraph (5), by striking “For purposes
20 of the subsection—” and inserting “For purposes of
21 this subsection:”; and

22 (4) by adding at the end of paragraph (5) the
23 following:

1 “(C) The term ‘qualified satellite provider’
2 means any provider of direct broadcast satellite
3 service that—

4 “(i) provides the retransmission of the
5 State public affairs networks of at least 15
6 different States;

7 “(ii) offers the programming of State
8 public affairs networks upon reasonable
9 prices, terms, and conditions as determined
10 by the Commission under paragraph (4);
11 and

12 “(iii) does not delete any noncommer-
13 cial programming of an educational or in-
14 formational nature in connection with the
15 carriage of a State public affairs network.

16 “(D) The term ‘State public affairs net-
17 work’ means a non-commercial non-broadcast
18 network or a noncommercial educational tele-
19 vision station—

20 “(i) whose programming consists of
21 information about State government delib-
22 erations and public policy events; and

23 “(ii) that is operated by—

24 “(I) a State government or sub-
25 division thereof;

1 “(II) an organization described
 2 in section 501(c)(3) of the Internal
 3 Revenue Code of 1986 that is exempt
 4 from taxation under section 501(a) of
 5 such Code and that is governed by an
 6 independent board of directors; or

7 “(III) a cable system.”.

8 **TITLE III—REPORTS AND**
 9 **SAVINGS PROVISION**

10 **SEC. 301. DEFINITION.**

11 In this title, the term “appropriate Congressional
 12 committees” means the Committees on the Judiciary and
 13 on Commerce, Science, and Transportation of the Senate
 14 and the Committees on the Judiciary and on Energy and
 15 Commerce of the House of Representatives.

16 **SEC. 302. REPORT ON MARKET BASED ALTERNATIVES TO**
 17 **STATUTORY LICENSING.**

18 Not later than 1 year after the date of the enactment
 19 of this Act, and after consultation with the Federal Com-
 20 munications Commission, the Register of Copyrights shall
 21 submit to the appropriate Congressional committees a re-
 22 port containing—

23 (1) proposed mechanisms, methods, and rec-
 24 ommendations on how to implement a phase-out of
 25 the statutory licensing requirements set forth in sec-

1 tions 111, 119, and 122 of title 17, United States
2 Code, by making such sections inapplicable to the
3 secondary transmission of a performance or display
4 of a work embodied in a primary transmission of a
5 broadcast station that is authorized to license the
6 same secondary transmission directly with respect to
7 all of the performances and displays embodied in
8 such primary transmission;

9 (2) any recommendations for alternative means
10 to implement a timely and effective phase-out of the
11 statutory licensing requirements set forth in sections
12 111, 119, and 122 of title 17, United States Code;
13 and

14 (3) any recommendations for legislative or ad-
15 ministrative actions as may be appropriate to
16 achieve such a phase-out.

17 **SEC. 303. REPORT ON COMMUNICATIONS IMPLICATIONS OF**
18 **STATUTORY LICENSING MODIFICATIONS.**

19 (a) STUDY.—The Comptroller General shall conduct
20 a study that analyzes and evaluates the changes to the
21 carriage requirements currently imposed on multichannel
22 video programming distributors under the Communica-
23 tions Act of 1934 (47 U.S.C. 151 et seq.) and the regula-
24 tions promulgated by the Federal Communications Com-
25 mission that would be required or beneficial to consumers,

1 and such other matters as the Comptroller General deems
2 appropriate, if Congress implemented a phase-out of the
3 current statutory licensing requirements set forth under
4 sections 111, 119, and 122 of title 17, United States
5 Code. Among other things, the study shall consider the
6 impact such a phase-out and related changes to carriage
7 requirements would have on consumer prices and access
8 to programming.

9 (b) REPORT.—Not later than 1 year after the date
10 of the enactment of this Act, the Comptroller General shall
11 report to the appropriate Congressional committees the re-
12 sults of the study, including any recommendations for leg-
13 islative or administrative actions.

14 **SEC. 304. REPORT ON IN-STATE BROADCAST PROGRAM-**
15 **MING.**

16 Not later than 1 year after the date of the enactment
17 of this Act, the Federal Communications Commission shall
18 submit to the appropriate Congressional committees a re-
19 port containing an analysis of—

20 (1) the number of households in a State that
21 receive the signals of local broadcast stations as-
22 signed to a community of license that is located in
23 a different State;

24 (2) the extent to which consumers in each local
25 market have access to in-state broadcast program-

1 ming over the air or from a multichannel video pro-
2 gramming distributor; and

3 (3) whether there are alternatives to the use of
4 designated market areas, as defined in section 122
5 of title 17, United States Code, to define local mar-
6 kets that would provide more consumers with in-
7 state broadcast programming.

