

113TH CONGRESS  
2D SESSION

# S. 2799

To extend the authority of satellite carriers to retransmit certain television broadcast station signals, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 11, 2014

Mr. ROCKEFELLER (for himself and Mr. THUNE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To extend the authority of satellite carriers to retransmit certain television broadcast station signals, 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.**

4 This Act may be cited as the Satellite Television Ac-  
5 cess and Viewer Rights Act.

6 **SEC. 2. REFERENCES TO COMMUNICATIONS ACT OF 1934.**

7 Except as otherwise expressly provided, wherever in  
8 this Act an amendment or repeal is expressed in terms  
9 of an amendment to, or repeal of, a section or other provi-

1 sion, the reference shall be considered to be made to a  
 2 section or other provision of the Communications Act of  
 3 1934 (47 U.S.C. 151 et seq.).

4 **TITLE I—SATELLITE**  
 5 **TELEVISION**

6 **SEC. 101. EXTENSION OF AUTHORITY.**

7 Section 325(b) (47 U.S.C. 325(b)) is amended—

8 (1) in paragraph (2)(C), by striking “December  
 9 31, 2014” and inserting “December 31, 2019”; and

10 (2) in paragraph (3)(C), by striking “January  
 11 1, 2015” each place it appears and inserting “Janu-  
 12 ary 1, 2020”.

13 **SEC. 102. MODIFICATION OF TELEVISION MARKETS TO**  
 14 **FURTHER CONSUMER ACCESS TO RELEVANT**  
 15 **TELEVISION PROGRAMMING.**

16 (a) IN GENERAL.—Section 338 (47 U.S.C. 338) is  
 17 amended—

18 (1) in subsection (k)—

19 (A) by redesignating paragraphs (1)  
 20 through (10) as paragraphs (2) through (11),  
 21 respectively;

22 (B) by inserting before paragraph (2), as  
 23 redesignated, the following:

24 “(1) DESIGNATED MARKET AREA.—The term  
 25 ‘designated market area’ means a designated market

1 area as determined by Nielsen Media Research or by  
2 any successor system of assigning television broad-  
3 cast stations to local markets adopted by the Com-  
4 mission.”; and

5 (C) by amending paragraph (5), as redes-  
6 ignated, to read as follows:

7 “(5) LOCAL MARKET.—The term ‘local market’,  
8 in the case of both commercial and noncommercial  
9 television broadcast stations, means the designated  
10 market area in which a television broadcast station  
11 is located.”; and

12 (2) by adding at the end the following:

13 “(1) MARKET DETERMINATIONS.—

14 “(1) IN GENERAL.—Following a written re-  
15 quest, the Commission may, with respect to a par-  
16 ticular television broadcast station, include addi-  
17 tional communities within its local market or exclude  
18 communities from such station’s local market to bet-  
19 ter effectuate the purposes of this section.

20 “(2) CONSIDERATIONS.—In considering re-  
21 quests filed under paragraph (1), the Commission—

22 “(A) may determine that particular com-  
23 munities are part of more than one local mar-  
24 ket; and

1           “(B) shall afford particular attention to  
2           the value of localism, including promoting a  
3           consumer’s access to television signals that  
4           originate in the consumer’s State of residence,  
5           by taking into account such factors as—

6                   “(i) whether the station, or other sta-  
7                   tions located in the same area—

8                           “(I) have been historically carried  
9                           on the cable system or systems within  
10                          such community; and

11                          “(II) have been historically car-  
12                          ried on the satellite carrier or carriers  
13                          serving such community;

14                   “(ii) whether the television station  
15                   provides coverage or other local service to  
16                   such community;

17                          “(iii) whether any other television sta-  
18                          tion that is eligible to be carried by a sat-  
19                          ellite carrier in such community in fulfill-  
20                          ment of the requirements of this section  
21                          provides news coverage of issues of concern  
22                          to such community or provides carriage or  
23                          coverage of sporting and other events of  
24                          interest to the community; and

1           “(iv) evidence of viewing patterns in  
2           households that subscribe and do not sub-  
3           scribe to the services offered by multi-  
4           channel video programming distributors  
5           within the areas served by such multi-  
6           channel video programming distributors in  
7           such community.

