

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3210

To amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 1998

Mr. COBLE introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Copyright Compulsory  
5 License Improvement Act”.

1 **SEC. 2. SECONDARY TRANSMISSIONS BY SATELLITE CAR-**  
2 **RIERS.**

3 Section 119 of title 17, United States Code, is  
4 amended—

5 (1) by amending the section heading to read as  
6 follows:

7 **“§ 119. Limitations on exclusive rights: Secondary**  
8 **transmissions by satellite carriers”;**

9 and

10 (2) by striking subsection (a) and inserting the  
11 following:

12 **“(a) SECONDARY TRANSMISSIONS BY SATELLITE**  
13 **CARRIERS FOR PRIVATE HOME VIEWING.—**

14 **“(1) SECONDARY TRANSMISSIONS OF DISTANT**  
15 **AND LOCAL BROADCAST SIGNALS SUBJECT TO STAT-**  
16 **UTORY LICENSING.—**Subject to the provisions of  
17 subsections (b) and (c) of this section and section  
18 114(d), a secondary transmission of a primary  
19 transmission made by a television broadcast station  
20 licensed by the Federal Communications Commission  
21 or by the Public Broadcasting Service satellite feed  
22 and embodying a performance or display of a work  
23 shall be subject to statutory licensing under this sec-  
24 tion if—

25 **“(A) the secondary transmission is permis-**  
26 **sible under the rules, regulations, and author-**

1           izations of the Federal Communications Com-  
2           mission and is made by a satellite carrier to the  
3           public for private home viewing; and

4                   “(B) the carrier makes a direct or indirect  
5           charge for each retransmission service to each  
6           household receiving the secondary transmission  
7           or to a distributor that has contracted with the  
8           carrier for direct or indirect delivery of the sec-  
9           ondary transmission to the public for private  
10          home viewing.

11           “(2) SUBMISSION OF SUBSCRIBER LISTS TO  
12          TELEVISION BROADCAST STATIONS.—

13                   “(A) INITIAL LISTS.—A satellite carrier  
14           that makes secondary transmissions of a pri-  
15           mary transmission of a television broadcast sta-  
16           tion pursuant to paragraph (1) shall, within 90  
17           days after commencing such secondary trans-  
18           missions, submit to that television broadcast  
19           station—

20                           “(i) a list identifying all subscribers  
21           within the designated market area of that  
22           television broadcast station to whom the  
23           satellite carrier has made such secondary  
24           transmissions; and

1           “(ii) a list of all television broadcast  
2           stations whose primary transmissions have  
3           been transmitted by the satellite carrier to  
4           those subscribers during that 90-day pe-  
5           riod.

6           “(B) SUBSEQUENT LISTS.—After the sub-  
7           mission of the lists under subparagraph (A),  
8           the satellite carrier shall, on the 15th day of  
9           each month, submit to each television broadcast  
10          station—

11           “(i) a list, which shall be dated, that  
12           identifies the name of any subscriber de-  
13           scribed in subparagraph (A) who has been  
14           added or dropped since the last submission  
15           under this paragraph; and

16           “(ii) a list of all television broadcast  
17           stations whose primary transmissions have  
18           been added or dropped by the satellite car-  
19           rier since the last submission under this  
20           paragraph

21           “(C) IDENTIFYING INFORMATION.—(i)  
22           Each list of subscribers under this paragraph  
23           shall include the name of each subscriber, to-  
24           gether with the subscriber’s home address,  
25           which shall include the street address or rural

1 route as the case may be, city, county, State,  
2 and zip code and, if different from the subscrib-  
3 er's home address, the location of the subscrib-  
4 er's satellite receiving dish to which the second-  
5 ary transmissions are made, identified by street  
6 address or rural route as the case may be, city,  
7 county, State, and zip code.

8 “(ii) Each list of television broadcast sta-  
9 tions under this paragraph shall include the  
10 station's call letters and community of license.

11 “(iii) Subscriber information submitted  
12 under this paragraph may be used only for pur-  
13 poses of monitoring compliance by the satellite  
14 carrier with this section.

15 “(iv) The requirements of this paragraph  
16 shall apply to a satellite carrier only if the tele-  
17 vision broadcast station to which the submis-  
18 sions are to be made places on file with the  
19 Register of Copyrights a document identifying  
20 the name and address of the person to whom  
21 such submissions are to be made. The Register  
22 shall maintain for public inspection a file of all  
23 such documents.

24 “(3) PENALTIES FOR NONCOMPLIANCE WITH  
25 ACCOUNTING AND ROYALTY REQUIREMENTS.—Not-

1 withstanding the provisions of paragraph (1), the  
2 willful or repeated secondary transmission to the  
3 public by a satellite carrier of a primary trans-  
4 mission made by a television broadcast station li-  
5 censed by the Federal Communications Commission  
6 or by the Public Broadcasting Service satellite feed  
7 and embodying a performance or display of a work  
8 is actionable as an act of infringement under section  
9 501, and is fully subject to the remedies provided by  
10 sections 502 through 506 and 509, if the satellite  
11 carrier has not deposited the statement of account  
12 and royalties fees required by subsection (b), or has  
13 failed to make the submissions to networks required  
14 by paragraph (2).

15 “(4) PENALTIES FOR WILLFUL ALTERATIONS  
16 OF PROGRAMMING.—Notwithstanding the provisions  
17 of paragraph (1), the secondary transmission to the  
18 public by a satellite carrier of a primary trans-  
19 mission made by a television broadcast station li-  
20 censed by the Federal Communications Commission  
21 or by the Public Broadcasting Service satellite feed  
22 and embodying a performance or display of a work  
23 is actionable as an act of infringement under section  
24 501, and is fully subject to the remedies provided by  
25 section 502 through 506 and sections 509 and 510,

1 if the content of the particular program in which the  
2 performance or display is embodied, or any commer-  
3 cial advertising or station announcement transmitted  
4 by the primary transmitter during, or immediately  
5 before or after, the transmission of such program, is  
6 in any way willfully altered by the satellite carrier  
7 through changes, deletions, or additions, or is com-  
8 bined with programming from any other broadcast  
9 signal.

10 “(5) PENALTIES FOR DISCRIMINATION AGAINST  
11 DISTRIBUTOR.—Notwithstanding the provisions of  
12 paragraph (1), the willful or repeated secondary  
13 transmission to the public by a satellite carrier of a  
14 primary transmission made by a television broadcast  
15 station licensed by the Federal Communications  
16 Commission or by the Public Broadcasting Service  
17 satellite feed and embodying the performance or dis-  
18 play of a work is actionable as an act of infringe-  
19 ment under section 501, and is fully subject to the  
20 remedies provided by sections 502 through 506 and  
21 509, if the satellite carrier unlawfully discriminates  
22 against a distributor.

23 “(6) LICENSE LIMITED TO SECONDARY TRANS-  
24 MISSIONS TO HOUSEHOLDS IN THE UNITED  
25 STATES.—The statutory license created by this sec-

1       tion shall apply only to secondary transmissions to  
2       households located in the United States.”.

3 **SEC. 3. STATUTORY LICENSE FOR SATELLITE CARRIERS.**

4       Section 119 of title 17, United States Code, is  
5 amended by striking subsection (b) and inserting the fol-  
6 lowing:

7       “(b) STATUTORY LICENSE FOR SECONDARY TRANS-  
8 MISSIONS FOR PRIVATE HOME VIEWING.—

9               “(1) DEPOSIT OF ACCOUNTS AND FEES WITH  
10 REGISTER OF COPYRIGHTS.—A satellite carrier  
11 whose secondary transmissions are subject to statu-  
12 tory licensing under subsection (a) shall, on a semi-  
13 annual basis, deposit with the Register of Copy-  
14 rights, in accordance with requirements that the  
15 Register shall prescribe by regulation—

16               “(A) a statement of account, covering the  
17 preceding 6-month period, specifying the names  
18 and locations of all television broadcast stations  
19 whose signals were retransmitted, and listing  
20 the Public Broadcasting Service satellite feed, if  
21 carried, at any time during that period, to sub-  
22 scribers for private home viewing, the total  
23 number of subscribers that received such re-  
24 transmissions, and other such data as the Reg-



1           ister of Copyrights may from time to time pre-  
2           scribe by regulation; and

3           “(B) a royalty fee for that 6-month period  
4           for each television broadcast station whose pri-  
5           mary transmission was retransmitted beyond  
6           the local market of the station, and for the  
7           Public Broadcasting Service satellite feed, if  
8           carried, computed by multiplying the total num-  
9           ber of subscribers receiving the secondary  
10          transmission, and the number of subscribers re-  
11          ceiving a secondary transmission of the Public  
12          Broadcasting Service satellite feed, during each  
13          calendar month by the rate in effect for tele-  
14          vision broadcast stations on the day before the  
15          effective date of the Copyright Compulsory Li-  
16          cense Improvement Act.

17          “(2) INVESTMENT OF FEES.—The Register of  
18          Copyrights shall receive all fees deposited under this  
19          section and, after deducting the reasonable costs in-  
20          curred by the Copyright Office under this section  
21          (other than the costs deducted under paragraph  
22          (4)), shall deposit the balance in the Treasury of the  
23          United States, in such manner as the Secretary of  
24          the Treasury directs. All funds held by the Secretary  
25          of the Treasury shall be invested in interest-bearing

1 securities of the United States for later distribution  
2 with interest by the Copyright Royalty Adjudication  
3 Board as provided in this title. The Register may,  
4 four or more years after the close of any calendar  
5 year, close out the account for royalty payments  
6 made under this section for that calendar year (in-  
7 cluding payments made under this section as in ef-  
8 fect before the effective date of the Copyright Com-  
9 pulsory License Improvement Act), and may treat  
10 any funds remaining in such account and any subse-  
11 quent deposits that would otherwise be attributable  
12 to that calendar year as attributable to the calendar  
13 year in which the account is closed.

