

# TELEVISION VIEWER PROTECTION ACT OF 2019

DECEMBER 9, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PALLONE, from the Committee on Energy and Commerce,  
submitted the following

## R E P O R T

[To accompany H.R. 5035]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 5035) to amend the Communications Act of 1934 to extend expiring provisions relating to the retransmission of signals of television broadcast stations, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Television Viewer Protection Act of 2019”.

#### SEC. 2. EXTENSION OF AUTHORITY.

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

(1) in paragraph (2)(C), by striking “December 31, 2019” and inserting “the expiration date, if any, described in section 119(h) of title 17, United States Code”; and

(2) in paragraph (3)(C), by striking “until January 1, 2020,” each place it appears.

**SEC. 3. SATISFACTION OF GOOD FAITH NEGOTIATION REQUIREMENT BY MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTORS.**

(a) **SATISFACTION OF GOOD FAITH NEGOTIATION REQUIREMENT.**—Section 325(b)(3)(C) of the Communications Act of 1934 (47 U.S.C. 325(b)(3)(C)) is amended—

(1) in clause (iv), by striking “; and” and inserting a semicolon;

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

(3) by adding at the end the following:

“(vi) not later than 90 days after the date of the enactment of the Television Viewer Protection Act of 2019, specify that—

“(I) a multichannel video programming distributor may satisfy its obligation to negotiate in good faith under clause (iii) with respect to a negotiation for retransmission consent under this section with a large station group by designating a qualified MVPD buying group to negotiate on its behalf, so long as the qualified MVPD buying group itself negotiates in good faith in accordance with such clause;

“(II) it is a violation of the obligation to negotiate in good faith under clause (iii) for the qualified MVPD buying group to disclose the prices, terms, or conditions of an ongoing negotiation or the final terms of a negotiation to a member of the qualified MVPD buying group that is not intending, or is unlikely, to enter into the final terms negotiated by the qualified MVPD buying group; and

“(III) a large station group has an obligation to negotiate in good faith under clause (ii) with respect to a negotiation for retransmission consent under this section with a qualified MVPD buying group.”.

(b) **DEFINITIONS.**—Section 325(b)(7) of the Communications Act of 1934 (47 U.S.C. 325(b)(7)) is amended—

(1) in subparagraph (A), by striking “; and” and inserting a semicolon;

(2) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(C) ‘qualified MVPD buying group’ means an entity that, with respect to a negotiation with a large station group for retransmission consent under this section—

“(i) negotiates on behalf of two or more multichannel video programming distributors—

“(I) none of which is a multichannel video programming distributor that serves more than 500,000 subscribers nationally; and

“(II) that do not collectively serve more than 25 percent of all households served by a multichannel video programming distributor in any single local market in which the applicable large station group operates; and

“(ii) negotiates agreements for such retransmission consent—

“(I) that contain standardized contract provisions, including billing structures and technical quality standards, for each multichannel video programming distributor on behalf of which the entity negotiates; and

“(II) under which the entity assumes liability to remit to the applicable large station group all fees received from the multichannel video programming distributors on behalf of which the entity negotiates;

“(D) ‘large station group’ means a group of television broadcast stations that—

“(i) are directly or indirectly under common de jure control permitted by the regulations of the Commission;

“(ii) generally negotiate agreements for retransmission consent under this section as a single entity; and

“(iii) include only television broadcast stations that have a national audience reach of more than 20 percent;

“(E) ‘local market’ has the meaning given such term in section 122(j) of title 17, United States Code; and

“(F) ‘multichannel video programming distributor’ has the meaning given such term in section 602.”.

(c) **CONFORMING AMENDMENTS.**—Section 325(b) of the Communications Act of 1934 (47 U.S.C. 325(b)) is amended—

(1) in paragraph (2)—

- (A) by inserting “and” after “1992,”; and
- (B) by striking “, and the term ‘local market’ has the meaning given that term in section 122(j) of such title”; and
- (2) in paragraph (3)(C), by striking “(as defined in section 122(j) of title 17, United States Code)” each place it appears.
- (d) **EFFECTIVE DATE.**—The amendments made by this section, and the regulations promulgated by the Federal Communications Commission under such amendments, shall not take effect before January 1 of the calendar year after the calendar year in which this Act is enacted.

**SEC. 4. REQUIREMENTS RELATING TO CHARGES FOR COVERED SERVICES.**

(a) **IN GENERAL.**—Part IV of title VI of the Communications Act of 1934 (47 U.S.C. 551 et seq.) is amended by adding at the end the following:

**“SEC. 642. REQUIREMENTS RELATING TO CHARGES FOR COVERED SERVICES.**

**“(a) CONSUMER RIGHTS IN SALES.—**

**“(1) RIGHT TO TRANSPARENCY.**—Before entering into a contract with a consumer for the provision of a covered service, a provider of a covered service shall provide the consumer, by phone, in person, online, or by other reasonable means, the total monthly charge for the covered service, whether offered individually or as part of a bundled service, selected by the consumer (explicitly noting the amount of any applicable promotional discount reflected in such charge and when such discount will expire), including any related administrative fees, equipment fees, or other charges, a good faith estimate of any tax, fee, or charge imposed by the Federal Government or a State or local government (whether imposed on the provider or imposed on the consumer but collected by the provider), and a good faith estimate of any fee or charge that is used to recover any other assessment imposed on the provider by the Federal Government or a State or local government.