8           “(3) CARRIAGE OF SIGNALS.—A satellite carrier  
9           shall not delete from carriage the signal of a com-  
10          mercial television station during the pendency of any  
11          proceeding under this subsection.

12          “(4) DETERMINATIONS.—Not later than 120  
13          days after the date that a written request is filed  
14          under paragraph (1), the Commission shall grant or  
15          deny the request.”.

16          (b)       CONFORMING        AMENDMENTS.—Section  
17          614(h)(1)(C) (47 U.S.C. 534(h)(1)(C)) is amended—

18               (1) in clause (ii)—

19                   (A) in the matter preceding subclause (I),  
20                   by striking “localism” and inserting “localism,  
21                   including promoting consumer access to tele-  
22                   vision signals that originate in a consumer’s  
23                   State of residence,”;

24                   (B) in subclause (II), by striking “commu-  
25                   nity” and inserting “community or on the sat-

1 elite carrier or carriers serving such commu-  
2 nity”; and

3 (C) by amending subclause (IV) to read as  
4 follows:

5 “(IV) evidence of viewing pat-  
6 terns in households that subscribe and  
7 do not subscribe to the services of-  
8 fered by multichannel video program-  
9 ming distributors within the areas  
10 served by such multichannel video  
11 programming distributors in such  
12 community.”; and

13 (2) by moving the margin of clause (iv) 4 ems  
14 to the left.

15 (c) IMPLEMENTATION.—As part of the rulemaking to  
16 implement the amendments made by this section, the Fed-  
17 eral Communications Commission shall ensure that proce-  
18 dures for the filing and consideration of a written request  
19 under sections 338(l) and 614(h)(1)(C) of the Commu-  
20 nications Act of 1934 (47 U.S.C. 338, 534) fully effec-  
21 tuate the purposes of the amendments made by this sec-  
22 tion. As part of that process, the Federal Communications  
23 Commission shall update what it considers to be a commu-  
24 nity for purposes of a modification of a market under sec-

1 tion 338(l) or 614(h)(1)(C) of the Communications Act  
 2 of 1934 (47 U.S.C. 338, 534).

## 3 **TITLE II—VIDEO POLICY** 4 **REFORMS**

### 5 **SEC. 201. CONSUMER PROTECTIONS IN RETRANSMISSION** 6 **CONSENT.**

7 (a) **JOINT RETRANSMISSION CONSENT NEGOTIA-**  
 8 **TIONS.**—Section 325(b)(3)(C) (47 U.S.C. 325(b)(3)(C)) is  
 9 amended—

10 (1) in clause (ii), by striking “and” at the end;

11 (2) in clause (iii), by striking the period at the  
 12 end and inserting “; and”; and

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

14 “(iv) prohibit a television broadcast  
 15 station from coordinating negotiations or  
 16 negotiating on a joint basis with another  
 17 television broadcast station to grant re-  
 18 transmission consent under this section to  
 19 a multichannel video programming dis-  
 20 tributor, unless such stations are directly  
 21 or indirectly under common de jure control  
 22 permitted by the Federal Communications  
 23 Commission;”.

24 (b) **PROTECTIONS FOR SIGNIFICANTLY VIEWED AND**  
 25 **OTHER TELEVISION SIGNALS.**—Section 325(b)(3)(C) (47

1 U.S.C. 325(b)(3)(C)), as amended, is further amended by  
2 adding at the end the following:

3           “(v) prohibit a television broadcast  
4           station from limiting the ability of a multi-  
5           channel video programming distributor to  
6           carry a television signal that has been  
7           deemed significantly viewed, within the  
8           meaning of section 76.54 of title 47, Code  
9           of Federal Regulations, or any successor  
10          regulation, or any other television broad-  
11          cast signal such distributor is authorized  
12          to carry under section 338 or 614 of this  
13          Act, into the local market of such station,  
14          unless such stations are directly or indi-  
15          rectly under common de jure control per-  
16          mitted by the Commission; and”.

