McHugh
McIntyre
Miller (FL)
Moore
Otter
Petri
Platts
Royce
Ryun (KS)
Sensenbrenner
Shadegg
Smith (MI)
Stearns
Taylor (MS)
Tierney
Toomey

NOT VOTING—19

Bass
Boehlert
DeMint
Gephardt
Houghton
Hyde
King (NY)
Kingston
Kleczka
Majette
Millender-McDonald
Nethercutt
Norwood
Paul
Sherwood
Slaughter
Tancredo
Tauzin
Towns

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WHITFIELD) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1318

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WHITFIELD). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

SATELLITE HOME VIEWER EXTENSION AND REAUTHORIZATION ACT OF 2004

Mr. DELAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4518) to extend the statutory license for secondary transmissions under section 119 of title 17, United States Code, as amended.

The Clerk read as follows:

H.R. 4518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLES; TABLE OF CONTENTS.

(a) SHORT TITLES.—This Act may be cited as the ''Satellite Home Viewer Extension and Reauthorization Act of 2004'' or the ''W. J. (Billy) Tauzin Satellite Television Act of 2004''.

(b) TABLE OF CONTENTS.—

Sec. 1. Short titles; table of contents.

TITLE I—STATUTORY LICENSE FOR SATELLITE CARRIERS

Sec. 101. Extension of authority.
Sec. 102. Reporting of subscribers; significantly viewed and other signals; technical amendments.
Sec. 103. Statutory license for satellite carriers outside local markets.
Sec. 104. Statutory license for satellite retransmission of low power television stations.
Sec. 105. Definitions.
Sec. 106. Effect on certain proceedings.
Sec. 107. Statutory license for satellite carriers retransmitting superstation signals to commercial establishments.
Sec. 108. Expedited consideration of voluntary agreements to provide satellite secondary transmissions to local markets.
Sec. 109. Study.

TITLE II—FEDERAL COMMUNICATIONS COMMISSION OPERATIONS

Sec. 201. Extension of retransmission consent exemption.
Sec. 202. Cable/satellite comparability.
Sec. 203. Carriage of local stations on a single dish.
Sec. 204. Replacement of distant signals with local signals.
Sec. 205. Additional notices to subscribers, networks, and stations concerning signal carriage.
Sec. 206. Privacy rights of satellite subscribers.
Sec. 207. Reciprocal bargaining obligations.
Sec. 208. Unserved digital customers.
Sec. 209. Reduction of required tests.

TITLE I—STATUTORY LICENSE FOR SATELLITE CARRIERS

SEC. 101. EXTENSION OF AUTHORITY.

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

(b) EXTENSION FOR CERTAIN SUBSCRIBERS.—Section 119(e) of title 17, United States Code, is amended by striking ''December 31, 2004'' and inserting ''December 31, 2009''.

SEC. 102. REPORTING OF SUBSCRIBERS; SIGNIFICANTLY VIEWED AND OTHER SIGNALS; TECHNICAL AMENDMENTS.

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

(1) in paragraph (1)—

(A) in the paragraph heading, by striking ''AND PBS SATELLITE FEED'';

(B) in the first sentence, by striking ''(3), (4), and (6)'' and inserting ''(5), (6), and (8)'';

(C) in the first sentence, by striking ''or by the Public Broadcasting Service satellite feed''; and

(D) by striking the second sentence;

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ''(3), (4), (5), and (6)'' and inserting ''(5), (6), (7), and (8)''; and

(B) by striking subparagraph (C) and inserting the following:

''(C) EXCEPTIONS.—

''(i) STATES WITH SINGLE FULL-POWER NETWORK STATION.—In a State in which there is licensed by the Federal Communications Commission a single full-power station that was a network station on January 1, 1995, the statutory license provided for in subparagraph (A) shall apply to the secondary transmission by a satellite carrier of the primary transmission of that station to any subscriber in a community that is located within that State and that is not within the first 50 television markets as listed in the regulations of the Commission as in effect on such date (47 CFR 76.51).

''(ii) STATES WITH ALL NETWORK STATIONS AND SUPERSTATIONS IN SAME LOCAL MARKET.—In a State in which all network stations and superstations licensed by the Federal Communications Commission within that State as of January 1, 1995, are assigned to the same local market and that local market does not encompass all counties of that State, the statutory license provided under subparagraph (A) shall apply to the secondary transmission by a satellite carrier of the primary transmissions of such station to all subscribers in the State who reside in a local market that is within the first 50 major television markets as listed in the regulations of the Commission as in effect on such date (section 76.51 of tile 47 of the Code of Federal Regulations).

''(iii) CERTAIN ADDITIONAL STATIONS.—If 2 adjacent counties in a single State are in a local market comprised principally of counties located in another State, the statutory license provided for in subparagraph (A) shall apply to the secondary transmission by a satellite carrier to subscribers in those 2 counties of the primary transmissions of any network station located in the capital of the State in which such 2 counties are located, if—

''(I) the 2 counties are located in a local market that is in the top 100 markets for the year 2003 according to Nielsen Media Research; and

''(II) the total number of television households in the 2 counties combined did not exceed 10,000 for the year 2003 according to Nielsen Media Research.

''(D) SUBMISSION OF SUBSCRIBER LISTS TO NETWORKS.—

''(i) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station—

''(I) a list identifying (by name and address, including street or rural route number, city, State, and zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission to subscribers in unserved households; and

''(II) a separate list, aggregated by designated market area (as defined in section 122(j)) (by name and address, including street or rural route number, city, State, and zip code), which shall indicate those subscribers being served pursuant to paragraph (3), relating to significantly viewed stations.

''(ii) MONTHLY LISTS.—After the submission of the initial lists under clause (i), on the 15th of each month, the satellite carrier shall submit to the network—

''(I) a list identifying (by name and address, including street or rural route number, city, State, and zip code) any persons who have been added or dropped as subscribers under clause (i)(I) since the last submission under clause (i); and

''(II) a separate list, aggregated by designated market area (by name and street address, including street or rural route number, city, State, and zip code), identifying those subscribers whose service pursuant to paragraph (3), relating to significantly viewed stations, has been added or dropped.

''(iii) USE OF SUBSCRIBER INFORMATION.—Subscriber information submitted by a satellite carrier under this subparagraph may be used only for purposes of monitoring compliance by the satellite carrier with this subsection.

''(iv) APPLICABILITY.—The submission requirements of this subparagraph shall apply to a satellite carrier only if the network to which the submissions are to be made places on file with the Register of Copyrights a document identifying the name and address of the person to whom such submissions are to be made. The Register shall maintain for public inspection a file of all such documents.'';

(3) by striking paragraph (8);

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

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

(6) by inserting after paragraph (2) the following:

''(3) SECONDARY TRANSMISSIONS OF SIGNIFICANTLY VIEWED SIGNALS.—

''(A) IN GENERAL.—Notwithstanding the provisions of paragraph (2)(B), and subject to

subparagraph (B) of this paragraph, the statutory license provided for in paragraphs (1) and (2) shall apply to the secondary transmission of the primary transmission of a network station or a superstation to a subscriber who resides outside the station's local market (as defined in section 122(j)) but within a community in which the signal has been determined by the Federal Communications Commission, to be significantly viewed in such community, pursuant to the rules, regulations and authorizations of the Federal Communications Commission in effect on April 15, 1976, applicable to determining with respect to a cable system whether signals are significantly viewed in a community.

''(B) LIMITATION.—Subparagraph (A) shall apply only to secondary transmissions of the primary transmissions of network stations and superstations to subscribers who receive secondary transmissions from a satellite carrier pursuant to the statutory license under section 122.

''(C) WAIVER.—

''(i) IN GENERAL.—A subscriber who is denied the secondary transmission of the primary transmission of a network station under subparagraph (B) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station in the local market affiliated with the same network where the subscriber is located. The network station shall accept or reject the subscriber's request for a waiver within 30 days after receipt of the request. If the network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station shall be deemed to agree to the waiver request. Unless specifically stated by the network station, a waiver that was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 under section 339(c)(2) of the Communications Act of 1934 shall not constitute a waiver for purposes of this subparagraph.

''(ii) SUNSET.—The authority under clause (i) to grant waivers shall terminate on December 31, 2008, and any such waiver in effect shall terminate on that date.'';

(7) in paragraph (2)(B)(i), by adding at the end the following new sentence: ''The limitation in this clause shall not apply to secondary transmissions under paragraph (3).''.

SEC. 103. STATUTORY LICENSE FOR SATELLITE CARRIERS OUTSIDE LOCAL MARKETS.

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

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

''(4) STATUTORY LICENSE WHERE RETRANSMISSIONS INTO LOCAL MARKET AVAILABLE.—

''(A) RULES FOR SUBSCRIBERS UNDER SUBSECTION (e).—

''(i) FOR THOSE RECEIVING DISTANT SIGNALS.—In the case of a subscriber of a satellite carrier who is eligible to receive the secondary transmission of the primary transmission of a network station solely by reason of subsection (e) (in this subparagraph referred to as a 'distant signal'), and who, as of October 1, 2004, is receiving the distant signal of that network station, the following shall apply:

''(I) In a case in which the satellite carrier makes available to the subscriber the secondary transmission of the primary transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122, the statutory license under paragraph (2) shall apply only to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network—

''(aa) if, within 60 days after receiving the notice of the satellite carrier under section 338(h)(1) of the Communications Act of 1934, the subscriber elects to retain the distant signal; but

''(bb) only until such time as the subscriber elects to receive such local signal.

''(II) Notwithstanding subclause (I), the statutory license under paragraph (2) shall not apply with respect to any subscriber who is eligible to receive the distant signal of a television network station solely by reason of subsection (e), unless the satellite carrier, within 60 days after the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, submits to that television network a list, aggregated by designated market area (as defined in section 122(j)(2)(C)), that—

''(aa) identifies that subscriber by name and address (street or rural route number, city, State, and zip code) and specifies the distant signals received by the subscriber; and

''(bb) states, to the best of the satellite carrier's knowledge and belief, after having made diligent and good faith inquiries, that the subscriber is eligible under subsection (e) to receive the distant signals.

''(ii) FOR THOSE NOT RECEIVING DISTANT SIGNALS.—In the case of any subscriber of a satellite carrier who is eligible to receive the distant signal of a network station solely by reason of subsection (e) and who did not receive a distant signal of a station affiliated with the same network on October 1, 2004, the statutory license under paragraph (2) shall not apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same network.

''(B) RULES FOR OTHER SUBSCRIBERS.—In the case of a subscriber of a satellite carrier who is eligible to receive the secondary transmission of the primary transmission of a network station under the statutory license under paragraph (2) (in this subparagraph referred to as a 'distant signal'), other than subscribers to whom subparagraph (A) applies, the following shall apply:

''(i) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the secondary transmission of the primary transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122, the statutory license under paragraph (2) shall apply only to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network if the subscriber's satellite carrier, not later than March 1, 2005, submits to that television network a list, aggregated by designated market area (as defined in section 122(j)(2)(C)), that identifies that subscriber by name and address (street or rural route number, city, State, and zip code) and specifies the distant signals received by the subscriber.

''(ii) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the secondary transmission of the primary transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122, the statutory license under paragraph (2) shall apply only to secondary transmissions by that satellite carrier of the distant signal of a station affiliated with the same network to that subscriber if—

''(I) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to provide pursuant to the statutory license under section 122 the secondary transmissions of the primary transmission of stations from the local market of such local network station; and

''(II) the satellite carrier, within 60 days after such date, submits to each television network a list that identifies each subscriber in that local market provided such a signal by name and address (street or rural route number, city, State, and zip code) and specifies the distant signals received by the subscriber.

''(C) FUTURE APPLICABILITY.—The statutory license under paragraph (2) shall not apply to the secondary transmission by a satellite carrier of a primary transmission of a network station to a person who—

''(i) is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004; and

''(ii) at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the secondary transmission of the primary transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122.

''(D) OTHER PROVISIONS NOT AFFECTED.—This paragraph shall not affect the applicability of the statutory license to secondary transmissions under paragraph (3) or to unserved households included under paragraph (12).

''(E) WAIVER.—A subscriber who is denied the secondary transmission of a network station under subparagraph (C) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station in the local market affiliated with the same network where the subscriber is located. The network station shall accept or reject the subscriber's request for a waiver within 30 days after receipt of the request. If the network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station shall be deemed to agree to the waiver request. Unless specifically stated by the network station, a waiver that was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 under section 339(c)(2) of the Communications Act of 1934 shall not constitute a waiver for purposes of this subparagraph.

''(F) AVAILABLE DEFINED.—For purposes of this paragraph, a satellite carrier makes available a secondary transmission of the primary transmission of local station to a subscriber or person if the satellite carrier offers that secondary transmission to other subscribers who reside in the same zip code as that subscriber or person.''.

(2) Subsection (a) is amended by adding at the end the following:

''(14) WAIVERS.—A subscriber who is denied the secondary transmission of a signal of a network station under subsection (a)(2)(B) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station asserting that the secondary transmission is prohibited. The network station shall accept or reject a subscriber's request for a waiver within 30 days after receipt of the request. If a television network station fails to accept or reject a subscriber's request for a waiver within the 30-day period after receipt of the request, that station shall be deemed to agree to the waiver request and have filed such written waiver. Unless specifically stated by the network station, a waiver that was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act

of 2004 under section 339(c)(2) of the Communications Act of 1934, and that was in effect on such date of enactment, shall constitute a waiver for purposes of this subparagraph.''.