**“(2) RIGHT TO FORMAL NOTICE.**—A provider of a covered service that enters into a contract described in paragraph (1) shall, not later than 24 hours after entering into the contract, send the consumer, by email, online link, or other reasonably comparable means, a copy of the information described in such paragraph.

**“(3) RIGHT TO CANCEL.**—A provider of a covered service that enters into a contract described in paragraph (1) shall permit the consumer to cancel the contract, without paying early cancellation fees or other disconnection fees or penalties, during the 24-hour period beginning when the provider of the covered service sends the copy required by paragraph (2).

**“(b) CONSUMER RIGHTS IN E-BILLING.**—If a provider of a covered service provides a bill to a consumer in an electronic format, the provider shall include in the bill—

**“(1)** an itemized statement that breaks down the total amount charged for or relating to the provision of the covered service by the amount charged for the provision of the service itself and the amount of all related taxes, administrative fees, equipment fees, or other charges;

**“(2)** the termination date of the contract for the provision of the covered service entered into between the consumer and the provider; and

**“(3)** the termination date of any applicable promotional discount.

**“(c) CONSUMER RIGHTS TO ACCURATE EQUIPMENT CHARGES.**—A provider of a covered service or fixed broadband internet access service may not charge a consumer for—

**“(1)** using covered equipment provided by the consumer; or

**“(2)** renting, leasing, or otherwise providing to the consumer covered equipment if—

**“(A)** the provider has not provided the equipment to the consumer; or

**“(B)** the consumer has returned the equipment to the provider, except to the extent that the charge relates to the period beginning on the date when the provider provided the equipment to the consumer and ending on the date when the consumer returned the equipment to the provider.

**“(d) DEFINITIONS.**—In this section:

**“(1) BROADBAND INTERNET ACCESS SERVICE.**—The term ‘broadband internet access service’ has the meaning given such term in section 8.1(b) of title 47, Code of Federal Regulations, or any successor regulation.

**“(2) COVERED EQUIPMENT.**—The term ‘covered equipment’ means equipment (such as a router) employed on the premises of a person (other than a provider of a covered service or fixed broadband internet access service) to provide a covered service or to provide fixed broadband internet access service.

**“(3) COVERED SERVICE.**—The term ‘covered service’ means service provided by a multichannel video programming distributor, to the extent such distributor is acting as a multichannel video programming distributor.”.

(b) EFFECTIVE DATE.—Section 642 of the Communications Act of 1934, as added by subsection (a) of this section, shall apply beginning on the date that is 6 months after the date of the enactment of this Act. The Federal Communications Commission may grant an additional 6-month extension if the Commission finds that good cause exists for such an additional extension.

## I. PURPOSE AND SUMMARY

H.R. 5035, the “Television Viewer Protection Act of 2019”, was introduced on November 12, 2019, by Rep. Mike Doyle (D-PA), and referred to the Committee on Energy and Commerce. The purpose of this legislation is to address two provisions of law expiring at the end of 2019 that facilitate the ability of consumers to view broadcast television stations over multichannel video programming distributor (MVPD) services and to provide basic protections to consumers when purchasing MVPD services and certain broadband equipment.

H.R. 5035 does this by making permanent the “good faith” negotiation provisions for retransmission consent while allowing for the importation of distant signals to unserved households without retransmission consent only as authorized under the statutory license in section 119 of the Copyright Act.

Under that good faith standard, the legislation allows smaller MVPDs to collectively negotiate as a buying group for retransmission consent with large broadcast station groups. The legislation specifies which smaller MVPDs are eligible to collectively negotiate as a buying group and which large broadcast station groups are required to negotiate in good faith with the buying group. Also, under that good faith standard, the legislation prohibits buying groups from disclosing the prices, terms, or conditions of an ongoing negotiation—or the final terms—to a smaller MVPD that is not intending or is unlikely to enter into the final terms. As part of the FCC’s determination as to whether a participant in the MVPD buying group violated its good faith obligation, the FCC may consider whether a MVPD that joined, left, and rejoined the group during the term of a singular negotiation between the buying group and the large station group for the purpose of gaining confidential information from the buying group negotiations.

The legislation further requires that, at the point of sale, MVPDs must give consumers a breakdown of all charges related to the MVPD’s video service and allows the consumer 24-hours to cancel the service without any penalty. Finally, the legislation provides for more transparency in electronic bills and prevents MVPDs and broadband companies from charging for equipment they do not provide.

## II. BACKGROUND AND NEED FOR LEGISLATION

### A. *Carriage of Distant Signals*

The Federal Communications Commission (FCC) grants licenses to broadcast stations to serve a specific community.<sup>1</sup> Each community is assigned to a Designated Market Area (DMA).<sup>2</sup> There are 210 DMAs. Broadcast stations are assigned to a DMA based on a

<sup>1</sup> 47 U.S.C. § 310(d).