14 “(3) PERSONS TO WHOM FEES ARE DISTRIB-  
15 UTED.—The royalty fees deposited under paragraph  
16 (2) shall, in accordance with the procedures provided  
17 in paragraph (4), be distributed to those copyright  
18 owners whose works were included in a secondary  
19 transmission for private home viewing made by a  
20 satellite carrier during the applicable 6-month ac-  
21 counting period and who file a claim with the Li-  
22 brarian of Congress under paragraph (4).

23 “(4) PROCEDURES FOR DISTRIBUTION.—The  
24 royalty fees deposited under paragraph (2) shall be

1 distributed in accordance with the following proce-  
2 dures:

3 “(A) FILING OF CLAIMS FOR FEES.—Dur-  
4 ing the month of July in each year, each person  
5 claiming to be entitled to statutory license fees  
6 for secondary transmissions for private home  
7 viewing shall file a claim with the Copyright  
8 Royalty Adjudication Board, in accordance with  
9 requirements that the Board shall prescribe by  
10 regulation. For purposes of this paragraph, any  
11 claimants may agree among themselves as to  
12 the proportionate division of statutory license  
13 fees among them, may lump their claims to-  
14 gether and file them jointly or as a single claim,  
15 or may designate a common agent to receive  
16 payment on their behalf.

17 “(B) DETERMINATION OF CONTROVERSY;  
18 DISTRIBUTIONS.—After the first day of August  
19 of each year, the Copyright Royalty Adjudica-  
20 tion Board shall determine whether there exists  
21 a controversy concerning the distribution of roy-  
22 alty fees. If the Board determines that no such  
23 controversy exists, the Board shall, after de-  
24 ducting reasonable administrative costs under  
25 this paragraph, distribute such fees to the copy-

1 right owners entitled to receive them, or to their  
2 designated agents. If the Board finds the exist-  
3 ence of a controversy, the Board shall, pursuant  
4 to chapter 8 of this title, conduct a proceeding  
5 to determine the distribution of royalty fees.

6 “(C) WITHHOLDING OF FEES DURING  
7 CONTROVERSY.—During the pendency of any  
8 proceeding under this subsection, the Copyright  
9 Royalty Adjudication Board shall withhold from  
10 distribution an amount sufficient to satisfy all  
11 claims with respect to which a controversy ex-  
12 ists, but shall have discretion to proceed to dis-  
13 tribute any amounts that are not in con-  
14 troversy.”.

15 **SEC. 4. DEFINITIONS.**

16 Section 119 of title 17, United States Code, is  
17 amended by striking subsection (d) and inserting the fol-  
18 lowing:

19 “(d) DEFINITIONS.—As used in this section—

20 “(1) DESIGNATED MARKET AREA.—The term  
21 ‘designated market area’ has the meaning given that  
22 term in section 337(g) of the Communications Act  
23 of 1934.

24 “(2) DISTRIBUTOR.—The term ‘distributor’  
25 means an entity which contracts to distribute sec-

1       ondary transmissions from a satellite carrier and, ei-  
2       ther as a single channel or in a package with other  
3       programming, provides the secondary transmission  
4       either directly to individual subscribers for private  
5       home viewing or indirectly through other program  
6       distribution entities.

7               “(3) LOCAL MARKET.—The ‘local market’ for a  
8       television broadcast station has the meaning given  
9       that term in section 337(g) of the Communications  
10      Act of 1934.

11              “(4) PRIMARY TRANSMISSION.—The term ‘pri-  
12      mary transmission’ has the meaning given that term  
13      in section 111(f) of this title.

14              “(5) PRIVATE HOME VIEWING.—The term ‘pri-  
15      vate home viewing’ means the viewing, for private  
16      use in a household by means of satellite reception  
17      equipment which is operated by an individual in that  
18      household and which serves only such household, of  
19      a secondary transmission delivered by a satellite car-  
20      rier of a primary transmission of a television station  
21      licensed by the Federal Communications Commission  
22      or of the Public Broadcasting Service satellite feed.

23              “(6) PUBLIC BROADCASTING SERVICE SAT-  
24      ELLITE FEED.—The term ‘Public Broadcasting  
25      Service satellite feed’ means the national satellite

1 feed distributed by the Public Broadcasting Service  
2 (other than the transmissions that may not be  
3 encrypted under section 705(c) of the Communica-  
4 tions Act of 1934), consisting of educational and in-  
5 formational programming intended for private home  
6 viewing, to which the Public Broadcasting Service  
7 has obtained national terrestrial broadcast rights.

8 “(7) SATELLITE CARRIER.—The term ‘satellite  
9 carrier’ means an entity that uses the facilities of a  
10 satellite or satellite service licensed by the Federal  
11 Communications Commission, and operates in the  
12 Fixed-Satellite Service under part 25 of title 47,  
13 Code of Federal Regulations (as in effect on Feb-  
14 ruary 1, 1998), or the Direct Broadcast Satellite  
15 Service under part 100 of title 47, Code of Federal  
16 Regulations (as in effect on February 1, 1998), to  
17 establish and operate a channel of communications  
18 for point-to-multipoint distribution of television sta-  
19 tion signals, and that owns or leases a capacity or  
20 service on a satellite in order to provide such point-  
21 to-multipoint distribution, except to the extent that  
22 such entity provides such distribution pursuant to  
23 tariff under the Communications Act of 1934, other  
24 than for private home viewing.

1           “(8) SECONDARY TRANSMISSION.—The term  
2           ‘secondary transmission’ means the further trans-  
3           mitting of a primary transmission simultaneously  
4           with the primary transmission.

5           “(9) SUBSCRIBER.—The term ‘subscriber’  
6           means an individual who receives a secondary trans-  
7           mission service for private home viewing by means  
8           of a secondary transmission from a satellite carrier  
9           and pays a fee for the service, directly or indirectly,  
10          to the satellite carrier or to a distributor.

11          “(10) TELEVISION BROADCAST STATION.—The  
12          term ‘television broadcast station’ means an over-  
13          the-air, commercial or noncommercial television  
14          broadcast station licensed by the Federal Commu-  
15          nications Commission under subpart E of part 73 of  
16          title 47, Code of Federal Regulations.”.

17 **SEC. 5. EXCLUSIVITY OF SECTION 119 OF TITLE 17, UNITED**  
18 **STATES CODE.**

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

21          “(e) EXCLUSIVITY FOR THIS SECTION WITH RE-  
22          SPECT TO SECONDARY TRANSMISSIONS OF TELEVISION  
23          STATIONS BY SATELLITE TO MEMBERS OF THE PUB-  
24          LIC.—No provision of section 111 of this title or any other  
25          law (other than this section) shall be construed to contain

1 any authorization, exemption, or license through which  
 2 secondary transmissions by satellite carriers for private  
 3 home viewing of programming contained in a primary  
 4 transmission may be made without obtaining the consent  
 5 of the copyright owner.”.

6 **SEC. 6. CONFORMING AMENDMENT.**

7 The table of contents for chapter 1 of title 17, United  
 8 States Code, is amended by striking the item relating to  
 9 section 119 and inserting the following:

“119. Limitations on exclusive rights: Secondary transmissions by satellite car-  
 riers.”.

10 **SEC. 7. COPYRIGHT ROYALTY ADJUDICATION BOARD.**

11 (a) ESTABLISHMENT AND FUNCTIONS.—Chapter 8  
 12 of title 17, United States Code, is amended to read as  
 13 follows:

14 **“CHAPTER 8—COPYRIGHT ROYALTY**  
 15 **ADJUDICATION BOARD**

“Sec.

“801. Copyright Royalty Adjudication Board: establishment.

“802. Membership and qualifications of the Board.

“803. Selection of administrative copyright judges.

“804. Independence of the Board.

“805. Removal and sanction of administrative copyright judges.

“806. Functions.

“807. Factors for determining royalty fees.

“808. Institution of proceedings.

“809. Conduct of proceedings.

“810. Judicial review.

“811. Administrative matters.



1 **“§ 801. Copyright Royalty Adjudication Board: estab-**  
2 **lishment**

3 “There is hereby established within the Copyright Of-  
4 fice the Copyright Royalty Adjudication Board (herein-  
5 after referred to in this chapter as the ‘Board’).

6 **“§ 802. Membership and qualifications of the Board**

7 “(a) MEMBERSHIP.—The Board shall consist of one  
8 full-time chief administrative copyright judge, and such  
9 part-time administrative copyright judges as the Librarian  
10 of Congress, upon the recommendation of the Register of  
11 Copyrights, finds necessary to conduct the business of the  
12 Board in a timely manner. At no time shall the number  
13 of authorized administrative copyright judges be less than  
14 three or more than five.

15 “(b) QUALIFICATIONS.—

16 “(1) CHIEF ADMINISTRATIVE COPYRIGHT  
17 JUDGE.—The chief administrative copyright judge  
18 shall be an attorney with 10 or more years of legal  
19 practice with demonstrated experience in administra-  
20 tive hearings or court trials and demonstrated  
21 knowledge of copyright law.

22 “(2) OTHER ADMINISTRATIVE COPYRIGHT  
23 JUDGES.—Each administrative copyright judge,  
24 other than the chief administrative copyright judge,  
25 shall be an individual with expertise in the business

1 and economics of industries affected by the actions  
2 taken by the Board to carry out its functions.