(3) Subsection (b)(1) is amended by striking subparagraph (B) and inserting the following:

''(B) a royalty fee for that 6-month period, computed by multiplying the total number of subscribers receiving each secondary transmission of each superstation or network station during each calendar month by the appropriate rate in effect under this section.''.

(4) Subsection (b)(1) is further amended by adding at the end the following flush sentence: ''Notwithstanding the provisions of subparagraph (B), a satellite carrier whose secondary transmissions are subject to statutory licensing under paragraph (1) or (2) of subsection (a) shall have no royalty obligation for secondary transmissions to a subscriber under paragraph (3) of such subsection.''.

(5) Subsection (c) is amended—

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

''(1) APPLICABILITY AND DETERMINATION OF ROYALTY FEES.—The appropriate fee for purposes of determining the royalty fee under subsection (b)(1)(B) shall be the appropriate fee set forth in part 258 of title 37, Code of Federal Regulations, as in effect on July 1, 2004, as modified under this subsection.'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''July 1, 1996,'' and inserting ''January 2, 2005,'';

(ii) in subparagraph (C)—

(I) in the heading, by inserting ''; PUBLIC NOTICE'' after ''AGREEMENTS'';

(II) in the first sentence, by striking ''Voluntary agreements'' and inserting ''(i) Voluntary agreements''; and

(III) by adding at the end the following:

''(ii)(I) Within 10 days after the publication in the Federal Register of a notice of the initiation of voluntary negotiation proceedings, parties who have reached a voluntary agreement may request that the royalty fees in that agreement be applied to all satellite carriers, distributors, and copyright owners without convening an arbitration proceeding pursuant to paragraph (3).

''(II) Upon receiving a request under subclause (I), the Librarian of Congress shall immediately provide public notice of the royalty fees from the voluntary agreement and afford parties an opportunity to state that they object to those fees.

''(III) The Librarian shall adopt the royalty fees from the voluntary agreement for all satellite carriers, distributors, and copyright owners without convening an arbitration proceeding unless a party with an intent to participate in the arbitration proceeding and a significant interest in the outcome of that proceeding objects under subclause (II).''; and

(iii) in subparagraph (D), by striking ''December 31, 1999,'' and inserting ''December 31, 2009'';

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking ''January 1, 1997,'' and inserting ''May 1, 2005,'';

(II) by striking ''who are not parties to a voluntary agreement filed with the Copyright Office in accordance with paragraph (2).'' and inserting ''and distributors— '';

''(i) in the absence of a voluntary agreement filed in accordance with paragraph (2) that establishes the royalty fees to be paid by all satellite carriers and distributors; or

''(ii) if an objection to the fees from a voluntary agreement submitted for adoption by the Librarian of Congress to apply to all satellite carriers, distributors, and copyright owners is received under paragraph (2)(C) from a party with an intent to participate in the arbitration proceeding and a significant interest in the outcome of that proceeding.'';

(ii) in the first sentence of subparagraph (B), by inserting after ''value of secondary transmissions'' the following: '', except that the Librarian of Congress and any copyright arbitration royalty panel shall adjust those fees to account for the obligations of the parties under any applicable voluntary agreements filed with the Copyright Office pursuant to paragraph (2).'' ; and

(iii) in subparagraph (C)(ii), by striking ''become effective as provided'' and all that follows through ''later'' and inserting ''be effective as of January 1, 2005''; and

(D) by striking paragraphs (4) and (5)

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

(A) in subparagraph (A), by striking ''who does not reside in an unserved household'' and inserting ''who is not eligible to receive the transmission under this section'';

(B) in subparagraph (B), by striking ''who do not reside in unserved households'' and inserting ''who are not eligible to receive the transmission under this section''; and

(C) in subparagraph (D), by striking ''is for private home viewing to an unserved household'' and inserting ''is to a subscriber who is eligible to receive the secondary transmission under this section''.

SEC. 104. STATUTORY LICENSE FOR SATELLITE RETRANSMISSION OF LOW POWER TELEVISION STATIONS.

(a) IN GENERAL.—Section 119(a) of title 17, United States Code (as amended by sections 102 and 103 of this Act), is further amended by adding at the end the following:

''(15) CARRIAGE OF LOW POWER TELEVISION STATIONS.—

''(A) IN GENERAL.—Notwithstanding paragraph (2)(B), and subject to subparagraphs (B) through (F) of this paragraph, the statutory license provided for in paragraphs (1) and (2) shall apply to the secondary transmission of the primary transmission of a network station or a superstation that is licensed as a low power television station, to a subscriber who resides within the same local market.

''(B) GEOGRAPHIC LIMITATION.—

''(i) NETWORK STATIONS.—With respect to network stations, secondary transmissions provided for in subparagraph (A) shall be limited to secondary transmissions to subscribers who—

''(I) reside in the same local market as the station originating the signal; and

''(II) reside within 35 miles of the transmitter site of such station, except that in the case of such a station located in a standard metropolitan statistical area which has 1 of the 50 largest populations of all standard metropolitan statistical areas (based on the 1980 decennial census of population taken by the Secretary of Commerce), the number of miles shall be 20.

''(ii) SUPERSTATIONS.—With respect to superstations, secondary transmissions provided for in subparagraph (A) shall be limited to secondary transmissions to subscribers who reside in the same local market as the station originating the signal.

''(C) NO APPLICABILITY TO REPEATERS AND TRANSLATORS.—Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.

''(D) ROYALTY FEES.—Notwithstanding subsection (b)(1)(B), a satellite carrier whose secondary transmissions of the primary transmissions of a low power television station are subject to statutory licensing under this section shall have no royalty obligation for secondary transmissions to a subscriber who resides within 35 miles of the transmitter site of such station, except that in the case of such a station located in a standard metropolitan statistical area which has 1 of the 50 largest populations of all standard metropolitan statistical areas (based on the 1980 decennial census of population taken by the Secretary of Commerce), the number of miles shall be 20. Carriage of a superstation that is a low power television station within the station's local market, but outside of the 35-mile or 20-mile radius described in the preceding sentence, shall be subject to royalty payments under section (b)(1)(B).

''(E) LIMITATION TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—Secondary transmissions provided for in subparagraph (A) may be made only to subscribers who receive secondary transmissions of primary transmissions from that satellite carrier pursuant to the statutory license under section 122, and only in conformity with the requirements under 340(b) of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004.''.

SEC. 105. DEFINITIONS.

Section 119(d) of title 17, United States Code, is amended—

(1) in paragraph (2)(A), by striking ''a television broadcast station'' and inserting ''a television station licensed by the Federal Communications Commission'';

(2) by amending paragraph (9) to read as follows:

''(9) SUPERSTATION.—The term 'superstation' means a television station, other than a network station, licensed by the Federal Communications Commission, that is secondarily transmitted by a satellite carrier.'';

(3) in paragraph (10)—

(A) in subparagraph (B), by striking ''granted under regulations established under section 339(c)(2) of the Communications Act of 1934'' and inserting ''that meets the standards of subsection (a)(14) whether or not the waiver was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004''; and

(B) in subparagraph (D), by striking ''(a)(11)'' and inserting ''(a)(12)''; and

(4) by striking paragraphs (11) and (12) and inserting the following:

''(11) LOCAL MARKET.—The term 'local market' has the meaning given such term under section 122(j), except that with respect to a low power television station, the term 'local market' means the designated market area in which the station is located.

''(12) LOW POWER TELEVISION STATION.—The term 'low power television station' means a low power television as defined under section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term ''low power television station'' includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.

''(13) COMMERCIAL ESTABLISHMENT.—The term 'commercial establishment'—

''(A) means an establishment used for commercial purposes, such as a bar, restaurant, private office, fitness club, oil rig, retail store, bank or other financial institution, supermarket, automobile or boat dealership, or any other establishment with a common business area; and

''(B) does not include a multi-unit permanent or temporary dwelling where private home viewing occurs, such as a hotel, dormitory, hospital, apartment, condominium, or prison.''

SEC. 106. EFFECT ON CERTAIN PROCEEDINGS.

Nothing in this title shall modify any remedy imposed on a party that is required by

the judgment of a court in any action that was brought before May 1, 2004, against that party for a violation of section 119 of title 17, United States Code.

SEC. 107. STATUTORY LICENSE FOR SATELLITE CARRIERS RETRANSMITTING SUPERSTATION SIGNALS TO COMMERCIAL ESTABLISHMENTS.

(a) IN GENERAL.—Section 119 of title 17, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by inserting ''or for viewing in a commercial establishment'' after ''for private home viewing'' each place it appears; and

(B) by striking ''household'' and inserting ''subscriber'';

(2) in subsection (b), by striking ''for private home viewing'' each place it appears;

(3) in subsection (d)(1)—

(A) by striking ''for private home viewing''; and

(B) by inserting ''in accordance with the provisions of this section'' before the period;

(4) in subsection (d)(6), by inserting ''pursuant to this section'' before the period; and

(5) in subsection (d)(8)—

(A) by striking ''who'' and inserting ''or entity that'';

(B) by striking ''for private home viewing''; and

(C) by inserting ''in accordance with the provisions of this section'' before the period.

(b) CONFORMING AMENDMENTS.— Subsections (a)(4) and (d)(1)(A) of section 111 of title 17, United States Code, are each amended by striking ''for private home viewing''.

SEC. 108. EXPEDITED CONSIDERATION OF VOLUNTARY AGREEMENTS TO PROVIDE SATELLITE SECONDARY TRANSMISSIONS TO LOCAL MARKETS.

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

''(f) EXPEDITED CONSIDERATION BY JUSTICE DEPARTMENT OF VOLUNTARY AGREEMENTS TO PROVIDE SATELLITE SECONDARY TRANSMISSIONS TO LOCAL MARKETS.—

''(1) IN GENERAL.—In a case in which no satellite carrier makes available, to subscribers located in a local market, as defined in section 122(j)(2), the secondary transmission into that market of a primary transmission of one or more television broadcast stations licensed by the Federal Communications Commission, and two or more satellite carriers request a business review letter in accordance with section 50.6 of title 28, Code of Federal Regulations (as in effect on July 7, 2004), in order to assess the legality under the antitrust laws of proposed business conduct to make or carry out an agreement to provide such secondary transmission into such local market, the appropriate official of the Department of Justice shall respond to the request no later than 90 days after the date on which the request is received.

''(2) DEFINITION.—For purposes of this subsection, the term 'antitrust laws'—

''(A) has the meaning given that term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section 5 applies to unfair methods of competition; and

''(B) includes any State law similar to the laws referred to in paragraph (1).''.

SEC. 109. STUDY.

No later than June 30, 2008, the Register of Copyrights shall report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate the Register's findings and recommendations on the operation and revision of the statutory licenses under sections 111, 119, and 122 of title 17, United States Code. The report shall include, but not be limited to, the following:

(1) A comparison of the royalties paid by licensees under such sections, including historical rates of increases in these royalties, a comparison between the royalties under each such section and the prices paid in the marketplace for comparable programming.

(2) An analysis of the differences in the terms and conditions of the licenses under such sections, an analysis of whether these differences are required or justified by historical, technological, or regulatory differences that affect the satellite and cable industries, and an analysis of whether the cable or satellite industry is placed in a competitive disadvantage due to these terms and conditions.

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

(4) An analysis of the correlation, if any, between the royalties, or lack thereof, under such sections and the fees charged to cable and satellite subscribers, addressing whether cable and satellite companies have passed to subscribers any savings realized as a result of the royalty structure and amounts under such sections.

(5) An analysis of issues that may arise with respect to the application of the licenses under such sections to the secondary transmissions of the primary transmissions of network stations and superstations that originate as digital signals, including issues that relate to the application of the unserved household limitations under section 119 of title 17, United States Code, and to the determination of royalties of cable systems and satellite carriers.

TITLE II—FEDERAL COMMUNICATIONS COMMISSION OPERATIONS

SEC. 201. EXTENSION OF RETRANSMISSION CONSENT EXEMPTION.

Section 325(b)(2)(C) of the Communications Act of 1934 (47 U.S.C. 325(b)(2)(C)) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2009''.

SEC. 202. CABLE/SATELLITE COMPARABILITY.

(a) AMENDMENT.—Part I of title III of the Communications Act of 1934 is amended by inserting after section 339 (47 U.S.C. 339) the following new section:

''SEC. 340. SIGNIFICANTLY VIEWED SIGNALS PERMITTED TO BE CARRIED.

''(a) SIGNIFICANTLY VIEWED STATIONS.—In addition to the broadcast signals that subscribers may receive under section 338 and 339, a satellite carrier is also authorized to retransmit to a subscriber located in a community the signal of any station located outside the local market in which such subscriber is located, to the extent such signal—

''(1) has, before the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, been determined by the Federal Communications Commission to be a signal a cable operator may carry as significantly viewed in such community, except to the extent that such signal is prevented from being carried by a cable system in such community under the Commission's network nonduplication and syndicated exclusivity rules; or

''(2) is, after such date of enactment, determined by the Commission to be significantly viewed in such community in accordance with the same standards and procedures concerning shares of viewing hours and audience surveys as are applicable under the rules, regulations, and authorizations of the Commission to determining with respect to a cable system whether signals are significantly viewed in a community.