17          (c) PER SE VIOLATIONS.—Section 325(b)(3)(C) (47  
18 U.S.C. 325(b)(3)(C)), as amended, is further amended by  
19 adding at the end the following:

20           “(vi) following an expiration of a re-  
21           transmission consent agreement between a  
22           television broadcast station and a multi-  
23           channel video programming distributor  
24           under this section, permit the Commis-  
25           sion—



1                   “(I) to request from the parties  
2                   such information as it deems nec-  
3                   essary to ensure that neither party  
4                   has committed a per se violation of its  
5                   duty to negotiate in good faith under  
6                   this paragraph; and

7                   “(II) to determine, based on the  
8                   information collected under subclause  
9                   (I) and in accordance with this Act,  
10                  that a party to a retransmission con-  
11                  sent negotiation has committed a per  
12                  se violation of its duty to negotiate in  
13                  good faith.”.

14                  (d) GOOD FAITH.—Section 325(b)(3) (47 U.S.C.  
15 325(b)(3)) is amended by adding at the end the following:

16                   “(D) UPDATE TO GOOD FAITH RULES.—  
17                   The Commission shall commence a rulemaking  
18                   to revise the regulations issued pursuant to sub-  
19                   paragraph (C). That rulemaking shall—

20                   “(i) consider whether each of the fol-  
21                   lowing constitutes a failure to negotiate in  
22                   good faith as required by this paragraph—

23                   “(I) the blocking of online con-  
24                   tent owned or controlled by a tele-  
25                   vision broadcast station or a television

1 network, or the act of soliciting, en-  
2 couraging, or otherwise seeking to  
3 have another entity block access to  
4 online content, during retransmission  
5 consent negotiations or after the expi-  
6 ration of a retransmission consent  
7 agreement; and

8 “(II) allowing a television net-  
9 work to review and approve the rates,  
10 terms, and conditions of a retrans-  
11 mission consent agreement, or the  
12 material terms of such agreement, for  
13 any television broadcast station not  
14 wholly owned by such network; and

15 “(ii) review and update the Commis-  
16 sion’s totality of the circumstances test to  
17 ensure that such test encourages parties to  
18 a retransmission consent negotiation to  
19 present bona fide proposals on the material  
20 terms of a retransmission consent agree-  
21 ment during negotiations and engage in  
22 timely negotiations to reach an agree-  
23 ment.”.

24 (e) CONFORMING AMENDMENT.—Section 325(b)(7)  
25 (47 U.S.C. 325(b)(7)) is amended—

1 (1) in subparagraph (A), by striking “and” at  
2 the end;

3 (2) in subparagraph (B), by striking the period  
4 at the end and inserting “; and”; and

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

6 “(C) ‘television network’ means a television  
7 network in the United States which offers an  
8 interconnected program service on a regular  
9 basis for 15 or more hours per week to at least  
10 25 affiliated broadcast stations in 10 or more  
11 States.”.

12 (f) MARGIN CORRECTIONS.—

13 (1) Section 325(b)(3)(C) (47 U.S.C.  
14 325(b)(3)(C)) is further amended by moving the  
15 margin of clause (iii) 4 ems to the left.

16 (2) Section 325(b) (47 U.S.C. 325(b)) is  
17 amended by moving the margin of paragraph (7), as  
18 amended by this section, 4 ems to the left.

19 **SEC. 202. UPDATE TO CABLE RATES REPORT.**

20 Section 623(k) (47 U.S.C. 543(k)) is amended to  
21 read as follows:

22 “(k) REPORTS ON AVERAGE PRICES.—

23 “(1) IN GENERAL.—The Commission shall an-  
24 nually publish statistical reports on the average  
25 rates for basic cable service and other cable pro-

1       gramming, and for converter boxes, remote control  
2       units, and other equipment of cable systems that the  
3       Commission has found are subject to effective com-  
4       petition under subsection (a)(2) compared with cable  
5       systems that the Commission has found are not sub-  
6       ject to such effective competition.