3 “(c) TERMS.—(1) The term of each administrative  
4 copyright judge (including the chief administrative copy-  
5 right judge) shall be 5 years, except that, of the first ad-  
6 ministrative copyright judges appointed, the Librarian of  
7 Congress, upon the recommendation of the Register of  
8 Copyrights, shall appoint all but one of them to lesser  
9 terms to establish a staggering of terms such that in any  
10 calendar year no more than one term is due to expire.

11 “(2) The term of each administrative copyright judge  
12 (including the chief administrative copyright judge) shall  
13 begin when the term of the predecessor of that member  
14 ends. An individual appointed to fill the vacancy occurring  
15 before the expiration of the term for which the predecessor  
16 of that individual was appointed shall be appointed for the  
17 remainder of that term. When the term of office of a mem-  
18 ber ends, the member may continue to serve until a succes-  
19 sor is selected.

20 “(d) COMPENSATION.—The compensation of the ad-  
21 ministrative copyright judges shall be governed solely by  
22 the provisions of section 5376 of title 5 and such regula-  
23 tions as the Librarian of Congress may adopt that are not  
24 inconsistent with that section. The compensation of the  
25 administrative copyright judges shall not be subject to any

1 regulations adopted by the Office of Personnel Manage-  
2 ment pursuant to its authority under section 5376(b)(1)  
3 of title 5.

4 **“§ 803. Selection of administrative copyright judges**

5       “(a) SELECTION.—(1) The Librarian of Congress,  
6 upon the recommendation of the Register of Copyrights,  
7 shall select the administrative copyright judges (including  
8 the chief administrative copyright judge) among individ-  
9 uals found qualified under section 802(b) and free of any  
10 financial conflict of interest under section 805(a).

11       “(2) Administrative copyright judges previously se-  
12 lected by the Librarian of Congress may be selected to  
13 serve additional terms. There shall be no limit on the num-  
14 ber of terms any individual may serve.

15       “(b) EFFECT OF VACANCY.—If any vacancy should  
16 occur among the administrative copyright judges, the Li-  
17 brarian of Congress shall act expeditiously to fill the va-  
18 cancy, but in no event shall a vacancy in the Board impair  
19 the right of the remaining administrative copyright judges  
20 to exercise all of the powers of the Board.

21 **“§ 804. Independence of the Board**

22       “(a) IN GENERAL.—The Board shall have independ-  
23 ence in reaching its determinations concerning the adjust-  
24 ment of copyright royalty rates, the distribution of copy-  
25 right royalties, the acceptance or rejection of royalty

1 claims and rate adjustment petitions, and such rulemaking  
2 functions as are delegated to it under this title.

3 “(b) PERFORMANCE APPRAISALS.—Notwithstanding  
4 any other provision of law or any regulation of the Library  
5 of Congress, no administrative copyright judge shall re-  
6 ceive an annual performance appraisal. To the extent that  
7 such removal or sanction regulations as the Librarian of  
8 Congress may adopt pursuant to section 805 requires doc-  
9 umentation to establish the cause of such removal or sanc-  
10 tion, the administrative copyright judge may receive an  
11 appraisal related specifically to the cause of the removal  
12 or sanction.

13 “(c) INCONSISTENT DUTIES BARRED.—No adminis-  
14 trative copyright judge may be assigned duties inconsis-  
15 tent with his or her duties and responsibilities as a admin-  
16 istrative copyright judge.

17 **“§ 805. Removal and sanction of administrative copy-**  
18 **right judges**

19 “(a) STANDARDS OF CONDUCT.—The Librarian of  
20 Congress, upon the recommendation of the Register of  
21 Copyrights, shall adopt regulations regarding the stand-  
22 ards of conduct, including financial conflict of interest and  
23 restrictions against ex parte communications, which shall  
24 govern the administrative copyright judges and the pro-  
25 ceedings under this chapter.

1       “(b) REMOVAL OR SANCTION.—The Librarian of  
2 Congress, upon the recommendation of the Register of  
3 Copyrights, may remove or sanction an administrative  
4 copyright judge for violation of the standards of conduct  
5 adopted under subsection (a), misconduct, neglect of duty,  
6 or any disqualifying physical or mental disability. Any  
7 such removal or sanction may be made only after notice  
8 and opportunity for hearing, but the Librarian of Con-  
9 gress, upon the recommendation of the Register of Copy-  
10 rights, may suspend the administrative copyright judge  
11 during the pendency of such hearing.

12 **“§ 806. Functions**

13       “Subject to the provisions of this chapter, the func-  
14 tions of the Board shall be—

15               “(1) to make determinations concerning the ad-  
16 justment of reasonable copyright royalty rates for—

17                       “(A) secondary transmissions to the public  
18 by a cable system of a primary transmission as  
19 provided in section 111;

20                       “(B) the making and distributing of  
21 phonorecords by means other than digital pho-  
22 norecord delivery, as provided in section 115;

23                       “(C) secondary transmissions to the public  
24 by a satellite carrier of a primary transmission  
25 as provided in section 119; and

1           “(D) each digital audio recording device  
2           imported into and distributed in the United  
3           States or manufactured and distributed into the  
4           United States as provided in section 1004; and  
5           “(2) to make determinations as to reasonable  
6           rates and terms of royalty payments for—

7           “(A) the public performance of a sound re-  
8           cording by means of a digital audio trans-  
9           mission as provided in section 114;

10           “(B) the making and distribution of  
11           phonorecords by means of a digital phonorecord  
12           delivery as provided in section 115;

13           “(C) the public performance of nondra-  
14           matic musical works by means of coin-operated  
15           phonorecord players as provided in section 116;

16           “(D) the use of nondramatic musical works  
17           and pictorial, graphic, and sculptural works by  
18           public broadcasting entities as provided in sec-  
19           tion 118; and

20           “(E) secondary transmissions to the public  
21           by a satellite carrier of a primary transmission  
22           of a public telecommunications signal as pro-  
23           vided in section 119;

24           “(3) to accept or reject royalty claims filed  
25           under sections 111, 119, and 1007, on the basis of

1 timeliness or the failure to establish the basis for a  
2 claim;

3 “(4) to determine, in cases where controversy  
4 exists, the distribution of royalty fees deposited with  
5 the Register of Copyrights under sections 111, 119,  
6 and 1003;

7 “(5) to determine the status of a digital audio  
8 recording device or a digital audio interface device  
9 under sections 1002 and 1003, as provided in sec-  
10 tion 1010; and

11 “(6) to engage in such rulemaking as is ex-  
12 pressly provided in sections 111, 114, 115, 118, and  
13 119.

14 **“§ 807. Factors for determining royalty fees**

15 “(a) FOR CABLE RATES.—The rates applicable  
16 under section 111 shall be calculated solely in accordance  
17 with the following provisions:

18 “(1) The rates established by section  
19 111(d)(1)(B) may be adjusted to reflect—

20 “(A) national monetary inflation or defla-  
21 tion, or

22 “(B) changes in the average rates charged  
23 cable subscribers for the basic service of provid-  
24 ing secondary transmissions to maintain the  
25 real constant dollar level of the royalty fee per

1 subscriber which existed as of October 19,  
2 1976, except that—

3 “(i) if the average rates charged cable  
4 system subscribers for the basic service of  
5 providing secondary transmissions are  
6 changed so that the average rates exceed  
7 national monetary inflation, no change in  
8 the rates established by section  
9 111(d)(1)(B) shall be permitted; and

10 “(ii) no increase in the royalty fee  
11 shall be permitted based on any reduction  
12 in the average number of distant signal  
13 equivalents per subscriber.

14 The Board may consider all factors relating to the  
15 maintenance of such level of payments including, as  
16 an extenuating factor, whether the cable industry  
17 has been restrained by subscriber rate regulating au-  
18 thorities from increasing the rates for the basic serv-  
19 ice of providing secondary transmissions.

20 “(2) In the event that the rules and regulations  
21 of the Federal Communications Commission are  
22 amended at any time after April 15, 1976, to permit  
23 the carriage by cable systems of additional television  
24 broadcasting signals beyond the local service area of  
25 the primary transmitters of such signals, the royalty



1 rates established by section 111(d)(1)(B) may be ad-  
2 justed to insure that the rates for the additional dis-  
3 tant signal equivalents resulting from such carriage  
4 are reasonable in light of the changes effected by the  
5 amendment to such rules and regulations. In deter-  
6 mining the reasonableness of rates proposed follow-  
7 ing an amendment of Federal Communications Com-  
8 mission rules and regulations, the Board shall con-  
9 sider, among other factors, the economic impact on  
10 copyright owners and users, except that no adjust-  
11 ment in royalty rates shall be made under this para-  
12 graph with respect to any distant signal equivalent  
13 or fraction thereof represented by—

14 “(A) carriage of any signal permitted  
15 under the rules and regulations of the Federal  
16 Communications Commission in effect on April  
17 15, 1976, or the carriage of a signal of the  
18 same type (that is, independent, network, or  
19 noncommercial educational) substituted for  
20 such permitted signal, or

21 “(B) a television broadcast signal first car-  
22 ried after April 15, 1976, pursuant to an indi-  
23 vidual waiver of the rules and regulations of the  
24 Federal Communications Commission, as such

1 rules and regulations were in effect on April 15,  
2 1976.

3 “(3) In the event of any change in the rules  
4 and regulations of the Federal Communications  
5 Commission with respect to syndicated and sport  
6 program exclusivity after April 15, 1976, the rates  
7 established by section 111(d)(1)(B) may be adjusted  
8 to assure that such rates are reasonable in light of  
9 the changes to such rules and regulations, but any  
10 such adjustment shall apply only to the affected tele-  
11 vision broadcast signals carried on those systems af-  
12 fected by the change.