''(b) LIMITATIONS.—

''(1) ANALOG SERVICE LIMITED TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—With respect to a signal that originates as an analog signal of a network station, this section shall apply only to retransmissions to subscribers of a satellite carrier who receive retransmissions from that satellite carrier pursuant to section 338.

''(2) DIGITAL SERVICE LIMITATIONS.—With respect to a signal that originates as a digital signal of a network station, this section shall apply only if—

''(A) the subscriber receives from the satellite carrier pursuant to section 338 the retransmission of the digital signal of a network station in the subscriber's local market that is affiliated with the same television network; and

''(B) either—

''(i) the retransmission of the local network station occupies at least the equivalent bandwidth as the digital signal retransmitted pursuant to this section; or

''(ii) the retransmission of the local network station is comprised of the entire bandwidth of the digital signal broadcast by such local network station.

''(3) LIMITATION NOT APPLICABLE WHERE NO NETWORK AFFILIATES.—The limitations in paragraphs (1) and (2) shall not prohibit a retransmission under this section to a subscriber located in a local market in which there are no network stations affiliated with the same television network as the station whose signal is being retransmitted pursuant to this section.

''(4) AUTHORITY TO GRANT STATION-SPECIFIC WAIVERS.—Paragraphs (1) and (2) shall not prohibit a retransmission of a network station to a subscriber if and to the extent that the network station in the local market in which the subscriber is located, and that is affiliated with the same television network, has privately negotiated and affirmatively granted a waiver from the requirements of paragraph (1) and (2) to such satellite carrier with respect to retransmission of the significantly viewed station to such subscriber.

''(c) PUBLICATION AND MODIFICATIONS OF LISTS; REGULATIONS.—

''(1) IN GENERAL.—The Commission shall—

''(A) within 60 days after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004—

''(i) publish a list of the stations that are eligible for retransmission under subsection (a) (1) and the communities in which such stations are eligible for such retransmission; and

''(ii) commence a rulemaking proceeding to implement this section by publication of a notice of proposed rulemaking;

''(B) adopt rules pursuant to such rulemaking within one year after such date of enactment.

''(2) PUBLIC AVAILABILITY OF LIST.—The Commission shall make readily available to the public in electronic form, on the Internet website of the Commission or other comparable facility, a list of the stations that are eligible for retransmission under subsection (a) and the communities in which such stations are eligible for such retransmission. The Commission shall update such list within 10 business days after the date on which the Commission issues an order making any modification of such stations and communities.

''(3) MODIFICATIONS.—In addition to cable operators and television broadcast station licensees, the Commission shall permit a satellite carrier to petition for decisions and orders—

''(A) by which stations may be added to those that are eligible for retransmission under subsection (a), and by which communities may be added in which such stations are eligible for such retransmission; and

''(B) by which network nonduplication or syndicated exclusivity regulations are applied to the retransmission in accordance with subsection (e).

''(d) EFFECT ON OTHER OBLIGATIONS AND RIGHTS.—

''(1) NO EFFECT ON CARRIAGE OBLIGATIONS.—Carriage of a signal under this section is not mandatory, and any right of a station licensee to have the signal of such station carried under section 338 is not affected by the eligibility of such station to be carried under this section.

''(2) RETRANSMISSION CONSENT RIGHTS NOT AFFECTED.—The eligibility of the signal of a station to be carried under this section does not affect any right of the licensee of such station to grant (or withhold) retransmission consent under section 325(b)(1).

''(e) NETWORK NONDUPLICATION AND SYNDICATED EXCLUSIVITY.—

''(1) NOT APPLICABLE EXCEPT AS PROVIDED BY COMMISSION REGULATIONS.—Signals eligible to be carried under this section are not subject to the Commission's regulations concerning network nonduplication or syndicated exclusivity unless, pursuant to regulations adopted by the Commission, the Commission determines to permit network nonduplication or syndicated exclusivity to apply within the appropriate zone of protection.

''(2) LIMITATION.—Nothing in this subsection or Commission regulations shall permit the application of network nonduplication or syndicated exclusivity regulations to the retransmission of distant signals of network stations that are carried by a satellite carrier pursuant to a statutory license under section 119(a)(2)(A) or (B), with respect to persons who reside in unserved households, under 119(a)(4)(A), or under section 119(a)(12).

''(f) ENFORCEMENT.—

''(1) ORDERS AND DAMAGES.—Upon complaint, the Commission shall issue a cease and desist order to any satellite carrier found to have violated this section in carrying any television broadcast station. Such order may, if a complaining station requests damages—

''(A) provide for the award of damages to a complaining station that establishes that the violation was committed in bad faith, in an amount up to $50 per subscriber, per station, per day of the violation; and

''(B) provide for the award of damages to a prevailing satellite carrier if the Commission determines that the complaint was frivolous, in an amount up to $50 per subscriber alleged to be in violation, per station alleged, per day of the alleged violation.

''(2) COMMISSION DECISION.—The Commission shall issue a final determination resolving a complaint brought under this subsection not later than 180 days after the submission of a complaint under this subsection. The Commission may hear witnesses 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.

''(3) REMEDIES IN ADDITION.—The remedies under this subsection are in addition to any remedies available under title 17, United States Code.

''(4) NO EFFECT ON COPYRIGHT PROCEEDINGS.—Any determination, action, or failure to act of the Commission under this subsection shall have no effect on any proceeding under title 17, United States Code, and shall not be introduced in evidence in any proceeding under that title. In no instance shall a Commission enforcement proceeding under this subsection be required as a predicate to the pursuit of a remedy available under title 17.

''(g) NOTICES CONCERNING SIGNIFICANTLY VIEWED STATIONS.—Each satellite carrier that proposes to commence the retransmission of a station pursuant to this section in any local market shall—

''(1) not less than 60 days before commencing such retransmission, provide a written notice to any television broadcast station in such local market of such proposal; and

''(2) designate on such carrier's website all significantly viewed signals carried pursuant to section 340 and the communities in which the signals are carried.

''(h) ADDITIONAL CORRESPONDING CHANGES IN REGULATIONS.—

''(1) COMMUNITY-BY-COMMUNITY ELECTIONS.—The Commission shall, no later than April 30, 2005, revise section 76.66 of its regulations (47 CFR 76.66), concerning satellite broadcast signal carriage, to permit (at the next cycle of elections under section 325) a television broadcast station that is located in a local market into which a satellite carrier retransmits a television broadcast station pursuant to section 338, to elect, with respect to such satellite carrier, between retransmission consent pursuant to such section 325 and mandatory carriage pursuant to section 338 separately for each county within such station's local market, if—

''(A) the satellite carrier has notified the station, pursuant to paragraph (3), that it intends to carry another affiliate of the same network pursuant to this section during the relevant election period in the station's local market; or

''(B) on the date notification under paragraph (3) was due, the satellite carrier was retransmitting into the station's local market pursuant to this section an affiliate of the same television network.

''(2) UNIFIED NEGOTIATIONS.—In revising its regulations as required by paragraph (1), the Commission shall provide that any such station shall conduct a unified negotiation for the entire portion of its local market for which retransmission consent is elected.

''(3) ADDITIONAL PROVISIONS.—The Commission shall, no later than April 30, 2005, revise its regulations to provide the following:

''(A) NOTIFICATIONS BY SATELLITE CARRIER.—A satellite carrier's retransmission of television broadcast stations pursuant to this section shall be subject to the following limitations:

''(i) In any local market in which the satellite carrier provides service pursuant to section 338 on the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the carrier may notify a television broadcast station in that market, at least 60 days prior to any date on which the station must thereafter make an election under section 76.66 of the Commission's regulations (47 CFR 76.66), of—

''(I) each affiliate of the same television network that the carrier reserves the right to retransmit into that station's local market pursuant to this section during the next election cycle under such section of such regulations; and

''(II) for each such affiliate, the communities into which the satellite carrier reserves the right to make such retransmissions.

''(ii) In any local market in which the satellite carrier commences service pursuant to section 338 after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the carrier may notify a station in that market, at least 60 days prior to the introduction of such service in that market, and thereafter at least 60 days prior to any date on which the station must thereafter make an election under section 76.66 of the Commission's regulations (47 CFR 76.66), of each affiliate of the same television network that the carrier reserves the right to retransmit into that station's local market during the next election cycle under such section of such regulations.

''(iii) Beginning with the 2005 election cycle, a satellite carrier may only retransmit pursuant to this section during the pertinent election period a signal—

''(I) as to which it has provided the notifications set forth in clauses (i) and (ii); or

''(II) that it was retransmitting into the local market under this section as of the date such notifications were due.

''(B) HARMONIZATION OF ELECTIONS AND RETRANSMISSION CONSENT AGREEMENTS.—If a satellite carrier notifies a television broadcast station that it reserves the right to retransmit an affiliate of the same television network during the next election cycle pursuant to this section, the station may choose between retransmission consent and mandatory carriage for any portion of the 3-year election cycle that is not covered by an existing retransmission consent agreement.

''(i) DEFINITIONS.—As used in this section:

''(1) LOCAL MARKET; SATELLITE CARRIER; SUBSCRIBER; TELEVISION BROADCAST STATION.—The terms 'local market', 'satellite carrier', 'subscriber', and 'television broadcast station' have the meanings given such terms in section 338(k).

''(2) NETWORK STATION; TELEVISION NETWORK.—The terms 'network station' and 'television network' have the meanings given such terms in section 339(d).

''(3) COMMUNITY.—The term 'community' means—

''(A) a county or a cable community, as determined under the rules, regulations, and authorizations of the Commission applicable to determining with respect to a cable system whether signals are significantly viewed; or

''(B) a satellite community, as determined under such rules, regulations, and authorizations (or revisions thereof) as the Commission may prescribe in implementing the requirements of this section.

''(4) BANDWIDTH.—The terms 'equivalent bandwidth' and 'entire bandwidth' shall be defined by the Commission by regulation.''.

SEC. 203. CARRIAGE OF LOCAL STATIONS ON A SINGLE DISH.

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

(1) by redesignating subsections (g) and (h) as subsections (j) and (k), respectively;

(2) by inserting after subsection (f) the following new subsection:

''(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE DISH.—

''(1) SINGLE DISH.—Each satellite carrier that retransmits the analog signals of local television broadcast stations in a local market shall retransmit such analog signals in such market by means of a single reception antenna and associated equipment.

''(2) EXCEPTION.—If the carrier retransmits signals in the digital television service, the carrier shall retransmit such digital signals in such market by means of a single reception antenna and associated equipment, but such antenna and associated equipment may be separate from the single reception antenna and associated equipment used for analog television service signals.

''(3) EFFECTIVE DATE.—The requirements of paragraphs (1) and (2) of this subsection shall apply on and after one year after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004.

''(4) NOTICE OF DISRUPTIONS.—A carrier that is providing signals of a local television broadcast station in a local market under this section on the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 shall, not later than

270 days after such date of enactment, provide to the licensees for such stations and the carrier's subscribers in such local market a notice that displays prominently and conspicuously a clear statement of—

''(A) any reallocation of signals between different reception antennas and associated equipment that the carrier intends to make in order to comply with the requirements of this subsection;

''(B) the need, if any, for subscribers to obtain an additional reception antenna and associated equipment to receive such signals; and

''(C) any cessation of carriage or other material change in the carriage of signals as a consequence of the requirements of this paragraph.''.

(b) CONFORMING AMENDMENTS: COMMISSION ENFORCEMENT OF SECTION; LOW POWER TELEVISION STATIONS.—

(1) Section 338(a) of such Act is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—Each satellite carrier providing, under section 122 of title 17, United States Code, secondary transmissions to subscribers located within the local market of a television broadcast station of a primary transmission made by that station shall carry upon request the signals of all television broadcast stations located within that local market, subject to section 325(b).

''(2) REMEDIES FOR FAILURE TO CARRY.—In addition to the remedies available to television broadcast stations under section 501(f) of title 17, United States Code, the Commission may use the Commission's authority under this Act to assure compliance with the obligations of this subsection, but in no instance shall a Commission enforcement proceeding be required as a predicate to the pursuit of a remedy available under such section 501(f).

''(3) LOW POWER STATION CARRIAGE OPTIONAL.—No low power television station whose signals are provided under section 119(a)(14) of title 17, United States Code, shall be entitled to insist on carriage under this section, regardless of whether the satellite carrier provides secondary transmissions of the primary transmissions of other stations in the same local market pursuant to section 122 of such title, nor shall any such carriage be considered in connection with the requirements of subsection (c) of this section.''.

(2) Section 338(c)(1) of such Act is amended by striking ''subsection (a)'' and inserting ''subsection (a)(1)''.

(3) Section 338(k) of such Act (as redesignated by subsection (a)(1)) is amended—

(A) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and

(B) by inserting after paragraph (3) the following new paragraph:

''(4) LOW POWER TELEVISION STATION.—The term 'low power television station' means a low power television station as defined under section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term ''low power television station'' includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.''.

SEC. 204. REPLACEMENT OF DISTANT SIGNALS WITH LOCAL SIGNALS.

