

# Union Calendar No. 379

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

# H. R. 4501

[Report No. 108-634]

To extend the statutory license for secondary transmissions under section 119 of title 17, United States Code, and to amend the Communications Act of 1934 with respect to such transmissions, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 3, 2004

Mr. UPTON (for himself, Mr. MARKEY, Mr. BARTON of Texas, and Mr. DINGELL) introduced the following bill; which was referred to the Committee on Energy and Commerce

JULY 22, 2004

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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## A BILL

To extend the statutory license for secondary transmissions under section 119 of title 17, United States Code, and to amend the Communications Act of 1934 with respect to such transmissions, 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; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Satellite Home Viewer Extension and Reauthorization  
4 Act of 2004”.

5 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE II—FEDERAL COMMUNICATIONS COMMISSION OPERATIONS

Sec. 201. Extension of retransmission consent exemption.

Sec. 202. Cable/satellite comparability.

Sec. 203. Carriage of local stations on a single dish.

Sec. 204. Replacement of distant signals with local signals.

Sec. 205. Additional notices to subscribers, networks, and stations concerning  
signal carriage.

Sec. 206. Privacy rights of satellite subscribers.

Sec. 207. Reciprocal bargaining obligations.

Sec. 208. Unserved digital customers.

Sec. 209. Reduction of required tests.

Sec. 210. Carriage of certain additional stations.

6 **TITLE II—FEDERAL COMMU-**  
7 **NICATIONS COMMISSION OP-**  
8 **ERATIONS**

9 **SEC. 201. EXTENSION OF RETRANSMISSION CONSENT EX-**  
10 **EMPTION.**

11 Section 325(b)(2)(C) of the Communications Act of  
12 1934 (47 U.S.C. 325(b)(2)(C)) is amended by striking  
13 “December 31, 2004” and inserting “December 31,  
14 2009”.

15 **SEC. 202. CABLE/SATELLITE COMPARABILITY.**

16 (a) AMENDMENT.—Part I of title III of the Commu-  
17 nications Act of 1934 is amended by inserting after sec-  
18 tion 339 (47 U.S.C. 339) the following new section:

1 **“SEC. 340. SIGNIFICANTLY VIEWED SIGNALS PERMITTED**  
2 **TO BE CARRIED.**

3 “(a) SIGNIFICANTLY VIEWED STATIONS.—In addi-  
4 tion to the broadcast signals that subscribers may receive  
5 under section 338 and 339, a satellite carrier is also au-  
6 thorized to retransmit to subscribers located in a commu-  
7 nity the signal of any station that a cable system in the  
8 same community is authorized to retransmit pursuant to  
9 section 111 of title 17, United States Code, if such station  
10 is treated as significantly viewed in the county within  
11 which such community is located in accordance with the  
12 rules, regulations, and authorizations of the Commission.

13 “(b) LIMITATIONS.—

14 “(1) ANALOG SERVICE LIMITED TO SUB-  
15 SCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—

16 With respect to a signal that originates as an analog  
17 signal of a television broadcast station, this section  
18 shall apply only to retransmissions to subscribers  
19 who receive retransmissions from a satellite carrier  
20 pursuant to the statutory license under section 122  
21 of title 17, United States Code.

22 “(2) DIGITAL SERVICE LIMITATIONS.—With re-  
23 spect to a signal that originates as a digital signal  
24 of a network station, this section shall apply only  
25 if—

1           “(A) the subscriber receives from the sat-  
2           ellite carrier pursuant to the statutory license  
3           under section 122 of title 17, United States  
4           Code, the retransmission of the digital signal of  
5           a network station in the subscriber’s local mar-  
6           ket that is affiliated with the same television  
7           network; and

8           “(B) either—

9                   “(i) the retransmission of the local  
10                  network station occupies at least the equiv-  
11                  alent bandwidth as the digital signal re-  
12                  transmitted pursuant to this section; or

13                  “(ii) the retransmission of the local  
14                  network station carries the entire band-  
15                  width of the digital signal broadcast by  
16                  such local network station.

17           “(3) LIMITATION NOT APPLICABLE WHERE NO  
18           NETWORK AFFILIATES.—The limitations in para-  
19           graphs (1) and (2) shall not prohibit a retrans-  
20           mission under this section to a subscriber located in  
21           a local market in which there are no network sta-  
22           tions affiliated with the same television network as  
23           the station whose signal is being retransmitted pur-  
24           suant to this section.

1           “(4) AUTHORITY TO GRANT STATION-SPECIFIC  
2           WAIVERS.—Notwithstanding paragraphs (1) and (2),  
3           a satellite carrier may provide to subscribers the re-  
4           transmission of a network station that is determined  
5           to be significantly viewed under this section, if and  
6           to the extent that the network station in the local  
7           market in which the subscriber is located, and that  
8           is affiliated with the same television network, has  
9           granted a waiver from the requirements of para-  
10          graphs (1) and (2) to such satellite carrier with re-  
11          spect to such significantly viewed station.

12          “(c) MODIFICATIONS OF LIST.—

13           “(1) PETITIONS FROM SATELLITE CARRIERS.—  
14           In addition to cable operators and television broad-  
15           cast station licensees, the Commission shall permit a  
16           satellite carrier to petition for decisions and or-  
17           ders—

18                   “(A) by which stations and communities  
19                   may be added to those that are eligible for re-  
20                   transmission under subsection (a); and

21                   “(B) by which stations and communities  
22                   may be determined to be eligible for retrans-  
23                   mission under paragraph (2) of this subsection.

24           “(2) APPLICATION OF CRITERIA TO COMMU-  
25           NITIES WITHOUT CABLE SERVICE.—In addition to

1 the stations and communities that are eligible for re-  
2 transmission under subsection (a), in a community  
3 that is not served by a cable system, a satellite car-  
4 rier is also authorized to retransmit to subscribers  
5 located in such community the signal of any station  
6 that a cable system in that community would be au-  
7 thorized to retransmit pursuant to section 111 of  
8 title 17, United States Code, if such signal would  
9 be treated as significantly viewed in the county with-  
10 in which such community is located in accordance  
11 with the rules, regulations, and authorizations of the  
12 Commission.

13 “(d) EFFECT ON OTHER OBLIGATIONS AND  
14 RIGHTS.—

15 “(1) NO EFFECT ON CARRIAGE OBLIGATIONS.—  
16 Carriage of a signal under this section is not manda-  
17 tory, and any right of a station licensee to have the  
18 signal of such station carried under section 338 is  
19 not affected by the eligibility of such station to be  
20 carried under this section.