13 “(4) The gross receipts limitations established  
14 by section 111(d)(1) (C) and (D) shall be adjusted  
15 to reflect national monetary inflation or deflation or  
16 changes in the average rates charged cable system  
17 subscribers for the basic service of providing second-  
18 ary transmissions to maintain the real constant dol-  
19 lar value of the exemption provided by such section,  
20 and the royalty rate specified therein shall not be  
21 subject to adjustment.

22 “(b) FOR RATES OTHER THAN CABLE OR SAT-  
23 ELLITE CARRIERS.—The rates applicable under sections  
24 114, 115, 116, and 118 shall be calculated to achieve the  
25 following objectives:

1           “(1) To maximize the availability of creative  
2 works to the public.

3           “(2) To afford the copyright owner a fair re-  
4 turn for his or her creative work and the copyright  
5 user a fair income under existing economic condi-  
6 tions.

7           “(3) To reflect the relative roles of the copy-  
8 right owner and the copyright user in the product  
9 made available to the public with respect to relative  
10 creative contribution, technological contribution, cap-  
11 ital investment, cost, risk, and contribution to the  
12 opening of new markets for creative expression and  
13 media for their communications.

14           “(4) To minimize any disruptive impact on the  
15 structure of the industries involved and on generally  
16 prevailing industry practices.

17           “(c) FOR RATES FOR NONCOMMERCIAL BROADCAST-  
18 ING.—The rates applicable under section 118 shall be cal-  
19 culated to achieve reasonable rates. In determining rea-  
20 sonable rates, the Board shall base its decision so as to—

21           “(1) assure a fair return to copyright owners;

22           “(2) encourage the growth and development of  
23 public broadcasting; and

24           “(3) encourage musical and artistic creation.

1       “(d) RATES FOR SATELLITE CARRIERS.—The rates  
2 applicable under section 119 shall be calculated to rep-  
3 resent most clearly the fair market value of secondary  
4 transmissions. In determining the fair market value, the  
5 Board shall base its decision on economic, competitive,  
6 and programming information presented by the parties,  
7 including—

8               “(1) the competitive environment in which such  
9 programming is distributed, the cost for similar sig-  
10 nals in similar private and compulsory license mar-  
11 ketplaces, and any special features and conditions of  
12 the retransmission marketplace;

13               “(2) the economic impact of such fees on copy-  
14 right owners and satellite carriers; and

15               “(3) the impact on the continued availability of  
16 secondary transmissions to the public.

17 **“§ 808. Institution of proceedings**

18       “(a) PETITION REQUIRED TO INSTITUTE PROCEED-  
19 INGS.—With respect to proceedings concerning the adjust-  
20 ment of royalty rates as provided in sections 111, 114,  
21 115, 116, and 119, during the calendar years or under  
22 the circumstances specified in the schedule set forth in  
23 subsection (c), any owner or user of a copyrighted work  
24 whose royalty rates are to be established or adjusted by  
25 the Board may file a petition with the Board declaring

1 that the petitioner requests an adjustment of the rate. The  
2 Board shall make a determination as to whether the peti-  
3 tioner has a significant interest in the royalty rate in  
4 which an adjustment is requested. If the Board determines  
5 that the petitioner has a significant interest, the Board  
6 shall cause notice of this determination, with the reasons  
7 therefor, to be published in the Federal Register, together  
8 with the notice of commencement of proceedings under  
9 this chapter. With respect to proceedings concerning the  
10 adjustment of royalty rates under section 1004, any inter-  
11 ested copyright party may petition the Board as provided  
12 in that section.

13       “(b) PETITION NOT REQUIRED TO INSTITUTE PRO-  
14 CEEDINGS.—With respect to proceedings concerning the  
15 adjustment of royalty rates as provided in section 118 and  
16 the distribution of royalties as provided in section 111,  
17 119, and 1007, no petition is required to institute proceed-  
18 ings. All proceedings concerning the adjustment of rates  
19 under section 118 shall commence as provided in section  
20 118(c) of this title. All proceedings concerning the dis-  
21 tribution of royalties under section 111, 119, or 1007 shall  
22 commence as provided in such sections and in subsection  
23 (c)(8) of this section.

24       “(c) SCHEDULE OF PROCEEDINGS.—

1           “(1) SECTION 111 PROCEEDINGS.—In proceed-  
2           ings concerning the adjustment of royalty rates as  
3           provided in section 111, a petition described in sub-  
4           section (a) may be filed during the year 2000 and  
5           in each subsequent fifth calendar year, except that  
6           in the event that the rules and regulations of the  
7           Federal Communications Commission are amended  
8           with respect to distant signal importation, or to syn-  
9           dicated and sports program exclusivity, any owner or  
10          user of a copyrighted work subject to the royalty  
11          rates established or adjusted pursuant to section  
12          111 may, within 12 months after such amendments  
13          take effect, file a petition with the Board to institute  
14          proceedings to insure that the rates are reasonable  
15          in light of the changes to such rules and regulations.  
16          Any such adjustments shall apply only to the af-  
17          fected television broadcast signals carried on those  
18          systems affected by the change. Any change in roy-  
19          alty rates made pursuant to this subsection may be  
20          reconsidered in the year 2000, and each fifth cal-  
21          endar year thereafter, as the case may be.

22          “(2) SECTION 114 PROCEEDINGS.—In proceed-  
23          ings concerning the adjustment of royalty rates and  
24          terms as provided in section 114, the Board shall  
25          proceed when and as provided by that section.

1           “(3) SECTION 115 PROCEEDINGS.—In proceed-  
2           ings concerning the adjustment of royalty rates and  
3           terms as provided in section 115, a petition de-  
4           scribed in subsection (a) may be filed in the year  
5           2007 and in each subsequent tenth calendar year or  
6           as prescribed in section 115(c)(3).

7           “(4) SECTION 116 PROCEEDINGS.—(A) In pro-  
8           ceedings concerning the adjustment of royalty rates  
9           as provided in section 116, a petition described in  
10          subsection (a) may be filed at any time within 1  
11          year after negotiated licenses authorized by section  
12          116 are terminated or expire or are not replaced by  
13          subsequent agreements.

14          “(B) If a negotiated license authorized by sec-  
15          tion 116 is terminated or expires and is not replaced  
16          by another such license agreement which provides  
17          permission to use a quantity of musical works not  
18          substantially smaller than the quantity of such  
19          works performed on coin-operated phonorecord play-  
20          ers during the 1-year period ending March 1, 1989,  
21          the Board, upon petition filed under subsection (a)  
22          within 1 year after such termination or expiration,  
23          shall promptly establish an interim royalty rate or  
24          rates for the public performance by means of a coin-  
25          operated phonorecord player of nondramatic musical

1 works embodied in phonorecords which had been  
2 subject to the terminated or expired negotiated li-  
3 cense agreement. Such rate or rates shall be the  
4 same as the last such rate or rates and shall remain  
5 in force until the conclusion of the proceedings to  
6 adjust the royalty rates applicable to such works, or  
7 until superseded by a new negotiated license agree-  
8 ment, as provided in section 116(b).

9 “(5) SECTION 118 PROCEEDINGS.—In proceed-  
10 ings concerning the adjustment of royalty rates and  
11 terms as provided in section 118, the Board shall  
12 proceed when and as provided by that section.

13 “(6) SECTION 119 PROCEEDINGS.—In proceed-  
14 ings concerning the adjustment of royalty rates gov-  
15 erning secondary transmissions of as provided in  
16 section 119, a petition described in subsection (a)  
17 may be filed during the year 2001 and in each sub-  
18 sequent fifth calendar year.

19 “(7) PROCEEDINGS CONCERNING DISTRIBUTION  
20 OF ROYALTY FEES.—In proceedings concerning the  
21 distribution of royalty fees under section 111, 119,  
22 or 1007, the Board shall, upon a determination that  
23 a controversy exists concerning such distribution,  
24 cause to be published in the Federal Register notice  
25 of commencement of proceedings under this chapter.



1 **“§ 809. Conduct of proceedings**

2 “(a) BOARD PROCEEDINGS.—The Board shall, for  
3 the purposes of making its determinations in carrying out  
4 the functions set forth in section 806, conduct proceedings  
5 subject to subchapter II of chapter 5 of title 5.

6 “(b) PROCEDURES.—The Librarian of Congress,  
7 upon the recommendation of the Register of Copyrights,  
8 and in consultation with the Board, shall adopt regula-  
9 tions to govern the conduct of the proceedings of the  
10 Board. The regulations shall include, but not be limited  
11 to, provisions for—

12 “(1) public access to and inspection of the  
13 records of the Board pursuant to section 706;

14 “(2) the right of the public to attend the pro-  
15 ceedings of the Board;

16 “(3) the procedures to apply when formal hear-  
17 ings are conducted; and

18 “(4) the procedures to apply and the basis upon  
19 which distribution or royalty controversies may be  
20 decided on the basis of written pleadings.

21 “(c) PARTICIPATION OF COPYRIGHT OFFICE.—Not-  
22 withstanding any regulations adopted under subsection  
23 (b)(3), during the conduct of proceedings, the Register of  
24 Copyrights may file formally with the Board the position  
25 of the Copyright Office on any matter before the Board.  
26 Such filings shall be served on all parties to the proceed-

1 ing. The Board may accept or reject the position of the  
2 Copyright Office.