<sup>2</sup> Congressional Research Service, *Cable and Satellite Television Issues in the 116th Congress*, IF11053 (Dec. 20, 2018).

station’s community of license.<sup>3</sup> Television stations broadcast content to households within their local markets.<sup>4</sup>

The Communications Act of 1934, as amended (Communications Act) established a regulatory framework for the carriage of broadcast programming by a MVPD service (e.g., cable or satellite TV).<sup>5</sup> Generally, when an MVPD wants to carry a broadcast station that wants compensation for such carriage, it must obtain retransmission consent from the broadcaster.<sup>6</sup>

In some situations, satellite MVPDs may transmit “distant signals”—stations outside of a subscriber’s DMA—without having to negotiate a retransmission agreement.<sup>7</sup> In that case, the Communications Act allows satellite MVPDs to import distant signals outside of the DMA to ensure that subscribers in these markets have access to programming from all the networks.<sup>8</sup> As of October 2018, satellite MVPDs reported that 870,000 subscribers receive at least one distant broadcast signal in this way.<sup>9</sup>

In addition to the retransmission consent regime established by the Communications Act, the Copyright Act of 1976 (Copyright Act) provides for statutory licenses that permit satellite MVPDs to retransmit copyrighted programming content without first having to negotiate royalties with each copyright owner.<sup>10</sup>

Congress set expiration dates on certain provisions of this framework. The most recent extension of these provisions came in the STELA Reauthorization Act of 2014 (STELAR).<sup>11</sup> Specifically, they are:

- Section 325(b)(2)(C) of the Communications Act, which allows satellite MVPDs to import distant signal licenses to unserved households without retransmission consent from the stations. This provision expires December 31, 2019.<sup>12</sup> If this provision expires, satellite MVPDs will be required to negotiate retransmission consent agreements to provide broadcast stations to unserved households.
- Sections 325(b)(3)(C)(ii) and (iii) places an obligation on MVPDs and broadcasters to negotiate retransmission consent agreements “in good faith.”<sup>13</sup> Broadcasters are also prohibited from engaging in exclusive contracts for carriage of their content. These requirements expire on January 1, 2020. Currently, FCC regulations implementing these provisions set forth several standards that violate this obligation.<sup>14</sup> The FCC can receive and adjudicate complaints, if a MVPD or broadcaster believes these standards are being violated.
- The satellite distant signal statutory license in 17 U.S.C. 119 expires on December 31, 2019. If this provision expires, satellite MVPDs would be required to negotiate a license—or licenses—to carry all the content available through an individual television broadcast in order to transmit distant signals

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> 47 U.S.C. § 325(b)(1).

<sup>6</sup> *Id.*

<sup>7</sup> 47 C.F.R. § 76.64(c).

<sup>8</sup> *See id.*

<sup>9</sup> Broadcasting & Cable, *SCBA Pushes Permanent STELAR Renewal* (Oct. 17, 2018).

<sup>10</sup> 17 U.S.C. §§ 111, 122, and 119.

<sup>11</sup> STELA Reauthorization Act of 2014, Pub. L. No. 113–200.

<sup>12</sup> 47 U.S.C. § 325(b)(2)(C).

<sup>13</sup> 47 U.S.C. §§ 325(b)(3)(C)(ii) and (iii).

<sup>14</sup> 47 CFR § 76.65.

as opposed to using the existing statutory license and making payments to the Copyright Royalty Board.

If these provisions expire, subscribers may lose access to distant signals currently provided by satellite MVPDs and broadcasters and MVPDs would no longer be able to complain to the FCC if a party to a retransmission consent negotiation acted in bad faith.

#### B. MVPD Bill Disclosures

Consumers often face unexpected and confusing fees when purchasing video programming.<sup>15</sup> These include fees for broadcast TV, regional sports, set-top box, and HD technology.<sup>16</sup> Some consumers are also paying fees for equipment they do not even purchase or lease from their internet service provider.<sup>17</sup> According to a recent study, these unexpected fees cost consumers an average of an additional \$450 each year.<sup>18</sup> This assortment of unexpected fees only became prevalent about ten years ago.

### III. COMMITTEE HEARING

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress, the following hearing was used to develop or consider H.R. 5035:

The Subcommittee on Communications and Technology held a hearing on June 4, 2019, entitled “STELAR Review: Protecting Consumers in an Evolving Media Marketplace.” The Subcommittee received testimony from the following witnesses:

- Gordon H. Smith, President and CEO, National Association of Broadcasters;
- Robert D. Thun, Senior Vice President of Content and Programming, AT&T Mobility and Entertainment;
- Patricia Jo Boyers, President and Vice Chairman of the Board, BOYCOM Vision; and
- John Bergmayer, Senior Counsel, Public Knowledge.

### IV. COMMITTEE CONSIDERATION

H.R. 5035, the “Television Viewer Protection Act of 2019”, was introduced on November 12, 2019, by Rep. Doyle (D-PA), and referred to the Committee on Energy and Commerce. The bill was subsequently referred to the Subcommittee on Communications and Technology on November 13, 2019. On November 14, 2019, the Subcommittee met in open markup session, pursuant to notice, to consider H.R. 5035. No amendments were offered during the Subcommittee’s consideration. Subsequently, the Subcommittee on Communications and Technology agreed to a motion by Mr. Doyle, Chairman of the subcommittee, to favorably forward H.R. 5035, without amendment, to the full Committee on Energy and Commerce by a voice vote.

On November 20, 2019, the full Committee met in open markup session, pursuant to notice, to consider H.R. 5035. During consideration of the bill, a manager’s amendment offered by Messrs. Walden and Doyle was adopted by a voice vote. Subsequently, a motion

<sup>15</sup>Jonathan Schwantes, Consumer Reports, *How Cable Companies Use Hidden Fees to Raise Prices and Disguise the True Cost of Service* (Oct. 2019).

<sup>16</sup>*Id.* at 4.