21 “(2) RETRANSMISSION CONSENT RIGHTS NOT  
22 AFFECTED.—The eligibility of the signal of a station  
23 to be carried under this section does not affect the  
24 right of the licensee of such station to grant (or

1 withhold) retransmission consent under section  
2 325(b)(1).

3 “(e) NETWORK NONDUPLICATION AND SYNDICATED  
4 EXCLUSIVITY.—

5 “(1) NOT APPLICABLE EXCEPT AS PROVIDED  
6 BY COMMISSION REGULATIONS.—Signals eligible to  
7 be carried under this section are not subject to the  
8 Commission’s regulations concerning network non-  
9 duplication or syndicated exclusivity unless, pursu-  
10 ant to regulations adopted by the Commission, the  
11 Commission determines to permit network non-  
12 duplication or syndicated exclusivity to apply within  
13 the appropriate zone of protection.

14 “(2) LIMITATION.—Nothing in this subsection  
15 or Commission regulations shall permit the applica-  
16 tion of network nonduplication or syndicated exclu-  
17 sivity regulations to the retransmission of distant  
18 signals of network stations that are carried by a sat-  
19 ellite carrier pursuant to a statutory license under  
20 section 119(a)(2)(A) or (B), with respect to persons  
21 who reside in unserved households, under  
22 119(a)(4)(A), or under section 119(a)(12).

23 “(f) ENFORCEMENT PROCEEDINGS.—

24 “(1) NOTICE BY TELEVISION BROADCAST STA-  
25 TIONS.—If a television broadcast station believes

1 that a satellite carrier has retransmitted to any sub-  
2 scribe in the local market of such station the signal  
3 of another television broadcast station affiliated with  
4 the same television network in violation of this sec-  
5 tion, the station may provide the satellite carrier  
6 with written notice of such violation. Such notice  
7 shall be provided via overnight delivery, addressed to  
8 the chief executive officer of the satellite carrier at  
9 its principal place of business and marked ‘UR-  
10 GENT LITIGATION MATTER’ on the outer pack-  
11 aging. Such notification shall set forth—

12 “(A) the name, address, and call letters of  
13 the station that is claimed to have been unlaw-  
14 fully retransmitted (for purposes of this sub-  
15 section, the ‘imported station’);

16 “(B) the name and address of the satellite  
17 carrier;

18 “(C) the dates on which the alleged re-  
19 transmission occurred;

20 “(D) the street address of at least one per-  
21 son to whom the alleged retransmission was  
22 made;

23 “(E) a statement that the retransmission  
24 was not permitted because—



1           “(i) the Commission had not deter-  
2           mined that the imported station is signifi-  
3           cantly viewed in the relevant community;

4           “(ii) the subscriber is not eligible for  
5           the retransmission of the signal because of  
6           the limitation in subsection (b) (1) or (2);

7           “(iii) the satellite carrier had not pro-  
8           vided the notification required by sub-  
9           section (h)(3); or

10           “(iv) two or more of the above; and

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

13           “(2) COMPLAINTS BY TELEVISION BROADCAST  
14           STATIONS.—If, within 30 days of providing to the  
15           satellite carrier a notice pursuant to paragraph (1),  
16           the satellite carrier has not cured the alleged re-  
17           transmission in violation of this section, or if the  
18           satellite carrier cures the alleged violation after no-  
19           tice and then renews such violation within the next  
20           two years, the station may file a complaint with the  
21           Commission. Such complaint shall set forth the in-  
22           formation provided in a notice under paragraph (1).

23           “(3) SERVICE OF COMPLAINTS ON SATELLITE  
24           CARRIERS.—For purposes of any proceeding under  
25           this subsection, any satellite carrier that retransmits

1 the signal of any broadcast station shall be deemed  
2 to designate the Secretary of the Commission as its  
3 agent for service of process. A television broadcast  
4 station may serve a satellite carrier with a complaint  
5 concerning an alleged violation of this section  
6 through retransmission of a station within the local  
7 market of such station by filing the original and two  
8 copies of the complaint with the Secretary of the  
9 Commission and serving a copy of the complaint on  
10 the satellite carrier by means of two commonly used  
11 overnight delivery services, each addressed to the  
12 chief executive officer of the satellite carrier at its  
13 principal place of business, and each marked ‘UR-  
14 GENT LITIGATION MATTER’ on the outer pack-  
15 aging. Service shall be deemed complete one business  
16 day after a copy of the complaint is provided to the  
17 delivery services for overnight delivery. On receipt of  
18 a complaint filed by a television broadcast station  
19 under this subsection, the Secretary of the Commis-  
20 sion shall send the original complaint by United  
21 States mail, postage prepaid, receipt requested, ad-  
22 dressed to the chief executive officer of the satellite  
23 carrier at its principal place of business.

24 “(4) ANSWERS BY SATELLITE CARRIERS.—  
25 Within 20 business days after the date of service,

1 the satellite carrier shall file an answer with the  
2 Commission and shall serve the answer by a com-  
3 monly used overnight delivery service and by United  
4 States mail, on the counsel designated in the com-  
5 plaint at the address listed for such counsel in the  
6 complaint. The answer shall include, as a schedule,  
7 a complete and accurate list of all subscribers to  
8 which the satellite carrier retransmitted the im-  
9 ported station into the community in question pursu-  
10 ant to this section for each month during the rel-  
11 evant time period. Such subscriber information sub-  
12 mitted by a satellite carrier may be used only for  
13 purposes of determining compliance by the satellite  
14 carrier with this section.

15 “(5) DEFENSES.—

16 “(A) EXCLUSIVE DEFENSES.—The de-  
17 fenses under this paragraph are the exclusive  
18 defenses available to a satellite carrier against  
19 which a complaint under this subsection is filed.

20 “(B) DEFENSES.—The defenses referred  
21 to under subparagraph (A) are the defenses—

22 “(i) that the satellite carrier did not  
23 retransmit the imported station to any per-  
24 son in the complaining station’s local mar-

1 ket pursuant to this section during the  
2 time period specified in the complaint;

3 “(ii) if the complaining station has al-  
4 leged that the retransmission was unlawful  
5 because the Commission had not deter-  
6 mined that the station is significantly  
7 viewed in the relevant community, that the  
8 Commission had in fact made that deter-  
9 mination;

10 “(iii) with respect to particular sub-  
11 scribers referenced in the complaint, that  
12 those subscribers reside in communities in  
13 which the Commission has determined the  
14 station to be significantly viewed;

15 “(iv) if the complaining station has al-  
16 leged that the retransmission is unlawful  
17 because the subscriber is ineligible for the  
18 retransmission because of the limitation in  
19 subsection (b) (1) or (2), that such limita-  
20 tion is inapplicable; and

21 “(v) if the complaining station has al-  
22 leged that the retransmission was unlawful  
23 because the satellite carrier had not pro-  
24 vided the notification required by sub-

1 section (h)(3), that the satellite carrier had  
2 in fact provided that notification.