3 “(d) MAJORITY RULE.—The Board shall act in all  
4 procedural and substantive matters on the basis of major-  
5 ity rule.

6 “(e) NUMBER OF PRESIDING JUDGES.—The Board  
7 shall decide, in its discretion, whether 1 or 3 administra-  
8 tive copyright judges shall preside in a royalty distribution  
9 or rate adjustment proceeding. In no event shall the num-  
10 ber of presiding administrative copyright judges be more  
11 than 3.

12 “(f) PARTICIPATION OF PARTIES.—Any copyright  
13 owner who has filed an acceptable claim claiming entitle-  
14 ment to the distribution of royalties, or any copyright  
15 owner or user who would be affected by a royalty rate to  
16 be established or adjusted by the Board, may submit rel-  
17 evant information and proposals to the Board in proceed-  
18 ings applicable to the interest of the copyright owner or  
19 user.

20 “(g) TIME LIMITS FOR INITIAL DECISION.—Proceed-  
21 ings under section 118 operate under the time limits es-  
22 tablished in that section. For all other proceedings, if 1  
23 administrative copyright judge is presiding in a proceed-  
24 ing, the Board shall issue its initial decision to the parties  
25 to the proceeding and the Register of Copyrights within

1 6 months after the declaration of a controversy in the pro-  
2 ceeding. If more than 1 administrative copyright judge is  
3 presiding in a proceeding, the Board shall issue its initial  
4 decision to the parties to the proceeding and the Register  
5 of Copyrights within 1 year after the declaration of a con-  
6 troversy in the proceeding.

7       “(h) REQUIREMENTS FOR INITIAL DECISIONS.—The  
8 initial decision under subsection (g) shall include a state-  
9 ment of findings and conclusions and the reasons or basis  
10 therefor, on all the material issues of fact, law, or discre-  
11 tion presented on the record. The initial decision shall take  
12 into account prior decisions of the Copyright Royalty Tri-  
13 bunal, prior decisions of copyright arbitration royalty pan-  
14 els, and the procedural and evidentiary rulings the Librar-  
15 ian of Congress made that were applicable to the proceed-  
16 ings of the copyright arbitration royalty panels. Notwith-  
17 standing any provision of section 603 or 604 of title 5,  
18 neither the initial decision nor the final decision is re-  
19 quired to include a regulatory flexibility analysis.

20       “(i) PETITIONS FOR RECONSIDERATION AND FINAL  
21 AGENCY ACTION.—Any party to the proceeding concerned  
22 or the Register of Copyrights may petition the Board to  
23 reconsider its initial decision in the proceeding. If there  
24 are no petitions for reconsideration, the initial decision be-  
25 comes the final decision of the Board without further pro-

1 ceedings. If there are petitions for reconsideration, the  
2 Board shall issue a final decision to the parties to the pro-  
3 ceeding and the Register of Copyrights which shall con-  
4 stitute final agency action. The time period by which par-  
5 ties to the proceeding or the Register of Copyrights may  
6 file a petition for reconsideration and the time period by  
7 which the Board shall render its final decision shall be  
8 established by regulation by the Board, subject to the ap-  
9 proval of the Register of Copyrights.

10 **“§ 810. Judicial review**

11       “(a) APPEALS.—Within 1 week after the Board  
12 issues a final decision under section 809, or, if there are  
13 no petitions for reconsideration, within one week after the  
14 time the initial decision of the Board under section 809  
15 becomes the final decision, the Board shall cause to be  
16 published in the Federal Register the decision of the rate  
17 adjustment or the royalty distribution, as the case may  
18 be. Any aggrieved party who would be bound by the final  
19 decision may appeal the decision to the United States  
20 Court of Appeals for the Federal Circuit within 30 days  
21 after the publication of the decision in the Federal Reg-  
22 ister. In any appeal to which the Board is a party, the  
23 chief administrative copyright judge shall refer the con-  
24 duct of the litigation in defense of the Board’s decision  
25 to the Department of Justice. If no appeal is brought

1 within such 30-day period, the decision of the Board is  
2 final, and the royalty fee or determination with respect  
3 to the distribution of fees, as the case may be, shall take  
4 effect as set forth in the decision. The pendency of an ap-  
5 peal under this paragraph shall not relieve persons obli-  
6 gated to make royalty payments under section 111, 114,  
7 115, 116, 118, 119, or 1003 who would be affected by  
8 the determination on appeal to deposit the statement of  
9 account and royalty fees specified in those sections.

10       “(b) REVIEW SUBJECT TO CHAPTER 7 OF TITLE  
11 5.—The judicial review of the Board’s final decision shall  
12 be had, in accordance with chapter 7 of title 5, on the  
13 basis of the record before the Board.

14       **“§ 811. Administrative matters**

15       “(a) ADMINISTRATIVE SUPPORT.—The Library of  
16 Congress, upon the recommendation of the Register of  
17 Copyrights, shall provide the Board with the necessary ad-  
18 ministrative services and permanent personnel related to  
19 proceedings under this title. The Board may procure tem-  
20 porary and intermittent services to the same extent as is  
21 authorized by sections 3109 and 5376 of title 5.

22       “(b) AUTHORITY TO PUBLISH IN FEDERAL REG-  
23 ISTER.—The actions of the Board which may be published  
24 in the Federal Register by and under the authority of the  
25 Board include—

1           “(1) actions of the Board required to be pub-  
2           lished in the Federal Register under this title;

3           “(2) actions of the Board required to be pub-  
4           lished in the Federal Register under regulations  
5           adopted by the Board upon the approval of the Reg-  
6           ister of Copyrights; and

7           “(3) regulations of the Board required to be  
8           published in the Federal Register to which the  
9           Board has been delegated the exclusive right to  
10          adopt.

11          “(c) DEDUCTION OF COSTS FROM ROYALTY FEES.—  
12          The Register of Copyrights may, to the extent not other-  
13          wise provided under this title, deduct from royalty fees de-  
14          posited or collected under this title the reasonable costs  
15          incurred by the Copyright Office and the Board under this  
16          chapter. Such deduction may be made before the fees are  
17          distributed to any copyright claimants. In addition, all  
18          funds made available by an appropriations Act as offset-  
19          ting collections and available for decisions under this sub-  
20          section shall remain available until expended. In rate-  
21          making proceedings, the reasonable costs of the Copyright  
22          Office and the Board shall be borne by the parties in such  
23          manner and proportion as the Board shall direct.

24          “(d) POSITIONS REQUIRED FOR ADMINISTRATION OF  
25          COMPULSORY LICENSING.—Section 307 of the Legislative

1 Branch Appropriations Act of 1994 shall not apply to the  
 2 members of the Board, employee positions in the Board,  
 3 or employee positions in the Library of Congress that are  
 4 required to be filled in order to carry out section 111, 114,  
 5 115, 116, 118, or 119 or chapter 10.

6 “(e) BUDGET.—In each annual request for appro-  
 7 priations, the Register of Copyrights shall identify the por-  
 8 tion thereof intended for the support of the Board and  
 9 a statement which shall include an assessment of the  
 10 budgetary needs of the Board.

11 “(f) ANNUAL REPORT.—The Board shall prepare an  
 12 annual report of its work and accomplishments during  
 13 each fiscal year, which the Register of Copyrights shall  
 14 include in the annual report required under section  
 15 701(e).”.

16 (b) CONFORMING AMENDMENT.—The item relating  
 17 to chapter 8 in the table of chapters for title 17, United  
 18 States Code, is amended to read as follows:

“8. Copyright Royalty Adjudication Board ..... 801”.

19 **SEC. 8. TRANSITION PROVISIONS.**

20 (a) TRANSITIONAL PROCEDURES.—During the pe-  
 21 riod beginning on the date of the enactment of this Act  
 22 and ending on the effective date of this Act, the Register  
 23 of Copyrights shall adopt regulations to govern proceed-  
 24 ings under chapter 8 of title 17, United States Code, as  
 25 amended by section 7 of this Act. Such regulations shall

1 remain in effect unless and until the Copyright Royalty  
2 Adjudication Board, upon the approval of the Register of  
3 Copyrights, adopts supplemental or superseding regula-  
4 tions pursuant to section 809(b) of title 17, United States  
5 Code.

6 (b) PROCEEDINGS IN PROGRESS.—

7 (1) COPYRIGHT ARBITRATION ROYALTY PANEL  
8 PROCEEDINGS.—Unless the Register of Copyrights,  
9 for good cause, finds otherwise, proceedings in which  
10 a copyright arbitration royalty panel has been con-  
11 vened by the Librarian of Congress under chapter 8  
12 of title 17, United States Code, as in effect before  
13 the effective date of this Act, shall continue in effect  
14 and shall be governed under chapter 8 of such title,  
15 and applicable regulations, as in effect prior to such  
16 effective date. Proceedings in which a copyright arbi-  
17 tration royalty panel has not been convened by the  
18 Librarian of Congress under chapter 8 of title 17,  
19 United States Code, before the effective date of this  
20 Act shall be suspended and recommenced under the  
21 amendments made by section 7.

22 (2) CONTINUED PROCEEDINGS.—For those pro-  
23 ceedings continued under paragraph (1), the func-  
24 tions of the Librarian of Congress and the Register  
25 of Copyrights relating to the report of the copyright



1 arbitration royalty panel under title 17, United  
2 States Code, as in effect before the effective date of  
3 this Act, may, in the Librarian's discretion, upon the  
4 recommendation of the Register of Copyrights, be  
5 delegated to the Copyright Royalty Adjudication  
6 Board, when constituted.