<sup>17</sup>*Id.* at 8.

<sup>18</sup>*Id.* at 3.

by Mr. Pallone, Chairman of the committee, to order H.R. 5035 reported favorably to the House, amended, was agreed to by a voice vote, a quorum being present.

#### V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list each record vote on the motion to report legislation and amendments thereto. The Committee advises that there were no record votes taken on H.R. 5035, including a motion by Mr. Pallone ordering H.R. 5035 reported favorably to the House, amended.

#### VI. OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee are reflected in the descriptive portion of the report.

#### VII. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

#### VIII. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### IX. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to protect consumers throughout the media market and when purchasing MVPD or broadband service to the extent described in the legislation.

#### X. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 5035 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

## XI. COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## XII. EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 5035 contains no earmarks, limited tax benefits, or limited tariff benefits.

## XIII. ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this legislation.

## XIV. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## XV. SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

### *Section 1. Short title*

Section 1 designates that the short title may be cited as the “Television Viewer Protection Act of 2019”.

### *Sec. 2. Extension of authority*

This section permits direct broadcast satellite companies to distribute an out-of-market station, without first getting retransmission consent pursuant to 47 U.S.C. § 325(b)(2)(c), only to the extent permitted by the compulsory copyright license found in 17 U.S.C. § 119.

This section also makes permanent the provisions found in 47 U.S.C. §§ 325(b)(3)(C)(ii) and (iii), which require broadcasters and MVPDs to negotiate for retransmission consent in good faith and prohibits broadcasters from engaging in exclusive contracts for carriage of their content.

### *Sec. 3. Satisfaction of good faith negotiation requirement by multi-channel video programming distributors*

This section requires the FCC to commence a rulemaking that specifies that certain small MVPDs can meet the obligation to negotiate in good faith found in 47 U.S.C. § 325(b)(3)(C) by negotiating with a large station group through a qualified MVPD buying group. The rulemaking must also specify that a qualified MVPD buying group will have violated the requirement to negotiate in good faith if the buying group discloses the prices, terms, or conditions of an ongoing negotiation or the final terms to a smaller MVPD that is not intending or is unlikely to enter into the final terms.



Additionally, the section requires the rulemaking to specify that a large station group has a good faith obligation pursuant to 47 U.S.C. § 325(b)(3)(C) to negotiate with a qualified MVPD buying group. The Committee does not intend to amend the nature of the general good faith obligation in section 325(b)(3)(C)(ii) that allows a large station group to negotiate different prices, terms, or conditions offered to a qualified MVPD buying group as opposed to those prices, terms, or conditions offered to a MVPD buying group member who did not participate in the negotiation, who did not ultimately agree to the final prices, terms, and conditions offered to the MVPD buying group.

This section provides definitions for qualified MVPD buying group and large station group. Finally, this section states that the effective date for the provisions in this section, or rules enacted pursuant to this section, will not take effect before January 1 of the calendar year after the calendar year in which this legislation is enacted.

#### *Sec. 4. Requirements relating to charges for covered services*

This section adds section 642 to title VI of the Communications Act. New section 642 requires that before entering into a contract, a MVPD must give consumers the total monthly charge for the covered service, including a good faith breakdown of all charges—including all related fees, charges, and taxes—with respect to the MVPD's video service. The MVPD may provide a good faith estimate of any fee or charge that is used to recover an assessment imposed on the provider by the Federal Government or State or local government. The MVPD further must provide a copy of such information to the customer and the consumer may cancel the contract within 24-hours without any penalty. The Committee does not intend to require a MVPD to include a charge that is a result of consumer action, such as an additional consumer purchase that was unknown at the point of sale.

New subsection 642(b) requires electronic bills to include an itemized statement of all charges related to the MVPD's video service, as well as the termination date of the contract and the termination date of any promotional discount. For contracts that become month-to-month after a certain date, the Committee intends for MVPDs to disclose the date a contract will roll over to a month-to-month contract to satisfy this requirement.

New subsection 642(c) prohibits a MVPD or broadband internet access provider to charge for covered equipment provided by the consumer or to charge for covered equipment if they do not provide such equipment to the consumer or to continue charging after the consumer returned such equipment. The Committee does not intend for this provision to apply if the MVPD does not charge a separate fee for the lease of provider-supplied equipment and the subscriber chooses to use customer owned equipment instead.

New subsection 642(d) provides definitions for covered equipment and covered service. It is the intent of the Committee that if a consumer purchases video service as part of a bundled package, the MVPD is required to disclose the total monthly charge of the bundled service at the point of sale.

Finally, this section states that the effective date of section 642 shall be six months after the enactment date of this legislation, but

the FCC can grant one additional six-month extension if good cause exists.

#### XVI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

### COMMUNICATIONS ACT OF 1934

\* \* \* \* \*

## TITLE III—SPECIAL PROVISIONS RELATING TO RADIO

### PART I—GENERAL PROVISIONS

\* \* \* \* \*

#### SEC. 325. FALSE DISTRESS SIGNALS; REBROADCASTING; STUDIOS OF FOREIGN STATIONS.

(a) No person within the jurisdiction of the United States shall knowingly utter or transmit, or cause to be uttered or transmitted, any false or fraudulent signals of distress, or communication relating thereto, nor shall any broadcasting station rebroadcast the program or any part thereof of another broadcasting station without the express authority of the originating station.

