

Calendar No. 120

106TH CONGRESS
1ST Session

S. 303

[Report No. 106-51]

A BILL

To amend the Communications Act of 1934 to enhance the ability of direct broadcast satellite and other multichannel video providers to compete effectively with cable television systems, and for other purposes.

MAY 20, 1999

Reported with an amendment

Calendar No. 120

106TH CONGRESS
1ST SESSION

S. 303

[Report No. 106-51]

To amend the Communications Act of 1934 to enhance the ability of direct broadcast satellite and other multichannel video providers to compete effectively with cable television systems, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 25, 1999

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

MAY 20, 1999

Reported by Mr. MCCAIN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Communications Act of 1934 to enhance the ability of direct broadcast satellite and other multichannel video providers to compete effectively with cable television systems, 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,*

1 **SECTION. 1. SHORT TITLE.**

2 This Act may be cited as the “Satellite Television Act
3 of 1999”.

4 **SEC. 2. FINDINGS.**

5 The Congress makes the following findings:

6 (1) In the Cable Television Consumer Protec-
7 tion and Competition Act of 1992, Congress stated
8 its policy of promoting competition in cable services
9 and making available to the public a diversity of
10 views and information through cable television and
11 other video media.

12 (2) In the Telecommunications Act of 1996,
13 Congress stated its policy of securing lower prices
14 and higher quality service for American tele-
15 communications consumers and encouraging the
16 rapid deployment of new telecommunications tech-
17 nologies.

18 (3) In most places throughout America, cable
19 television system operators still do not face effective
20 competition from other providers of multichannel
21 video service.

22 (4) Absent effective competition, the market
23 power exercised by cable television operators enables
24 them to raise the price of cable service to consumers,
25 and to control the price and availability of cable pro-
26 gramming services to other multichannel video serv-

1 ice providers. Current Federal Communications
2 Commission rules have been inadequate in con-
3 straining cable price increases.

4 (5) Direct Broadcast Satellite service has over
5 8 million subscribers and constitutes the most sig-
6 nificant competitive alternative to cable television
7 service.

8 (6) Direct Broadcast Satellite Service currently
9 suffers from a number of statutory, regulatory, and
10 technical barriers that keep it from being an effec-
11 tive competitor to cable television in the provision of
12 multichannel video services.

13 (7) The most prominent of these barriers is the
14 inability to provide subscribers with local television
15 broadcast signals by satellite.

16 (8) Permitting providers of direct broadcast
17 satellite service to retransmit local television signals
18 to their subscribers would greatly enhance the ability
19 of direct broadcast satellite service to compete more
20 effectively in the provision of multichannel video
21 services.

22 (9) Due to capacity limitations and in the inter-
23 est of providing service in as many markets as pos-
24 sible, providers of direct broadcast satellite service,
25 unlike cable television systems, cannot at this time

1 carry all local television broadcast signals in all the
2 local television markets they seek to serve.

3 (10) It would be in the public interest for pro-
4 viders of direct broadcast satellite service to fully
5 comply with the mandatory signal carriage rules at
6 the earliest possible date. In the interim, requiring
7 full compliance with the mandatory signal carriage
8 rules would substantially limit the ability of direct
9 broadcast satellite service providers to compete in
10 the provision of multichannel video services and
11 would not serve the public interest.

12 (11) Maintaining the viability of free, over-the-
13 air local television service is a matter of preeminent
14 public interest.

15 (12) All subscribers to multichannel video serv-
16 ices should be able to receive the signal of at least
17 one station affiliated with each of the major broad-
18 east television networks.

19 (13) Millions of subscribers to direct broadcast
20 satellite service currently receive the signals of net-
21 work-affiliated stations not located in these sub-
22 scribers' local television markets. In those cases
23 where cable service is not available and where con-
24 ventional rooftop antennas are not effective distant

1 network signals may be these subscribers' only
2 source of network television service.

3 (14) There is a direct link between the wide-
4 spread carriage of distant network stations in local
5 network affiliates' markets and a local affiliate's loss
6 of audience share and revenues, which could in turn
7 harm the station's ability to serve its local commu-
8 nity.

