

FEDERAL COMMUNICATIONS COMMISSION
 CONSOLIDATED REPORTING ACT OF 2012

APRIL 16, 2012.—Committed to the Committee of the Whole House on the State of
 the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 3310]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3310) to amend the Communications Act of 1934 to consolidate the reporting obligations of the Federal Communications Commission in order to improve congressional oversight and reduce reporting burdens, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Communications Commission Consolidated Reporting Act of 2012”.

SEC. 2. COMMUNICATIONS MARKETPLACE REPORT.

Title I of the Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding at the end the following:

“SEC. 14. COMMUNICATIONS MARKETPLACE REPORT.

“(a) **IN GENERAL.**—In the last quarter of every even-numbered year, the Commission shall publish on its website and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the state of the communications marketplace.

“(b) **CONTENTS.**—Each report required by subsection (a) shall—

“(1) assess the state of competition in the communications marketplace, including competition to deliver voice, video, and data services among providers of telecommunications, providers of commercial mobile service (as defined in section 332), multichannel video programming distributors (as defined in section 602), broadcast stations, providers of satellite communications, Internet service providers, and other providers of communications services;

“(2) assess the state of deployment of communications capabilities, including advanced telecommunications capability (as defined in section 706 of the Telecommunications Act of 1996 (47 U.S.C. 1302)), regardless of the technology used for such deployment, including whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion;

“(3) assess whether laws, regulations, or regulatory practices (whether those of the Federal Government, States, political subdivisions of States, Indian tribes or tribal organizations (as such terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), or foreign governments) pose a barrier to competitive entry into the communications marketplace or to the competitive expansion of existing providers of communications services;

“(4) describe the agenda of the Commission for the next 2-year period for addressing the challenges and opportunities in the communications marketplace that were identified through the assessments under paragraphs (1) through (3); and

“(5) describe the actions that the Commission has taken in pursuit of the agenda described pursuant to paragraph (4) in the previous report submitted under this section.

“(c) **SPECIAL REQUIREMENTS.**—

“(1) **ASSESSING COMPETITION.**—In assessing the state of competition under subsection (b)(1), the Commission shall consider all forms of competition, including the effect of intermodal competition, facilities-based competition, and competition from new and emergent communications services, including the provision of content and communications using the Internet.

“(2) **ASSESSING DEPLOYMENT.**—In assessing the state of deployment under subsection (b)(2), the Commission shall compile a list of geographical areas that are not served by any provider of advanced telecommunications capability.

“(3) **INTERNATIONAL COMPARISONS AND DEMOGRAPHIC INFORMATION.**—The Commission may use readily available data to draw appropriate comparisons between the United States communications marketplace and the international communications marketplace and to correlate its assessments with demographic information.

“(4) **CONSIDERING SMALL BUSINESSES.**—In assessing the state of competition under subsection (b)(1) and regulatory barriers under subsection (b)(3), the Commission shall consider market entry barriers for entrepreneurs and other small businesses in the communications marketplace in accordance with the national policy under section 257(b).”.

SEC. 3. CONSOLIDATION OF REDUNDANT REPORTS; CONFORMING AMENDMENTS.

(a) **ORBIT ACT REPORT.**—Section 646 of the Communications Satellite Act of 1962 (47 U.S.C. 765e; 114 Stat. 57) is repealed.

(b) **SATELLITE COMPETITION REPORT.**—Section 4 of Public Law 109–34 (47 U.S.C. 703) is repealed.

- (c) INTERNATIONAL BROADBAND DATA REPORT.—Section 103 of the Broadband Data Improvement Act (47 U.S.C. 1303) is amended—
- (1) by striking subsection (b); and
 - (2) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively.
- (d) STATUS OF COMPETITION IN THE MARKET FOR THE DELIVERY OF VIDEO PROGRAMMING REPORT.—Section 628 of the Communications Act of 1934 (47 U.S.C. 548) is amended—
- (1) by striking subsection (g);
 - (2) by redesignating subsection (j) as subsection (g); and
 - (3) by transferring subsection (g) (as redesignated) so that it appears after subsection (f).
- (e) REPORT ON CABLE INDUSTRY PRICES.—
- (1) IN GENERAL.—Section 623 of the Communications Act of 1934 (47 U.S.C. 543) is amended—
 - (A) by striking subsection (k); and
 - (B) by redesignating subsections (l) through (n) as subsections (k) through (m), respectively.
 - (2) CONFORMING AMENDMENT.—Section 613(a)(3) of the Communications Act of 1934 (47 U.S.C. 533(a)(3)) is amended by striking “623(l)” and inserting “623(k)”.
- (f) TRIENNIAL REPORT IDENTIFYING AND ELIMINATING MARKET ENTRY BARRIERS FOR ENTREPRENEURS AND OTHER SMALL BUSINESSES.—Section 257 of the Communications Act of 1934 (47 U.S.C. 257) is amended by striking subsection (c).
- (g) SECTION 706 REPORT.—Section 706 of the Telecommunications Act of 1996 (47 U.S.C. 1302) is amended—
- (1) in subsection (b)—
 - (A) in the last sentence, by striking “If the Commission’s determination is negative, it” and inserting “If the Commission determines in its report under section 14 of the Communications Act of 1934 that advanced telecommunications capability is not being deployed to all Americans in a reasonable and timely fashion, the Commission”; and
 - (B) by striking the first and second sentences;
 - (2) by striking subsection (c);
 - (3) in subsection (d), by striking “this subsection” and inserting “this section”; and
 - (4) by redesignating subsection (d) as subsection (c).
- (h) STATE OF COMPETITIVE MARKET CONDITIONS WITH RESPECT TO COMMERCIAL MOBILE RADIO SERVICES.—Section 332(c)(1)(C) of the Communications Act of 1934 (47 U.S.C. 332(c)(1)(C)) is amended by striking the first and second sentences.
- (i) PREVIOUSLY ELIMINATED ANNUAL REPORT.—
- (1) IN GENERAL.—Section 4 of the Communications Act of 1934 (47 U.S.C. 154) is amended—
 - (A) by striking subsection (k); and
 - (B) by redesignating subsections (l) through (o) as subsections (k) through (n), respectively.
 - (2) CONFORMING AMENDMENTS.—The Communications Act of 1934 is amended—
 - (A) in section 9(i), by striking “In the Commission’s annual report, the Commission shall prepare an analysis of its progress in developing such systems and” and inserting “The Commission”; and
 - (B) in section 309(j)(8)(B), by striking the last sentence.
- (j) ADDITIONAL OUTDATED REPORTS.—The Communications Act of 1934 is further amended—
- (1) in section 4—
 - (A) in subsection (b)(2)(B)(ii), by striking “and shall furnish notice of such action” and all that follows through “subject of the waiver”; and
 - (B) in subsection (g), by striking paragraph (2);
 - (2) in section 215—
 - (A) by striking subsection (b); and
 - (B) by redesignating subsection (c) as subsection (b);
 - (3) in section 227(e), by striking paragraph (4);
 - (4) in section 309(j)—
 - (A) by striking paragraph (12); and
 - (B) in paragraph (15)(C), by striking clause (iv);
 - (5) in section 331(b), by striking the last sentence;
 - (6) in section 336(e), by amending paragraph (4) to read as follows:

- “(4) REPORT.—The Commission shall annually advise the Congress on the amounts collected pursuant to the program required by this subsection.”;
- (7) in section 339(c), by striking paragraph (1);
- (8) in section 396—
- (A) by striking subsection (i);
 - (B) in subsection (k)—
 - (i) in paragraph (1), by striking subparagraph (F); and
 - (ii) in paragraph (3)(B)(iii), by striking subclause (V);
 - (C) in subsection (l)(1)(B), by striking “shall be included” and all that follows through “The audit report”; and
 - (D) by striking subsection (m);
- (9) in section 398(b)(4), by striking the third sentence;
- (10) in section 624A(b)(1)—
- (A) by striking “REPORT; REGULATIONS” and inserting “REGULATIONS”;
 - (B) by striking “Within 1 year after” and all that follows through “on means of assuring” and inserting “The Commission shall issue such regulations as are necessary to assure”; and
 - (C) by striking “Within 180 days after” and all that follows through “to assure such compatibility.”; and
- (11) in section 713, by striking subsection (a).

SEC. 4. EFFECT ON AUTHORITY.

Nothing in this Act or the amendments made by this Act shall be construed to expand or contract the authority of the Federal Communications Commission.

PURPOSE AND SUMMARY

H.R. 3310, the “Federal Communications Commission Consolidated Reporting Act of 2012,” consolidates eight separate reports of the Federal Communications Commission (FCC or Commission) into a single comprehensive report with a focus on intermodal competition, deploying communications capabilities to unserved communities, and eliminating regulatory barriers. By consolidating these reports, H.R. 3310 would reduce the reporting burdens on the FCC while encouraging the agency to analyze competition in the marketplace as a whole rather than based on archaic regulatory silos. The bill also eliminates twelve outdated reports, including reports repealed more than a decade ago and a report on competition between telegraph companies and telephone companies.

BACKGROUND AND NEED FOR LEGISLATION

The communications and technology sector is rapidly evolving. Analog broadcasting has become digital and high-definition. Phone companies have become broadband and video companies, and cable operators now operate Voice-over-Internet-Protocol networks. Satellite providers now offer television and broadband services, and wireless telephones, once the province of Gordon Gekko, are now used by all Americans for calling, texting, watching video, listening to music, and surfing the web. And emerging on the Internet are online video distributors, point-to-point voice and video conferencing services, personalized radio stations, and other new competitors. The traditional silos that once defined the communications marketplace are no more.

Despite the converging marketplace, federal law still requires the FCC to treat these providers divergently. Nowhere is that more clear than in the reporting requirements imposed on the Commission. Under current law, the FCC must write separate congressional reports each year on video competition, satellite competition, the competitive effects of satellite privatization, broadband deploy-

ment, international broadband deployment, cable pricing, and wireless competition. These reports are in addition to a congressionally mandated triennial report on barriers to market entry for small businesses, as well as yearly reports the FCC puts together on its own accord regarding telephone penetration, telephone subscribership, and pricing among telecommunications services. By requiring the FCC to draft separate reports on discrete components within the communications marketplace, the existing statute does the Commission, industry, and the public a disservice by almost forcing the FCC to lose sight of the increasingly competitive forest for sector-specific trees.

The FCC has been unable to keep pace with all of the reporting obligations it currently has. For example, the Communications Act requires the Commission to produce each year a Status of Competition in the Market for the Delivery of Video Programming Report. In 2009, the Commission released a Notice of Inquiry seeking information for calendar year 2007, see Annual Assessment of the Status of Competition in the Market for Delivery of Video Programming, MB Docket No. 07–269, Notice of Inquiry, 24 FCC Rcd 542 (2009), later that year released a supplement Notice of Inquiry covering 2008 and 2009, see Annual Assessment of the Status of Competition in the Market for Delivery of Video Programming, MB Docket No. 07–269, Supplemental Notice of Inquiry, 24 FCC Rcd 4402 (2009), and sought yet more information in 2011, see Annual Assessment of the Status of Competition in the Market for Delivery of Video Programming, MB Docket No. 07–269, Further Notice of Inquiry, 26 FCC Rcd 14091 (2011). As of March 2012, the Commission had yet to deliver the reports on video competition covering 2007, 2008, 2009, 2010, and 2011. Similarly, the Commission released its second annual Satellite Competition Report in 2008, but did not submit its third report (covering 2008, 2009, and 2010) until December 2011. See Third Report and Analysis of Competitive Market Conditions with Respect to Domestic and International Satellite Communications Services; Report and Analysis of Competitive Market Conditions with Respect to Domestic and International Satellite Communications Services, IB Docket Nos. 09–16, 10–99, Third Report, FCC 11–183 (rel. Dec. 13, 2011). These delays frustrate effective congressional oversight of the work of the Commission and preclude timely analysis of the status of competition and deployment.

To reduce the reporting burdens on the Commission, H.R. 3310 consolidates eight separate reports of the FCC into a single biennial report timed to the Congressional calendar. To reflect the convergence of the communications marketplace, the new report requires the FCC to conduct a holistic review of the communications marketplace. And to streamline the operations of the FCC, the bill eliminates twelve outdated reports from the Communications Act, including reports repealed more than a decade ago and a report on competition between telegraph companies and telephone companies.

HEARINGS

The Subcommittee on Communications and Technology held an oversight hearing on May 13, 2011, entitled “FCC Process Reform.”

The Subcommittee received testimony from FCC Chairman Julius Genachowski, Commissioner Michael J. Copps, Commissioner Robert M. McDowell, and Commissioner Mignon Clyburn.

The Subcommittee on Communications and Technology held a legislative hearing on June 22, 2011, entitled “Reforming FCC Process.” The Subcommittee examined a staff discussion draft of legislation to reform the FCC’s processes and produce a communications marketplace report. The Subcommittee received testimony from the Honorable John Sununu, Honorary Co-Chair of Broadband for America; Kathleen Abernathy, Chief Legal Officer and Executive Vice President of Frontier Communications; Mark Cooper, Research Director of the Consumer Federation of America; Randolph J. May, President of the Free State Foundation; Brad Ramsay, General Counsel of the National Association of Regulatory Utility Commissioners; and Ronald Levin, William R. Orthwein Distinguished Professor of Law at Washington University School of Law.