7               “(2) INCLUSION IN ANNUAL REPORT.—The  
8       Commission shall include in its report under para-  
9       graph (1), the aggregate average total amount paid  
10      by cable systems per community in compensation  
11      under section 325.”.

12 **SEC. 203. COMPETITIVE DEVICE AVAILABILITY.**

13       (a) TERMINATION OF EFFECTIVENESS.—

14               (1) NEW NAVIGATION DEVICES.—The authority  
15      provided by the second sentence of section  
16      76.1204(a)(1) of title 47, Code of Federal Regula-  
17      tions, terminates effective on the date that is 2 years  
18      after the date of enactment of this Act.

19               (2) REVISION OF REGULATIONS.—Not later  
20      than 910 days after the date of enactment of this  
21      Act, the Federal Communications Commission shall  
22      revise its regulations to strike the sentence described  
23      in paragraph (1) and make any necessary con-  
24      forming revisions to its regulations.

25       (b) WORKING GROUP.—

1           (1) IN GENERAL.—Not later than 60 days after  
2           the date of enactment of this Act, the Chairman of  
3           the Federal Communications Commission shall con-  
4           vene a working group of technical experts rep-  
5           resenting a wide range of stakeholders, to identify  
6           and report performance objectives, technical capa-  
7           bilities, and technical standards of a non-burden-  
8           some, uniform, and technology- and platform-neutral  
9           software-based downloadable security system de-  
10          signed to promote the competitive availability of  
11          navigation devices in furtherance of section 629 of  
12          the Communications Act of 1934 (47 U.S.C. 549).

13          (2) REPORT.—Not later than 540 days after  
14          the date of enactment of this Act, the working group  
15          shall file a report with the Federal Communications  
16          Commission on its work under paragraph (1).

17          (3) COMMISSION ASSISTANCE.—The Chair-  
18          person of the Federal Communications Commission  
19          may appoint a member of the Commission’s staff—

20                  (A) to moderate and direct the work of the  
21                  working group under this subsection; and

22                  (B) to provide technical assistance to mem-  
23                  bers of the working group, as appropriate.

1           (4) INITIAL MEETING.—The initial meeting of  
2           the working group shall take place not later than  
3           180 days after the date of the enactment of this Act.

4 **SEC. 204. ADMINISTRATIVE REFORMS TO EFFECTIVE COM-**  
5 **PETITION PETITIONS.**

6           Section 623 (47 U.S.C. 543) is amended by adding  
7           at the end the following:

8           “(o) STREAMLINED PETITION PROCESS FOR SMALL  
9           CABLE OPERATORS.—

10           “(1) IN GENERAL.—Not later than 180 days  
11           after the date of enactment of the Satellite Tele-  
12           vision Access and Viewer Rights Act, the Commis-  
13           sion shall complete a rulemaking to establish a  
14           streamlined process for filing of an effective competi-  
15           tion petition pursuant to this section for small cable  
16           operators, particularly those who serve primarily  
17           rural areas.

18           “(2) CONSTRUCTION.—Nothing in this sub-  
19           section shall be construed to have any effect on the  
20           duty of a small cable operator to prove the existence  
21           of effective competition under this section.

22           “(3) DEFINITION OF SMALL CABLE OPER-  
23           ATOR.—In this subsection, the term ‘small cable op-  
24           erator’ has the meaning given the term in subsection  
25           (m).”.

1       **TITLE III—MISCELLANEOUS**

2       **SEC. 301. IMPLEMENTATION.**

3           Except as otherwise expressly provided, the Federal  
4       Communications Commission shall prescribe regulations  
5       to implement the requirements of this Act, and any  
6       amendments made by this Act, not later than 270 days  
7       after the date of enactment.

8       **SEC. 302. SEVERABILITY.**

9           If any provision of this Act, an amendment made by  
10       this Act, or the application of such provision or amend-  
11       ment to any person or circumstance is held to be unconsti-  
12       tutional, the remainder of the Act, the amendments made  
13       by the Act, and the application of such provision or  
14       amendment to any person or circumstance shall not be af-  
15       fected thereby.

○