9 (15) Abrupt termination of satellite carriers'
10 provision of distant network signals could have a
11 negative impact on the ability of direct broadcast
12 satellite service to compete effectively in the provi-
13 sion of multichannel video services.

14 (16) The public interest would be served by per-
15 mitting direct broadcast satellite service providers to
16 continue existing carriage of a distant network affil-
17 iate station's signal where—

18 (A) there is no local network affiliate;

19 (B) the local network affiliate cannot be
20 adequately received off-air; or

21 (C) continued carriage would not be likely
22 to materially harm local television service.

23 **SEC. 3. PURPOSE.**

24 The purpose of this Act is to permit subscribers of
25 Direct Broadcast Satellite service who currently receive

1 distant network stations to continue to receive this service
 2 to the extent that the Federal Communications Commis-
 3 sion affirmatively finds that no local station would be like-
 4 ly to sustain audience and revenue loss that would materi-
 5 ally affect that station's ability to continue to serve its
 6 local audience.

7 **SEC. 4. MUST-CARRY FOR SATELLITE CARRIERS RE-**
 8 **TRANSMITTING TELEVISION BROADCAST SIG-**
 9 **NALS.**

10 Part I of title III of the Communications Act of 1934
 11 (47 U.S.C. 301 et seq.) is amended by adding at the end
 12 thereof the following:

13 **“SEC. 337. CARRIAGE OF LOCAL TELEVISION SIGNALS BY**
 14 **SATELLITE CARRIERS.**

15 “(a) PURPOSE.—The purpose of this section is to
 16 promote competition in the provision of multichannel video
 17 services while protecting the availability of free, over-the-
 18 air television, particularly for the 40 percent of American
 19 television households that do not subscribe to any multi-
 20 channel video programming service, by—

21 “(1) enabling providers of direct broadcast serv-
 22 ice to offer their subscribers the signals of local tele-
 23 vision stations;

24 “(2) protecting the availability of free, over-the-
 25 air television broadcasting by requiring satellite car-

1 riers who rely on a compulsory copyright license to
2 carry all local stations; and

3 ~~“(3) accommodating; for an interim period, the~~
4 inability of providers of direct broadcast service from
5 carrying all local signals in all local television mar-
6 kets they seek to serve.

7 ~~“(b) APPLICATION OF MANDATORY CARRIAGE TO~~
8 SATELLITE CARRIERS.—The mandatory carriage provi-
9 sions of sections 614 and 615 of the Communications Act
10 will apply in a local market no later than January 1, 2002,
11 to satellite carriers retransmitting any television broadcast
12 station in that local market and pursuant to the compul-
13 sory license provided by section 122 of title 17, United
14 States Code.

15 ~~“(c) GOOD SIGNAL REQUIRED.—A local television~~
16 broadcast station eligible for carriage under subsection (b)
17 may be required to bear the costs associated with deliv-
18 ering a good quality signal to the designated local receive
19 facility of the satellite carrier. The selection of a local re-
20 ceive facility by a satellite carrier shall not be made in
21 a manner that frustrates the purposes of this Act. The
22 Commission shall promulgate any regulations necessary to
23 assure that selection of local receive facilities is made in
24 compliance with the intent of this Act.

25 ~~“(d) RULEMAKING REQUIRED.—~~

1 “(1) SINGLE RULEMAKING REQUIRED.—The
2 Commission shall institute a single rulemaking, com-
3 pliant with subchapter H of chapter 5 of title 5,
4 United States Code, to examine the extent to which
5 carriage of distant network stations already provided
6 to subscribers on March 1, 1998, may continue with-
7 out causing a projected loss of audience and revenue
8 of such magnitude as to cause material harm to the
9 viability of local stations.

10 “(2) DETERMINATION REQUIRED.—As part of
11 the rulemaking required by this subsection, the
12 Commission shall determine whether the application
13 of network exclusivity, syndicated exclusivity, or
14 sports exclusivity rules to carriage of distant net-
15 work stations would serve the public interest.