COMMITTEE CONSIDERATION

Representative Steve Scalise, together with Rep. Greg Walden, introduced H.R. 3310 on November 2, 2011.

On November 16, 2011, the Subcommittee on Communications and Technology met in open markup session and favorably reported the bill, as amended, to the full Committee by voice vote.

On March 6, 2012, the Committee on Energy and Commerce met in open markup session and favorably reported the bill, as amended, to the House by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto.

At the November 16, 2011, open markup session of the Subcommittee on Communications and Technology, a motion by Mr. Rush to amend H.R. 3310 regarding the Triennial Report Identifying and Eliminating Market Entry Barriers for Entrepreneurs and Other Small Businesses was defeated by a record vote of 10 yeas and 12 nays.

The following reflects the recorded votes taken during the Committee consideration, including the names of those Members voting for and against.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held oversight and legislative hearings and made findings that are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE GOALS, AND OBJECTIVES

The goals and objectives of H.R. 3310, the “Federal Communications Commission Consolidated Reporting Act of 2012,” are to reduce the reporting burdens on the FCC while encouraging the agency to analyze competition in the marketplace as a whole rather

than based on archaic regulatory silos. It does so by consolidating eight separate reports of the FCC into a single, comprehensive report on the communications marketplace and eliminating twelve reports from the Communications Act of 1934, as amended.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY AND TAX
EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3310, the “Federal Communications Commission Consolidated Reporting Act of 2012,” would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

EARMARKS

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives, the Committee finds that H.R. 3310, the “Federal Communications Commission Consolidated Reporting Act of 2012,” contains no earmarks, limited tax benefits, or limited tariff benefits.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate provided by the Congressional Budget Office. Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

MARCH 23, 2012.

Hon. FRED UPTON,
*Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3310, the Federal Communications Commission Consolidated Reporting Act of 2012.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 3310—Federal Communications Commission Consolidated Reporting Act of 2012

H.R. 3310 would require the Federal Communications Commission (FCC) to prepare a biennial report for the Congress that assesses certain characteristics of the communications industry. The report would analyze the state of competition in the markets for voice, video, and data services, as well as the availability of high-speed and high-quality telecommunications services. Further, the bill would require the FCC to determine whether laws and regulations pose a barrier to entry into communications markets, and include that information in the biennial report. H.R. 3310 also would relieve the FCC of requirements to prepare certain other reports on topics ranging from access to satellite services to prices for cable

services. In all, the bill would eliminate more than 20 reports and notices, some that remain in current law even though deadlines for their completion have passed.

Based on information from the FCC, CBO estimates that implementing the provisions of H.R. 3310 would not have a significant net effect on the agency's discretionary costs. Any additional expenses the FCC would incur to prepare the new assessment of the communications industry would be offset by a reduction in costs that would otherwise be incurred for reports that would be eliminated under the bill. Under current law, the FCC is authorized to collect fees sufficient to offset the cost of its regulatory activities each year; therefore, CBO estimates that the net cost to implement the provisions of H.R. 3310 would be negligible, assuming annual appropriation actions consistent with the agency's authorities. Enacting H.R. 3310 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 3310 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Susan Willie. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

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

ADVISORY COMMITTEE STATEMENT

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

APPLICABILITY TO LEGISLATIVE BRANCH

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

SECTION-BY-SECTION ANALYSIS OF LEGISLATION

Section 1.

Section 1 defines the short title of the legislation as the "Federal Communications Commission Consolidated Reporting Act of 2012."

Section 2.

Section 2 adds section 14 to the Communications Act.

New Section 14(a)—Communications Marketplace Report. This subsection requires the Commission to publish and submit to Congress a Communications Marketplace Report timed to the two-year congressional cycle. By requiring the submission of that report in the last quarter of every even-numbered year, each new Congress will have a fresh review of the communications marketplace when it assumes office. Requiring the Communications Marketplace Re-

port every other year rather than every year should also reduce the administrative burden on the Commission and the reporting burden on the public.

New Section 14(b)—Contents. This subsection specifies the contents of each Communications Marketplace Report.

Paragraph (1) requires the FCC to assess the state of competition in the communications marketplace across all providers of communications, including, for example, telecommunications carriers, broadcasters, cable operators, broadband providers, satellite providers, and online voice and video providers. This section of the report is intended to consolidate the ORBIT Act Report, see Communications Satellite Act of 1962 § 646, the Satellite Competition Report, see Pub. L. No. 109–34 § 4, the Status of Competition in the Market for the Delivery of Video Programming Report, see Communications Act of 1934 § 628(g), the Report on Cable Industry Prices, see Communications Act of 1934 § 623(k), and the State of Competitive Market Conditions with Respect to Commercial Mobile Radio Services Report, see Communications Act of 1934 § 332(c)(1)(C). The consolidation of the reports is not intended to prevent the Commission from examining the same issues it previously reviewed separately, but rather to encourage a more holistic approach. Nor is the Commission required to assess the state of competition in the exact same way it has done so in the past, but instead should use the best economic and technical analysis feasible to examine competition within the marketplace as a whole.

Paragraph (2) requires the FCC to assess the state of deployment of communications capabilities in the United States, including advanced telecommunications capability, regardless of the technology used. This section of the report is intended to consolidate the Broadband Deployment Report, see Telecommunications Act of 1996 § 706(b), and the International Broadband Data Report, see Broadband Data Improvement Act § 103(b). It is not meant to affect whatever authority, if any, section 706(b) of the Telecommunications Act of 1996 grants the Commission. As with the competition section of the report, this section does not delineate the precise metrics the FCC must use in carrying out its assessment; instead, the agency should use the best available information to assess the state of deployment, taking into account the variety of technologies used to deploy broadband infrastructure throughout the United States.

Paragraph (3) requires the FCC to assess whether laws, regulations, or regulatory practices (regardless of the level of government that established or enforces those laws, regulations, or regulatory practices) pose a barrier to competitive entry into the communications marketplace or to the competitive expansion of existing providers of communications services. This section of the report is intended to incorporate the Triennial Report Identifying and Eliminating Market Entry Barriers for Entrepreneurs and Other Small Businesses, see Communications Act of 1934 § 257(c). As with the competition and deployment sections of the report, this section does not bind the Commission to highlight with particularity regulations it has passed to overcome barriers to competitive entry and competitive expansion, although it is free to examine such regulations as a part of its functional assessment of regulatory barriers.