7 (3) APPEALS.—In any appeal of a decision of  
8 the Librarian of Congress adopting or rejecting a  
9 determination of a copyright arbitration royalty  
10 panel which is pending in the United States Court  
11 of Appeals for the District of Columbia Circuit on  
12 or after the effective date of this Act, if such case  
13 is remanded by the court, the Librarian of Congress  
14 shall not reconvene the copyright arbitration royalty  
15 panel which rendered the determination, but shall  
16 direct the Copyright Royalty Adjudication Board,  
17 when constituted, to conduct proceedings in accord-  
18 ance with the directions of the court.

19 (c) EFFECTIVENESS OF EXISTING RATES AND DIS-  
20 TRIBUTIONS.—All royalty rates and all determinations  
21 with respect to the proportionate division of compulsory  
22 license fees among copyright claimants, whether made by  
23 the Copyright Royalty Tribunal, copyright arbitration roy-  
24 alty panels, or by voluntary agreement, before the effective  
25 date of this Act, shall remain in effect until modified by

1 voluntary agreement or pursuant to the amendments  
2 made by this Act.

3 (d) TRANSFER OF APPROPRIATIONS.—All unex-  
4 pended balances of appropriations made by the Copyright  
5 Office for the support of the copyright arbitration royalty  
6 panels, as of the effective date of this Act, are transferred  
7 on such effective date to the support of the Copyright Roy-  
8 alty Arbitration Board for the purposes for which such  
9 appropriations were made.

10 **SEC. 9. AMENDMENTS TO OTHER PROVISIONS OF TITLE 17,**  
11 **UNITED STATES CODE.**

12 (a) SECONDARY TRANSMISSIONS BY CABLE SYS-  
13 TEMS.—Section 111(d) of title 17, United States Code,  
14 is amended—

15 (1) in paragraph (2)—

16 (A) in the last sentence by striking “Li-  
17 brarian of Congress” and all that follows  
18 through the end of the sentence and inserting  
19 the following: “Copyright Royalty Adjudication  
20 Board as provided in this title. The Register of  
21 Copyrights may, 4 or more years after the close  
22 of any calendar year, close out the account for  
23 royalty payments made for that calendar year,  
24 and may treat any funds remaining in such ac-  
25 count and any subsequent deposits that would

1 otherwise be attributable to that calendar year  
2 as attributable to the succeeding calendar  
3 year.”;

4 (2) in paragraph (3)(A), by striking “nonnet-  
5 work”;

6 (3) in paragraph (4)—

7 (A) in subparagraph (A)—

8 (i) by striking “Librarian of Con-  
9 gress” the first place it appears and insert-  
10 ing “Copyright Royalty Adjudication  
11 Board”; and

12 (ii) by striking “Librarian of Con-  
13 gress” the second place it appears and in-  
14 serting “Board”;

15 (B) in subparagraph (B)—

16 (i) by striking “Librarian of Congress  
17 shall, upon the recommendation of the  
18 Register of Copyrights” and inserting  
19 “Copyright Royalty Adjudication Board  
20 shall”;

21 (ii) by striking “Librarian” each sub-  
22 sequent place it appears and inserting  
23 “Board”; and

24 (iii) in the last sentence by striking  
25 “convene a copyright royalty arbitration

1 panel” and inserting “conduct a proceed-  
2 ing”; and

3 (C) in subparagraph (C)—

4 (i) by striking “Librarian of Con-  
5 gress” and inserting “Copyright Royalty  
6 Adjudication Board”; and

7 (ii) by adding at the end the follow-  
8 ing: “The action of the Board to distribute  
9 royalty fees may precede the declaration of  
10 a controversy if all parties to the proceed-  
11 ing file a petition with the Board request-  
12 ing such distribution, except that such  
13 amount may not exceed 50 percent of the  
14 amounts on hand at the time of the re-  
15 quest.”.

16 (b) SCOPE OF EXCLUSIVE RIGHTS IN SOUND RE-  
17 CORDINGS.—Section 114(f) of title 17, United States  
18 Code, is amended—

19 (1) in paragraph (1)—

20 (A) by amending the first sentence to read  
21 as follows: “During the first week of January,  
22 2000, the Copyright Royalty Adjudication  
23 Board shall cause notice to be published in the  
24 Federal Register of the initiation of voluntary  
25 negotiation proceedings for the purpose of de-

1           termining or adjusting reasonable terms and  
2           rates of royalty payments for the activities spec-  
3           ified in subsection (d)(2) of this section.”; and

4           (B) in the third sentence by striking “Li-  
5           brarian of Congress” and inserting “Copyright  
6           Royalty Adjudication Board”;

7           (2) by striking paragraphs (2), (3), and (4) and  
8           inserting the following:

9           “(2) In the absence of license agreements nego-  
10          tiated under paragraph (1), during the 60-day pe-  
11          riod beginning 6 months after publication of the no-  
12          tice specified in paragraph (1), and upon the filing  
13          of a petition in accordance with section 808(a), the  
14          Copyright Royalty Adjudication Board shall, pursu-  
15          ant to chapter 8, conduct a proceeding to determine  
16          and publish in the Federal Register a schedule of  
17          rates and terms. In addition to the objectives set  
18          forth in section 807(a) in establishing or adjusting  
19          such rates and terms, the Board may consider the  
20          rates and terms for comparable types of digital  
21          audio transmission services and comparable cir-  
22          cumstances under voluntary license agreements ne-  
23          gotiated as provided in paragraph (1). The Copy-  
24          right Royalty Adjudication Board, upon the approval  
25          of the Register of Copyrights, shall also establish re-

1        requirements by which copyright owners may receive  
2        reasonable notice of the use of their sound record-  
3        ings under this section, and under which records of  
4        such use shall be kept and made available by entities  
5        performing sound recordings.

6            “(3) License agreements voluntarily negotiated  
7        at any time between 1 or more copyright owners of  
8        sound recordings and 1 or more entities performing  
9        sound recordings shall be given effect in lieu of any  
10       determination by the Copyright Royalty Adjudica-  
11       tion Board.

12           “(4) Publication of a notice of the initiation of  
13       voluntary negotiation proceedings as specified in  
14       paragraph (1) and the procedures specified in para-  
15       graph (2) shall be repeated, in accordance with regu-  
16       lations that the Copyright Royalty Adjudication  
17       Board, upon the approval of the Register of Copy-  
18       rights, shall prescribe—

19            “(A) no later than 30 days after a petition  
20       is filed by any copyright owners of sound re-  
21       cordings or any entities performing sound re-  
22       cordings affected by this section indicating that  
23       a new type of digital audio transmission service  
24       on which sound recordings are performed is or  
25       is about to become operational; and

1           “(B) during the first week of January  
2           2005 and at 5-year intervals thereafter.”; and  
3           (3) in paragraph (5)(A)(i) by striking “Librar-  
4           ian of Congress” and inserting “Copyright Royalty  
5           Adjudication Board, upon the approval of the Reg-  
6           ister of Copyrights,”.

7           (c) COMPULSORY LICENSE FOR MAKING AND DIS-  
8           TRIBUTING PHONORECORDS.—Section 115(c)(3) of title  
9           17, United States Code, is amended—

10           (1) in subparagraph (C)—

11           (A) by amending the first sentence to read  
12           as follows: “At the times established in sub-  
13           paragraph (F), the Copyright Royalty Adjudica-  
14           tion Board shall cause notice to be published in  
15           the Federal Register of the initiation of vol-  
16           untary negotiation proceedings for the purpose  
17           of determining reasonable terms and rates of  
18           royalty payments for the activities specified in  
19           subparagraph (A) until the effective date of any  
20           new terms and rates established pursuant to  
21           this subparagraph or subparagraph (D) or (F),  
22           or such other date (regarding digital phono-  
23           record deliveries) as the parties may agree.”;

1 (B) in the third sentence by striking “Li-  
2 brarian of Congress” and inserting “Copyright  
3 Royalty Adjudication Board”;

4 (2) by amending subparagraph (D) to read as  
5 follows:

6 “(D) In the absence of license agreements nego-  
7 tiated under subparagraphs (B) and (C), upon the  
8 filing of a petition in accordance with section 808(a),  
9 the Copyright Royalty Adjudication Board shall,  
10 pursuant to chapter 8, conduct a proceeding to de-  
11 termine and publish in the Federal Register a sched-  
12 ule of rates and terms. Such rates and terms shall  
13 distinguish between—

14 “(i) digital phonorecord deliveries where  
15 the reproduction or distribution of a phono-  
16 record is incidental to the transmission which  
17 constitute the digital phonorecord delivery, and

18 “(ii) digital phonorecord deliveries in gen-  
19 eral.

20 In addition to the objectives set forth in section  
21 807(a), in establishing or adjusting rates and terms,  
22 the Board may consider rates and terms under vol-  
23 untary license agreements negotiated as provided in  
24 subparagraphs (B) and (C). The Board, upon the  
25 approval of the Register of Copyrights, shall also es-



1        establish requirements by which copyright owners may  
2        receive reasonable notice of the use of their works  
3        under this section, and under which records of such  
4        use shall be kept and made available by persons  
5        making digital phonorecord deliveries.”;

6            (3) in subparagraph (E)(i) in the first sentence  
7        by striking “Librarian of Congress” and inserting  
8        “Copyright Royalty Adjudication Board”; and

9            (4) in subparagraph (F) by striking “Librarian  
10       of Congress” and inserting “ Copyright Royalty Ad-  
11       judication Board, upon the approval of the Register  
12       of Copyrights,”.