Section 339(a) of the Communications Act of 1934 (47 U.S.C. 339(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

''(2) REPLACEMENT OF DISTANT SIGNALS WITH LOCAL SIGNALS.—Notwithstanding any other provision of paragraph (1), the following rules shall apply after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004:

''(A) RULES FOR GRANDFATHERED SUBSCRIBERS.—

''(i) FOR THOSE RECEIVING DISTANT SIGNALS.—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station solely by reason of section 119(e) of title 17, United States Code (in this subparagraph referred to as a 'distant signal'), and who, as of October 1, 2004, is receiving the distant signal of that network station, the following shall apply:

''(I) In a case in which the satellite carrier makes available to the subscriber the signal of a local network station affiliated with the same television network pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber—

''(aa) if, within 60 days after receiving the notice of the satellite carrier under section 338(h)(1) of this Act, the subscriber elects to retain the distant signal; but

''(bb) only until such time as the subscriber elects to receive such local signal.

''(II) Notwithstanding subclause (I), the carrier may not retransmit the distant signal to any subscriber who is eligible to receive the signal of a network station solely by reason of section 119(e) of title 17, United States Code, unless such carrier, within 60 days after the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, submits to that television network the list and statement required by subparagraph (E)(i).

''(ii) FOR THOSE NOT RECEIVING DISTANT SIGNALS.—In the case of any subscriber of a satellite carrier who is eligible to receive the distant signal of a network station solely by reason of section 119(e) of title 17, United States Code, and who did not receive a distant signal of a station affiliated with the same network on October 1, 2004, the carrier may not provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber.

''(B) RULES FOR OTHER SUBSCRIBERS.—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station under this section (in this subparagraph referred to as a 'distant signal'), other than subscribers to whom subparagraph (A) applies, the following shall apply:

''(i) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the signal of a local network station affiliated with the same television network pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliate with the same network to that subscriber if the subscriber's satellite carrier, not later than March 1, 2005, submits to that television network the list and statement required by subparagraph (E)(i).

''(ii) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the signal of a local network station pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if—

''(I) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to carry pursuant to section 338 the signals of stations from the local market of such local network station; and

''(II) the satellite carrier, within 60 days after such date, submits to each television network the list and statement required by subparagraph (E)(ii).

''(C) FUTURE APPLICABILITY.—A satellite carrier may not provide a distant signal (within the meaning of subparagraph (A) or (B)) to a person who—

''(i) is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004; and

''(ii) at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338.

''(D) AUTHORITY TO GRANT STATION-SPECIFIC WAIVERS.—This paragraph shall not prohibit a retransmission of a distant signal (within the meaning of subparagraph (A) or (B)) of any distant network station to any subscriber to whom the signal of a local network station affiliated with the same network is available pursuant to section 338, if and to the extent that such local network station has affirmatively granted a waiver from the requirements of this paragraph to such satellite carrier with respect to retransmission of such distant network station to such subscriber.

''(E) NOTICES TO NETWORKS OF DISTANT SIGNAL SUBSCRIBERS.——

''(i) Within 60 days after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, each satellite carrier that provides a distant signal of a network station to a subscriber pursuant to subparagraph (A) or (B)(i) of this paragraph shall submit to each network—

''(I) a list, aggregated by designated market area, identifying each subscriber provided such a signal by—

''(aa) name;

''(bb) address (street or rural route number, city, State, and zip code); and

''(cc) the distant network signal or signals received; and

''(II) a statement that, to the best of the carrier's knowledge and belief after having made diligent and good faith inquiries, the subscriber is qualified under the existing law to receive the distant network signal or signals pursuant to subparagraph (A) or (B)(i) of this paragraph.

''(ii) Within 60 days after the date a satellite carrier commences to carry pursuant to section 338 the signals of stations from a local market, such a satellite carrier that provides a distant signal of a network station to a subscriber pursuant to subparagraph (B)(ii) of this paragraph shall submit to each network —

''(I) a list identifying each subscriber in that local market provided such a signal by—

''(aa) name;

''(bb) address (street or rural route number, city, State, and zip code); and

''(cc) the distant network signal or signals received; and

''(II) a statement that, to the best of the carrier's knowledge and belief after having made diligent and good faith inquiries, the subscriber is qualified under the existing law to receive the distant network signal or signals pursuant to subparagraph (B)(ii) of this paragraph.

''(F) OTHER PROVISIONS NOT AFFECTED.—This paragraph shall not affect the eligibility of a subscriber to receive secondary transmissions under section 340 of this Act or as an unserved household included under section 119(a)(12) of title 17, United States Code.

''(G) AVAILABLE DEFINED.—For purposes of this paragraph, a satellite carrier makes

available a local signal to a subscriber or person if the satellite carrier offers that local signal to other subscribers who reside in the same zip code as that subscriber or person.''.

SEC. 205. ADDITIONAL NOTICES TO SUBSCRIBERS, NETWORKS, AND STATIONS CONCERNING SIGNAL CARRIAGE.

Section 338 of the Communications Act of 1934 (47 U.S.C. 338) is further amended by inserting after subsection (g) (as added by section 203) the following new subsection:

''(h) ADDITIONAL NOTICES TO SUBSCRIBERS, NETWORKS, AND STATIONS CONCERNING SIGNAL CARRIAGE.—

''(1) NOTICES TO AND ELECTIONS BY SUBSCRIBERS CONCERNING GRANDFATHERED SIGNALS.—Any carrier that provides a distant signal of a network station to a subscriber pursuant section 339(a)(2)(A) shall—

''(A) within 60 days after the local signal of a network station of the same television network is available pursuant to section 338, or within 60 days after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, whichever is later, send a notice to the subscriber—

''(i) offering to substitute the local network signal for the duplicating distant network signal; and

''(ii) informing the subscriber that, if the subscriber fails to respond in 60 days, the subscriber will lose the distant network signal but will be permitted to subscribe to the local network signal; and

''(B) if the subscriber—

''(i) elects to substitute such local network signal within such 60 days, switch such subscriber to such local network signal within 10 days after the end of such 60-day period; or

''(ii) fails to respond within such 60 days, terminate the distant network signal within 10 days after the end of such 60-day period.

''(2) NOTICE TO STATION LICENSEES OF COMMENCEMENT OF LOCAL-INTO-LOCAL SERVICE.—

''(A) NOTICE REQUIRED.—Within 180 days after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the Commission shall revise the regulations under this section relating to notice to broadcast station licensees to comply with the requirements of this paragraph.

''(B) CONTENTS OF COMMENCEMENT NOTICE.—The notice required by such regulations shall inform each television broadcast station licensee within any local market in which a satellite carrier proposes to commence carriage of signals of stations from that market, not later than 60 days prior to the commencement of such carriage—

''(i) of the carrier's intention to launch local-into-local service under this section in a local market, the identity of that local market, and the location of the carrier's proposed local receive facility for that local market;

''(ii) of the right of such licensee to elect carriage under this section or grant retransmission consent under section 325(b);

''(iii) that such licensee has 30 days from the date of the receipt of such notice to make such election; and

''(iv) that failure to make such election will result in the loss of the right to demand carriage under this section for the remainder of the 3-year cycle of carriage under section 325.

''(C) TRANSMISSION OF NOTICES.—Such regulations shall require that each satellite carrier shall transmit the notices required by such regulation via certified mail to the address for such television station licensee listed in the consolidated database system maintained by the Commission.''.

SEC. 206. PRIVACY RIGHTS OF SATELLITE SUBSCRIBERS.

(a) AMENDMENT.—Section 338 of the Communications Act of 1934 (47 U.S.C. 338) is further amended by inserting after subsection (h) (as added by section 205) the following new subsection:

''(i) PRIVACY RIGHTS OF SATELLITE SUBSCRIBERS.—

''(1) NOTICE.—At the time of entering into an agreement to provide any satellite service or other service to a subscriber and at least once a year thereafter, a satellite carrier shall provide notice in the form of a separate, written statement to such subscriber which clearly and conspicuously informs the subscriber of—

''(A) the nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;

''(B) the nature, frequency, and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made;

''(C) the period during which such information will be maintained by the satellite carrier;

''(D) the times and place at which the subscriber may have access to such information in accordance with paragraph (5); and

''(E) the limitations provided by this section with respect to the collection and disclosure of information by a satellite carrier and the right of the subscriber under paragraphs (7) and (9) to enforce such limitations.

In the case of subscribers who have entered into such an agreement before the effective date of this subsection, such notice shall be provided within 180 days of such date and at least once a year thereafter.

''(2) DEFINITIONS.—For purposes of this subsection, other than paragraph (9)—

''(A) the term 'personally identifiable information' does not include any record of aggregate data which does not identify particular persons;

''(B) the term 'other service' includes any wire or radio communications service provided using any of the facilities of a satellite carrier that are used in the provision of satellite service; and

''(C) the term 'satellite carrier' includes, in addition to persons within the definition of satellite carrier, any person who—

''(i) is owned or controlled by, or under common ownership or control with, a satellite carrier; and

''(ii) provides any wire or radio communications service.

''(3) PROHIBITIONS.—

''(A) CONSENT TO COLLECTION.—Except as provided in subparagraph (B), a satellite carrier shall not use any facilities used by the satellite carrier to collect personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned.

''(B) EXCEPTIONS.—A satellite carrier may use such facilities to collect such information in order to—

''(i) obtain information necessary to render a satellite service or other service provided by the satellite carrier to the subscriber; or

''(ii) detect unauthorized reception of satellite communications.

''(4) DISCLOSURE.—

''(A) CONSENT TO DISCLOSURE.—Except as provided in subparagraph (B), a satellite carrier shall not disclose personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned and shall take such actions as are necessary to prevent unauthorized access to such information by a person other than the subscriber or satellite carrier.

''(B) EXCEPTIONS.—A satellite carrier may disclose such information if the disclosure is—

''(i) necessary to render, or conduct a legitimate business activity related to, a satellite service or other service provided by the satellite carrier to the subscriber;

''(ii) subject to paragraph (9), made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed;

''(iii) a disclosure of the names and addresses of subscribers to any satellite service or other service, if—

''(I) the satellite carrier has provided the subscriber the opportunity to prohibit or limit such disclosure; and

''(II) the disclosure does not reveal, directly or indirectly, the—

''(aa) extent of any viewing or other use by the subscriber of a satellite service or other service provided by the satellite carrier; or

''(bb) the nature of any transaction made by the subscriber over any facilities used by the satellite carrier; or

''(iv) to a government entity as authorized under chapters 119, 121, or 206 of title 18, United States Code, except that such disclosure shall not include records revealing satellite subscriber selection of video programming from a satellite carrier.

''(5) ACCESS BY SUBSCRIBER.—A satellite subscriber shall be provided access to all personally identifiable information regarding that subscriber which is collected and maintained by a satellite carrier. Such information shall be made available to the subscriber at reasonable times and at a convenient place designated by such satellite carrier. A satellite subscriber shall be provided reasonable opportunity to correct any error in such information.

''(6) DESTRUCTION OF INFORMATION.—A satellite carrier shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under paragraph (5) or pursuant to a court order.

''(7) PENALTIES.—Any person aggrieved by any act of a satellite carrier in violation of this section may bring a civil action in a United States district court. The court may award—

''(A) actual damages but not less than liquidated damages computed at the rate of $100 a day for each day of violation or $1,000, whichever is higher;

''(B) punitive damages; and

''(C) reasonable attorneys' fees and other litigation costs reasonably incurred.

The remedy provided by this subsection shall be in addition to any other lawful remedy available to a satellite subscriber.

''(8) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to prohibit any State from enacting or enforcing laws consistent with this section for the protection of subscriber privacy.

''(9) COURT ORDERS.—Except as provided in paragraph (4)(B)(iv), a governmental entity may obtain personally identifiable information concerning a satellite subscriber pursuant to a court order only if, in the court proceeding relevant to such court order—

''(A) such entity offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case; and

''(B) the subject of the information is afforded the opportunity to appear and contest such entity's claim.''.

(b) EFFECTIVE DATE.—Section 338(i) of the Communications Act of 1934 (47 U.S.C. 338(i))

as amended by subsection (a) of this section shall be effective 60 days after the date of enactment of this Act.

SEC. 207. RECIPROCAL BARGAINING OBLIGATIONS.

(a) AMENDMENTS.—Section 325(b)(3)(C) of the Communications Act of 1934 (47 U.S.C. 325(b)(3)(C)) is amended—

(1) by striking ''Within 45 days'' and all that follows through ''1999, the'' and inserting ''The'';

(2) by striking the second sentence;

(3) by striking ''and'' at the end of clause (i);

(4) in clause (ii)—

(A) by striking ''January 1, 2006'' and inserting ''January 1, 2010''; and

(B) by striking the period at the end and inserting ''; and''; and

(5) by adding at the end the following new clauses:

''(iii) until January 1, 2010, 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.''.

(b) DEADLINE.—The Federal Communications Commission shall prescribe regulations to implement the amendments made by subsection (a)(5) within 180 days after the date of enactment of this Act.

SEC. 208. UNSERVED DIGITAL CUSTOMERS.