(b)(1) No cable system or other multichannel video programming distributor shall retransmit the signal of a broadcasting station, or any part thereof, except—

(A) with the express authority of the originating station;

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

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

(2) This subsection shall not apply—

(A) to retransmission of the signal of a noncommercial television broadcast station;

(B) to retransmission of the signal of a television broadcast station outside the station's local market by a satellite carrier directly to its subscribers, if—

(i) such station was a superstation on May 1, 1991;

(ii) as of July 1, 1998, such station was retransmitted by a satellite carrier under the statutory license of section 119 of title 17, United States Code; and

(iii) the satellite carrier complies with any network non-duplication, syndicated exclusivity, and sports blackout rules adopted by the Commission under section 339(b) of this Act;

(C) until **[December 31, 2019]** *the expiration date, if any, described in section 119(h) of title 17, United States Code*, to retransmission of the signals of network stations directly to a home satellite antenna, if the subscriber receiving the signal—

(i) is located in an area outside the local market of such stations; and

(ii) resides in an unserved household;

(D) to retransmission by a cable operator or other multi-channel video provider, other than a satellite carrier, of the signal of a television broadcast station outside the station's local market if such signal was obtained from a satellite carrier and—

(i) the originating station was a superstation on May 1, 1991; and

(ii) as of July 1, 1998, such station was retransmitted by a satellite carrier under the statutory license of section 119 of title 17, United States Code; or

(E) during the 6-month period beginning on the date of the enactment of the Satellite Home Viewer Improvement Act of 1999, to the retransmission of the signal of a television broadcast station within the station's local market by a satellite carrier directly to its subscribers under the statutory license of section 122 of title 17, United States Code.

For purposes of this paragraph, the terms “satellite carrier” and “superstation” have the meanings given those terms, respectively, in section 119(d) of title 17, United States Code, as in effect on the date of the enactment of the Cable Television Consumer Protection and Competition Act of 1992, *and* the term “unserved household” has the meaning given that term under section 119(d) of such title[, and the term “local market” has the meaning given that term in section 122(j) of such title].

(3)(A) Within 45 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall commence a rulemaking proceeding to establish regulations to govern the exercise by television broadcast stations of the right to grant retransmission consent under this subsection and of the right to signal carriage under section 614, and such other regulations as are necessary to administer the limitations contained in paragraph (2). The Commission shall consider in such proceeding the impact that the grant of retransmission consent by television stations may have on the rates for the basic service tier and shall ensure that the regulations prescribed under this subsection do not conflict with the Commission's obligation under section 623(b)(1) to ensure that the rates for the basic service tier are reasonable. Such rulemaking proceeding shall be completed within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992.

(B) The regulations required by subparagraph (A) shall require that television stations, within one year after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992 and every three years thereafter, make an election between the right to grant retransmission consent under this subsection and the right to signal carriage under section 614. If there is more than one cable system which services the same geographic area, a station's election shall apply to all such cable systems.

(C) The Commission shall commence a rulemaking proceeding to revise the regulations governing the exercise by television broadcast stations of the right to grant retransmission consent under this subsection, and such other regulations as are necessary to administer the limitations contained in paragraph (2). Such regulations shall—

(i) establish election time periods that correspond with those regulations adopted under subparagraph (B) of this paragraph;

(ii) ~~until January 1, 2020,~~ prohibit a television broadcast station that provides retransmission consent from engaging in exclusive contracts for carriage or failing to negotiate in good faith, and it shall not be a failure to negotiate in good faith if the television broadcast station enters into retransmission consent agreements containing different terms and conditions, including price terms, with different multichannel video programming distributors if such different terms and conditions are based on competitive marketplace considerations;

(iii) ~~until January 1, 2020,~~ prohibit a multichannel video programming distributor from failing to negotiate in good faith for retransmission consent under this section, and it shall not be a failure to negotiate in good faith if the distributor enters into retransmission consent agreements containing different terms and conditions, including price terms, with different broadcast stations if such different terms and conditions are based on competitive marketplace considerations;

(iv) prohibit a television broadcast station from coordinating negotiations or negotiating on a joint basis with another television broadcast station in the same local market ~~[(as defined in section 122(j) of title 17, United States Code)]~~ to grant retransmission consent under this section to a multichannel video programming distributor, unless such stations are directly or indirectly under common de jure control permitted under the regulations of the Commission~~]; and~~;

(v) prohibit a television broadcast station from limiting the ability of a multichannel video programming distributor to carry into the local market ~~[(as defined in section 122(j) of title 17, United States Code)]~~ of such station a television signal that has been deemed significantly viewed, within the meaning of section 76.54 of title 47, Code of Federal Regulations, or any successor regulation, or any other television broadcast signal such distributor is authorized to carry under section 338, 339, 340, or 614 of this Act, unless such stations are directly or indirectly under common de jure control permitted by the Commission~~].; and~~

(vi) *not later than 90 days after the date of the enactment of the Television Viewer Protection Act of 2019, specify that—*

*(I) a multichannel video programming distributor may satisfy its obligation to negotiate in good faith under clause (iii) with respect to a negotiation for retransmission consent under this section with a large station group by designating a qualified MVPD buying group to negotiate on its behalf, so long as the qualified MVPD buying group itself negotiates in good faith in accordance with such clause;*

*(II) it is a violation of the obligation to negotiate in good faith under clause (iii) for the qualified MVPD buying*

*group to disclose the prices, terms, or conditions of an ongoing negotiation or the final terms of a negotiation to a member of the qualified MVPD buying group that is not intending, or is unlikely, to enter into the final terms negotiated by the qualified MVPD buying group; and*

*(III) a large station group has an obligation to negotiate in good faith under clause (ii) with respect to a negotiation for retransmission consent under this section with a qualified MVPD buying group.*

(4) If an originating television station elects under paragraph (3)(B) to exercise its right to grant retransmission consent under this subsection with respect to a cable system, the provisions of section 614 shall not apply to the carriage of the signal of such station by such cable system. If an originating television station elects under paragraph (3)(C) to exercise its right to grant retransmission consent under this subsection with respect to a satellite carrier, section 338 shall not apply to the carriage of the signal of such station by such satellite carrier.