3 “(6) COUNTING OF VIOLATIONS.—The unlawful  
4 retransmission of a particular television broadcast  
5 station on a particular day subsequent to the notice  
6 and opportunity to cure described in paragraphs (1)  
7 and (2) of this subsection to a single subscriber pur-  
8 suant to this section shall be considered a separate  
9 violation of this section.

10 “(7) PROCEDURES.—

11 “(A) REGULATIONS.—Within 60 days  
12 after the date of enactment, the Commission  
13 shall issue procedural regulations implementing  
14 this subsection which shall supersede proce-  
15 dures under section 312.

16 “(B) DETERMINATIONS.—

17 “(i) IN GENERAL.—Within 45 days  
18 after the filing of a complaint, the Com-  
19 mission shall issue a final determination in  
20 any proceeding brought under this sub-  
21 section, unless the Commission issues an  
22 interim determination in writing that there  
23 has been a genuine, reasonable, good faith  
24 dispute about the applicability of one of  
25 the defenses set forth in paragraph (5), in

1           which case the Commission shall have 135  
2           additional days to issue a final determina-  
3           tion. The Commission shall hear witnesses  
4           only if it clearly appears, based on written  
5           filings by the parties, that there is a gen-  
6           uine dispute about material facts. Except  
7           as provided in the preceding sentence, the  
8           Commission may issue a final ruling based  
9           on written filings by the parties.

10           “(ii) DISCOVERY.—The Commission  
11           may direct the parties to exchange perti-  
12           nent documents, and if necessary to take  
13           prehearing depositions, on such schedule as  
14           the Commission may approve, but only if  
15           the Commission first determines that such  
16           discovery is necessary to resolve a genuine  
17           dispute about material facts, consistent  
18           with the obligation to make a final deter-  
19           mination within 45 days (or 180 days, as  
20           appropriate).

21           “(8) RELIEF.—If the Commission determines  
22           that a satellite carrier has retransmitted the im-  
23           ported stations to at least one person in the com-  
24           plaining station’s local market based on this section  
25           and has failed to meet its burden of proving one of

1 the defenses under paragraph (5) with respect to  
2 such retransmission, the Commission shall be re-  
3 quired to—

4 “(A) make a finding that the satellite car-  
5 rier violated this section with respect to that  
6 station; and

7 “(B) issue an order containing—

8 “(i) a cease-and-desist order directing  
9 the satellite carrier immediately to stop  
10 making any further retransmissions in vio-  
11 lation of this section;

12 “(ii) a monetary penalty of \$50 per  
13 violation, which may be waived by the  
14 Commission only if the Commission deter-  
15 mines that there was a genuine, reason-  
16 able, good faith dispute about the applica-  
17 bility of one of the defenses set forth in  
18 paragraph (5); and

19 “(C) an award to the complainant of the  
20 complainant’s costs and reasonable attorney’s  
21 fees.

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

1           “(A) IN GENERAL.—On entry by the Com-  
2 mission of a final order granting relief under  
3 this subsection—

4           “(i) a television broadcast station may  
5 apply within 30 days after such entry to  
6 the United States District Court for the  
7 District of Columbia for a final judgment  
8 enforcing all relief granted by the Commis-  
9 sion; and

10           “(ii) the satellite carrier may apply  
11 within 30 days after such entry to the  
12 United States District Court for the Dis-  
13 trict of Columbia for a judgment reversing  
14 the Commission’s order.

15           “(B) APPEAL.—

16           “(i) For cases in which the Commis-  
17 sion has not determined that there has  
18 been a genuine, reasonable, good faith dis-  
19 pute about the applicability of one of the  
20 defenses set forth in paragraph (5), the  
21 procedure for an appeal under this sub-  
22 paragraph by the satellite carrier shall su-  
23 percede any other appeal rights under Fed-  
24 eral or State law. The United States Dis-  
25 trict Court for the District of Columbia



1 may find personal jurisdiction based on the  
2 satellite carrier's ownership of licenses  
3 issued by the Commission. An application  
4 by a television broadcast station for an  
5 order enforcing any cease-and-desist relief  
6 granted by the Commission shall be re-  
7 solved on a highly expedited schedule. No  
8 discovery may be conducted by the parties  
9 in any such proceeding. The district court  
10 shall enforce the Commission order unless  
11 the Commission record reflects manifest  
12 error and an abuse of discretion by the  
13 Commission.

14 “(ii) For cases in which the Commis-  
15 sion has determined that there has been  
16 genuine, reasonable, good faith dispute  
17 about the applicability of one of the de-  
18 fenses set forth in paragraph (5), the ap-  
19 peals process set forth in section 402 shall  
20 apply, with the following caveats:

21 “(I) If the Commission has found  
22 the retransmissions in question to be  
23 in violation of this section, the sat-  
24 ellite carrier must cease such retrans-  
25 missions during the pendency of any

1            appeal. Any such retransmissions  
2            after the date of the Commission’s  
3            order but prior to any order over-  
4            turning the Commission on appeal  
5            shall be considered violations under  
6            paragraph (6).

7            “(II) If the Commission has  
8            found the retransmissions in question  
9            to be not in violation of this section,  
10           the satellite carrier may continue such  
11           retransmissions during the pendency  
12           of the appeal. Any such retrans-  
13           missions after the date of the Com-  
14           mission’s order but prior to any order  
15           overturning the Commission on appeal  
16           shall not be considered violations  
17           under paragraph (6).

18           “(g) RULEMAKING.—

19                  “(1) REQUIREMENTS.—The Commission  
20           shall—

21                          “(A) commence a rulemaking proceeding  
22           to implement this section by publication of a  
23           notice of proposed rulemaking within 180 days  
24           after the date of enactment of the Satellite

1 Home Viewer Extension and Reauthorization  
2 Act of 2004;

3 “(B) include in such notice a list of the  
4 stations or communities eligible for carriage  
5 under subsection (a); and

6 “(C) adopt rules pursuant to such rule-  
7 making within one year after such date of en-  
8 actment.