16 “(3) TIMEFRAME.—The Commission shall com-
17 plete all actions necessary to prescribe regulations it
18 may adopt as a result of this rulemaking to be effec-
19 tive within 180 days after the enactment of the Sat-
20 ellite Television Act of 1999.

21 “(4) TWO-THIRDS VOTE REQUIRED.—Any regu-
22 lations adopted under this subsection must be adopt-
23 ed by an affirmative vote of at least two-thirds of
24 the members of the Commission.

1 “(5) CERTAIN DBS SIGNALS.—Direct-to-home
2 satellite service providers may continue to carry the
3 signals of distant network stations without regard to
4 the provisions of this subsection in any situation in
5 which such carriage would be consistent with rules
6 adopted by the Commission in CS Docket 98–201.

7 “(e) CABLE TELEVISION SYSTEM DIGITAL SIGNAL
8 CARRIAGE NOT COVERED.—Nothing in this section ap-
9 plies to the carriage of the digital signals of television
10 broadcast stations by cable television systems.

11 “(f) NO REMISSION OF LIABILITY.—No action taken
12 by the Commission pursuant to subsection (d) shall relieve
13 any person from any liability for any violation of title 17,
14 United States Code, or from the imposition of any remedy
15 therefor.

16 “(g) DEFINITIONS.—In this section:

17 “(1) TELEVISION BROADCAST STATION.—The
18 term ‘television broadcast station’ means a full
19 power local television broadcast station, but does not
20 include a low-power or translator television broad-
21 cast station.

22 “(2) BROADCASTING NETWORK.—The term
23 ‘broadcasting network’ means a television network in
24 the United States which offers an interconnected
25 program service on a regular basis for 15 or more

1 hours per week to at least 25 affiliated broadcast
2 stations in 10 or more States.

3 “(3) NETWORK STATION.—The term ‘network
4 station’ means a television broadcast station that is
5 owned or operated by, or affiliated with, a broad-
6 casting network.

7 “(4) LOCAL MARKET.—The term ‘local market’
8 means the designated market area in which a station
9 is located. For a noncommercial educational tele-
10 vision broadcast station, the local market includes
11 any station that is licensed to a community within
12 the same designated market area as the noncommer-
13 cial educational television broadcast station.

14 “(5) LOCAL RECEIVE FACILITY.—The term
15 ‘local receive facility’ means the reception point in
16 the local market of a television broadcast station or
17 in a market contiguous to the local market of a tele-
18 vision broadcast station at which a satellite carrier
19 initially receives the signal of the station for pur-
20 poses of transmission of such signals to the facility
21 which uplinks the signals to the carrier’s satellites
22 for secondary transmission to the satellite carrier’s
23 subscribers.

1 “(6) SATELLITE CARRIER.—The term ‘satellite
2 carrier’ has the meaning given it by section 119(d)
3 of title 17, United States Code.”.

4 **SEC. 5. RETRANSMISSION CONSENT.**

5 (a) AMENDMENT OF SECTION 325(b).—Section
6 325(b) of the Communications Act of 1934 (47 U.S.C.
7 325(b)) is amended striking the subsection designation
8 and paragraphs (1) and (2) and inserting the following:

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

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

13 or

14 “(B) pursuant to section 614 or section 615, in
15 the case of a station electing, in accordance with this
16 subsection, to assert the right to carriage under such
17 section.

18 “(2) The provisions of this subsection shall not apply
19 to—

20 “(A) retransmission of the signal of a television
21 broadcast station outside the station’s local market
22 by a satellite carrier directly to subscribers if—

23 “(i) such station was a superstation on
24 May 1, 1991; and

1 “(ii) as of July 1, 1998, such station was
2 transmitted under the compulsory license of
3 section 119 of title 17, United States Code, by
4 satellite carriers directly to at least 250,000
5 subscribers;

6 “(B) retransmission of the distant signal of a
7 broadcasting station that is owned or operated by, or
8 affiliated with, a broadcasting network directly to a
9 home satellite antenna, if the subscriber resides in
10 an unserved household; or

11 “(C) retransmission by a cable operator or
12 other multichannel video programming distributor
13 (other than by a satellite carrier direct to its sub-
14 scribers) of the signal of a television broadcast sta-
15 tion outside the station’s local market, if such signal
16 was obtained from a satellite carrier and—

17 “(i) the originating station was a supersta-
18 tion on May 1, 1991; and

19 “(ii) the originating station was a network
20 station on December 31, 1997, and its signal
21 was retransmitted by a satellite carrier directly
22 to subscribers.