(5) The exercise by a television broadcast station of the right to grant retransmission consent under this subsection shall not interfere with or supersede the rights under section 338, 614, or 615 of any station electing to assert the right to signal carriage under that section.

(6) Nothing in this section shall be construed as modifying the compulsory copyright license established in section 111 of title 17, United States Code, or as affecting existing or future video programming licensing agreements between broadcasting stations and video programmers.

(7) For purposes of this subsection, the term—

(A) “network station” has the meaning given such term under section 119(d) of title 17, United States Code[; and];

(B) “television broadcast station” means an over-the-air commercial or noncommercial television broadcast station licensed by the Commission under subpart E of part 73 of title 47, Code of Federal Regulations, except that such term does not include a low-power or translator television station[.];

(C) “qualified MVPD buying group” means an entity that, with respect to a negotiation with a large station group for retransmission consent under this section—

*(i) negotiates on behalf of two or more multichannel video programming distributors—*

*(I) none of which is a multichannel video programming distributor that serves more than 500,000 subscribers nationally; and*

*(II) that do not collectively serve more than 25 percent of all households served by a multichannel video programming distributor in any single local market in which the applicable large station group operates; and*

*(ii) negotiates agreements for such retransmission consent—*

*(I) that contain standardized contract provisions, including billing structures and technical quality standards, for each multichannel video programming distributor on behalf of which the entity negotiates; and*

*(II) under which the entity assumes liability to remit to the applicable large station group all fees received from the multichannel video programming distributors on behalf of which the entity negotiates;*

*(D) "large station group" means a group of television broadcast stations that—*

*(i) are directly or indirectly under common de jure control permitted by the regulations of the Commission;*

*(ii) generally negotiate agreements for retransmission consent under this section as a single entity; and*

*(iii) include only television broadcast stations that have a national audience reach of more than 20 percent;*

*(E) "local market" has the meaning given such term in section 122(j) of title 17, United States Code; and*

*(F) "multichannel video programming distributor" has the meaning given such term in section 602.*

(c) No person shall be permitted to locate, use, or maintain a radio broadcast studio or other place or apparatus from which or whereby sound waves are converted into electrical energy, or mechanical or physical reproduction of sound waves produced, and caused to be transmitted or delivered to a radio station in a foreign country for the purpose of being broadcast from any radio station there having a power output of sufficient intensity and/or being so located geographically that its emissions may be received consistently in the United States, without first obtaining a permit from the Commission upon proper application therefor.

(d) Such application shall contain such information as the Commission may by regulation prescribe, and the granting or refusal thereof shall be subject to the requirements of section 309 hereof with respect to applications for station licenses or renewal or modification thereof, and the license or permission so granted shall be revocable for false statements in the application so required or when the Commission, after hearings, shall find its continuation no longer in the public interest.

(e) ENFORCEMENT PROCEEDINGS AGAINST SATELLITE CARRIERS CONCERNING RETRANSMISSIONS OF TELEVISION BROADCAST STATIONS IN THE RESPECTIVE LOCAL MARKETS OF SUCH CARRIERS.—

(1) COMPLAINTS BY TELEVISION BROADCAST STATIONS.—If after the expiration of the 6-month period described under subsection (b)(2)(E) a television broadcast station believes that a satellite carrier has retransmitted its signal to any person in the local market of such station in violation of subsection (b)(1), the station may file with the Commission a complaint providing—

(A) the name, address, and call letters of the station;

(B) the name and address of the satellite carrier;

(C) the dates on which the alleged retransmission occurred;

(D) the street address of at least one person in the local market of the station to whom the alleged retransmission was made;

(E) a statement that the retransmission was not expressly authorized by the television broadcast station; and

(F) the name and address of counsel for the station.

(2) SERVICE OF COMPLAINTS ON SATELLITE CARRIERS.—For purposes of any proceeding under this subsection, any satellite carrier that retransmits the signal of any broadcast station shall be deemed to designate the Secretary of the Commission as its agent for service of process. A television broadcast station may serve a satellite carrier with a complaint concerning an alleged violation of subsection (b)(1) through retransmission of a station within the local market of such station by filing the original and two copies of the complaint with the Secretary of the Commission and serving a copy of the complaint on the satellite carrier by means of two commonly used overnight delivery services, each addressed to the chief executive officer of the satellite carrier at its principal place of business, and each marked “URGENT LITIGATION MATTER” on the outer packaging. Service shall be deemed complete one business day after a copy of the complaint is provided to the delivery services for overnight delivery. On receipt of a complaint filed by a television broadcast station under this subsection, the Secretary of the Commission shall send the original complaint by United States mail, postage prepaid, receipt requested, addressed to the chief executive officer of the satellite carrier at its principal place of business.