Paragraphs (4)–(5) require the FCC to identify the topics it plans to address over the next two years as a result of these assessments and to report on its progress on those topics previously identified. This section of the report is not intended to consolidate any existing report. This section is, however, intended to facilitate congressional oversight by providing a guide to Congress regarding the topics the Commission is likely to focus on, along with references to the first three sections of the report, as appropriate, to demonstrate how the FCC’s assessments have shaped its agenda. By identifying a topic in this section, the Commission is not binding itself to act on that topic; conversely, the Commission remains free to act on topics not so identified. Nevertheless, this section requires the Commission to report back on what actions, if any, it took to address each topic identified in the previous report, and the Commission is expected to make a good-faith attempt to identify topics and address topics previously identified.

New Section 14(c)—Special Considerations. This subsection identifies four special considerations that the FCC must take into account when drafting the Communications Marketplace Report.

First, when assessing competition, the Commission must take into account all forms of competition, including intermodal, facilities-based, and Internet-based competition. This is a response to the traditional competition reports conducted by the Commission that examine competition within a single industry segment despite competition from non-traditional industry segments, such as competition to terrestrial radio broadcasters from satellite radio, Internet-based radio, and online music marketplaces. The inclusion of facilities-based competition reflects the importance of deployment of physical infrastructure for competitive purposes, as reflected in the second section of the report. It is not meant, however, to preclude the assessment of competition from resellers, such as mobile virtual network operators. The inclusion of Internet-based competition is intended to ensure that the FCC takes into account the growing challenge to established business models presented by online competition in all its forms.

Second, when assessing deployment, the Commission must compile a list of geographical areas that are not served by any provider of advanced telecommunications capability. This is intended to emphasize, as the Broadband Deployment Report did, see Telecommunications Act of 1996 § 706(c), the importance of identifying the areas of the country that are unserved by any provider of advanced telecommunications capability.

Third, the Commission may use readily available data to draw appropriate comparisons between the United States communications marketplace and the international communications marketplace and to correlate its assessments with demographic information. In preparing its International Broadband Data Reports in the past, the Commission has noted that “many nations do not collect the data required to achieve fully the international comparisons” and that even when data is available, it may not be useful for drawing comparisons with the United States. International Comparison Requirements Pursuant to the Broadband Data Improvement Act International Broadband Data Report, IB Docket No. 10–171, Second Report, 26 FCC Rcd 7378, 7380, para. 4 (2011). This

provision is intended to recognize these difficulties and empower the FCC to consider readily available data to draw appropriate and accurate comparisons and correlations in conducting the assessments for the Communications Marketplace Report.

Fourth, when assessing competition and regulatory barriers, the FCC must specially consider market entry barriers for small businesses. This special consideration is intended to ensure that the Commission pays special attention to the challenges and opportunities facing small businesses in the communications marketplace.

Section 3.

This section eliminates the eight reports consolidated into the Communications Marketplace Report, namely the ORBIT Act Report, see Communications Satellite Act of 1962 § 646, the Satellite Competition Report, see Pub. L. No. 109–34 § 4, the Status of Competition in the Market for the Delivery of Video Programming Report, see Communications Act of 1934 § 628(g), the Report on Cable Industry Prices, see Communications Act of 1934 § 623(k), the State of Competitive Market Conditions with Respect to Commercial Mobile Radio Services Report, see Communications Act of 1934 § 332(c)(1)(C), the Broadband Deployment Report, see Telecommunications Act of 1996 § 706(b), the International Broadband Data Report, see Broadband Data Improvement Act § 103(b), and the Triennial Report Identifying and Eliminating Market Entry Barriers for Entrepreneurs and Other Small Businesses, see Communications Act of 1934 § 257(c). As described above, consolidating these reports is not intended to preclude the Commission from continuing to collect and report similar data if doing so is an accurate and efficient method of assessing competition, deployment, or regulatory barriers.

This section eliminates the Report on Competition between Wire Telephone and Wire Telegraph Providers, see Communications Act of 1934 § 215(b), given the evolution of the communications marketplace past telegraph services.

This section strikes from the Communications Act several reports that have either expired of their own accord or been repealed by the Federal Reports Elimination and Sunset Act of 1995, Pub. L. No. 104–66. An example of the former is a report on the rescheduling of Auction 31 (Upper 700 MHz), which was completed as part of Auction 73 in 2008. See Communications Act of 1934 § 309(j)(15)(C)(iv). An example of the latter is the annual report of the Commission, see Communications Act of 1934 § 4(k), which was identified in the 1995 Clerk’s List of Reports to be Made to Congress, see House Doc. No. 103–7, at 167, and effectively terminated in 2000, see Pub. L. No. 104–66, § 3003(a)(1). This section is not intended to remove the discretion of any agency to continue to report to Congress on those topics should it find doing so useful.

Section 4.

Section 4 specifies that this legislation does not alter the authority of the Commission in any way. Specifically, this legislation should not be construed to expand or contract the Commission’s ability to collect data nor should this legislation be construed to

alter any authority or obligation the Commission has under section 706 of the Telecommunications Act of 1996, if any.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

COMMUNICATIONS ACT OF 1934

TITLE I—GENERAL PROVISIONS

* * * * *

SEC. 4. PROVISIONS RELATING TO THE COMMISSION.

- (a) * * *
- (b)(1) * * *
- (2)(A) * * *
- (B)(i) * * *

(ii) In any case in which the Commission exercises the waiver authority established in this subparagraph, the Commission shall publish notice of such action in the Federal Register [and shall furnish notice of such action to the appropriate committees of each House of the Congress. Each such notice shall include information regarding the identity of the person receiving the waiver, the position held by such person, and the nature of the financial interests which are the subject of the waiver].

* * * * *

- (g)(1) * * *
- [(2)(A) If—

- [(i) the necessary expenses specified in the last sentence of paragraph (1) have been incurred for the purpose of enabling commissioners or employees of the Commission to attend and participate in any convention, conference, or meeting;
- [(ii) such attendance and participation are in furtherance of the functions of the Commission; and
- [(iii) such attendance and participation are requested by the person sponsoring such convention, conference, or meeting;

then the Commission shall have authority to accept direct reimbursement from such sponsor for such necessary expenses.

[(B) The total amount of unreimbursed expenditures made by the Commission for travel for any fiscal year, together with the total amount of reimbursements which the Commission accepts under subparagraph (A) for such fiscal year, shall not exceed the level of travel expenses appropriated to the Commission for such fiscal year.

[(C) The Commission shall submit to the appropriate committees of the Congress, and publish in the Federal Register, quarterly reports specifying reimbursements which the Commission has accepted under this paragraph.

[(D) The provisions of this paragraph shall cease to have any force or effect at the end of fiscal year 1994.

[(E) Funds which are received by the Commission as reimbursements under the provisions of this paragraph after the close of a fiscal year shall remain available for obligation.]