13        (d) NEGOTIATED LICENSES FOR PUBLIC PERFORM-  
14       ANCES BY MEANS OF COIN-OPERATED PHONORECORD  
15       PLAYERS.—Section 116 of title 17, United States Code,  
16       is amended—

17            (1) by amending subsection (b)(2) to read as  
18       follows:

19            “(2) RATE ADJUSTMENT PROCEEDING.—Par-  
20       ties not subject to such a negotiation may determine,  
21       by a rate adjustment proceeding in accordance with  
22       the provisions of chapter 8, the terms and rates and  
23       the division of fees described in paragraph (1).”; and

24            (2) in subsection (c)—

1 (A) in the subsection heading by  
2 striking “COPYRIGHT ROYALTY ARBITRA-  
3 TION PANEL” and inserting “COPYRIGHT  
4 ROYALTY ADJUDICATION BOARD”; and

5 (B) by striking “a copyright arbitration  
6 royalty panel” and inserting “the Copyright  
7 Royalty Adjudication Board”.

8 (e) USE OF CERTAIN WORKS IN CONNECTION WITH  
9 NONCOMMERCIAL BROADCASTING.—Section 118 of title  
10 17, United States Code, is amended—

11 (1) in subsection (b)—

12 (A) by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

13 (B) in paragraph (1), as so redesignated,  
14 by striking “Librarian of Congress” and inserting “Copyright Royalty Adjudication Board”;

15 (C) in paragraph (2), as so redesignated—

16 (i) by striking “paragraph (2)” each  
17 place it appears and inserting “paragraph  
18 (1)”;

19 (ii) by striking “Librarian of Con-  
20 gress” the first place it appears and insert-  
21 ing “Copyright Royalty Adjudication  
22 Board”;

1 (iii) by striking “Librarian of Con-  
2 gress” the second and third places it ap-  
3 pears and inserting “Board”; and

4 (iv) by striking “Librarian of Con-  
5 gress” the last place it appears and insert-  
6 ing “Board, upon the approval of the Reg-  
7 ister of Copyrights,”;

8 (2) in subsection (c)—

9 (A) by striking “1997” and inserting  
10 “2002”; and

11 (B) by striking “Librarian of Congress”  
12 and inserting “Copyright Royalty Adjudication  
13 Board, upon the approval of the Register of  
14 Copyrights,”;

15 (3) in subsection (d)—

16 (A) by striking “(b)(2)” and inserting  
17 “(b)(1)”; and

18 (B) by striking “a copyright arbitration  
19 royalty panel under subsection (b)(3)” and in-  
20 serting “the Copyright Royalty Adjudication  
21 Board under subsection (b)(2)”; and

22 (4) in subsection (e), by striking paragraphs (1)  
23 and (2).

24 (f) DIGITAL AUDIO RECORDING DEVICES AND  
25 MEDIA.—

1           (1) ROYALTY PAYMENTS.—Section 1004(a)(3)  
2 of title 17, United States Code, is amended in the  
3 third sentence—

4           (A) by striking “the 6th year after the ef-  
5 fective date of this chapter” and inserting  
6 “1998”;

7           (B) by striking “Librarian of Congress”  
8 the first place it appears and inserting “Copy-  
9 right Royalty Adjudication Board”; and

10          (C) by striking “Librarian of Congress”  
11 the second place it appears and inserting  
12 “Board”.

13          (2) ENTITLEMENT TO ROYALTY PAYMENTS.—  
14 Section 1006(e) of title 17, United States Code, is  
15 amended by striking “Librarian of Congress shall  
16 convene a copyright arbitration royalty panel which”  
17 and inserting “Copyright Royalty Adjudication  
18 Board”.

19          (3) PROCEDURES FOR DISTRIBUTING ROYALTY  
20 PAYMENTS.—Section 1007 of title 17, United States  
21 Code, is amended—

22           (A) in subsection (a)(1)—

23           (i) by striking “after the calendar  
24 year in which this chapter takes effect”;

1           (ii) by striking “Librarian of Con-  
2           gress” the first place it appears and insert-  
3           ing “Copyright Royalty Adjudication  
4           Board”; and

5           (iii) by striking “Librarian of Con-  
6           gress” the second place it appears and in-  
7           serting “Board”;

8           (B) in subsection (b)—

9           (i) by amending the first sentence to  
10          read as follows: “After the first day of  
11          March of each year, the Copyright Royalty  
12          Adjudication Board shall determine wheth-  
13          er there exists a controversy concerning  
14          the distribution of royalty payments under  
15          section 1006(c).”; and

16          (ii) by striking “Librarian of Con-  
17          gress” each place it appears and inserting  
18          “Board”; and

19          (C) in subsection (c)—

20          (A) by amending the first sentence to  
21          read as follows: “If the Copyright Royalty  
22          Adjudication Board finds the existence of a  
23          controversy, the Board shall, pursuant to  
24          chapter 8 of this title, conduct a proceed-

1 ing to determine the distribution of royalty  
2 payments.”;

3 (B) by striking “Librarian of Con-  
4 gress” each place it appears and inserting  
5 “Board”; and

6 (C) by striking “Librarian under this  
7 section” and inserting “Board under this  
8 section. The action of the Board to distrib-  
9 ute royalty fees may precede the declara-  
10 tion of a controversy if all parties to the  
11 proceeding file a petition with the Board  
12 requesting such distribution, except that  
13 such amount may not exceed 50 percent of  
14 the amounts on hand at the time of the re-  
15 quest.”.

16 (4) ADJUDICATION OF CERTAIN DIS-  
17 PUTES.—Section 1010 of title 17, United  
18 States Code, is amended—

19 (A) by amending the section heading  
20 to read as follows:

21 **“§ 1010. Adjudication of certain disputes”;**

22 (B) in subsection (a)—

23 (i) in the subsection heading by  
24 striking “ARBITRATION” and inserting  
25 “ADJUDICATION”; and

1 (ii) by striking “mutually agree  
2 to binding arbitration for the purpose  
3 of determining” and inserting “peti-  
4 tion the Copyright Royalty Adjudica-  
5 tion Board to determine”;

6 (C) by striking subsection (b) and re-  
7 designating subsections (c) and (d) as sub-  
8 sections (b) and (c), respectively;

9 (D) in subsection (b), as so redesi-  
10 gnated, by striking “arbitration” each place  
11 it appears and inserting “adjudication”;

12 (E) by amending subsection (c), as so  
13 redesignated, to read as follows:

14 “(c) ADJUDICATION PROCEEDING.—The Copyright  
15 Royalty Adjudication Board shall conduct an adjudication  
16 proceeding with respect to the matter concerned, pursuant  
17 to chapter 8 of this title. The parties to the proceeding  
18 shall bear the entire costs thereof in such manner and pro-  
19 portion as the Board shall direct.”; and

20 (F) by striking subsections (e), (f),  
21 and (g).

22 **SEC. 10. TECHNICAL AMENDMENTS.**

23 (a) CLERICAL AMENDMENT TO CHAPTER 10 OF  
24 TITLE 17, UNITED STATES CODE.—The item relating to  
25 section 1010 in the table of contents for chapter 10 of

1 title 17, United States Code, is amended to read as fol-  
 2 lows:

“1010. Adjudication of certain disputes.”.

3 (b) CLERICAL AMENDMENT TO CHAPTER 9 OF TITLE  
 4 17, UNITED STATES CODE.—The item relating to section  
 5 903 in the table of contents for chapter 9 of title 17,  
 6 United States Code, is amended to read as follows:

“903. Ownership, transfer, licensing, and recordation.”.

7 (c) CLERICAL AMENDMENT TO TABLE OF CHAP-  
 8 TERS.—The item relating to chapter 6 in the table of  
 9 chapters for title 17, United States Code, is amended to  
 10 read as follows:

**“6. Manufacturing Requirements and Importation ..... 601”.**

11 **SEC. 11. RETRANSMISSION CONSENT.**

12 Section 325(b) of the Communications Act of 1934  
 13 (47 U.S.C. 325(b)) is amended—

14 (1) by striking paragraphs (1) and (2) and in-  
 15 serting the following:

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

19 “(A) with the express authority of the station;

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



1           “(C) pursuant to section 337, in the case of a  
2           station electing, in accordance with this subsection,  
3           to assert the right to carriage under such section.

4           “(2) The provisions of this subsection shall not apply  
5 to—

6           “(A) retransmission of the signal of a non-  
7           commercial broadcasting station;

8           “(B) retransmission of the signal of a supersta-  
9           tion by a satellite carrier to subscribers for private  
10          home viewing if the originating station was a super-  
11          station on January 1, 1998;

12          “(C) retransmission of the signal of a broad-  
13          casting station that is owned or operated by, or af-  
14          filiated with, a broadcasting network directly to a  
15          home satellite antenna, if the household receiving  
16          the signal is located in an area in which such station  
17          may not assert its rights not to have its signal dupli-  
18          cated under the Commission’s network nonduplica-  
19          tion regulations; or

20          “(D) retransmission by a cable operator or  
21          other multichannel video programming distributor of  
22          the signal of a superstation if such signal was ob-  
23          tained from a satellite carrier and the originating  
24          station was a superstation on January 1, 1998.”;

1           (2) by adding at the end of paragraph (3) the  
2 following new subparagraph:

3           “(C) Within 45 days after the effective date of the  
4 Copyright Compulsory License Improvement Act, the  
5 Commission shall commence a rulemaking proceeding to  
6 revise the regulations governing the exercise by television  
7 broadcast stations of the right to grant retransmission  
8 consent under this subsection, and such other regulations  
9 as are necessary to administer the limitation contained in  
10 paragraph (2). Such regulations shall establish election  
11 time periods that correspond with those regulations adopt-  
12 ed under subparagraph (B). The rulemaking shall be com-  
13 pleted within 180 days after the effective date of the Copy-  
14 right Compulsory License Improvement Act.”; and

15           (3) by adding at the end the following new  
16 paragraph:

17           “(7) For purposes of this subsection:

18           “(A) The term ‘superstation’ means a television  
19 broadcast station, other than a network station, li-  
20 censed by the Commission that is secondarily trans-  
21 mitted by a satellite carrier.