(3) ANSWERS BY SATELLITE CARRIERS.—Within five business days after the date of service, the satellite carrier shall file an answer with the Commission and shall serve the answer by a commonly used overnight delivery service and by United States mail, on the counsel designated in the complaint at the address listed for such counsel in the complaint.

(4) DEFENSES.—

(A) EXCLUSIVE DEFENSES.—The defenses under this paragraph are the exclusive defenses available to a satellite carrier against which a complaint under this subsection is filed.

(B) DEFENSES.—The defenses referred to under subparagraph (A) are the defenses that—

(i) the satellite carrier did not retransmit the television broadcast station to any person in the local market of the station during the time period specified in the complaint;

(ii) the television broadcast station had, in a writing signed by an officer of the television broadcast station, expressly authorized the retransmission of the station by the satellite carrier to each person in the local market of the television broadcast station to which the satellite carrier made such retransmissions for the entire time period during which it is alleged that a violation of subsection (b)(1) has occurred;

(iii) the retransmission was made after January 1, 2002, and the television broadcast station had elected to assert the right to carriage under section 338 as against the satellite carrier for the relevant period; or

(iv) the station being retransmitted is a noncommercial television broadcast station.

(5) COUNTING OF VIOLATIONS.—The retransmission without consent of a particular television broadcast station on a par-

ticular day to one or more persons in the local market of the station shall be considered a separate violation of subsection (b)(1).

(6) **BURDEN OF PROOF.**—With respect to each alleged violation, the burden of proof shall be on a television broadcast station to establish that the satellite carrier retransmitted the station to at least one person in the local market of the station on the day in question. The burden of proof shall be on the satellite carrier with respect to all defenses other than the defense under paragraph (4)(B)(i).

(7) **PROCEDURES.**—

(A) **REGULATIONS.**—Within 60 days after the date of the enactment of the Satellite Home Viewer Improvement Act of 1999, the Commission shall issue procedural regulations implementing this subsection which shall supersede procedures under section 312.

(B) **DETERMINATIONS.**—

(i) **IN GENERAL.**—Within 45 days after the filing of a complaint, the Commission shall issue a final determination in any proceeding brought under this subsection. The Commission's final determination shall specify the number of violations committed by the satellite carrier. The Commission shall hear witnesses only if it clearly appears, based on written filings by the parties, that there is a genuine dispute about material facts. Except as provided in the preceding sentence, the Commission may issue a final ruling based on written filings by the parties.

(ii) **DISCOVERY.**—The Commission may direct the parties to exchange pertinent documents, and if necessary to take prehearing depositions, on such schedule as the Commission may approve, but only if the Commission first determines that such discovery is necessary to resolve a genuine dispute about material facts, consistent with the obligation to make a final determination within 45 days.

(8) **RELIEF.**—If the Commission determines that a satellite carrier has retransmitted the television broadcast station to at least one person in the local market of such station and has failed to meet its burden of proving one of the defenses under paragraph (4) with respect to such retransmission, the Commission shall be required to—

(A) make a finding that the satellite carrier violated subsection (b)(1) with respect to that station; and

(B) issue an order, within 45 days after the filing of the complaint, containing—

(i) a cease-and-desist order directing the satellite carrier immediately to stop making any further retransmissions of the television broadcast station to any person within the local market of such station until such time as the Commission determines that the satellite carrier is in compliance with subsection (b)(1) with respect to such station;

(ii) if the satellite carrier is found to have violated subsection (b)(1) with respect to more than two tele-



vision broadcast stations, a cease-and-desist order directing the satellite carrier to stop making any further retransmission of any television broadcast station to any person within the local market of such station, until such time as the Commission, after giving notice to the station, that the satellite carrier is in compliance with subsection (b)(1) with respect to such stations; and

(iii) an award to the complainant of that complainant's costs and reasonable attorney's fees.

(9) COURT PROCEEDINGS ON ENFORCEMENT OF COMMISSION ORDER.—

(A) IN GENERAL.—On entry by the Commission of a final order granting relief under this subsection—

(i) a television broadcast station may apply within 30 days after such entry to the United States District Court for the Eastern District of Virginia for a final judgment enforcing all relief granted by the Commission; and

(ii) the satellite carrier may apply within 30 days after such entry to the United States District Court for the Eastern District of Virginia for a judgment reversing the Commission's order.

(B) APPEAL.—The procedure for an appeal under this paragraph by the satellite carrier shall supersede any other appeal rights under Federal or State law. A United States district court shall be deemed to have personal jurisdiction over the satellite carrier if the carrier, or a company under common control with the satellite carrier, has delivered television programming by satellite to more than 30 customers in that district during the preceding 4-year period. If the United States District Court for the Eastern District of Virginia does not have personal jurisdiction over the satellite carrier, an enforcement action or appeal shall be brought in the United States District Court for the District of Columbia, which may find personal jurisdiction based on the satellite carrier's ownership of licenses issued by the Commission. An application by a television broadcast station for an order enforcing any cease-and-desist relief granted by the Commission shall be resolved on a highly expedited schedule. No discovery may be conducted by the parties in any such proceeding. The district court shall enforce the Commission order unless the Commission record reflects manifest error and an abuse of discretion by the Commission.