* * * * *

[(k) The Commission shall make an annual report to Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such reports shall contain—

[(1) such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of interstate and foreign wire and radio communication and radio transmission of energy;

[(2) such information and data concerning the functioning of the Commission as will be of value to Congress in appraising the amount and character of the work and accomplishments of the Commission and the adequacy of its staff and equipment;

[(3) an itemized statement of all funds expended during the preceding year by the Commission, of the sources of such funds, and of the authority in this Act or elsewhere under which such expenditures were made; and

[(4) specific recommendations to Congress as to additional legislation which the Commission deems necessary or desirable, including all legislative proposals submitted for approval to the Director of the Office of Management and Budget.]

[(l)] (k) All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier or licensee that may have been complained of.

[(m)] (l) The Commission shall provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the Commission therein contained in all courts of the United States and of the several States without any further proof or authentication thereof.

[(n)] (m) Rates of compensation of persons appointed under this section shall be subject to the reduction applicable to officers and employees of the Federal Government generally.

[(o)] (n) For the purpose of obtaining maximum effectiveness from the use of radio and wire communications in connection with safety of life and property, the Commission shall investigate and study all phases of the problem and the best methods of obtaining the cooperation and coordination of these systems.

* * * * *

SEC. 9. REGULATORY FEES.

(a) * * *

* * * * *

(i) ACCOUNTING SYSTEM.—The Commission shall develop accounting systems necessary to making the adjustments authorized by subsection (b)(3). [In the Commission’s annual report, the Com-

mission shall prepare an analysis of its progress in developing such systems and] *The Commission* shall afford interested persons the opportunity to submit comments concerning the allocation of the costs of performing the functions described in subsection (a) among the services in the Schedule.

* * * * *

SEC. 14. COMMUNICATIONS MARKETPLACE REPORT.

(a) *IN GENERAL.*—*In the last quarter of every even-numbered year, the Commission shall publish on its website and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the state of the communications marketplace.*

(b) *CONTENTS.*—*Each report required by subsection (a) shall—*

(1) *assess the state of competition in the communications marketplace, including competition to deliver voice, video, and data services among providers of telecommunications, providers of commercial mobile service (as defined in section 332), multi-channel video programming distributors (as defined in section 602), broadcast stations, providers of satellite communications, Internet service providers, and other providers of communications services;*

(2) *assess the state of deployment of communications capabilities, including advanced telecommunications capability (as defined in section 706 of the Telecommunications Act of 1996 (47 U.S.C. 1302)), regardless of the technology used for such deployment, including whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion;*

(3) *assess whether laws, regulations, or regulatory practices (whether those of the Federal Government, States, political subdivisions of States, Indian tribes or tribal organizations (as such terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), or foreign governments) pose a barrier to competitive entry into the communications marketplace or to the competitive expansion of existing providers of communications services;*

(4) *describe the agenda of the Commission for the next 2-year period for addressing the challenges and opportunities in the communications marketplace that were identified through the assessments under paragraphs (1) through (3); and*

(5) *describe the actions that the Commission has taken in pursuit of the agenda described pursuant to paragraph (4) in the previous report submitted under this section.*

(c) *SPECIAL REQUIREMENTS.*—

(1) *ASSESSING COMPETITION.*—*In assessing the state of competition under subsection (b)(1), the Commission shall consider all forms of competition, including the effect of intermodal competition, facilities-based competition, and competition from new and emergent communications services, including the provision of content and communications using the Internet.*

(2) *ASSESSING DEPLOYMENT.*—*In assessing the state of deployment under subsection (b)(2), the Commission shall compile a*

list of geographical areas that are not served by any provider of advanced telecommunications capability.

(3) INTERNATIONAL COMPARISONS AND DEMOGRAPHIC INFORMATION.—The Commission may use readily available data to draw appropriate comparisons between the United States communications marketplace and the international communications marketplace and to correlate its assessments with demographic information.

(4) CONSIDERING SMALL BUSINESSES.—In assessing the state of competition under subsection (b)(1) and regulatory barriers under subsection (b)(3), the Commission shall consider market entry barriers for entrepreneurs and other small businesses in the communications marketplace in accordance with the national policy under section 257(b).

TITLE II—COMMON CARRIERS

PART I—COMMON CARRIER REGULATION

* * * * *

SEC. 215. TRANSACTIONS RELATING TO SERVICES, EQUIPMENT, AND SO FORTH.

(a) * * *

[(b) The Commission shall investigate the methods by which and the extent to which wire telephone companies are furnishing wire telegraph service and wire telegraph companies are furnishing wire telephone service, and shall report its findings to Congress together with its recommendations as to whether additional legislation on this subject is desirable.]

[(c)] (b) The Commission shall examine all contracts of common carriers subject to this Act which prevent the other party thereto from dealing with another common carrier subject to this Act, and shall report its findings to Congress, together with its recommendations as to whether additional legislation on this subject is desirable.

* * * * *

SEC. 227. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT.

(a) * * *

* * * * *

(e) PROHIBITION ON PROVISION OF INACCURATE CALLER IDENTIFICATION INFORMATION.—

(1) * * *

* * * * *

[(4) REPORT.—Not later than 6 months after the enactment of the Truth in Caller ID Act of 2009, the Commission shall report to Congress whether additional legislation is necessary to prohibit the provision of inaccurate caller identification information in technologies that are successor or replacement technologies to telecommunications service or IP-enabled voice service.]

* * * * *

PART II—DEVELOPMENT OF COMPETITIVE MARKETS

* * * * *

SEC. 257. MARKET ENTRY BARRIERS PROCEEDING.

(a) * * *

* * * * *

[(c) PERIODIC REVIEW.—Every 3 years following the completion of the proceeding required by subsection (a), the Commission shall review and report to Congress on—

[(1) any regulations prescribed to eliminate barriers within its jurisdiction that are identified under subsection (a) and that can be prescribed consistent with the public interest, convenience, and necessity; and

[(2) the statutory barriers identified under subsection (a) that the Commission recommends be eliminated, consistent with the public interest, convenience, and necessity.]

* * * * *

TITLE III—SPECIAL PROVISIONS RELATING TO RADIO

PART I—GENERAL PROVISIONS

* * * * *

SEC. 309. ACTION UPON APPLICATIONS; FORM OF AND CONDITIONS ATTACHED TO LICENSES.