22           “(B) The term ‘satellite carrier’ has the mean-  
23 ing given that term in section 119(d) of title 17,  
24 United States Code.”.

1 **SEC. 12. MUST-CARRY FOR SATELLITE CARRIERS RE-**  
2 **TRANSMITTING TELEVISION BROADCAST SIG-**  
3 **NALS.**

4 Title III of the Communications Act of 1934 is  
5 amended by inserting after section 336 the following new  
6 section:

7 **“SEC. 337. CARRIAGE OF LOCAL TELEVISION SIGNALS BY**  
8 **SATELLITE CARRIERS.**

9 “(a) CARRIAGE OBLIGATIONS.—Each satellite carrier  
10 providing direct to home service of a television broadcast  
11 station to subscribers located within the local market of  
12 such station shall carry all television broadcast stations  
13 located within that local market. Carriage of additional  
14 television broadcast stations within the local market shall  
15 be at the discretion of the satellite carrier, subject to sec-  
16 tion 325(b).

17 “(b) DUPLICATION NOT REQUIRED.—Notwithstand-  
18 ing subsection (a), a satellite carrier shall not be required  
19 to carry the signal of any local television broadcast station  
20 that substantially duplicates the signal of another local tel-  
21 evision broadcast station which is secondarily transmitted  
22 by the satellite carrier, or to carry the signals of more  
23 than one local television broadcast station affiliated with  
24 a particular broadcast network (as the term is defined by  
25 regulation).

1           “(c) CHANNEL POSITIONING.—Each signal carried in  
2 fulfillment of the carriage obligations of a satellite carrier  
3 under this section shall be carried on the satellite carrier  
4 channel number on which the local television broadcast  
5 station is broadcast over the air, or on the channel on  
6 which it was broadcast on January 1, 1985, or on the  
7 channel it was broadcast on January 1, 1998, at the elec-  
8 tion of the station, or on such other channel number as  
9 is mutually agreed upon by the station and the satellite  
10 carrier. Any dispute regarding the positioning of local tele-  
11 vision broadcast stations shall be resolved by the Commis-  
12 sion.

13           “(d) COMPENSATION FOR CARRIAGE.—A satellite  
14 carrier shall not accept or request monetary payment or  
15 other valuable consideration in exchange either for car-  
16 riage of local television broadcast stations in fulfillment  
17 of the requirements of this section or for channel position-  
18 ing rights provided to such stations under this section, ex-  
19 cept that any such station may be required to bear the  
20 costs associated with delivering a good quality signal to  
21 the principal headend of the satellite carrier.

22           “(e) REMEDIES.—

23                   “(1) COMPLAINTS BY BROADCAST STATIONS.—

24           Whenever a local television broadcast station believes  
25           that a satellite carrier has failed to meet its obliga-

1 tions under this section, such station shall notify the  
2 carrier, in writing, of the alleged failure and identify  
3 its reasons for believing that the satellite carrier is  
4 obligated to carry the signal of such station or has  
5 otherwise failed to comply with the channel position-  
6 ing or repositioning or other requirements of this  
7 section. The satellite carrier shall, within 30 days of  
8 such written notification, respond in writing to such  
9 notification and either commence to carry the signal  
10 of such station in accordance with the terms re-  
11 quested or state its reasons for believing that it is  
12 not obligated to carry such signal or is in compliance  
13 with the channel positioning and repositioning or  
14 other requirements of this section. A local television  
15 broadcast station that is denied carriage or channel  
16 positioning or repositioning in accordance with this  
17 section by a satellite carrier may obtain review of  
18 such denial by filing a complaint with the Commis-  
19 sion. Such complaint shall allege the manner in  
20 which such satellite carrier has failed to meet its ob-  
21 ligations and the basis for such allegations.

22 “(2) OPPORTUNITY TO RESPOND.—The Com-  
23 mission shall afford such satellite carrier and oppor-  
24 tunity to present data and arguments to establish

1 that there has been no failure to meet its obligations  
2 under this section.

3 “(3) REMEDIAL ACTIONS; DISMISSAL.—Within  
4 120 days after the date a complaint is filed, the  
5 Commission shall determine whether the satellite  
6 carrier has met its obligations under this section. If  
7 the Commission determines that the satellite carrier  
8 has failed to meet such obligations, the Commission  
9 shall order the satellite carrier to reposition the com-  
10 plaining station or, in the case of an obligation to  
11 carry a station, to commence carriage of the station  
12 and to continue such carriage for at least 12  
13 months. If the Commission determines that the sat-  
14 ellite carrier has fully met the requirements of this  
15 section, it shall dismiss the complaint.

16 “(f) REGULATIONS BY COMMISSION.—Within 180  
17 days after the effective date of this section, the Commis-  
18 sion shall, following a rulemaking proceeding, issue regula-  
19 tions implementing the requirements imposed by this sec-  
20 tion.

21 “(g) DEFINITIONS.—As used in this section:

22 “(1) TELEVISION BROADCAST STATION.—The  
23 term ‘television broadcast station’ means a full-  
24 power television broadcast station, and does not in-

1       clude a low-power or translator television broadcast  
2       station.

3               “(2) LOCAL MARKET.—The term ‘local market’  
4       means the designated market area in which a station  
5       is located and—

6               “(A) for a commercial television broadcast  
7       station located in any of the 150 largest des-  
8       ignated market areas, all commercial television  
9       broadcast stations licensed to a community  
10      within the same designated market area are  
11      within the same local market;

12              “(B) for a commercial television broadcast  
13      station that is located in a designated market  
14      area that is not one of the 150 largest, the local  
15      market includes, in addition to all commercial  
16      television broadcast stations licensed to a com-  
17      munity within the same designated market  
18      area, any station that is significantly viewed, as  
19      such term is defined in section 76.54 of the  
20      Commission’s regulations (47 C.F.R. 76.54);  
21      and

22              “(C) for a noncommercial educational tele-  
23      vision broadcast station, the local market in-  
24      cludes any station that is licensed to a commu-  
25      nity within the same designated market area as

1           the noncommercial educational television broad-  
2           cast station.

3           “(3) DESIGNATED MARKET AREA.—The term  
4           ‘designated market area’ means a designated market  
5           area, as determined by the Nielsen Media Research  
6           and published in the DMA Market and Demographic  
7           Report.”.

8 **SEC. 13. NETWORK NONDUPLICATION; SYNDICATED EXCLU-**  
9           **SIVITY AND SPORTS BLACKOUT.**

10          (a) REGULATIONS.—

11           (1) IN GENERAL.—Within 45 days after the ef-  
12           fective date of this Act, the Federal Communications  
13           Commission shall commence a rulemaking to estab-  
14           lish regulations that apply network nonduplication  
15           protection, syndicated exclusivity protection, and  
16           sports blackout protection to the retransmission of  
17           broadcast signals by satellite carriers to subscribers  
18           for private home viewing. To the extent possible,  
19           such regulations shall, subject to paragraph (2), in-  
20           clude the same level of protection accorded retrans-  
21           missions of television broadcast signals by cable sys-  
22           tems for network nonduplication (47 C.F.R. 76.92),  
23           syndicated exclusivity (47 C.F.R. 151), and sports  
24           blackout (47 C.F.R. 76.67).



1           (2) NETWORK NONDUPLICATION.—The network  
2 nonduplication regulations required under paragraph  
3 (1) shall allow a television broadcast station in any  
4 local market to assert nonduplication rights—

5           (A) against a satellite carrier throughout  
6 such local market if that satellite carrier re-  
7 transmits to subscribers for private home view-  
8 ing in such local market the signal of another  
9 television broadcast station located within such  
10 local market; or

11           (B) against all satellite carriers within the  
12 zone in which the television broadcast station  
13 may be received over-the-air, using conventional  
14 consumer television receiving equipment, as de-  
15 termined under regulations prescribed by the  
16 Federal Communications Commission, but such  
17 zone shall not extend beyond such local market  
18 of such station.

19           (3) LOCAL MARKET DEFINED.—The term “local  
20 market” has the meaning provided in section 337(g)  
21 of the Communications Act of 1934, as added by  
22 section 12 of this Act.

23           (b) DEFERRED APPLICABILITY OF AMENDMENTS TO  
24 SECTION 119 OF TITLE 17, UNITED STATES CODE.—  
25 Notwithstanding the amendments to section 119 of title

1 17, United States Code, made by this Act, until the regu-  
2 lations regarding network nonduplication protection are  
3 established under subsection (a), the statutory license  
4 under subsection (a) of such section 119 for secondary  
5 transmissions of primary transmissions of programming  
6 contained in a primary transmission made by a network  
7 station (as defined in section 119(d) of title 17, United  
8 States Code, as in effect on the day before the effective  
9 date of this Act) shall be limited to secondary trans-  
10 missions to persons who reside in unserved households (as  
11 defined in section 119(d) of title 17, United States Code,  
12 as in effect on the day before the effective date of this  
13 Act).

14 **SEC. 14. EFFECTIVE DATE.**

15       This Act and the amendments made by this Act shall  
16 take effect on January 1, 1999.

○