(10) CIVIL ACTION FOR STATUTORY DAMAGES.—Within 6 months after issuance of an order by the Commission under this subsection, a television broadcast station may file a civil action in any United States district court that has personal jurisdiction over the satellite carrier for an award of statutory damages for any violation that the Commission has determined to have been committed by a satellite carrier under this subsection. Such action shall not be subject to transfer under section 1404(a) of title 28, United States Code. On finding that the satellite carrier has committed one or more violations of

subsection (b), the District Court shall be required to award the television broadcast station statutory damages of \$25,000 per violation, in accordance with paragraph (5), and the costs and attorney's fees incurred by the station. Such statutory damages shall be awarded only if the television broadcast station has filed a binding stipulation with the court that such station will donate the full amount in excess of \$1,000 of any statutory damage award to the United States Treasury for public purposes. Notwithstanding any other provision of law, a station shall incur no tax liability of any kind with respect to any amounts so donated. Discovery may be conducted by the parties in any proceeding under this paragraph only if and to the extent necessary to resolve a genuinely disputed issue of fact concerning one of the defenses under paragraph (4). In any such action, the defenses under paragraph (4) shall be exclusive, and the burden of proof shall be on the satellite carrier with respect to all defenses other than the defense under paragraph (4)(B)(i). A judgment under this paragraph may be enforced in any manner permissible under Federal or State law.

(11) APPEALS.—

(A) IN GENERAL.—The nonprevailing party before a United States district court may appeal a decision under this subsection to the United States Court of Appeals with jurisdiction over that district court. The Court of Appeals shall not issue any stay of the effectiveness of any decision granting relief against a satellite carrier unless the carrier presents clear and convincing evidence that it is highly likely to prevail on appeal and only after posting a bond for the full amount of any monetary award assessed against it and for such further amount as the Court of Appeals may believe appropriate.

(B) APPEAL.—If the Commission denies relief in response to a complaint filed by a television broadcast station under this subsection, the television broadcast station filing the complaint may file an appeal with the United States Court of Appeals for the District of Columbia Circuit.

(12) SUNSET.—No complaint or civil action may be filed under this subsection after December 31, 2001. This subsection shall continue to apply to any complaint or civil action filed on or before such date.

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## TITLE VI—CABLE COMMUNICATIONS

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### PART IV—MISCELLANEOUS PROVISIONS

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#### SEC. 642. REQUIREMENTS RELATING TO CHARGES FOR COVERED SERVICES.

(a) CONSUMER RIGHTS IN SALES.—

(1) RIGHT TO TRANSPARENCY.—*Before entering into a contract with a consumer for the provision of a covered service, a pro-*

vider of a covered service shall provide the consumer, by phone, in person, online, or by other reasonable means, the total monthly charge for the covered service, whether offered individually or as part of a bundled service, selected by the consumer (explicitly noting the amount of any applicable promotional discount reflected in such charge and when such discount will expire), including any related administrative fees, equipment fees, or other charges, a good faith estimate of any tax, fee, or charge imposed by the Federal Government or a State or local government (whether imposed on the provider or imposed on the consumer but collected by the provider), and a good faith estimate of any fee or charge that is used to recover any other assessment imposed on the provider by the Federal Government or a State or local government.

(2) *RIGHT TO FORMAL NOTICE.*—A provider of a covered service that enters into a contract described in paragraph (1) shall, not later than 24 hours after entering into the contract, send the consumer, by email, online link, or other reasonably comparable means, a copy of the information described in such paragraph.

(3) *RIGHT TO CANCEL.*—A provider of a covered service that enters into a contract described in paragraph (1) shall permit the consumer to cancel the contract, without paying early cancellation fees or other disconnection fees or penalties, during the 24-hour period beginning when the provider of the covered service sends the copy required by paragraph (2).

(b) *CONSUMER RIGHTS IN E-BILLING.*—If a provider of a covered service provides a bill to a consumer in an electronic format, the provider shall include in the bill—

(1) an itemized statement that breaks down the total amount charged for or relating to the provision of the covered service by the amount charged for the provision of the service itself and the amount of all related taxes, administrative fees, equipment fees, or other charges;

(2) the termination date of the contract for the provision of the covered service entered into between the consumer and the provider; and

(3) the termination date of any applicable promotional discount.

(c) *CONSUMER RIGHTS TO ACCURATE EQUIPMENT CHARGES.*—A provider of a covered service or fixed broadband internet access service may not charge a consumer for—

(1) using covered equipment provided by the consumer; or

(2) renting, leasing, or otherwise providing to the consumer covered equipment if—

(A) the provider has not provided the equipment to the consumer; or

(B) the consumer has returned the equipment to the provider, except to the extent that the charge relates to the period beginning on the date when the provider provided the equipment to the consumer and ending on the date when the consumer returned the equipment to the provider.

(d) *DEFINITIONS.*—In this section:

(1) *BROADBAND INTERNET ACCESS SERVICE.*—The term “broadband internet access service” has the meaning given such

*term in section 8.1(b) of title 47, Code of Federal Regulations, or any successor regulation.*

(2) *COVERED EQUIPMENT.*—*The term “covered equipment” means equipment (such as a router) employed on the premises of a person (other than a provider of a covered service or fixed broadband internet access service) to provide a covered service or to provide fixed broadband internet access service.*

(3) *COVERED SERVICE.*—*The term “covered service” means service provided by a multichannel video programming distributor, to the extent such distributor is acting as a multichannel video programming distributor.*

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