8 **SEC. 305. LOCAL NETWORK CHANNEL BROADCAST RE-**
9 **PORTS.**

10 (a) REQUIREMENT.—

11 (1) IN GENERAL.—On the 180th day after the
12 date of the enactment of this Act, and on each suc-
13 ceeding anniversary of such 180th day, each satellite
14 carrier shall submit an annual report to the Federal
15 Communications Commission setting forth—

16 (A) each local market in which it—

17 (i) retransmits signals of 1 or more
18 television broadcast stations with a com-
19 munity of license in that market;

20 (ii) has commenced providing such
21 signals in the preceding 1-year period; and

22 (iii) has ceased to provide such signals
23 in the preceding 1-year period; and

24 (B) detailed information regarding the use
25 and potential use of satellite capacity for the re-

1 transmission of local signals in each local mar-
2 ket.

3 (2) TERMINATION.—The requirement under
4 paragraph (1) shall cease after each satellite carrier
5 has submitted 5 reports under such paragraph.

6 (b) FCC STUDY; REPORT.—

7 (1) STUDY.—If no satellite carrier files a re-
8 quest for a certification under section 342 of the
9 Communications Act of 1934 (as added by section
10 206 of this title) within 180 days after the date of
11 the enactment of this Act, the Federal Communica-
12 tions Commission shall initiate a study of—

13 (A) incentives that would induce a satellite
14 carrier to provide the signals of 1 or more tele-
15 vision broadcast stations licensed to provide sig-
16 nals in local markets in which the satellite car-
17 rier does not provide such signals; and

18 (B) the economic and satellite capacity
19 conditions affecting delivery of local signals by
20 satellite carriers to these markets.

21 (2) REPORT.—Within 1 year after the date of
22 the initiation of the study under paragraph (1), the
23 Federal Communications Commission shall submit a
24 report to the appropriate Congressional committees

1 containing its findings, conclusions, and rec-
2 ommendations.

3 (c) DEFINITIONS.—In this section—

4 (1) the terms “local market” and “satellite car-
5 rier” have the meaning given such terms in section
6 339(d) of the Communications Act of 1934 (47
7 U.S.C. 339(d)); and

8 (2) the term “television broadcast station” has
9 the meaning given such term in section 325(b)(7) of
10 such Act (47 U.S.C. 325(b)(7)).

11 **SEC. 306. SAVINGS PROVISION REGARDING USE OF NEGO-**
12 **TIATED LICENSES.**

13 (a) IN GENERAL.—Nothing in this Act, title 17,
14 United States Code, the Communications Act of 1934,
15 regulations promulgated by the Register of Copyrights
16 under this title or title 17, United States Code, or regula-
17 tions promulgated by the Federal Communications Com-
18 mission under this Act or the Communications Act of
19 1934 shall be construed to prevent a multichannel video
20 programming distributor from retransmitting a perform-
21 ance or display of a work pursuant to an authorization
22 granted by the copyright owner or, if within the scope of
23 its authorization, its licensee.

24 (b) LIMITATION.—Nothing in subsection (a) shall be
25 construed to affect any obligation of a multichannel video

1 programming distributor under section 325(b) of the
 2 Communications Act of 1934 to obtain the authority of
 3 a television broadcast station before retransmitting that
 4 station's signal.

5 **SEC. 307. EFFECTIVE DATE; NONINFRINGEMENT OF COPY-**
 6 **RIGHT.**

7 (a) **EFFECTIVE DATE.**—Unless specifically provided
 8 otherwise, this Act, and the amendments made by this
 9 Act, shall take effect on February 27, 2010, and with the
 10 exception of the reference in subsection (b), all references
 11 to the date of enactment of this Act shall be deemed to
 12 refer to February 27, 2010, unless otherwise specified.

13 (b) **NONINFRINGEMENT OF COPYRIGHT.**—The sec-
 14 ondary transmission of a performance or display of a work
 15 embodied in a primary transmission is not an infringe-
 16 ment of copyright if it was made by a satellite carrier on
 17 or after February 27, 2010, and prior to enactment of
 18 this Act, and was in compliance with the law as in exist-
 19 ence on February 27, 2010.

20 **TITLE IV—SEVERABILITY**

21 **SEC. 401. SEVERABILITY.**

22 If any provision of this Act, an amendment made by
 23 this Act, or the application of such provision or amend-
 24 ment to any person or circumstance is held to be unconsti-
 25 tutional, the remainder of this Act, the amendments made

1 by this Act, and the application of such provision or
2 amendment to any person or circumstance shall not be af-
3 fected thereby.

4 **TITLE V—DETERMINATION OF**
5 **BUDGETARY EFFECTS**

6 **SEC. 501. DETERMINATION OF BUDGETARY EFFECTS.**

7 (a) IN GENERAL.—The budgetary effects of this Act,
8 for the purpose of complying with the Statutory Pay-As-
9 You-Go-Act of 2010, shall be determined by reference to
10 the latest statement titled “Budgetary Effects of PAYGO
11 Legislation” for this Act, submitted for printing in the
12 Congressional Record by the Chairman of the Senate
13 Budget Committee, provided that such statement has been
14 submitted prior to the vote on passage.

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