(a) INQUIRY REQUIRED.—Consistent with the digital television service rules of the Federal Communications Commission in effect on the date of enactment of this Act, and the propagation prediction models derived from Bulletin No. 69 of the Commission's Office of Engineering and Technology, the Commission shall initiate an inquiry to recommend the appropriate methodologies for determining which consumers are in locations where the consumer will be unable, on and after the date on which analog television services are discontinued pursuant to the provisions of section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)), to receive broadcast digital television service signals that are transmitted from a station's permanent digital television channel that are of sufficient intensity to be able to receive and display digital television service using receiving terrestrial outdoor antennas of reasonable cost and ease of installation. Such methodologies shall be based on the current field strength requirements for digital television stations in section 73.622(e)(1) of the Commission's regulations (47 CFR 622(e)(1)).

(b) REPORT REQUIRED.—The Federal Communications Commission shall submit a report on the results of the inquiry required by subsection (a) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than December 31, 2005. Such report shall include—

(1) a proposal, using the best engineering practices for the broadcast television industry, for a predictive methodology for determining both which consumers—

(A) receive a digital signal of sufficient intensity to be able to receive and display digital television service using receiving terrestrial outdoor antennas of reasonable cost and ease of installation; or

(B) will receive such a signal after a local station begins transmitting on its permanent digital television channel;

(2) an analysis of whether it is possible to identify the areas of the country within which consumers will not, on and after the date on which analog television services are discontinued pursuant to the provisions of section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)), be able to receive a digital television signal of sufficient intensity to be able to receive and display digital television service using receiving terrestrial outdoor antennas of reasonable cost and ease of installation; and

(3) if possible, an identification, on a county-by-county or more localized basis, of such areas for each television network.

SEC. 209. REDUCTION OF REQUIRED TESTS.

Section 339(c)(4) of the Communications Act of 1934 (47 U.S.C. 339(c)(4)) is amended by inserting after subparagraph (C) the following new subparagraphs:

''(D) REDUCTION OF VERIFICATION BURDENS.—Within one year after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the Commission shall by rule exempt from the verification requirements of subparagraph (A) any request for a test made by a subscriber to a satellite carrier—

''(i) to whom the retransmission of the signals of local broadcast stations is available under section 338 from such carrier; or

''(ii) for whom the predictive model required by paragraph (3) predicts a signal intensity that exceeds the signal intensity standard in effect under section 119(d)(10)(A) of such title by such number of decibels as the Commission specifies in such rule.

''(E) EXCEPTION.—A subscriber in a local market in which the satellite carrier does not offer the signals of local broadcast stations under section 338 and whose household is predicted to meet or exceed the number of decibels specified by the Commission pursuant to subparagraph (D)(ii), may, at his or her own expense, authorize a signal intensity test to be performed pursuant to the procedures specified by the Commission in section 73.686(d) of title 47, Code of Federal Regulations, by a tester who is approved by the satellite carrier and by each affected network station, or who has been previously approved by the satellite carrier and by each affected network station but not previously disapproved. A tester may not be so disapproved for a test after the tester has commenced such test. The tester shall give 5 business days advance written notice to the satellite carrier and to the affected network station or stations. A signal intensity test conducted in accordance with the preceding sentence shall be determinative of the signal strength received at that household for purposes of determining whether the household is capable of receiving a Grade B intensity signal.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. DELAY) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the chairman of the Committee on Energy and Commerce, the gentleman from Texas (Mr. BARTON), and the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), each be allowed to control 10 minutes of the time currently under my control.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the gentleman from Texas (Mr. BARTON) and I be allowed to yield portions of the time that has been yielded to us by the majority leader.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I thank the majority leader for calling up this bill which is appropriately named in tribute to our colleague, the gentleman from Louisiana (Mr. TAUZIN), who will retire at the end of this year after having served the citizens of Louisiana for more than a quarter century.

This bill is a product of a remarkable collaborative effort that has involved members of the Committee on the Judiciary and Committee on Energy and Commerce. I would like to especially thank the gentleman from Texas (Mr. BARTON) for his excellent cooperation through this entire process.

The manager's amendment to the bill, which the Committee on the Judiciary approved unanimously on July 7, 2004, incorporates H.R. 4501 which was the Committee on Energy and Commerce version of the bill reported on July 22.

The manager's amendment incorporates important refinements to both the copyright and communications acts. These provisions are designed to extend for an additional 5 years the license that permits satellite TV companies such as DirecTV and EchoStar to retransmit to their subscribers TV programming shown on distant network stations and superstations. The extension will ensure that Americans who live in rural areas where they have trouble receiving signals from the regular broadcast stations will continue to have access to network TV programming.

Significantly, this bill does not simply preserve the status quo for the statutory period. Instead, the bill changes both the copyright and communications acts to ensure, first, that consumers will have greater choice in programming; second, that satellite providers will have greater freedom to deliver the content consumers desire; third, that free, over-the-air local broadcasters will have the opportunity to serve needs that are specific to their communities; and, fourth, the copyright owners will enjoy the first compulsory royalty fee adjustment in nearly 5 years.

The amendments have been carefully negotiated and crafted. They have benefited from an open process which has involved at least four committee hearings, the introduction and mark-up of two committee-reported bills to the House, and a willingness to consider numerous refinements to achieve the right policy and to gain consensus.

As a result, the bill is supported by numerous organizations including the

National Association of Broadcasters, numerous local broadcast stations, and the Capital Broadcasting Company. In addition, the royalty provision contained in the judiciary title has been specifically endorsed by effective stakeholders. This is a culmination of a painstaking effort under the leadership of the gentleman from Texas (Mr. SMITH) and the ranking member, the gentleman from California (Mr. BERMAN), who encouraged affected parties to negotiate a voluntary agreement.

As a result, the section 119 rate provisions contained in the manager's amendment are now supported by the two largest DBS providers, DirecTV and EchoStar; their trade association, the Satellite Broadcasting and Communications Association, and major copyright owners including the Motion Picture Association and the Office of the Commission of Baseball. Together those entities represent the copyright owners who receive the overwhelming majority of copyright royalties paid under the license and the satellite carriers who make the vast majority of such payments.

In return for extending the license to satellite companies, the bill does require the beneficiaries to accept certain reporting requirements. These requirements are designed to protect the legitimate interests of copyright owners and free over-the-air broadcasters.

I would like to take a moment to acknowledge the contributions of the subcommittee chairman, the gentleman from Texas (Mr. SMITH). We could not have reached this point without his steady work. I also want to thank the gentleman from Texas (Mr. BARTON) for all his help and support during the process. Thanks also go to other key players, the gentleman from Michigan (Mr. UPTON), the gentleman from Michigan (Mr. CONYERS), the gentleman from California (Mr. BERMAN), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Massachusetts (Mr. MARKEY), all of whom have made significant contributions to this effort. I appreciate all their efforts.

I am pleased that we have been able to work together in developing this joint bill, and I look forward to building on this success next year. The bill promotes the interests of consumers, satellite providers, broadcasters, and copyright owners. It is a balanced bill and deserves the support of this House.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that the gentleman from Texas (Mr. GONZALEZ) be allowed to control 10 minutes of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4518 and ask my colleagues to vote in favor of its passage. I am happy to join my friend from Wisconsin (Mr. SENSENBRENNER), the chairman of the committee, the gentleman who rolled me yesterday, in supporting this legislation.

This bill is a must-pass piece of legislation. Its core provision re-authorizes the statutory license found in section 119 of the Copyright Act which is due to expire on December 31 of this year. The section 119 enables satellite television companies to retransmit distant superstation and network signals to the subscribers who cannot obtain comparable signals over the air.

Extension of the section 119 license is very important to many satellite TV subscribers who might otherwise lose access to a number of popular television stations. The section 119 license is also of great benefit to satellite TV companies as it provides them with the equivalent of a valuable government subsidy. It guarantees satellite companies the ability to retransmit copyrighted broadcast programming, without the permission of the copyright owners and to do so at a government set rate.

I support this extension of the section 119 license despite my longstanding opposition to statutory licensing of copyrighted works. Section 119 was originally enacted in order to help satellite television become competitive with cable television which benefits from an analogous license. With 22 percent of the pay TV market, it appears that satellite television has reached that goal. However, expiration of section 119 without simultaneous expiration of the analogous statutory license for cable television may upset that competitive balance. When Congress revisits this issue in 2009, it may reach a different conclusion or even decide to do away with both licenses. Until then, however, we should strive to maintain a competitive balance.

The legislation before us does far more than simply reauthorize the section 119 statutory license. It is a combination of two bills that emerged from the Committee on the Judiciary and the Committee on Energy and Commerce. As such, it is the culmination of a long, sometimes difficult but ultimately successful collaboration between our two committees.

I commend the chairmen of both committees, the Committee on Energy and Commerce and the Committee on the Judiciary, for their steady and inclusive stewardship throughout this collaborative effort. I leave it to my colleagues of the Committee on Energy and Commerce to describe the provisions of title II which fall in their jurisdiction. However, I do want to express my support for title II and in particular the single dish requirement contained therein.

This provision requires that satellite TV providers enable customers to obtain all local broadcast programming through a single satellite dish, rather than having to install two dishes. The one-dish requirement will prevent further de facto discrimination against broadcast stations carrying minority, religious, and public interest programming.

As for title I, I am pleased most of all by its royalty provisions. These provisions represent a marked improvement over the provisions found in the Judiciary-reported version of H.R. 4518. The bill before us today does not mandate any increase in royalty rates. Nor does it establish a specific royalty rate for the retransmission of distant signals. Rather, the royalty rate will be set through adoption of a voluntary industry agreement, or in the absence of an acceptable agreement, by a copyright arbitration royalty panel.

While I do not know its terms, I understand that a voluntary industry agreement on royalties has already been reached. EchoStar, DirecTV, the Satellite Broadcast Communications Associations, and the relevant copyright owners have written us a letter to this effect. The letter also expresses unequivocal support for the royalty provisions contained in the bill before us today. If no interested party raises a well-founded objection, the legislation directs the copyright office to expeditiously adopt the voluntary industry agreement.

The adoption of this agreement would represent perhaps the least contentious establishment of section 119 royalties since section 119 was first enacted. All involved deserve a great deal of credit for reaching a mutually acceptable agreement in such a compressed time frame.

Once again, Mr. Speaker, I note my support for H.R. 4518, as amended, and ask my colleagues to add their support.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, do we have the time allocated equally on both sides, or do I need to yield time to the minority?

The SPEAKER pro tempore. The gentleman from Texas (Mr. BARTON) has 10 minutes, and the time has been distributed as agreed to.

Mr. BARTON of Texas. So the gentleman from Texas (Mr. GONZALEZ) have 10 minutes?

The SPEAKER pro tempore. Yes, sir. I might point out for further clarification, the gentleman from California (Mr. BERMAN) has 10 minutes and the gentleman from Texas (Mr. GONZALEZ) has 10 minutes.

Mr. BARTON of Texas. Mr. Speaker, I was under the impression that perhaps I needed to yield time to the gentleman from Texas (Mr. GONZALEZ), but apparently not, so I yield myself such time as I may consume.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I will focus on what the gentleman from California (Mr. BERMAN) asked me to focus on, which is title II of H.R. 4518 which addresses a communications provision that originated in H.R. 4501.

Before I do that, I do want to say how appreciative I am that we have all agreed to name this after the former chairman of the committee, the gentleman from Louisiana (Mr. TAUZIN). It really is a tribute to him. He was an expert in telecommunications. He took a personal interest in telecommunications acts, and I am proud that my House colleagues have agreed that we can name the bill in his honor.

I would also like to inform the House that another of our colleagues, the gentleman from Georgia (Mr. NORWOOD), a distinguished member of the Committee on Energy and Commerce, did have a lung implant last evening, and he is doing well today in the hospital. When he came out from anesthesia, his first question was was his staff at work today. So he was obviously doing well.

□ 1330

Let me go to the issue at hand. Current law authorizes direct broadcast satellite operators, such as DirecTV and EchoStar, to provide the signals of distant broadcast network stations to a consumer who cannot receive an over-the-air signal from the local network stations. The Communications Act exempts satellite operators from having to obtain consent from a distant broadcaster to carry the signal into the local market. That exemption expires at the end of this year. The bill before us would extend that exemption to December 31, 2009.

Cable operators currently may carry certain out-of-market signals into a local market if the signals can be viewed by a significant number of people in the local market using over-the-air antennas. The bill would extend to satellite operators the authority to carry such significantly viewed signals on comparable terms as cable operators.

EchoStar currently uses two satellite dishes in some markets to provide local broadcast stations. Some broadcasters argue that this harms the ratings of stations on the second dish because not all customers are aware of, or want to install, that second dish. The bill before us would give EchoStar 1 year from date of enactment to provide all local stations in a market on a single satellite dish.

The bill would also require satellite operators to stop offering distant signals in markets where they carry local signals. It does, however, grandfather certain existing subscribers.

Although broadcasters are starting to transmit in digital, their digital signals do not yet reach all consumers over the air. As a result, many consumers could not receive a digital signal over the air even if they had a digital television. Once the digital television transition is complete, analog broadcasts will cease.

At that time, it will be important for satellite operators to be able to provide distant digital signals to consumers in so-called ''white areas,'' who cannot receive local digital signals over the air, just as satellite operators currently offer distant analog signals to subscribers who are unserved over the air.

The bill requires the Federal Communications Commission to submit a report to the House Committee on Energy and Commerce at the end of 2005 on how it would propose to implement a digital white air area once the DTV transition ends.