9 “(2) INTERIM ELIGIBILITY.—Stations and com-  
10 munities listed as eligible for carriage in the notice  
11 of proposed rulemaking issued by the Commission  
12 under paragraph (1) may be treated as eligible for  
13 carriage under this section on an interim basis pend-  
14 ing adoption of such rules and publication of the list  
15 of eligible stations and communities under such  
16 rules.

17 “(h) ADDITIONAL CORRESPONDING CHANGES IN  
18 REGULATIONS.—

19 “(1) COMMUNITY-BY-COMMUNITY ELEC-  
20 TIONS.—The Commission shall, no later than April  
21 30, 2005, revise section 76.66 of its regulations (47  
22 C.F.R. 76.66), concerning satellite broadcast signal  
23 carriage, to permit (at the next cycle of elections  
24 under section 325) a television broadcast station  
25 that is located in a local market into which a sat-

1 elite carrier retransmits a television broadcast sta-  
2 tion on the basis of a statutory license under section  
3 122 of title 17, United States Code, to elect, with  
4 respect to such satellite carrier, between retrans-  
5 mission consent pursuant to such section 325 and  
6 mandatory carriage pursuant to section 338 sepa-  
7 rately for each county within such station's local  
8 market, if—

9 “(A) the satellite carrier has notified the  
10 station, pursuant to paragraph (3), that it in-  
11 tends to carry another affiliate of the same net-  
12 work pursuant to this section during the rel-  
13 evant election period in the station's local mar-  
14 ket; or

15 “(B) on the date notification under para-  
16 graph (3) was due, the satellite carrier was re-  
17 transmitting into the station's local market pur-  
18 suant to this section an affiliate of the same tel-  
19 evision network.

20 “(2) SINGLE NEGOTIATIONS.—In revising its  
21 regulations as required by paragraph (1), the Com-  
22 mission shall provide that any such station shall con-  
23 duct a single negotiation for the entire portion of its  
24 local market for which retransmission consent is  
25 elected.

1           “(3) ADDITIONAL PROVISIONS.—The Commis-  
2           sion shall, no later than April 30, 2005, revise its  
3           regulations to provide the following:

4                   “(A) NOTIFICATIONS BY SATELLITE CAR-  
5           RIER.—A satellite carrier’s retransmission of  
6           television broadcast stations pursuant to this  
7           section shall be subject to the following limita-  
8           tions:

9                           “(i) In any local market in which the  
10           satellite carrier provides service on the  
11           basis of a statutory license under section  
12           122 of title 17, United States Code, on the  
13           date of enactment of the Satellite Home  
14           Viewer Extension and Reauthorization Act  
15           of 2004, the carrier may notify a television  
16           broadcast station in that market, at least  
17           60 days prior to any date on which the  
18           station must thereafter make an election  
19           under section 76.66 of the Commission’s  
20           regulations (47 C.F.R. 76.66), of—

21                                   “(I) each affiliate of the same  
22           television network that the carrier re-  
23           serves the right to retransmit into  
24           that station’s local market pursuant  
25           to this section during the next election

1 cycle under such section of such regu-  
2 lations; and

3 “(II) for each such affiliate, the  
4 communities into which the satellite  
5 carrier reserves the right to make  
6 such retransmissions.

7 “(ii) In any local market in which the  
8 satellite carrier commences service on the  
9 basis of a statutory license under section  
10 122 of title 17, United States Code, after  
11 the date of enactment of the Satellite  
12 Home Viewer Extension and Reauthoriza-  
13 tion Act of 2004, the carrier may notify a  
14 station in that market, at least 60 days  
15 prior to the introduction of such service in  
16 that market, and thereafter at least 60  
17 days prior to any date on which the station  
18 must thereafter make an election under  
19 section 76.66 of the Commission’s regula-  
20 tions (47 C.F.R. 76.66), of each affiliate of  
21 the same television network that the car-  
22 rier reserves the right to retransmit into  
23 that station’s local market during the next  
24 election cycle under such section of such  
25 regulations.

1           “(iii) Beginning with the 2005 elec-  
2           tion cycle, a satellite carrier may only re-  
3           transmit pursuant to this section during  
4           the pertinent election period a signal—

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

8                   “(II) that it was retransmitting  
9                   into the local market under this sec-  
10                  tion as of the date such notifications  
11                  were due.

12               “(B) HARMONIZATION OF ELECTIONS AND  
13               RETRANSMISSION CONSENT AGREEMENTS.—If a  
14               satellite carrier notifies a television broadcast  
15               station that it reserves the right to retransmit  
16               an affiliate of the same television network dur-  
17               ing the next election cycle pursuant to this sec-  
18               tion, the station may choose between retrans-  
19               mission consent and mandatory carriage for  
20               any portion of the 3-year election cycle that is  
21               not covered by an existing retransmission con-  
22               sent agreement.

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

24                   “(1) LOCAL MARKET; SATELLITE CARRIER;  
25                   SUBSCRIBER; TELEVISION BROADCAST STATION.—

1 The terms ‘local market’, ‘satellite carrier’, ‘sub-  
2 scriber’, and ‘television broadcast station’ have the  
3 meanings given such terms in section 338(k).

4 “(2) NETWORK STATION; TELEVISION NET-  
5 WORK.—The terms ‘network station’ and ‘television  
6 network’ have the meanings given such terms in sec-  
7 tion 339(d).

8 “(3) BANDWIDTH.—The terms ‘equivalent  
9 bandwidth’ and ‘entire bandwidth’ shall be defined  
10 by the Commission by regulation.”.

11 **SEC. 203. CARRIAGE OF LOCAL STATIONS ON A SINGLE**  
12 **DISH.**

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

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

17 (2) by inserting after subsection (f) the fol-  
18 lowing new subsection:

19 “(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE  
20 DISH.—

21 “(1) SINGLE DISH.—Each satellite carrier that  
22 retransmits the signals of local television broadcast  
23 stations in a local market shall retransmit the sig-  
24 nals of all local television broadcast stations retrans-  
25 mitted by that carrier to subscribers in such market



1 by means of a single reception antenna and associ-  
2 ated equipment.

3 “(2) EXCEPTION.—Notwithstanding paragraph  
4 (1), if the carrier retransmits signals in the digital  
5 television service, the carrier shall retransmit the  
6 digital television service signals of all the local tele-  
7 vision broadcast stations retransmitted by that car-  
8 rier to subscribers in such market by means of a sin-  
9 gle reception antenna and associated equipment, but  
10 such antenna and associated equipment may be sep-  
11 arate from the single reception antenna and associ-  
12 ated equipment used for signals that are not in the  
13 digital television service.