23 “(3) Any term used in this subsection that is defined
24 in section 337(h) of this Act has the meaning given to
25 it by that section.”

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) take effect on January 1, 1999.

3 **SEC. 6. DESIGNATED MARKET AREAS.**

4 Nothing in this Act, or in the amendments made by
5 this Act, prevents the Federal Communications Commis-
6 sion from revising the listing of designated market areas
7 (as defined in this Act) or reassigning such areas if the
8 revision or reassignment is done in the same manner and
9 to the same extent as the Commission's cable television
10 mandatory carriage rules provide.

11 **SEC. 7. SEVERABILITY.**

12 If any provision of this Act or section 325(b) or 337
13 of the Communications Act of 1934 (47 U.S.C. 325(b),
14 337), or the application of that provision to any person
15 or circumstance, is held by a court of competent jurisdic-
16 tion to violate any provision of the Constitution of the
17 United States, then the other provisions of that section,
18 and the application of that provision to other persons and
19 circumstances, shall not be affected.

20 **SEC. 8. DEFINITIONS.**

21 In this Act:

22 (1) TERMS DEFINED IN COMMUNICATIONS ACT
23 OF 1934.—Any term used in this Act that is defined
24 in section 337(h) of the Communications Act of

1 1934, as added by section 4 of this Act, has the
2 meaning given to it by that section.

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

8 **SECTION. 1. SHORT TITLE.**

9 *This Act may be cited as the “Satellite Television Act*
10 *of 1999”.*

11 **SEC. 2. FINDINGS.**

12 *The Congress makes the following findings:*

13 (1) *In the Cable Television Consumer Protection*
14 *and Competition Act of 1992, Congress stated its pol-*
15 *icy of promoting competition in cable services and*
16 *making available to the public a diversity of views*
17 *and information through cable television and other*
18 *video media.*

19 (2) *In the Telecommunications Act of 1996, Con-*
20 *gress stated its policy of securing lower prices and*
21 *higher quality service for American telecommuni-*
22 *cations consumers and encouraging the rapid deploy-*
23 *ment of new telecommunications technologies.*

24 (3) *In most places throughout America, cable tel-*
25 *evision system operators still do not face effective*

1 *competition from other providers of multichannel*
2 *video service.*

3 (4) *Absent effective competition, the market*
4 *power exercised by cable television operators enables*
5 *them to raise the price of cable service to consumers,*
6 *and to control the price and availability of cable pro-*
7 *gramming services to other multichannel video service*
8 *providers. Current Federal Communications Commis-*
9 *sion rules have been inadequate in constraining cable*
10 *price increases.*

11 (5) *Direct-to-home satellite service has over 8*
12 *million subscribers and constitutes the most signifi-*
13 *cant competitive alternative to cable television service.*

14 (6) *Direct-to-home satellite service currently suf-*
15 *fers from a number of statutory, regulatory, and tech-*
16 *nical barriers that keep it from being an effective*
17 *competitor to cable television in the provision of mul-*
18 *tichannel video services.*

19 (7) *The most prominent of these barriers is the*
20 *inability to provide subscribers with local television*
21 *broadcast signals by satellite.*

22 (8) *Permitting providers of direct-to-home sat-*
23 *ellite service to retransmit local television signals to*
24 *their subscribers would greatly enhance the ability of*
25 *direct-to-home satellite service providers to compete*

1 *more effectively in the provision of multichannel video*
2 *services.*

3 (9) *Due to capacity limitations and in the inter-*
4 *est of providing service in as many markets as pos-*
5 *sible, providers of direct-to-home satellite service, un-*
6 *like cable television systems, cannot at this time carry*
7 *all local television broadcast signals in all the local*
8 *television markets they seek to serve.*

9 (10) *It would be in the public interest for pro-*
10 *viders of direct-to-home satellite service to fully com-*
11 *ply with the mandatory signal carriage rules at the*
12 *earliest possible date. In the interim, requiring full*
13 *compliance with the mandatory signal carriage rules*
14 *would substantially limit the ability of direct-to-home*
15 *satellite service providers to compete in the provision*
16 *of multichannel video services and would not serve the*
17 *public interest.*

18 (11) *Maintaining the viability of free, local,*
19 *over-the-air television service is a matter of pre-*
20 *eminent public interest.*

21 (12) *All subscribers to multichannel video serv-*
22 *ices should be able to receive the signal of at least one*
23 *station affiliated with each of the major broadcast tel-*
24 *evision networks.*

1 (13) *Millions of subscribers to direct-to-home sat-*
2 *ellite service currently receive the signals of network-*
3 *affiliated stations not located in these subscribers'*
4 *local television markets. Where conventional rooftop*
5 *antennas cannot provide satisfactory reception of*
6 *local stations, distant network signals may be these*
7 *subscribers' only source of network television service.*

8 (14) *The widespread carriage of distant network*
9 *stations in local network affiliates' markets could*
10 *harm the local stations' ability to serve their local*
11 *community.*

12 (15) *Abrupt termination of satellite carriers'*
13 *provision of distant network signals could have a neg-*
14 *ative impact on the ability of direct-to-home satellite*
15 *service to compete effectively in the provision of mul-*
16 *tichannel video services.*

17 (16) *The public interest would be served by per-*
18 *mitting direct-to-home satellite service providers to*
19 *continue existing carriage of a distant network affil-*
20 *iate station's signal where—*

21 (A) *there is no local network affiliate;*

22 (B) *the local network affiliate cannot be*
23 *adequately received off-air; or*

24 (C) *continued carriage would not harm the*
25 *local network station.*

1 **SEC. 3. PURPOSE.**

2 *The purpose of this Act is to promote competition in*
 3 *the provision of multichannel video services while protecting*
 4 *the availability of free, local, over-the-air television, par-*
 5 *ticularly for the 22 percent of American television house-*
 6 *holds that do not subscribe to any multichannel video pro-*
 7 *gramming service.*

8 **SEC. 4. MUST-CARRY FOR SATELLITE CARRIERS RE-**
 9 **TRANSMITTING TELEVISION BROADCAST SIG-**
 10 **NALS.**

11 *Part I of title III of the Communications Act of 1934*
 12 *(47 U.S.C. 301 et seq.) is amended by adding at the end*
 13 *thereof the following:*

14 **“SEC. 338. CARRIAGE OF LOCAL TELEVISION STATIONS BY**
 15 **SATELLITE CARRIERS.**

16 “(a) *APPLICATION OF MANDATORY CARRIAGE TO SAT-*
 17 *ELLITE CARRIERS.—The mandatory carriage provisions of*
 18 *sections 614 and 615 of this Act will apply in a local mar-*
 19 *ket no later than January 1, 2002, to satellite carriers re-*
 20 *transmitting any television broadcast station in that local*
 21 *market pursuant to the compulsory license provided by sec-*
 22 *tion 122 of title 17, United States Code.*

23 “(b) *GOOD SIGNAL REQUIRED.—*

24 “(1) *COSTS.—A television broadcast station eli-*
 25 *gible for carriage under subsection (a) may be re-*
 26 *quired to bear the costs associated with delivering a*

1 *good quality signal to the designated local receive fa-*
2 *cility of the satellite carrier. The selection of a local*
3 *receive facility by a satellite carrier shall not be made*
4 *in a manner that frustrates the purposes of this Act.*
5 *The Commission shall implement the requirements of*
6 *this section without imposing any undue economic*
7 *burden on any party.*

8 “(2) *RULEMAKING REQUIRED.*—*The Commission*
9 *shall adopt rules implementing paragraph (1) within*
10 *180 days after the date of enactment of the Satellite*
11 *Television Act of 1999.*

12 “(c) *CABLE TELEVISION SYSTEM DIGITAL SIGNAL*
13 *CARRIAGE NOT COVERED.*—*Nothing in this section applies*
14 *to the carriage of the digital signals of television broadcast*
15 *stations by cable television systems.*

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

17 “(1) *TELEVISION BROADCAST STATION.*—*The*
18 *term ‘television broadcast station’ means a full power*
19 *local television broadcast station, but does not include*
20 *a low-power or translator television broadcast station.*

21 “(2) *NETWORK STATION.*—*The term ‘network*
22 *station’ means a television broadcast station that is*
23 *owned or operated by, or affiliated with, a broad-*
24 *casting network.*

1 “(3) *BROADCASTING NETWORK.*—*The term*
 2 *‘broadcasting network’ means a television network in*
 3 *the United States which offers an interconnected pro-*
 4 *gram service on a regular basis for 15 or more hours*
 5 *per week to at least 25 affiliated broadcast stations in*
 6 *10 or more States.*

7 “(4) *DISTANT TELEVISION STATION.*—*The term*
 8 *‘distant television station’ means any television*
 9 *broadcast station that is not licensed and operating*
 10 *on a channel regularly assigned to the local television*
 11 *market in which a subscriber to a direct-to-home sat-*
 12 *ellite service is located.*

13 “(5) *LOCAL MARKET.*—*The term ‘local market’*
 14 *means the designated market area in which a station*
 15 *is located. For a noncommercial educational tele-*
 16 *vision broadcast station, the local market includes*
 17 *any station that is licensed to a community within*
 18 *the same designated market area as the noncommer-*
 19 *cial educational television broadcast station.*

20 “(6) *SATELLITE CARRIER.*—*The term ‘satellite*
 21 *carrier’ has the meaning given it by section 119(d) of*
 22 *title 17, United States Code.*

23 **“SEC. 339. CARRIAGE OF DISTANT TELEVISION STATIONS**
 24 **BY SATELLITE CARRIERS.**

25 “(a) *PROVISIONS RELATING TO NEW SUBSCRIBERS.*—

1 “(1) *IN GENERAL.*—*Except as provided in sub-*
2 *section (d), direct-to-home satellite service providers*
3 *shall be permitted to provide the signals of 1 affiliate*
4 *of each television network to any household that ini-*
5 *tially subscribed to direct-to-home satellite service on*
6 *or after July 10, 1998.*

7 “(2) *ELIGIBILITY DETERMINATION.*—*The deter-*
8 *mination of a new subscriber’s eligibility to receive*
9 *the signals of one or more distant network stations as*
10 *a component of the service provided pursuant to*
11 *paragraph (a) shall be made by ascertaining whether*
12 *the subscriber resides within the predicted Grade B*
13 *service area of a local network station. The Individual*
14 *Location Longley-Rice methodology described by the*
15 *Commission in Docket 98–201 shall be used to make*
16 *this determination. A direct-to-home satellite service*
17 *provider may provide the signal of a distant network*
18 *station to any subscriber determined by this method*
19 *to be unserved by a local station affiliated with that*
20 *network.*

21 “(3) *RULEMAKING REQUIRED.*—

22 “(A) *Within 90 days after the date of enact-*
23 *ment of the Satellite Television Act of 1999, the*
24 *Commission shall adopt procedures that shall be*
25 *used by any direct-to-home satellite service sub-*

1 *scriber requesting a waiver to receive one or*
2 *more distant network signals. The waiver proce-*
3 *dures adopted by the Commission shall—*

4 *“(i) impose no unnecessary burden on*
5 *the subscriber seeking the waiver;*

6 *“(ii) allocate responsibilities fairly be-*
7 *tween direct-to-home satellite service pro-*
8 *viders and local stations;*

9 *“(iii) prescribe mandatory time limits*
10 *within which direct-to-home satellite service*
11 *providers and local stations shall carry out*
12 *the obligations imposed upon them; and*

13 *“(iv) prescribe that all costs of con-*
14 *ducting any measurement or testing shall be*
15 *borne by the direct-to-home satellite service*
16 *provider, if the local station’s signal meets*
17 *the prescribed minimum standards, or by*
18 *the local station, if its signal fails to meet*
19 *the prescribed minimum standards.*