(a) * * *

* * * * *

(j) USE OF COMPETITIVE BIDDING.—

(1) * * *

* * * * *

(8) TREATMENT OF REVENUES.—

(A) * * *

(B) RETENTION OF REVENUES.—Notwithstanding subparagraph (A), the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this subsection. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis. Such offsetting collections are authorized to remain available until expended. [No sums may be retained under this subparagraph during any fiscal year beginning after September 30, 1998, if the annual report of the Commission under section 4(k) for the second preceding fiscal year fails to include in the itemized statement required by paragraph (3) of such section a statement of each expenditure made for

purposes of conducting competitive bidding under this subsection during such second preceding fiscal year.】

* * * * *

【(12) EVALUATION.—Not later than September 30, 1997, the Commission shall conduct a public inquiry and submit to the Congress a report—

【(A) containing a statement of the revenues obtained, and a projection of the future revenues, from the use of competitive bidding systems under this subsection;

【(B) describing the methodologies established by the Commission pursuant to paragraphs (3) and (4);

【(C) comparing the relative advantages and disadvantages of such methodologies in terms of attaining the objectives described in such paragraphs;

【(D) evaluating whether and to what extent—

【(i) competitive bidding significantly improved the efficiency and effectiveness of the process for granting radio spectrum licenses;

【(ii) competitive bidding facilitated the introduction of new spectrum-based technologies and the entry of new companies into the telecommunications market;

【(iii) competitive bidding methodologies have secured prompt delivery of service to rural areas and have adequately addressed the needs of rural spectrum users; and

【(iv) small businesses, rural telephone companies, and businesses owned by members of minority groups and women were able to participate successfully in the competitive bidding process; and

【(E) recommending any statutory changes that are needed to improve the competitive bidding process.】

* * * * *

(15) COMMISSION TO DETERMINE TIMING OF AUCTIONS.—

(A) * * *

* * * * *

(C) EXCEPTION.—

(i) * * *

* * * * *

【(iv) REPORT.—Within one year after the date of enactment of this paragraph, the Commission shall submit a report to Congress—

【(I) specifying when the Commission intends to reschedule auctions 31 and 44 (other than the blocks excepted by clause (i)); and

【(II) describing the progress made by the Commission in the digital television transition and in the assignment and allocation of additional spectrum for advanced mobile communications services that warrants the scheduling of such auctions.】

* * * * *

SEC. 331. VERY HIGH FREQUENCY STATIONS AND AM RADIO STATIONS.

(a) * * *

(b) **AM RADIO STATIONS.**—It shall be the policy of the Commission, in any case in which the licensee of an existing AM daytime-only station located in a community with a population of more than 100,000 persons that lacks a local full-time aural station licensed to that community and that is located within a Class I station primary service area notifies the Commission that such licensee seeks to provide full-time service, to ensure that such a licensee is able to place a principal community contour signal over its entire community of license 24 hours a day, if technically feasible. **【The Commission shall report to the appropriate committees of Congress within 30 days after the date of enactment of this Act on how it intends to meet this policy goal.】**

SEC. 332. MOBILE SERVICES.

(a) * * *

* * * * *

(c) **REGULATORY TREATMENT OF MOBILE SERVICES.**—

(1) **COMMON CARRIER TREATMENT OF COMMERCIAL MOBILE SERVICES.**—(A) * * *

* * * * *

(C) **【The Commission shall review competitive market conditions with respect to commercial mobile services and shall include in its annual report an analysis of those conditions. Such analysis shall include an identification of the number of competitors in various commercial mobile services, an analysis of whether or not there is effective competition, an analysis of whether any of such competitors have a dominant share of the market for such services, and a statement of whether additional providers or classes of providers in those services would be likely to enhance competition.】** As a part of making a determination with respect to the public interest under subparagraph (A)(iii), the Commission shall consider whether the proposed regulation (or amendment thereof) will promote competitive market conditions, including the extent to which such regulation (or amendment) will enhance competition among providers of commercial mobile services. If the Commission determines that such regulation (or amendment) will promote competition among providers of commercial mobile services, such determination may be the basis for a Commission finding that such regulation (or amendment) is in the public interest.

* * * * *

SEC. 336. BROADCAST SPECTRUM FLEXIBILITY.

(a) * * *

* * * * *

(e) **FEEES.**—

(1) * * *

* * * * *

【(4) REPORT.—Within 5 years after the date of enactment of the Telecommunications Act of 1996, the Commission shall re-

port to the Congress on the implementation of the program required by this subsection, and shall annually thereafter advise the Congress on the amounts collected pursuant to such program.】

(4) *REPORT.—The Commission shall annually advise the Congress on the amounts collected pursuant to the program required by this subsection.*

* * * * *

SEC. 339. CARRIAGE OF DISTANT TELEVISION STATIONS BY SATELLITE CARRIERS.

(a) * * *

* * * * *

(c) **ELIGIBILITY FOR RETRANSMISSION.—**

【(1) **STUDY OF DIGITAL STRENGTH TESTING PROCEDURES.—**

【(A) **STUDY REQUIRED.—**Not later than 1 year after the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the Federal Communications Commission shall complete an inquiry regarding whether, for purposes of identifying if a household is unserved by an adequate digital signal under section 119(d)(10) of title 17, United States Code, the digital signal strength standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, or the testing procedures in section 73.686(d) of title 47, Code of Federal Regulations, such statutes or regulations should be revised to take into account the types of antennas that are available to consumers.

【(B) **STUDY CONSIDERATIONS.—**In conducting the study under this paragraph, the Commission shall consider whether—

【(i) to account for the fact that an antenna can be mounted on a roof or placed in a home and can be fixed or capable of rotating;

【(ii) section 73.686(d) of title 47, Code of Federal Regulations, should be amended to create different procedures for determining if the requisite digital signal strength is present than for determining if the requisite analog signal strength is present;

【(iii) a standard should be used other than the presence of a signal of a certain strength to ensure that a household can receive a high-quality picture using antennas of reasonable cost and ease of installation;

【(iv) to develop a predictive methodology for determining whether a household is unserved by an adequate digital signal under section 119(d)(10) of title 17, United States Code;

【(v) there is a wide variation in the ability of reasonably priced consumer digital television sets to receive over-the-air signals, such that at a given signal strength some may be able to display high-quality pictures while others cannot, whether such variation is related to the price of the television set, and whether such variation should be factored into setting a stand-

ard for determining whether a household is unserved by an adequate digital signal; and

[(vi) to account for factors such as building loss, external interference sources, or undesired signals from both digital television and analog television stations using either the same or adjacent channels in nearby markets, foliage, and man-made clutter.

[(C) REPORT.—Not later than 1 year after the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the Federal Communications Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

[(i) the results of the study under this paragraph; and

[(ii) recommendations, if any, as to what changes should be made to Federal statutes or regulations.]

* * * * *

PART IV—ASSISTANCE FOR PUBLIC TELECOMMUNICATIONS FACILITIES; TELECOMMUNICATIONS DEMONSTRATIONS; CORPORATION FOR PUBLIC BROADCASTING

* * * * *

Subpart D—Corporation for Public Broadcasting

SEC. 396. DECLARATION OF POLICY.