Mr. Speaker, I'm proud to bring before the House today H.R. 4518, the ''Satellite Home Viewer Extension and Reauthorization Act of 2004'', SHVERA. The bill will also be known as ''The W.J. 'Billy' Tauzin Satellite Television Act of 2004,'' in honor of our former House Energy and Commerce Committee chairman. He has done so much to foster the growth of satellite television, increase television service competition, and improve choices for consumers that it is only fitting that we name this bill after him. Chairman TAUZIN is currently recovering from a bout with cancer. My understanding is that he is doing so with his characteristic vigor and good humor, and is faring well. I am sure all join me in wishing him a speedy recovery.

The bill reauthorizes certain expiring provisions in the communications and copyright acts regarding satellite television. It also increases parity and enhances competition between satellite and cable operators by modernizing other provisions. Because the bill implicates both communications and copyright issues, the House Energy and Commerce Committee and the House Judiciary Committee have worked closely in drafting the legislation. Indeed, pursuant to a compromise between the House Energy and Commerce Committee and the House Judiciary Committee, H.R. 4518 has now been amended to combine its copyright provisions with the Communications Act provisions of H.R. 4501, which my committee reported 3 months ago.

H.R. 4501 resulted from an extensive examination of satellite television issues. The Subcommittee on Telecommunications and the Internet held an oversight hearing on March 10, 2004, and a legislative hearing on April 1, 2004. The subcommittee then marked up the legislation on April 28, 2004, and the full committee marked up the bill on June 3, 2004. I will focus the remainder of my remarks to title II of H.R. 4518, as amended, which addresses the Communications Act provisions that originated in H.R. 4501.

Current law authorizes direct broadcast satellite, DBS, operators, such as DirecTV and Echostar, to provide the signals of distant broadcast network stations to a consumer who cannot receive an over-the-air signal from the local network stations. The Communications Act exempts satellite operators from having to obtain consent from a distant broadcaster to carry the signal into the local market. That exemption expires at the end of this year. The bill would extend it to December 31, 2009.

Cable operators currently may carry certain out-of-market signals into a local market if the signals can be viewed by a ''significant number'' of people in the local market using over-the-air antennas. The bill would extend to satellite operators the authority to carry such significantly viewed signals on comparable terms as cable operators.

Echostar currently uses two satellite dishes in some markets to provide local broadcast stations. Some broadcasters argue that this harms the ratings of stations on the second dish because not all customers are aware of, or want to install, the second dish. The bill would give Echostar 1 year from enactment to provide all local stations in a market on a single satellite dish.

The bill also requires satellite operators to stop offering distant signals in markets where they carry local signals. It does, however, grandfather certain existing subscribers.

Although broadcasters are starting to transmit in digital, their digital signals do not yet reach all consumers over the air. As a result, many consumers could not receive a digital signal over the air even if they had a digital television. Once the digital television transition is complete, analog broadcasts will cease. At that time, it will be important for satellite operators to be able to provide distant digital signals to consumers in ''white areas'' who cannot receive local digital signals over the air, just as satellite operators currently offer distant analog signals to subscribers who are ''unserved'' over the air. The bill requires the Federal Communications Commission to submit a report to the House Energy and Commerce Committee at the end of 2005 on how it would propose to implement a digital white area once the LTV transition ends.

Since its introduction about a decade ago, satellite television service has become a significant facilities-based competitor to cable service. Satellite retransmission of broadcast programming is responsible for much of the growth. Satellite-delivered television service started as a way to serve consumers, particularly in rural areas, who could not get adequate over-the-air reception and did not have access to cable. But DBS does more than serve otherwise unserved areas. Its nationwide coverage allows it to compete against cable operators, and in so doing it improves consumer options. Indeed, the presence of satellite operators has caused cable operators to upgrade their infrastructure to allow consumers to receive high-quality video and more channels, as well as interactive, broadband, video-on-demand, and Internet telephony services.

By extending the expiring provisions, increasing parity, and promoting further competition, this legislation will continue to enhance service to consumers.

I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time, and I ask unanimous consent that the gentleman from Michigan (Mr. UPTON), the distinguished subcommittee chairman, control the balance of my time.

The SPEAKER pro tempore (Mr. WHITFIELD). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GONZALEZ. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in support of H.R. 4518, the Satellite Home Viewer Extension Reauthorization Act of 2004. I would like to thank the gentleman from Texas (Chairman BARTON) and the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from Michigan (Ranking Member DINGELL) and the gentleman from Michigan (Ranking Member CONYERS) and the subcommittee chairmen and ranking

members for their hard work on this piece of legislation.

H.R. 4518 is a comprehensive, bipartisan bill crafted jointly by the Committee on Energy and Commerce and the Committee on the Judiciary that will preserve localism, protect consumer privacy and increase competition between cable and satellite companies.

Local broadcasters play a vital role in providing to the communities they serve local news and weather, information on community events and entertainment. In 1999, Congress recognized the important role of local broadcasters when it last authorized this act. Specifically, the act requires satellite companies to offer in a nondiscriminatory manner all local broadcast signals once the satellite carriers begin offering local-into-local service in a market. This requirement, dubbed ''carry one, carry all,'' was the cornerstone of the act.

Unfortunately, in several markets, one satellite company has refused to comply with this requirement. For several years, I have heard complaints from local Spanish language broadcasters that one particular satellite company has refused to carry Spanish language broadcasts on the same dish on which it carries the signals of the major television networks. In fact, in my own home State of Texas nine of the eleven stations bumped by that particular satellite company to a second dish are Spanish language stations.

In these two-dish markets, customers do not receive all of the channels for which they have paid if they do not ask that particular company for the second dish. This is unfair to consumers, and it harms the viability of local broadcasters because fewer people are watching their channels.

The negative effects of a two-dish practice are made even greater by a failure to inform many customers of a particular company of the need for a second dish. This practice is wrong. It undermines basic principles of localism by essentially giving Spanish language and other minority-themed stations a second-class status in their own home markets.

I thank my colleagues for including language in this bill that would put an end to this two-dish practice within 1 year. Forcing satellite providers to carry all local broadcast signals on one dish will finally ensure the equal treatment of all broadcasters.

Protecting the privacy of consumers who subscribe to satellite television is also very important. Although current law protects the privacy of persons who subscribe to cable television service, it does not protect those who subscribe to satellite service.

I commend the gentleman from Massachusetts (Mr. MARKEY) in particular for seeing to it that this bill extends to satellite subscribers the same privacy protections in effect for cable subscribers.

Finally, increasing competition between cable and satellite companies is an important goal of this act. Prior to the last reauthorization of the act, cable companies provided their customers with all of the local broadcast channels, but satellite companies were not permitted to do the same. Since Congress gave satellite companies the authority to provide local-into-local service in 1999, the number of subscribers to satellite has about doubled.

This legislation before us today makes further important strides in increasing parity which should lead to greater competition between cable and satellite. Right now, cable television companies can provide their subscribers with signals that are significantly viewed in a local market. Satellite television providers have no such authority. H.R. 4518 would fix this inequity by permitting satellite carriers of those same significantly viewed signals.

Mr. Speaker, this is a good bill that preserves local broadcasting, protects the privacy of satellite television service subscribers, and will provide a more level playing field for satellite companies on which to compete against cable providers. I support these goals and urge all Members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. SMITH), the chairman of the Subcommittee on Courts, the Internet, and Intellectual Property.

(Mr. SMITH of Texas asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. SMITH of Texas. Mr. Speaker, first of all, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for yielding me time.

Mr. Speaker, I support the manager's amendment to H.R. 4518, the Satellite Home Viewer Extension and Reauthorization Act of 2004 which I introduced.

I, too, would like to acknowledge the contributions and support of the gentleman from Texas (Chairman BARTON) and our colleagues on the Committee on Energy and Commerce.

Without the hard work of the gentleman from Michigan (Mr. UPTON), sitting to my right, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Massachusetts (Mr. MARKEY), a bill this complex would not have been able to move under suspension.

Also, I want to especially thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for his leadership, as well as recognize the personal effort and contributions of both the gentleman from Michigan (Mr. CONYERS) and the gentleman from California (Mr. BERMAN).

This bill will reauthorize the Copyrights Act's distant-signal license, which benefits the satellite industry. Because of this bill, Americans will continue to be able to receive television programming over satellite.

This legislation strikes a balance between the interests of intellectual property owners and the interests of the satellite providers who distribute copyrighted programming.

With time running out this session, it is now critically important that H.R. 4518 be enacted without delay.

The bill makes important changes to both the Copyright Act and the Communications Act to ensure that consumers will have greater choices in programming; that satellite providers have greater freedom to deliver the content consumers desire; that free over-the-air local broadcasters have the opportunity to serve needs that are specific to their communities; and that copyright owners receive the first adjustment to their compensation in 5 years.

In addition, the bill requires the Copyright Office to complete a study and provide recommendations on whether Congress should take further steps to create more parity with the cable compulsory license.

Mr. Speaker, I would also like to recognize the hard work and countless hours that were dedicated by the Copyright Office's Bill Roberts, as well as by David Whitney of my staff, Sampak Garg of the gentleman from Michigan's (Mr. CONYERS) staff, and Alec French from the gentleman from California's (Mr. BERMAN) staff.

Mr. Speaker, H.R. 4518 is a carefully crafted bill that promotes the interests of consumers, satellite providers, broadcasters and copyright owners. It is a fair and balanced bill that deserves the support of this House.

Mr. Speaker, I would like to insert a copy of the September 23 letter by DirecTV, EchoStar, the Motion Picture Association, Major League Baseball into the RECORD, as well as an October 5 letter by Eddie Fritts of the National Association of Broadcasters that endorses H.R. 4518 at this point.

NATIONAL ASSOCIATION OF BROADCASTERS,
Washington, DC, October 5, 2004.

DEAR REPRESENTATIVE: I understand that this week the House of Representatives will consider H.R. 4518, the Satellite Home Viewer Extension and Reauthorization Act. On behalf of your local television stations, I am writing to urge you to support this critical legislation, which will help preserve localism in television and protect the interests of the American viewer.

The legislation enjoys widespread, bipartisan support. The bill is the result of extensive compromise and negotiation between Members of the two Committees of jurisdiction, the Judiciary Committee and the Energy and Commerce Committee and is carefully crafted to address a range of satellite television issues in a pro-consumer fashion. For instance:

The bill would create incentives for satellite subscribers to gradually shift to selecting their local television stations in their programming packages.

It would phase-out a discriminatory ''2-dish'' practice which relegates some local television stations to a second dish, where they are all but invisible to satellite subscribers.

The bill would give satellite providers parity with cable by allowing them to import

''significantly viewed'' out-of-market stations from adjoining markets.

The legislation balances this new privilege with key safeguards ensuring such a practice is not abused to the detriment of local television and consumers.

The bill provides a long needed update to copyright rates, increasing compensation for copyright holders.

Some have argued the legislation should be modified to include a ''Digital White Areas'' provision, which would permit satellite companies to import national, distant, digital network digital networks from Los Angeles or New York into local television markets, supplanting local television stations. However, the vast majority of industry stakeholders, including local broadcast stations, the television networks, cable operators, and DirecTV have rejected this approach and are instead working to see local high-definition digital television available on cable and satellite systems. We urge you to reject the Digital White Areas proposal as well.

Ultimately, as the product of an open process of hearings and mark-ups in both Committees of jurisdiction, H.R. 4518 would reauthorize the Satellite Home Viewer Improvement Act in a manner consistent with broadcast television localism. I strongly urge you to pass H.R. 4518 as written. The measure will take import strides in protecting the interests of consumers and furthering localism in television.

Sincerely,

EDDIE FRITTS.

SEPTEMBER 23, 2004.

Re H.R. 4518, Satellite Home Viewer—Extension and Reauthorization Act of 2004.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, DC.

Hon. LAMAR SMITH,
Chairman, Subcommittee on Courts, the Internet and Intellectual Property, House of Representatives, Rayburn House Office Building, Washington, DC.

Hon. JOHN CONYERS, Jr.,
Ranking Member, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, DC.

Hon. HOWARD L. BERMAN,
Ranking Member, Subcommittee on Courts, the Internet and Intellectual Property, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMEN: This letter is written on behalf of the undersigned representatives of those (1) copyright owners who receive the vast majority of the copyright royalties paid for the statutory licenses set forth in Section 119 of the Copyright Act, 17 U.S.C. §119; and (2) satellite carriers who pay the vast majority of the Section 119 royalties.

At your request, we undertook negotiations over the copyright royalty rates that satellite carriers should pay under Section 119 for the statutory license to retransmit superstations and network stations. As we are certain you understand, negotiations of this nature necessarily involve a number of difficult and competing considerations and strongly-held views. Nevertheless, we are pleased to report that, with the considerable assistance of you and your staff, our negotiations have been successful. We have entered into a voluntary agreement specifying the royalty fees that satellite carriers would pay for the Section 119 license during each of the years 2005 through 2009.