14 “(3) EFFECTIVE DATE.—The requirements of  
15 paragraphs (1) and (2) of this subsection shall apply  
16 on and after one year after the date of enactment  
17 of the Satellite Home Viewer Extension and Reau-  
18 thorization Act of 2004.

19 “(4) NOTICE OF DISRUPTIONS.—A carrier that  
20 is providing signals of a local television broadcast  
21 station in a local market under this section on the  
22 date of enactment of the Satellite Home Viewer Ex-  
23 tension and Reauthorization Act of 2004 shall, not  
24 later than 270 days after such date of enactment,  
25 provide to the licensees for such stations and the

1 carrier's subscribers in such local market a notice  
2 that displays prominently and conspicuously a clear  
3 statement of—

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

9 “(B) the need, if any, for subscribers to  
10 obtain an additional reception antenna and as-  
11 sociated equipment to receive such signals; and

12 “(C) any cessation of carriage or other ma-  
13 terial change in the carriage of signals as a con-  
14 sequence of the requirements of this paragraph.

15 “(5) ENFORCEMENT.—Notwithstanding any  
16 other provision of this section, the Commission may  
17 enforce this section and any regulation thereunder in  
18 accordance with titles IV and V of this Act.”.

19 **SEC. 204. REPLACEMENT OF DISTANT SIGNALS WITH**  
20 **LOCAL SIGNALS.**

21 Section 339(a) of the Communications Act of 1934  
22 (47 U.S.C. 339(a)) is amended—

23 (1) by redesignating paragraph (2) as para-  
24 graph (3); and

1           (2) by inserting after paragraph (1) the fol-  
2           lowing new paragraph:

3           “(2) REPLACEMENT OF DISTANT SIGNALS WITH  
4           LOCAL SIGNALS.—Notwithstanding any other provi-  
5           sion of paragraph (1), the following rules shall apply  
6           after the date of enactment of the Satellite Home  
7           Viewer Extension and Reauthorization Act of 2004:

8           “(A) RULES FOR GRANDFATHERED SUB-  
9           SCRIBERS.—In the case of a subscriber of a sat-  
10          ellite carrier who is eligible to receive the signal  
11          of a network station solely by reason of section  
12          119(e) of title 17, United States Code (in this  
13          subparagraph referred to as a ‘distant signal’),  
14          the following shall apply:

15          “(i) In a case in which the signal of  
16          a local network station affiliated with the  
17          same television network is made available  
18          pursuant to the statutory license under  
19          section 122 by that satellite carrier to the  
20          subscriber, the carrier may only provide  
21          the secondary transmissions of the distant  
22          signal of such network station to that sub-  
23          scriber—

24          “(I) if, within 60 days after re-  
25          ceiving the notice of the satellite car-

1                   rier under section 338(h)(1) of the  
2                   Communications Act of 1934, the  
3                   subscriber elects to retain the distant  
4                   signal; but

5                   “**(II)** only until such time as the  
6                   subscriber elects to receive such local  
7                   signal.

8                   “(ii) Notwithstanding clause (i), the  
9                   carrier may not retransmit the distant sig-  
10                  nal to any subscriber who is eligible to re-  
11                  ceive the signal of a network station solely  
12                  by reason of section 119(e) of title 17,  
13                  United States Code, unless such carrier,  
14                  within 60 days after the date of the enact-  
15                  ment of the Satellite Home Viewer Exten-  
16                  sion and Reauthorization Act of 2004, sub-  
17                  mits to that television network the list and  
18                  statement required by section 338(h)(2).

19                  “**(B) RULES FOR OTHER SUBSCRIBERS.—**  
20                  In the case of a subscriber of a satellite carrier  
21                  who is eligible to receive the signal of a network  
22                  station under the statutory license under sec-  
23                  tion 119(a)(2) of title 17, United States Code  
24                  (in this subparagraph referred to as a ‘distant

1 signal’), other than subscribers to whom sub-  
2 paragraph (A) applies, the following shall apply:

3 “(i) In a case in which the signal of  
4 a local network station affiliated with the  
5 same television network is made available  
6 pursuant to the statutory license under  
7 section 122 by that satellite carrier to the  
8 subscriber on the date of the enactment of  
9 the Satellite Home Viewer Extension and  
10 Reauthorization Act of 2004, the carrier  
11 may only provide the secondary trans-  
12 missions of the distant signal of such net-  
13 work station to that subscriber—

14 “(I)(aa) if, on such date of enact-  
15 ment, the subscriber is receiving such  
16 distant signal and is also receiving  
17 such local signal, and

18 “(bb) the subscriber’s satellite  
19 carrier, within 60 days after the date  
20 of the enactment of the Satellite  
21 Home Viewer Extension and Reau-  
22 thorization Act of 2004, submits to  
23 that television network the list and  
24 statement required by section  
25 338(h)(2); or

1                   “(II)(aa) if, on such date of en-  
2                   actment, the subscriber is receiving  
3                   such distant signal and is not receiv-  
4                   ing such local signal; but

5                   “(bb) only until such time as the  
6                   subscriber elects to receive such local  
7                   signal.

8                   “(ii) In a case in which the signal of  
9                   a local network station affiliated with the  
10                  same television network is not made avail-  
11                  able pursuant to the statutory license  
12                  under section 122 by that satellite carrier  
13                  to a subscriber on the date of the enact-  
14                  ment of the Satellite Home Viewer Exten-  
15                  sion and Reauthorization Act of 2004, the  
16                  carrier may only provide the secondary  
17                  transmissions of the distant signal of such  
18                  network station to that subscriber—

19                  “(I) who is a subscriber of that  
20                  satellite carrier on such date of enact-  
21                  ment, or

22                  “(II) who becomes a subscriber  
23                  of that satellite carrier after such date  
24                  but before the local signal is made  
25                  available by the carrier, but only until

1           such time as the subscriber elects to  
2           receive the local signal from that sat-  
3           ellite carrier.

4           “(C) FUTURE APPLICABILITY.—A satellite  
5           carrier may not provide a distant signal (within  
6           the meaning of subparagraph (A) or (B)) to  
7           any person in a location to which the signal of  
8           a local network station affiliated with the same  
9           television network was made available by that  
10          carrier pursuant to the statutory license under  
11          section 122 of title 17, United States Code, be-  
12          fore the person becomes a subscriber to that  
13          carrier.