(a) * * *

* * * * *

[Report to Congress

[(i)(1) The Corporation shall submit an annual report for the preceding fiscal year ending September 30 to the President for transmittal to the Congress on or before the 15th day of May of each year. The report shall include—

[(A) a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this subpart and such recommendations as the Corporation deems appropriate;

[(B) a comprehensive and detailed inventory of funds distributed by Federal agencies to public telecommunications entities during the preceding fiscal year;

[(C) a listing of each organization that receives a grant from the Corporation to produce programming, the name of the producer of any programming produced under each such grant, the title or description of any program so produced, and the amount of each such grant;

[(D) the summary of the annual report provided to the Secretary pursuant to section 398(b)(4).

[(2) The officers and directors of the Corporation shall be available to testify before appropriate committees of the Congress with respect to such report, the report of any audit made by the Comptroller General pursuant to subsection (1), or any other matter which such committees may determine.]

* * * * *

Financing; Open Meetings and Financial Records

(k)(1)(A) * * *

* * * * *

[(F) In recognition of the importance of educational programs and services, and the expansion of public radio services, to unserved and underserved audiences, the Corporation, after consultation with the system of public telecommunications entities, shall prepare and submit to the Congress an annual report for each of the fiscal years 1994, 1995, and 1996 on the Corporation's activities and expenditures relating to those programs and services.]

* * * * *

(3)(A) * * *

(B)(i) * * *

* * * * *

(iii)(I) * * *

* * * * *

[(V) The Corporation shall report annually to Congress regarding the activities and expenditures of the independent production service, including carriage and viewing information for programs produced or acquired with funds provided pursuant to subclause (I). At the end of fiscal years 1992, 1993, 1994, and 1995, the Corporation shall submit a report to Congress evaluating the performance of the independent production service in light of its mission to expand the diversity and innovativeness of programming available to public broadcasting.]

* * * * *

Records and Audit

(1)(1)(A) * * *

(B) The report of each such independent audit [shall be included in the annual report required by subsection (i) of this section. The audit report] shall set forth the scope of the audit and include such statements as are necessary to present fairly the Corporation's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Corporation's income and expenses during the year, and a statement of the sources and application of funds, together with the independent author's opinion of those statements.

* * * * *

[(m)(1) Prior to July 1, 1989, and every three years thereafter, the Corporation shall compile an assessment of the needs of minority and diverse audiences, the plans of public broadcasting entities and public telecommunications entities to address such needs, the ways radio and television can be used to help these underrepresented groups, and projections concerning minority employment by public broadcasting entities and public telecommunications entities. Such assessment shall address the needs of racial and ethnic minorities, new immigrant populations, people for whom English is a second language, and adults who lack basic reading skills.

[(2) Commencing July 1, 1989, the Corporation shall prepare an annual report on the provision by public broadcasting entities and public telecommunications entities of service to the audiences described in paragraph (1). Such report shall address programming (including that which is produced by minority producers), training, minority employment, and efforts by the Corporation to increase the number of minority public radio and television stations eligible for financial support from the Corporation. Such report shall include a summary of the statistical reports received by the Corporation pursuant to subsection (k)(11), and a comparison of the information contained in those reports with the information submitted by the Corporation in the previous year's annual report.

[(3) As soon as they have been prepared, each assessment and annual report required under paragraphs (1) and (2) shall be submitted to Congress.]

Subpart E—General

* * * * *

SEC. 398. FEDERAL INTERFERENCE OR CONTROL PROHIBITED; EQUAL EMPLOYMENT OPPORTUNITY.

- (a) * * *
- (b)(1) * * *

* * * * *

(4) Based upon its responsibilities under paragraph (3), the Corporation shall provide an annual report for the preceding fiscal year ending September 30 to the Secretary on or before the 15th day of February of each year. The report shall contain information in the form required by the Secretary. [The Corporation shall submit a summary of such report to the President and the Congress as part of the report required in section 396(i).] The Corporation shall provide other information in the form which the Secretary may require in order to carry out the functions of the Secretary under this subsection.

* * * * *

TITLE VI—CABLE COMMUNICATIONS

* * * * *

**PART II—USE OF CABLE CHANNELS AND
CABLE OWNERSHIP RESTRICTIONS**

* * * * *

SEC. 613. OWNERSHIP RESTRICTIONS.

(a) It shall be unlawful for a cable operator to hold a license for multichannel multipoint distribution service, or to offer satellite master antenna television service separate and apart from any franchised cable service, in any portion of the franchise area served by that cable operator's cable system. The Commission—

(1) * * *

* * * * *

(3) shall not apply the requirements of this subsection to any cable operator in any franchise area in which a cable operator is subject to effective competition as determined under section ~~623(l)~~ 623(k).

* * * * *

PART III—FRANCHISING AND REGULATION

* * * * *

SEC. 623. REGULATION OF RATES.

(a) * * *

* * * * *

[(k) REPORTS ON AVERAGE PRICES.—The Commission shall annually publish statistical reports on the average rates for basic cable service and other cable programming, and for converter boxes, remote control units, and other equipment, of—

[(1) cable systems that the Commission has found are subject to effective competition under subsection (a)(2), compared with

[(2) cable systems that the Commission has found are not subject to such effective competition.]

[(l) (k) DEFINITIONS.—As used in this section—

(1) * * *

* * * * *

[(m) (l) SPECIAL RULES FOR SMALL COMPANIES.—

(1) * * *

* * * * *

[(n) (m) TREATMENT OF PRIOR YEAR LOSSES.—Notwithstanding any other provision of this section or of section 612, losses associated with a cable system (including losses associated with the grant or award of a franchise) that were incurred prior to September 4, 1992, with respect to a cable system that is owned and operated by the original franchisee of such system shall not be disallowed, in whole or in part, in the determination of whether the rates for any tier of service or any type of equipment that is subject to regulation under this section are lawful.

* * * * *

SEC. 624A. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

(a) * * *

(b) COMPATIBLE INTERFACES.—

(1) **REPORT; REGULATIONS** *REGULATIONS*.—**Within 1 year after the date of enactment of this section, the Commission, in consultation with representatives of the cable industry and the consumer electronics industry, shall report to Congress on means of assuring** *The Commission shall issue such regulations as are necessary to assure* compatibility between televisions and video cassette recorders and cable systems, consistent with the need to prevent theft of cable service, so that cable subscribers will be able to enjoy the full benefit of both the programming available on cable systems and the functions available on their televisions and video cassette recorders. **Within 180 days after the date of submission of the report required by this subsection, the Commission shall issue such regulations as are necessary to assure such compatibility.**

* * * * *

SEC. 628. DEVELOPMENT OF COMPETITION AND DIVERSITY IN VIDEO PROGRAMMING DISTRIBUTION.

(a) * * *

* * * * *

[(g) REPORTS.—The Commission shall, beginning not later than 18 months after promulgation of the regulations required by subsection (c), annually report to Congress on the status of competition in the market for the delivery of video programming.]