Our agreement is effective only if legislation is enacted into law, prior to January 1, 2005, with provisions that: (1) reauthorize 17 U.S.C. §119 for the five-year period ending December 31, 2009; (2) permit affected parties to enter into voluntary agreements as an alternative to a Copyright Arbitration Royalty Panel (''CARP'') proceeding; (3) provide for the convening, if necessary, of a CARP proceeding to adjust the royalty rates payable under 17 U.S.C. §119, provided that such provisions require the Librarian of Congress and any CARP to adjust any fees set by arbitration to account for the obligations of the parties under any applicable voluntary agreements filed with the Copyright Office; and (4) amend the Section 119 compulsory license to permit the retransmission of superstations to commercial establishments. These provisions are collectively referred to herein as the ''Section 199 Rate Provisions.''

If legislation containing each of these Section 119 Rate Provisions is enacted into law prior to January 1, 2005, we will submit to the Copyright Office our voluntary agreement that specifies the agreed-upon royalty rates, and this agreement will become binding on the parties. We will also jointly petition the Copyright Office to adopt these rates for all copyright owners, satellite carriers and distributors under Section 119.

Attachment A hereto describes in narrative form the changes that we believe must be made to H.R. 4518, as reported to the House of Representatives on September 7, 2004, for that bill to incorporate the above-identified Section 119 Rate Provisions. Attachment B provides specific suggested language amending H.R. 4518 to reflect the Section 119 Rate Provisions. Attachment C contains a red-lined version of H.R. 3518 showing the proposed Section 119 Rate Provisions.

There are a few additional points that we wish to emphasize. First, the rates to which the parties have agreed reflect multiple considerations and difficult compromises—including a desire to be responsive to your reasonable requests for a negotiated agreement and to avoid the costs and uncertainties of further controversy and political litigation. Accordingly, our agreement provides that its terms do not have any precedential value. Nevertheless, we firmly believe that it is in the best interests of all copyright owners and satellite carriers alike, as well as those consumers who receive the valuable copyrighted works offered under the Section 119 statutory license, for Congress to enact the Section 119 Rate Provisions—and for the Copyright Office ultimately to adopt the rates set forth in our voluntary agreement.

Second, nothing in our voluntary agreement prevents any party from supporting or opposing provisions other than those reflected in the attached Section 119 Rate Provisions.

Third, each of the Parties to this agreement (DIRECTV, EchoStar and the copyright owners) supports the attached Section 119 Rate Provisions. This is not to say, however, that each of the parties would support any legislative vehicle to which the Section 119 Rate Provisions could be attached. Each Party must base its decision on whether to support any such legislation on the totality of the provisions therein.

Finally, we wish to personally thank each of you and your staff for your continuing efforts in bring the parties together and assisting us to resolve our considerable differences in an amicable way that serves the best interests of all concerned. In particular, we wish to recognize the hard work of David Whitney, Alec French, Sampak Garg and Cameron Gilreath. We very much appreciated their professionalism, their diligence and their patience throughout the process. It is our fervent wish that all of these efforts bear fruit with the passage of legislation that resolves the Section 119 rate issues for the upcoming five-year period.

Sincerely,

Program Suppliers: Fritz Attaway, Executive Vice President and Washington Counsel, Motion Picture Association of America, Inc.

Joint Sports Claimants: Thomas J. Ostertag, Senior Vice President & General Counsel, Office of the Commissioner of Baseball.

DirecTV, Inc.: Daniel M. Fawcett, Executive Vice President and General Counsel.

EchoStar Satellite L.L.C.: David K. Moskowitz, Executive Vice President & General Counsel.

Satellite Broadcasting & Communications Association: Richard DalBello, President.

Mr. Speaker, finally and obviously, I urge all Members to support this good piece of legislation, and I appreciate in advance their support.

Mr. UPTON. Mr. Speaker, I yield 1½ minutes to the gentleman from Indiana (Mr. BUYER), my friend and colleague, a member of the Subcommittee on Telecommunications and the Internet.

(Mr. BUYER asked and was given permission to revise and extend his remarks.)

Mr. BUYER. Mr. Speaker, I appreciate the gentleman's good work on this.

The act we are approving today continues a strong policy of continuing local-to-local service. It also pushes the satellite industry to be as competitive as possible with cable.

For the first time, the bill will allow satellite carriers to deliver significantly viewed stations from nearby markets as cable now is able to do. In any given community, the significantly viewed stations that the direct broadcast service will be allowed to carry are exactly the same ones that cable can carry.

The act imposes a variety of limits designed to protect free, local, over-the-air broadcasting. For example, the only subscribers who can receive significantly viewed stations are those who are already receiving their own local stations by satellite.

Nor can the direct broadcast service company offer a digital signal of a significantly viewed affiliate of, say, CBS to a subscriber to which it offers only the analog feed of the local CBS station or carry the significantly viewed CBS station with more digital broadband than the local station.

There also are some pretty strong provisions in this. If the satellite carrier abuses this new regime by carrying an unauthorized station, it will be both subject to swift and severe penalties at the FCC and will forfeit its compulsory license under the Copyright Act which is conditioned on compliance with all applicable FCC rules regulations and authorization.

I had been impressed with the satellite industry and how it has created this industry, but they also now need to be fair players in the marketplace.

As Congress made clear when we passed the 1999 Satellite Home Viewer Improvement Act (''SHVIA''), it is far better for local communities if satellite carriers offer their customers local television stations—including network

stations—rather than TV stations from other cities. Put another way, local-to-local service is the right way, and—except when there is no other choice—distant network stations are the wrong way, to deliver broadcast programming by satellite. Local-to-local fosters localism and helps keep free, over-the-air television available to everyone, while delivery of distant network stations to households that can receive their own local stations (whether over the air or via local-to-local service) has just the opposite effect.

The pro-local-to-local policy of the 1999 SHVIA has been an astounding success. The satellite industry has grown spectacularly since then, spurred—as the satellite industry has many times reminded us—by the availability of local-to-local service. In fact, in the past year, the number of cable subscribers has actually shrunk, while satellite carriers continue to expand at a rapid clip.

Recognizing that local-to-local is not just good policy but good business, the DBS firms have expanded local-to-local service at a rate far faster than the industry predicted a few years ago. As to analog service, EchoStar recently announced that it was serving no fewer than 150 local markets, covering more than 90 percent of the television households in the United States. And for its part, DirecTV expects to offer local-to-local in at least 130 local markets by the end of 2004—and has committed to offering local-to-local in every market as soon as 2006, and no later than 2008.

I want to commend DirecTV for its commitment to provide service to all 210 Designated Market Areas. I hope that EchoStar is on a similar path and will provide more certainty as to when this might occur just as DirecTV has done. It is my hope that this service is provided sooner rather than later so that those satellite subscribers in Lafayette, Indiana will be able to receive their local affiliate station and achieve true local-into-local service.

But there is still more: DirecTV announced just a few weeks ago that it plans to offer high-definition local-to-local service in many markets over the next few years. With the first of its new satellites, DirecTV plans to offer during 2005 more than 500 local high-definition channels, enabling it to offer local HD programming to the majority of U.S. television households. And with the launch of still more new satellites, DirecTV will be able to add even more local HD markets in the future. Of course, in the highly competitive world of multichannel television providers, there is little doubt that DirecTV's competitors will be driven to try to match—or exceed—DirecTV's local-to-local offerings. And that is all to the good.

The Act we are approving today continues the strong policy of encouraging local-to-local service and pushing the satellite industry to be as competitive as possible with cable. For the first time, the bill will allow satellite carriers to deliver "significantly-viewed" stations from nearby markets, as cable is now able to do. In any given community, the "significantly viewed" stations that DBS will be allowed to carry are exactly the same ones that cable can carry. The Act imposes a variety of limits designed to protect free, local, over-the-air broadcasting: For example, the only subscribers who can receive significantly-viewed stations are those who already receive their own local stations by satellite. (Since cable always offers local stations, this rule ensures a level playing field.) Nor can a DBS company offer a digital signal of a significantly-viewed affiliate of, say, CBS, to a subscriber to which it offers only the analog feed of the local CBS station, or carry a significantly-viewed CBS station with more digital bandwidth than the local CBS station (unless the carrier offers the entire bandwidth of the local digital station).

If a satellite carrier abuses this new regime—by carrying unauthorized stations—it will both be subject to swift and severe penalties at the FCC, and will forfeit its compulsory license under the Copyright Act, which is conditioned on compliance with all applicable FCC rules, regulations, and authorizations.

Mr. GONZALEZ. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding time to me. And, Mr. Speaker, I am pleased to rise in strong support of this proconsumer legislation, the Satellite Home Viewers Extension and Reauthorization Act.

I also want to thank the chairman and ranking member of the Committee on Energy and Commerce for the manner in which this legislation moved through our committee. The Committee on Energy and Commerce moved through the process, it was completely open and bipartisan; and I thank the Chair for that.

The Satellite Home Viewer Improvement Act expires at the end of this year. Thus, we must act quickly to ensure our constituents continue to receive the services they enjoy.

This bill also does a great service to our communities by preserving and strengthening local broadcasting.

My interest in this legislation was piqued when I discovered that one of the two satellite companies was engaging in a discriminatory practice that forced 95 percent of their customers to pay for services they do not receive.

EchoStar's system requires two satellite dishes on a rooftop to be able to receive all of the local channels and other channels they offer. Nothing is wrong with that. It is how their technology works. However, EchoStar is discriminatory in choosing which local broadcasters would end up on the second dish which is inconvenient. Most often it is Spanish language, public and religious broadcasters.

On top of that, EchoStar does a poor job informing its customers of the need for a second dish, and the company requires a second technician to come out and install the second dish. The company states that only about 5 percent of their customers take the second dish, which means that 95 percent of customers are paying for services they do not receive.

This legislation requires all satellite companies to put all local channels on one of the two dishes. I think that is important, and I think it is a major breakthrough.

This provision is also key to the health of the satellite industry by setting the ground rules for providing local broadcast stations. Local-to-local has been a driving force in the satellite television industry's growth. In 1999, just prior to the establishment of the local-to-local compulsory license, the industry had 10.1 million subscribers. Only 4 years later, after the advent of local-to-local, the industry had more than doubled its subscriber base to 20.4 million.

Another key provision gives consumers of satellite TV service the same choices as cable subscribers. Specifically, the bill gives satellite the ability to import significantly viewed stations from adjoining markets. At the same time, the bill includes safeguards to ensure this new privilege is not abused to the detriment of local television and television viewers.

□ 1345

This means, for example, a satellite prescriber in Baltimore could soon be getting Washington, D.C., local stations if they are significantly viewed. For people who live in or near Baltimore and commute to D.C. to work, the traffic reports are obviously vital.

In closing, Mr. Speaker, this legislation enjoys widespread bipartisan support in Congress as well as the endorsement of nearly all key industry stakeholders, including local television stations, the television networks, cable operators, and DirecTV.

Mr. UPTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering H.R. 4518, which is alternatively named the "W.J. 'Billy' Tauzin Satellite Television Act of 2004," in honor of our former chairman, BILLY TAUZIN. It is particularly fitting that this is named after Boudreaux friend, BILLY TAUZIN, since he was the chief architect of the regulatory landscape which promoted the creation of a vibrant satellite TV industry to the benefit of so many consumers across the country.

Mr. Speaker, our prayers remain with BILLY TAUZIN as he continues his fight against cancer, and I know that he is fighting with the same vim and vigor that characterizes his very able public service.

This bill reauthorizes certain expiring provisions in the communications and copyright acts. It also modernizes other provisions to increase parity and enhance competition between satellite and cable operations. And given that this bill affects both communications and copyright issues, the Committee on Energy and Commerce worked very closely with the House Committee on the Judiciary on a bipartisan basis in putting this bill together.

Procedurally, this bill combines the elements of H.R. 4501, which was reported by the House Committee on Energy and Commerce, with elements of H.R. 4518, which was reported by the House Committee on the Judiciary. I want to commend my colleagues on both committees, on both sides of the aisle, for their cooperation and dedication of this mission, particularly the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the Committee on the Judiciary; the gentleman

from Texas (Mr. SMITH), chairman of the Subcommittee on Courts, the Internet, and Intellectual Property; and, obviously, the ranking member of the Committee on Energy and Commerce, the gentleman from Michigan (Mr. DINGELL) and the ranking member of the Subcommittee on Telecommunications and the Internet, the gentleman from Massachusetts (Mr. MARKEY), for their very active work on this legislation.

This bill resulted from an extensive examination of satellite TV issues in our committee. The subcommittee on Telecommunications and the Internet held an oversight hearing on March 10, a legislative hearing on April 1, subcommittee markup to legislation on April 28, and the full committee markup to legislation on June 3 that would become H.R. 4501. As I recall, that bill passed in both the subcommittee and full committee on a voice vote. It was extensively bipartisan from the very start. And without a doubt, by extending these expiring provisions, increasing parity between satellite TV and cable operators, promoting competition between satellite TV and cable, the bill will enhance consumer choice and service.

Mr. Speaker, this bill builds upon the solid foundation laid by our friend BILLY TAUZIN. I commend this bill to my colleagues on both sides of the aisle and urge its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Just briefly again, Mr. Speaker, this is a bill that makes good business sense and is a good deal for the consumer, standing for the proposition those are not mutually exclusive concepts.