14          “(D) AUTHORITY TO GRANT STATION-SPE-  
15          CIFIC WAIVERS.—Notwithstanding the provi-  
16          sions of this paragraph, a satellite carrier may  
17          provide the distant signal (within the meaning  
18          of subparagraph (A) or (B)) of any distant net-  
19          work station to any person to whom the signal  
20          of a local network station is available pursuant  
21          to the statutory license under section 122 of  
22          title 17, United States Code, if and to the ex-  
23          tent that such local network station has granted  
24          a waiver from the requirements of this para-

1 graph to such satellite carrier with respect to  
2 such distant network station.

3 “(E) OTHER PROVISIONS NOT AF-  
4 FECTED.—This paragraph shall not affect the  
5 eligibility of a subscriber to receive secondary  
6 transmissions under section 119(a)(3) of title  
7 17, United States Code, or as an unserved  
8 household included under section 119(a)(12) of  
9 such title.”.

10 **SEC. 205. ADDITIONAL NOTICES TO SUBSCRIBERS, NET-**  
11 **WORKS, AND STATIONS CONCERNING SIGNAL**  
12 **CARRIAGE.**

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

17 “(h) ADDITIONAL NOTICES TO SUBSCRIBERS, NET-  
18 WORKS, AND STATIONS CONCERNING SIGNAL CAR-  
19 RRIAGE.—

20 “(1) NOTICES TO AND ELECTIONS BY SUB-  
21 SCRIBERS CONCERNING GRANDFATHERED SIG-  
22 NALS.—Any carrier that provides a distant signal of  
23 a network station to a subscriber pursuant to a stat-  
24 utory license under section 119(a)(4)(A) of title 17,  
25 United States Code, shall—



1           “(A) within 60 days after the local signal  
2 of a network station of the same television net-  
3 work is available pursuant to a statutory license  
4 under section 122, or within 60 days after the  
5 date of enactment of the Satellite Home Viewer  
6 Extension and Reauthorization Act of 2004,  
7 whichever is later, send a notice to the sub-  
8 scriber—

9           “(i) offering to substitute the local  
10 network signal for the duplicating distant  
11 network signal; and

12           “(ii) informing the subscriber that, if  
13 the subscriber fails to respond in 60 days,  
14 the subscriber will lose the distant network  
15 signal but will be permitted to subscribe to  
16 the local network signal; and

17           “(B) if the subscriber—

18           “(i) elects to substitute such local net-  
19 work signal within such 60 days, switch  
20 such subscriber to such local network sig-  
21 nal within 10 days after the end of such  
22 60-day period; or

23           “(ii) fails to respond within such 60  
24 days, terminate the distant network signal

1           within 10 days after the end of such 60-  
2           day period.

3           “(2) NOTICES TO NETWORKS OF DISTANT SIG-  
4           NAL SUBSCRIBERS.—Within 60 days after the date  
5           of enactment of the Satellite Home Viewer Exten-  
6           sion and Reauthorization Act of 2004, each satellite  
7           carrier that provides a distant signal of a network  
8           station to a subscriber pursuant to a statutory li-  
9           cense under section 119(a)(4)(A) or 119(a)(4)(B)(i)  
10          of title 17, United States Code, shall submit to each  
11          network—

12                   “(A) a list, aggregated by designated mar-  
13                   ket area, identifying each subscriber provided  
14                   such a signal by—

15                           “(i) name;

16                           “(ii) address (street or RFD number,  
17                           city, state, and zip code); and

18                           “(iii) the distant network signal or  
19                           signals received; and

20                   “(B) a statement that, to the best of the  
21                   carrier’s knowledge and belief after having  
22                   made diligent and good faith inquiries, the sub-  
23                   scriber is qualified under the existing law to re-  
24                   ceive the distant network signal or signals pur-  
25                   suant to a statutory license under section

1           119(a)(4)(A) or 119(a)(4)(B)(i) of title 17,  
2           United States Code.

3           “(3) NOTICE TO STATION LICENSEES OF COM-  
4           MENCEMENT OF LOCAL-INTO-LOCAL SERVICE.—

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

12                   “(B) CONTENTS OF COMMENCEMENT NO-  
13          TICE.—The notice required by such regulations  
14          shall inform each television broadcast station li-  
15          censee within any local market in which a sat-  
16          ellite carrier proposes to commence carriage of  
17          signals of stations from that market, not later  
18          than 60 days prior to the commencement of  
19          such carriage—

20                   “(i) of the carrier’s intention to  
21          launch local-into-local service under this  
22          section in a local market, the identity of  
23          that local market, and the location of the  
24          carrier’s proposed local receive facility for  
25          that local market;

1           “(ii) of the right of such licensee to  
2           elect carriage under this section or grant  
3           retransmission consent under section  
4           325(b);

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

8           “(iv) that failure to make such elec-  
9           tion will result in the loss of the right to  
10          demand carriage under this section for the  
11          remainder of the 3-year cycle of carriage  
12          under section 325.

13          “(C) TRANSMISSION OF NOTICES.—Such  
14          regulations shall require that each satellite car-  
15          rier shall transmit the notices required by such  
16          regulation via certified mail to the address for  
17          such television station licensee listed in the con-  
18          solidated database system maintained by the  
19          Commission.

20          “(4) NOTICES CONCERNING SIGNIFICANTLY  
21          VIEWED STATIONS.—Each satellite carrier that pro-  
22          poses to commence the retransmission of a station  
23          pursuant to section 340 in any local market shall—

24                 “(A) not less than 60 days before com-  
25                 mencing such retransmission, provide a written

1 notice to any television broadcast station in  
2 such local market of a such proposal; and

3 “(B) designate on such carrier’s website all  
4 significantly viewed signals carried pursuant to  
5 section 340 and the communities in which the  
6 signals are carried.”.

7 **SEC. 206. PRIVACY RIGHTS OF SATELLITE SUBSCRIBERS.**

8 (a) AMENDMENT.—Section 338 of the Communica-  
9 tions Act of 1934 (47 U.S.C. 338) is further amended by  
10 inserting after subsection (h) (as added by section 205)  
11 the following new subsection:

12 “(i) PRIVACY RIGHTS OF SATELLITE SUB-  
13 SCRIBERS.—

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

21 “(A) the nature of personally identifiable  
22 information collected or to be collected with re-  
23 spect to the subscriber and the nature of the  
24 use of such information;

1           “(B) the nature, frequency, and purpose of  
2           any disclosure which may be made of such in-  
3           formation, including an identification of the  
4           types of persons to whom the disclosure may be  
5           made;

6           “(C) the period during which such infor-  
7           mation will be maintained by the satellite car-  
8           rier;

9           “(D) the times and place at which the sub-  
10          scriber may have access to such information in  
11          accordance with paragraph (5); and

12          “(E) the limitations provided by this sec-  
13          tion with respect to the collection and disclosure  
14          of information by a satellite carrier and the  
15          right of the subscriber under paragraphs (7)  
16          and (9) to enforce such limitations.