[(j)] (g) COMMON CARRIERS.—Any provision that applies to a cable operator under this section shall apply to a common carrier or its affiliate that provides video programming by any means directly to subscribers. Any such provision that applies to a satellite cable programming vendor in which a cable operator has an attributable interest shall apply to any satellite cable programming vendor in which such common carrier has an attributable interest. For the purposes of this subsection, two or fewer common officers or directors shall not by itself establish an attributable interest by a common carrier in a satellite cable programming vendor (or its parent company).

* * * * *

TITLE VII—MISCELLANEOUS PROVISIONS

* * * * *

SEC. 713. VIDEO PROGRAMMING ACCESSIBILITY.

[(a) COMMISSION INQUIRY.—Within 180 days after the date of enactment of the Telecommunications Act of 1996, the Federal Communications Commission shall complete an inquiry to ascertain the level at which video programming is closed captioned. Such inquiry shall examine the extent to which existing or previously published programming is closed captioned, the size of the video programming provider or programming owner providing closed captioning,

the size of the market served, the relative audience shares achieved, or any other related factors. The Commission shall submit to the Congress a report on the results of such inquiry.】

* * * * *

COMMUNICATIONS SATELLITE ACT OF 1962

* * * * *

**TITLE VI—COMMUNICATIONS
COMPETITION AND PRIVATIZATION**

* * * * *

**Subtitle C—Deregulation and Other
Statutory Changes**

* * * * *

【SEC. 646. REPORTS TO CONGRESS.

【(a) ANNUAL REPORTS.—The President and the Commission shall report to the Committees on Commerce and International Relations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Foreign Relations of the Senate within 90 calendar days of the enactment of this title, and not less than annually thereafter, on the progress made to achieve the objectives and carry out the purposes and provisions of this title. Such reports shall be made available immediately to the public.

【(b) CONTENTS OF REPORTS.—The reports submitted pursuant to subsection (a) shall include the following:

【(1) Progress with respect to each objective since the most recent preceding report.

【(2) Views of the Parties with respect to privatization.

【(3) Views of industry and consumers on privatization.

【(4) Impact privatization has had on United States industry, United States jobs, and United States industry’s access to the global marketplace.】

* * * * *

SECTION 4 OF THE ACT OF JULY 12, 2005

(Public Law 109–34)

AN ACT To amend the Communications Satellite Act of 1962 to strike the privatization criteria for INTELSAT separated entities, remove certain restrictions on separated and successor entities to INTELSAT, and for other purposes.

【SEC. 4. SATELLITE SERVICE REPORT.

【(a) ANNUAL REPORT.—The Federal Communications Commission shall review competitive market conditions with respect to domestic and international satellite communications services and shall include in an annual report an analysis of those conditions.

The Commission shall transmit a copy of the report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce.

- [(b) CONTENT.—The Commission shall include in the report—
 - [(1) an identification of the number and market share of competitors in domestic and international satellite markets;
 - [(2) an analysis of whether there is effective competition in the market for domestic and international satellite services; and
 - [(3) a list of any foreign nations in which legal or regulatory practices restrict access to the market for satellite services in such nation in a manner that undermines competition or favors a particular competitor or set of competitors.]]

SECTION 103 OF THE BROADBAND DATA IMPROVEMENT ACT

SEC. 103 IMPROVING FEDERAL DATA ON BROADBAND.

(a) * * *

[(b) INTERNATIONAL COMPARISON.—

[(1) IN GENERAL.—As part of the assessment and report required by section 706 of the Telecommunications Act of 1996 (47 U.S.C. 157 note), the Federal Communications Commission shall include information comparing the extent of broadband service capability (including data transmission speeds and price for broadband service capability) in a total of 75 communities in at least 25 countries abroad for each of the data rate benchmarks for broadband service utilized by the Commission to reflect different speed tiers.

[(2) CONTENTS.—The Commission shall choose communities for the comparison under this subsection in a manner that will offer, to the extent possible, communities of a population size, population density, topography, and demographic profile that are comparable to the population size, population density, topography, and demographic profile of various communities within the United States. The Commission shall include in the comparison under this subsection—

- [(A) a geographically diverse selection of countries; and
- [(B) communities including the capital cities of such countries.

[(3) SIMILARITIES AND DIFFERENCES.—The Commission shall identify relevant similarities and differences in each community, including their market structures, the number of competitors, the number of facilities-based providers, the types of technologies deployed by such providers, the applications and services those technologies enable, the regulatory model under which broadband service capability is provided, the types of applications and services used, business and residential use of such services, and other media available to consumers.]]

[(c)] (b) CONSUMER SURVEY OF BROADBAND SERVICE CAPABILITY.—

(1) * * *

* * * * *

[(d)] (c) IMPROVING CENSUS DATA ON BROADBAND.—The Secretary of Commerce, in consultation with the Federal Communications Commission, shall expand the American Community Survey conducted by the Bureau of the Census to elicit information for residential households, including those located on native lands, to determine whether persons at such households own or use a computer at that address, whether persons at that address subscribe to Internet service and, if so, whether such persons subscribe to dial-up or broadband Internet service at that address.

[(e)] (d) PROPRIETARY INFORMATION.—Nothing in this title shall reduce or remove any obligation the Commission has to protect proprietary information, nor shall this title be construed to compel the Commission to make publicly available any proprietary information.

* * * * *

TELECOMMUNICATIONS ACT OF 1996

* * * * *

TITLE VII—MISCELLANEOUS PROVISIONS

* * * * *

SEC. 706. ADVANCED TELECOMMUNICATIONS INCENTIVES.

(a) * * *

(b) INQUIRY.—[The Commission shall, within 30 months after the date of enactment of this Act, and annually thereafter, initiate a notice of inquiry concerning the availability of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) and shall complete the inquiry within 180 days after its initiation. In the inquiry, the Commission shall determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion. If the Commission's determination is negative, it] *If the Commission determines in its report under section 14 of the Communications Act of 1934 that advanced telecommunications capability is not being deployed to all Americans in a reasonable and timely fashion, the Commission shall take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market.*

[(c)] DEMOGRAPHIC INFORMATION FOR UNSERVED AREAS.—As part of the inquiry required by subsection (b), the Commission shall compile a list of geographical areas that are not served by any provider of advanced telecommunications capability (as defined by section 706(c)(1) of the Telecommunications Act of 1996 (47 U.S.C. 157 note)) and to the extent that data from the Census Bureau is available, determine, for each such unserved area—

- [(1)] the population;
- [(2)] the population density; and
- [(3)] the average per capita income.]

[(d)] (c) DEFINITIONS.—For purposes of [this subsection] *this section*:

(1) * * *

* * * * *

○