20 *“(4) PENALTY FOR VIOLATION.—Any direct-to-*
21 *home satellite service provider that knowingly and*
22 *willfully provides the signals of 1 or more distant tel-*
23 *evision stations to subscribers in violation of this sec-*
24 *tion shall be liable for forfeiture in the amount of*
25 *\$50,000 per day per violation.*

1 “(b) *PROVISIONS RELATING TO EXISTING SUB-*
2 *SCRIBERS.—*

3 “(1) *MORATORIUM ON TERMINATION.—Until De-*
4 *cember 31, 1999, any direct-to-home satellite service*
5 *may continue to provide the signals of distant tele-*
6 *vision stations to any subscriber located within pre-*
7 *dicted Grade A and Grade B contours of a local net-*
8 *work station who received those distant network sig-*
9 *nals before July 11, 1998.*

10 “(2) *CONTINUED CARRIAGE.—Direct-to-home sat-*
11 *ellite service providers may continue to provide the*
12 *signals of distant television stations to subscribers lo-*
13 *cated between the outside limits of the predicted*
14 *Grade A contour and the predicted Grade B contour*
15 *of the corresponding local network stations after De-*
16 *cember 31, 1999, subject to any limitations adopted*
17 *by the Commission under paragraph (3).*

18 “(3) *RULEMAKING REQUIRED.—*

19 “(A) *Within 180 days after the date of en-*
20 *actment of the Satellite Television Act of 1999,*
21 *the Commission shall conclude a single rule-*
22 *making, compliant with subchapter II of chapter*
23 *5 of title 5, United States Code, to examine the*
24 *extent to which any existing program exclusivity*
25 *rules should be imposed on distant network sta-*

1 *tions provided to subscribers under paragraph*
2 *(2).*

3 “(B) *The Commission shall not impose any*
4 *program exclusivity rules on direct-to-home sat-*
5 *ellite service providers pursuant to subparagraph*
6 *(A) unless it finds that it would be both tech-*
7 *nically and economically feasible and otherwise*
8 *in the public interest to do so.*

9 “(c) *WAIVERS NOT PRECLUDED.—Notwithstanding*
10 *any other provision in this section, nothing shall preclude*
11 *network stations from authorizing the continued provision*
12 *of distant network signals in unaltered form to any direct-*
13 *to-home satellite service subscriber currently receiving them.*

14 “(d) *CERTAIN SIGNALS.—Providers of direct-to-home*
15 *satellite service may continue to carry the signals of distant*
16 *network stations without regard to subsections (a) and (b)*
17 *in any situation in which—*

18 “(1) *a subscriber is unserved by the local station*
19 *affiliated with that network;*

20 “(2) *a waiver is otherwise granted by the local*
21 *station under subsection (c); or*

22 “(3) *if the carriage would otherwise be consistent*
23 *with rules adopted by the Commission in CS Docket*
24 *98–201.*

1 “(e) *REPORT REQUIRED.*—Within 180 days after the
 2 date of enactment of the Satellite Television Act of 1999,
 3 the Commission shall report to Congress on methods of fa-
 4 cilitating the delivery of local signals in local markets, espe-
 5 cially smaller markets.”.

6 **SEC. 5. RETRANSMISSION CONSENT.**

7 (a) *AMENDMENT OF SECTION 325(b).*—Section 325(b)
 8 of the Communications Act of 1934 (47 U.S.C. 325(b)) is
 9 amended by striking the subsection designation and para-
 10 graphs (1) and (2) and inserting the following:

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

14 “(A) with the express authority of the station; or

15 “(B) pursuant to section 614 or section 615, in
 16 the case of a station electing, in accordance with this
 17 subsection, to assert the right to carriage under that
 18 section.

19 “(2) The provisions of this subsection shall not apply
 20 to—

21 “(A) retransmission of the signal of a television
 22 broadcast station outside the station’s local market by
 23 a satellite carrier directly to subscribers if—

24 “(i) that station was a superstation on May
 25 1, 1991;

1 “(i) as of July 1, 1998, such station’s sig-
2 nal was transmitted under the compulsory li-
3 cense of section 119 of title 17, United States
4 Code, by satellite carriers directly to at least
5 250,000 subscribers; and

6 “(iii) the satellite carrier complies with any
7 program exclusivity rules that may be adopted
8 by the Federal Communications Commission
9 pursuant to section 338.

10 “(B) retransmission of the distant signal of a
11 broadcasting station that is owned or operated by, or
12 affiliated with, a broadcasting network directly to a
13 home satellite antenna, if the subscriber resides in an
14 unserved household; or

15 “(C) retransmission by a cable operator or other
16 multichannel video programming distributor (other
17 than by a satellite carrier direct to its subscribers) of
18 the signal of a television broadcast station outside the
19 station’s local market, if that signal was obtained
20 from a satellite carrier and—

21 “(i) the originating station was a supersta-
22 tion on May 1, 1991; and

23 “(ii) the originating station was a network
24 station on December 31, 1997, and its signal was

1 *retransmitted by a satellite carrier directly to*
2 *subscribers.*

3 “(3) *Any term used in this subsection that is defined*
4 *in section 337(d) of this Act has the meaning given to it*
5 *by that section.*”.

6 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
7 *section (a) take effect on January 1, 1999.*

8 **SEC. 6. DESIGNATED MARKET AREAS.**

9 *Nothing in this Act, or in the amendments made by*
10 *this Act, prevents the Federal Communications Commission*
11 *from revising the listing of designated market areas or reas-*
12 *signing those areas if the revision or reassignment is done*
13 *in the same manner and to the same extent as the Commis-*
14 *sion’s cable television mandatory carriage rules provide.*

15 **SEC. 7. SEVERABILITY.**

16 *If any provision of this Act or section 325(b) or 337*
17 *of the Communications Act of 1934 (47 U.S.C. 325(b) or*
18 *337, respectively), or the application of that provision to*
19 *any person or circumstance, is held by a court of competent*
20 *jurisdiction to violate any provision of the Constitution of*
21 *the United States, then the other provisions of that section,*
22 *and the application of that provision to other persons and*
23 *circumstances, shall not be affected.*

1 **SEC. 8. SECONDARY TRANSMISSIONS.**

2 (a) *AMENDMENT OF SECTION 119(a)(2)(B) OF TITLE*
 3 *17, UNITED STATES CODE.—Section 119(a)(2)(B) of title*
 4 *17, United States Code, is amended to read as follows:*

5 “(B) *SECONDARY TRANSMISSIONS TO UNSERVED*
 6 *HOUSEHOLDS.—Except as provided in paragraph*
 7 *(5)(E) of this subsection, the license provided for in*
 8 *subparagraph (a) shall be limited to secondary trans-*
 9 *missions to persons who reside in unserved house-*
 10 *holds.”.*

11 (b) *AMENDMENT OF SECTION 119(a)(5) OF TITLE*
 12 *17.—Section 119(a)(5) of title 17, United States Code, is*
 13 *amended by adding at the end thereof the following:*

14 “(E) *EXCEPTION.—The secondary transmission*
 15 *by a satellite carrier of a primary transmission made*
 16 *by a network station to subscribers who do not reside*
 17 *in unserved households shall not be an act of infringe-*
 18 *ment if—*

19 “(i) *that station was a superstation on May*
 20 *1, 1991; and*

21 “(ii) *that station was lawfully retrans-*
 22 *mitted by satellite carriers directly to at least*
 23 *250,000 subscribers as of July 1, 1998.”.*

24 **SEC. 9. DEFINITIONS.**

25 *In this Act:*

1 (1) *TERMS DEFINED IN COMMUNICATIONS ACT OF*
2 *1934.—Any term used in this Act that is defined in*
3 *section 337(d) of the Communications Act of 1934, as*
4 *added by section 4 of this Act, has the meaning given*
5 *to it by that section.*

6 (2) *DESIGNATED MARKET AREA.—The term “des-*
7 *ignated market area” means a designated market*
8 *area, as determined by Nielsen Media Research and*
9 *published in the DMA Market and Demographic Re-*
10 *port.*