17          In the case of subscribers who have entered into  
18          such an agreement before the effective date of this  
19          subsection, such notice shall be provided within 180  
20          days of such date and at least once a year there-  
21          after.

22          “(2) DEFINITIONS.—For purposes of this sub-  
23          section, other than paragraph (9)—

24                 “(A) the term ‘personally identifiable infor-  
25                 mation’ does not include any record of aggre-

1 gate data which does not identify particular  
2 persons;

3 “(B) the term ‘other service’ includes any  
4 wire or radio communications service provided  
5 using any of the facilities of a satellite carrier  
6 that are used in the provision of satellite serv-  
7 ice; and

8 “(C) the term ‘satellite carrier’ includes, in  
9 addition to persons within the definition of sat-  
10 ellite carrier, any person who—

11 “(i) is owned or controlled by, or  
12 under common ownership or control with,  
13 a satellite carrier; and

14 “(ii) provides any wire or radio com-  
15 munications service.

16 “(3) PROHIBITIONS.—

17 “(A) CONSENT TO COLLECTION.—Except  
18 as provided in subparagraph (B), a satellite  
19 carrier shall not use any facilities used by the  
20 satellite carrier to collect programming selection  
21 or subscription information from such a sub-  
22 scriber to collect personally identifiable informa-  
23 tion concerning any subscriber without the prior  
24 written or electronic consent of the subscriber  
25 concerned.

1           “(B) EXCEPTIONS.—A satellite carrier  
2 may use such facilities to collect such informa-  
3 tion in order to—

4           “(i) obtain information necessary to  
5 render a satellite service or other service  
6 provided by the satellite carrier to the sub-  
7 scriber; or

8           “(ii) detect unauthorized reception of  
9 satellite communications.

10          “(4) DISCLOSURE.—

11           “(A) CONSENT TO DISCLOSURE.—Except  
12 as provided in subparagraph (B), a satellite  
13 carrier shall not disclose personally identifiable  
14 information concerning any subscriber without  
15 the prior written or electronic consent of the  
16 subscriber concerned and shall take such ac-  
17 tions as are necessary to prevent unauthorized  
18 access to such information by a person other  
19 than the subscriber or satellite carrier.

20           “(B) EXCEPTIONS.—A satellite carrier  
21 may disclose such information if the disclosure  
22 is—

23           “(i) necessary to render, or conduct a  
24 legitimate business activity related to, a



1 satellite service or other service provided  
2 by the satellite carrier to the subscriber;

3 “(ii) subject to paragraph (9), made  
4 pursuant to a court order authorizing such  
5 disclosure, if the subscriber is notified of  
6 such order by the person to whom the  
7 order is directed;

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

11 “(I) the satellite carrier has pro-  
12 vided the subscriber the opportunity  
13 to prohibit or limit such disclosure;  
14 and

15 “(II) the disclosure does not re-  
16 veal, directly or indirectly, the—

17 “(aa) extent of any viewing  
18 or other use by the subscriber of  
19 a satellite service or other service  
20 provided by the satellite carrier;  
21 or

22 “(bb) the nature of any  
23 transaction made by the sub-  
24 scriber over any facilities used by  
25 the satellite carrier to collect pro-

1                   gramming selection or subscrip-  
2                   tion information from such a  
3                   subscriber; or

4                   “(iv) to a government entity as au-  
5                   thorized under chapters 119, 121, or 206  
6                   of title 18, United States Code, except that  
7                   such disclosure shall not include records  
8                   revealing satellite subscriber selection of  
9                   video programming from a satellite carrier.

10                  “(5) ACCESS BY SUBSCRIBER.—A satellite sub-  
11                  scriber shall be provided access to all personally  
12                  identifiable information regarding that subscriber  
13                  which is collected and maintained by a satellite car-  
14                  rier. Such information shall be made available to the  
15                  subscriber at reasonable times and at a convenient  
16                  place designated by such satellite carrier. A satellite  
17                  subscriber shall be provided reasonable opportunity  
18                  to correct any error in such information.

19                  “(6) DESTRUCTION OF INFORMATION.—A sat-  
20                  ellite carrier shall destroy personally identifiable in-  
21                  formation if the information is no longer necessary  
22                  for the purpose for which it was collected and there  
23                  are no pending requests or orders for access to such  
24                  information under paragraph (5) or pursuant to a  
25                  court order.

1           “(7) PENALTIES.—Any person aggrieved by  
2 any act of a satellite carrier in violation of this sec-  
3 tion may bring a civil action in a United States dis-  
4 trict court. The court may award—

5           “(A) actual damages but not less than liq-  
6 uidated damages computed at the rate of \$100  
7 a day for each day of violation or \$1,000,  
8 whichever is higher;

9           “(B) punitive damages; and

10           “(C) reasonable attorneys’ fees and other  
11 litigation costs reasonably incurred.

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

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

19           “(9) COURT ORDERS.—Except as provided in  
20 paragraph (4)(B)(iv), a governmental entity may ob-  
21 tain personally identifiable information concerning a  
22 satellite subscriber pursuant to a court order only if,  
23 in the court proceeding relevant to such court  
24 order—

1           “(A) such entity offers clear and con-  
2           vincing evidence that the subject of the infor-  
3           mation is reasonably suspected of engaging in  
4           criminal activity and that the information  
5           sought would be material evidence in the case;  
6           and

7           “(B) the subject of the information is af-  
8           forded the opportunity to appear and contest  
9           such entity’s claim.”.

10          (b) EFFECTIVE DATE.—Section 338(i) of the Com-  
11          munications Act of 1934 (47 U.S.C. 338(i)) as amended  
12          by subsection (a) of this section shall be effective 60 days  
13          after the date of enactment of this Act.

14          **SEC. 207. RECIPROCAL BARGAINING OBLIGATIONS.**

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

18                  (1) by striking “Within 45 days” and all that  
19                  follows through “1999, the” and inserting “The”;

20                  (2) by striking the second sentence;

21                  (3) by striking “and” at the end of clause (i);

22                  (4) in clause (ii)—

23                          (A) by striking “January 1, 2006” and in-  
24                          serting “January 1, 2010”; and

1 (B) by striking the period at the end and  
2 inserting “; and”; and

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

5 “(iii) until January 1, 2010, prohibit  
6 a multichannel video programming dis-  
7 tributor from failing to negotiate in good  
8 faith for retransmission consent under this  
9 section, and it shall not be a failure to ne-  
10 gotiate in good faith if the distributor en-  
11 ters into retransmission consent agree-  
12 ments containing different terms and con-  
13 ditions, including price terms, with dif-  
14 ferent broadcast stations if such different  
15 terms and conditions are based on com-  
16 petitive marketplace considerations.”.