Mr. DINGELL. Mr. Speaker, I rise today in support of H.R. 4518, the Satellite Home Viewer Extension and Reauthorization Act of 2004. I congratulate Chairmen BARTON and SENSENBRENNER, Ranking Member CONYERS and the subcommittee chairmen and ranking members of their hard work on this legislation. The task of combining separate Energy and Commerce and Judiciary Committee bills into a single product is never easy, but I am pleased with this bipartisan bill before us today. Let us hope that the other body will act with due haste to ensure that this legislation becomes law this year.

I note that the bill before us incorporates the language of both H.R. 4501 and H.R. 4518 was solely referred to the Committee on Energy and Commerce. H.R. 4518 was referred solely to the Committee on the Judiciary. The members of both committees worked long and hard on their respective bills. Accordingly, the legislative history on H.R. 4518 includes the legislative history of H.R. 4501.

The bill before us achieves three very critical goals. First, it will increase regulatory parity between cable and satellite providers, thereby strengthen satellite companies' ability to compete in the multichannel video marketplace. Currently, cable providers can offer their subscribers out-of-market television signals that are "significantly viewed" in the subscribers' local communities. Satellite companies, however, are prevented by law from offering to their subscribers the same signals. This bill would change the law to provide satellite companies an equal right to provide their subscribers those "significantly viewed" signals. This increased parity should help spur greater competition between cable and satellite providers and ultimately benefit consumers in the form of lower prices and better service.

Second, the act will protect consumers and foster localism by ensuring that satellite customers receive all of their local broadcast signals when these signals become available via satellite. Local broadcasters provide their communities with important local programming. Whether it is local news, weather, or community events, these broadcasters are there, on the ground serving their friends and neighbors. This idea of localism was recognized and fostered by Congress during the last reauthorization of this statute in 1999, through a provision called "carry one, carry all." This policy mandates that a satellite provider, in a nondiscriminatory fashion, offer all local broadcast signals in a market if it offers one.

Finally, I am also pleased that this bill will help protect consumer privacy. This bill will force satellite carriers to comply with the same privacy obligations that already apply to cable television providers. Personally identifiable information will now be better protected.

Mr. Speaker, H.R. 4518 will encourage competition between cable and satellite. It also furthers the goal of localism and protects consumers. I urge my colleagues to support it.

Mr. CONYERS. Mr. Speaker, I rise in support of this legislation, of which I am an original cosponsor. I first would like to note the comity that went into drafting this bill. We worked with the Commerce Committee on addressing the relevant issues based on jurisdiction. Further, Chairman SENSENBRENNER and his staff worked diligently with us on drafting this legislation. I would particularly like to thank David Whitney, counsel to the majority, whose diligence and bipartisanship are the only reason we are here today.

In 1999, we passed the Satellite Home Viewer Improvement Act to allow satellite companies to retransmit distant network signals to customers who could not receive clear over-the-air television signals. Such companies have to pay a government-set rate to the broadcast copyright owners. While I had, and still have, hesitations about creating compulsory licenses that require content owners to sell their work for a set fee, I believe this license led to significant competition in programming distribution.

As a result of this policy decision, the satellite industry has dedicated significant technological and financial resources to expanding the choices available to consumers. I am certain we can all agree that is a good thing.

The 1999 law expires at the end of this calendar year, so we must reauthorize it. The bill before us extends the license for 5 years. Importantly, the bill goes beyond that in addressing the desires of consumers in that it permits the satellite companies to retransmit a significantly viewed local signal to a customer.

The bill also settles a gray area in terms of what satellite service customers can get when local-to-local satellite television is available. Under the new regime, current subscribers will be allowed to choose between the distant signal service or the local service. New customers would be provided with the local service.

Despite the benefits of this legislation and the work of the interested parties, much remains to be done in terms of providing complete television service across the country. I look forward to working with the content owners and satellite companies in making that happen.

I urge my colleagues to vote "yes" on this legislation.

Mr. TANCREDO. Mr. Speaker, I wish to express my views on the legislation before us today.

This legislation includes a requirement for Echostar, better known as Dish Network, to eliminate the solution it developed to serve more Americans with local service than any other satellite TV company. The legislation would eliminate its "two dish" solution within 12 months. This requirement will cause consumer inconvenience and hamper the rollout of local programming. The "two dish" remedy maximizes the number of television markets that can receive local channels by utilizing the scarce spectrum available.

I believe a better route to dealing with the lack of spectrum, which I know is a priority for you, is for this legislation to include a provision similar to that of the Senate Commerce Committee. That committee voted to allow satellite TV providers to offer High Definition TV service to markets where a local broadcaster is not even offering a digital signal. As noted in the Digital Transition Coalition letter which I will also enter into the RECORD, the freed-up spectrum could be redeployed to our Nation's first responders, auctioned to wireless companies eager to offer new advanced services, and raise funds that could be returned to the taxpayer or put to paying off the debt.

I look forward to our continuing work on this legislation.

DIGITAL TRANSITION COALITION,
Washington, DC, October 4, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
U.S. Capitol, Washington, DC.

DEAR SPEAKER HASTERT: The Digital Transition Coalition is writing to express its concern regarding the House reauthorization of the Satellite Home Viewer Improvement Act (SHVIA). While the legislation adopts rate increase adjustments for content owners and allows satellite companies to provide "distant network signals" to subscribers who cannot receive "over-the-air" broadcast signals, it fails to include the "digital white area" provision adopted by the Senate Commerce Committee which would accelerate the digital television transition. Without this provision, millions of Americans, especially consumers in rural areas, will have to wait even longer for digital and High-Definition television and be denied the world of innovation derived from freed-up spectrum.

H.R. 4501, approved by the Committee on Energy & Commerce, did not include an important provision to speed up the return of tens of billions of dollars of analog spectrum currently held by broadcasters. Despite the fact that Congress years ago set a 2006 deadline for broadcasters to return the analog spectrum (in exchange for tens of billions of dollars of free digital spectrum), it is clear that deadline will not be met. As a result, consumers in more than 39 million U.S. households (about 36 percent nationwide) will continue to be deprived of receiving all their network signals in digital.

As taxpayer groups, consumer advocates and technology leaders, our coalition has

strongly supported proposals to allow direct broadcast satellite providers to offer a distant digital network signal into local television markets where broadcasters are not transmitting a full-power digital signal. We believe such a measure is essential to provide market-based pressure on local broadcasters to complete the digital transition and return the public's valuable analog spectrum for other uses.

The satellite home viewer reauthorization legislation is the vehicle to address this issue. The Senate Commerce Committee, in its version of the satellite legislation, adopted a ''digital white area'' provision that will help provide the necessary impetus to speed up the digital transition and serve the needs of millions of television viewers who are disadvantaged by the current situation. In contrast, the House Commerce Committee bill requests a perfunctory report on the matter without any immediate remedy.

As such an important issue for consumers and the economy, we strongly urge that a digital white area provision be added to the House legislation. We appreciate your consideration of our request, and we look forward to continuing to work with the Congressional leadership, the committee chairmen and ranking members to further improve this legislation.

Sincerely,

Grover Norquist, Americans for Tax Reform; The Honorable Andrea Seastrand, The California Space Authority; Tom Schatz, Council for Citizens Against Government Waste; Charles Ergen, EchoStar Communications Corporation; George Landrith, Frontiers of Freedom; Andrew Jay Schwartzman, Media Access Project; Gigi Sohn, Public Knowledge; Richard DalBello, Satellite Broadcasting and Communications Association; Karen Kerrigan, Small Business Survival Committee.

Mr. GONZALEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WHITFIELD). The question is on the motion offered by the gentleman from Texas (Mr. DELAY) that the House suspend the rules and pass the bill, H.R. 4518, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: ''A Bill to extend the statutory license for secondary transmissions by satellite carriers of transmissions by television broadcast stations under title 17, United States Code, and to amend the Communications Act of 1934 with respect to such transmissions, and for other purposes.''.

A motion to reconsider was laid on the table.

WATER SUPPLY, RELIABILITY, AND ENVIRONMENTAL IMPROVEMENT ACT

Mr. POMBO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 2828) to authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Water Supply, Reliability, and Environmental Improvement Act''.

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

Sec. 1. Short title; table of contents.

TITLE I—CALIFORNIA WATER SECURITY AND ENVIRONMENTAL ENHANCEMENT

Sec. 101. Short title.
Sec. 102. Definitions.
Sec. 103. Bay Delta program.
Sec. 104. Management.
Sec. 105. Reporting requirements.
Sec. 106. Crosscut budget.
Sec. 107. Federal share of costs.
Sec. 108. Compliance with State and Federal law.
Sec. 109. Authorization of appropriation.

TITLE II—MISCELLANEOUS

Sec. 201. Salton Sea study program.
Sec. 202. Alder Creek water storage and conservation project feasibility study and report.
Sec. 203. Folsom Reservoir temperature control device authorization.

TITLE I—CALIFORNIA WATER SECURITY AND ENVIRONMENTAL ENHANCEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Calfed Bay-Delta Authorization Act''.

SEC. 102. DEFINITIONS.

In this title:

(1) CALFED BAY-DELTA PROGRAM.—The terms ''Calfed Bay-Delta Program'' and ''Program'' mean the programs, projects, complementary actions, and activities undertaken through coordinated planning, implementation, and assessment activities of the State agencies and Federal agencies as set forth in the Record of Decision.

(2) CALIFORNIA BAY-DELTA AUTHORITY.—The terms ''California Bay-Delta Authority'' and ''Authority'' mean the California Bay-Delta Authority, as set forth in the California Bay-Delta Authority Act (Cal. Water Code § 79400 et seq.).

(3) DELTA.—The term ''Delta'' has the meaning given the term in the Record of Decision.

(4) ENVIRONMENTAL WATER ACCOUNT.—The term ''Environmental Water Account'' means the Cooperative Management Program established under the Record of Decision.

(5) FEDERAL AGENCIES.—The term ''Federal agencies'' means—

(A) the Department of the Interior, including—

(i) the Bureau of Reclamation;

(ii) the United States Fish and Wildlife Service;

(iii) the Bureau of Land Management; and

(iv) the United States Geological Survey;

(B) the Environmental Protection Agency;

(C) the Army Corps of Engineers;

(D) the Department of Commerce, including the National Marine Fisheries Service (also known as ''NOAA Fisheries'');

(E) the Department of Agriculture, including—

(i) the Natural Resources Conservation Service; and

(ii) the Forest Service; and

(F) the Western Area Power Administration.

(6) FIRM YIELD.—The term ''firm yield'' means a quantity of water from a project or program that is projected to be available on a reliable basis, given a specified level of risk, during a critically dry period.

(7) GOVERNOR.—The term ''Governor'' means the Governor of the State of California.

(8) RECORD OF DECISION.—The term ''Record of Decision'' means the Calfed Bay-Delta Program Record of Decision, dated August 28, 2000.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(10) STATE.—The term ''State'' means the State of California.

(11) STATE AGENCIES.—The term ''State agencies'' means—

(A) the Resources Agency of California, including—

(i) the Department of Water Resources;

(ii) the Department of Fish and Game;

(iii) the Reclamation Board;

(iv) the Delta Protection Commission;

(v) the Department of Conservation;

(vi) the San Francisco Bay Conservation and Development Commission;

(vii) the Department of Parks and Recreation; and

(viii) the California Bay-Delta Authority;

(B) the California Environmental Protection Agency, including the State Water Resources Control Board;

(C) the California Department of Food and Agriculture; and

(D) the Department of Health Services.

SEC. 103. BAY DELTA PROGRAM.

(a) IN GENERAL.—

(1) RECORD OF DECISION AS GENERAL FRAMEWORK.—The Record of Decision is approved as a general framework for addressing the Calfed Bay-Delta Program, including its components relating to water storage, ecosystem restoration, water supply reliability (including new firm yield), conveyance, water use efficiency, water quality, water transfers, watersheds, the Environmental Water Account, levee stability, governance, and science.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary and the heads of the Federal agencies are authorized to carry out the activities described in subsections (c) through (f) consistent with—

(i) the Record of Decision;

(ii) the requirement that Program activities consisting of protecting drinking water quality, restoring ecological health, improving water supply reliability (including additional storage, conveyance, and new firm yield), and protecting Delta levees will progress in a balanced manner; and

(iii) this title.

(B) MULTIPLE BENEFITS.—In selecting activities and projects, the Secretary and the heads of the Federal agencies shall consider whether the activities and projects have multiple benefits.

(b) AUTHORIZED ACTIVITIES.—The Secretary and the heads of the Federal agencies are authorized to carry out the activities described in subsections (c) through (f) in furtherance of the Calfed Bay-Delta Program as set forth in the Record of Decision, subject to the cost-share and other provisions of this title, if the activity has been—

(1) subject to environmental review and approval, as required under applicable Federal and State law; and

(2) approved and certified by the relevant Federal agency, following consultation and coordination with the Governor, to be consistent with the Record of Decision.

(c) AUTHORIZATIONS FOR FEDERAL AGENCIES UNDER APPLICABLE LAW.—

(1) SECRETARY OF THE INTERIOR.—The Secretary of the Interior is authorized to carry out the activities described in paragraphs (1) through (10) of subsection (d), to the extent authorized under the reclamation laws, the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575; 106 Stat. 4706), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law.

(2) ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the Environmental Protection Agency is authorized to carry out the activities described in paragraphs (3), (5), (6), (7), (8), and (9) of subsection