17 (b) DEADLINE.—The Federal Communications Com-  
18 mission shall prescribe regulations to implement the  
19 amendments made by subsection (a)(5) within 180 days  
20 after the date of enactment of this Act.

21 **SEC. 208. UNSERVED DIGITAL CUSTOMERS.**

22 (a) INQUIRY REQUIRED.—Consistent with the digital  
23 television service rules of Federal Communications Com-  
24 mission in effect on the date of enactment of this Act,  
25 and the propagation prediction models derived from Bul-

1 letin No. 69 of the Commission's Office of Engineering  
2 and Technology, the Commission shall initiate an inquiry  
3 to recommend the appropriate methodologies for deter-  
4 mining which consumers are in locations where the con-  
5 sumer will be unable, on and after the date on which ana-  
6 log television services are discontinued pursuant to the  
7 provisions of section 309(j)(14) of the Communications  
8 Act of 1934 (47 U.S.C. 309(j)(14)), to receive broadcast  
9 digital television service signals that are transmitted from  
10 a station's permanent digital television channel that are  
11 of sufficient intensity to be able to receive and display dig-  
12 ital television service using receiving terrestrial outdoor  
13 antennas of reasonable cost and ease of installation. Such  
14 methodologies shall be based on the current field strength  
15 requirements for digital television stations in section  
16 73.622(e)(1) of the Commission's regulations (47 C.F.R.  
17 622(e)(1)).

18 (b) REPORT REQUIRED.—The Federal Communica-  
19 tions Commission shall submit a report on the results of  
20 the inquiry required by subsection (a) to the Committee  
21 on Energy and Commerce of the House of Representatives  
22 and the Committee on Commerce, Science, and Transpor-  
23 tation of the Senate not later than December 31, 2005.  
24 Such report shall include—

1           (1) a proposal, using the best engineering prac-  
2           tices for the broadcast television industry, for a pre-  
3           dictive methodology for determining both which con-  
4           sumers—

5                   (A) receive a digital signal of sufficient in-  
6           tensity to be able to receive and display digital  
7           television service using receiving terrestrial out-  
8           door antennas of reasonable cost and ease of in-  
9           stallation; or

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

13           (2) an analysis of whether it is possible to iden-  
14           tify the areas of the country within which consumers  
15           will not, on and after the date on which analog tele-  
16           vision services are discontinued pursuant to the pro-  
17           visions of section 309(j)(14) of the Communications  
18           Act of 1934 (47 U.S.C. 309(j)(14)), be able to re-  
19           ceive a digital television signal of sufficient intensity  
20           to be able to receive and display digital television  
21           service using receiving terrestrial outdoor antennas  
22           of reasonable cost and ease of installation; and

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

1 **SEC. 209. REDUCTION OF REQUIRED TESTS.**

2 Section 339(c)(4) of the Communications Act of 1934  
3 (47 U.S.C. 339(c)(4)) is amended by inserting after sub-  
4 paragraph (C) the following new subparagraphs:

5 “(D) REDUCTION OF VERIFICATION BUR-  
6 DENS.—Within one year after the date of enact-  
7 ment of the Satellite Home Viewer Extension  
8 and Reauthorization Act of 2004, the Commis-  
9 sion shall by rule exempt from the verification  
10 requirements of subparagraph (A) any request  
11 for a test made by a subscriber to a satellite  
12 carrier—

13 “(i) to whom the retransmission of  
14 the signals of local broadcast stations is  
15 available under section 122 of title 17,  
16 United States Code, from such carrier; or

17 “(ii) for whom the predictive model  
18 required by paragraph (3) predicts a signal  
19 intensity that exceeds the signal intensity  
20 standard in effect under section  
21 119(d)(11)(A) of such title by such num-  
22 ber of decibels as the Commission specifies  
23 in such rule.

24 “(E) EXCEPTION.—Notwithstanding any  
25 provision of this Act, this section does not pro-  
26 hibit a subscriber who is predicted to receive a



1 signal that meets or exceeds such signal inten-  
2 sity standard from conducting a signal strength  
3 test at the subscriber's own expense for the  
4 purpose of determining their eligibility for dis-  
5 tant signals under this section.”.

6 **SEC. 210. CARRIAGE OF CERTAIN ADDITIONAL STATIONS.**

7 Section 340 of the Communications Act of 1934, as  
8 added by section 202(a) of this Act, is amended by insert-  
9 ing at the end of subsection (c) the following new para-  
10 graph:

11 “(3) CARRIAGE OF CERTAIN ADDITIONAL STA-  
12 TIONS.—

13 “(A) ADDITIONAL STATIONS AUTHOR-  
14 IZED.—In addition to the signals that are eligi-  
15 ble to be carried under subsection (a) and para-  
16 graph (2) of this subsection, a satellite carrier  
17 is also authorized to retransmit to subscribers  
18 in no more than two counties in a State that  
19 are in a local market principally comprised of  
20 counties in another State, the signals of any tel-  
21 evision station located in the capital city of the  
22 State in which such counties are located, if the  
23 total number of television households in the two  
24 counties combined did not exceed 10,000 for

1 the year 2003 according to Nielson Media Re-  
2 search.

3 “(B) TREATMENT AS SIGNIFICANTLY  
4 VIEWED; LIMITATIONS.—Such signals shall be  
5 deemed, solely for purposes of this section, to  
6 be significantly viewed in such two counties. In  
7 total, a satellite carrier that carries one or more  
8 additional signals under this paragraph may re-  
9 transmit no more than four television broadcast  
10 stations in such counties pursuant to this para-  
11 graph. All rules applicable to carriage of sta-  
12 tions pursuant to subsection (a) or paragraph  
13 (2) of this subsection shall apply to carriage of  
14 stations pursuant to this paragraph.”



Union Calendar No. 379

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

**H. R. 4501**

[Report No. 108-634]

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## **A BILL**

To extend the statutory license for secondary transmissions under section 119 of title 17, United States Code, and to amend the Communications Act of 1934 with respect to such transmissions, and for other purposes.

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JULY 22, 2004

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed