

REPACK AIRWAVES YIELDING BETTER ACCESS FOR
USERS OF MODERN SERVICES ACT OF 2018

MARCH 6, 2018.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 4986]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 4986) to amend the Communications Act of 1934 to reauthorize appropriations for the Federal Communications Commission, to provide for certain procedural changes to the rules of the Commission to maximize opportunities for public participation and efficient decisionmaking, and for other purposes, 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; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018” or the “RAY BAUM’S Act of 2018”.

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

- Sec. 1. Short title; table of contents.
 Sec. 2. Commission defined.

TITLE I—FCC REAUTHORIZATION

- Sec. 101. Authorization of appropriations.
 Sec. 102. Application and regulatory fees.
 Sec. 103. Effective date.

TITLE II—FCC PROCESS REFORM

- Sec. 201. FCC process reform.
 Sec. 202. Categorization of TCPA inquiries and complaints in quarterly report.
 Sec. 203. Effect on other laws.
 Sec. 204. Application of Antideficiency Act to Universal Service Program.
 Sec. 205. Report on improving small business participation in FCC proceedings.
 Sec. 206. Timely availability of items adopted by vote of the Commission.

TITLE III—SECURING ACCESS TO NETWORKS IN DISASTERS

- Sec. 301. Study on network resiliency.
 Sec. 302. Access to essential service providers during federally declared emergencies.
 Sec. 303. Definitions.

TITLE IV—FCC CONSOLIDATED REPORTING

- Sec. 401. Communications marketplace report.
 Sec. 402. Consolidation of redundant reports; conforming amendments.
 Sec. 403. Effect on authority.
 Sec. 404. Other reports.

TITLE V—ADDITIONAL PROVISIONS

- Sec. 501. Independent Inspector General for FCC.
 Sec. 502. Authority of Chief Information Officer.
 Sec. 503. Spoofing prevention.
 Sec. 504. Report on promoting broadband Internet access service for veterans.
 Sec. 505. Methodology for collection of mobile service coverage data.
 Sec. 506. Accuracy of dispatchable location for 9-1-1 calls.
 Sec. 507. NTIA study on interagency process following cybersecurity incidents.
 Sec. 508. Tribal digital access.

TITLE VI—VIEWER PROTECTION

- Sec. 601. Reserve source for payment of TV broadcaster relocation costs.
 Sec. 602. Payment of relocation costs of television translator stations and low power television stations.
 Sec. 603. Payment of relocation costs of FM broadcast stations.
 Sec. 604. Consumer education payment.
 Sec. 605. Implementation and enforcement.
 Sec. 606. Rule of construction.

“SEC. 2. COMMISSION DEFINED.

In this Act, the term “Commission” means the Federal Communications Commission.

TITLE I—FCC REAUTHORIZATION**SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

“(a) **AUTHORIZATION.**—There are authorized to be appropriated to the Commission to carry out the functions of the Commission \$322,035,000 for each of the fiscal years 2019 and 2020.

“(b) **OFFSETTING COLLECTIONS.**—

“(1) IN GENERAL.—The sum appropriated in any fiscal year to carry out the activities described in subsection (a), to the extent and in the amounts provided for in advance in Appropriations Acts, shall be derived from fees authorized by section 9.

“(2) DEPOSIT OF COLLECTIONS.—Amounts received from fees authorized by section 9 shall be deposited as an offsetting collection in, and credited to, the account through which funds are made available to carry out the activities described in subsection (a).

“(3) DEPOSIT OF EXCESS COLLECTIONS.—Any fees collected in excess of the total amount of fees provided for in Appropriations Acts for a fiscal year shall be deposited in the general fund of the Treasury of the United States for the sole purpose of deficit reduction.”

(b) DEPOSITS OF BIDDERS TO BE DEPOSITED IN TREASURY.—Section 309(j)(8)(C) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(C)) is amended—

(1) in the first sentence, by striking “an interest bearing account” and all that follows and inserting “the Treasury.”;

(2) in clause (i)—

(A) by striking “paid to the Treasury” and inserting “deposited in the general fund of the Treasury (where such deposits shall be used for the sole purpose of deficit reduction)”; and

(B) by striking the semicolon and inserting “; and”;

(3) in clause (ii), by striking “; and” and inserting “, and payments representing the return of such deposits shall not be subject to administrative offset under section 3716(c) of title 31, United States Code.”; and

(4) by striking clause (iii).

(c) ELIMINATION OF DUPLICATIVE AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Section 710 of the Telecommunications Act of 1996 (Public Law 104–104) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents in section 2 of such Act is amended by striking the item relating to section 710.

(d) TRANSFER OF FUNDS.—On the effective date described in section 103, any amounts in the account providing appropriations to carry out the functions of the Commission that were collected in excess of the amounts provided for in Appropriations Acts in any fiscal year prior to such date shall be transferred to the general fund of the Treasury of the United States for the sole purpose of deficit reduction.

SEC. 102. APPLICATION AND REGULATORY FEES.

(a) IN GENERAL.—Section 9 of the Communications Act of 1934 (47 U.S.C. 159) is amended to read as follows:

“SEC. 9. APPLICATION AND REGULATORY FEES.

“(a) GENERAL AUTHORITY.—The Commission shall assess and collect application fees and regulatory fees to recover the costs of carrying out the activities described in section 6(a) only to the extent and in the amounts provided for in advance in Appropriations Acts.

“(b) APPLICATION FEES.—

“(1) IN GENERAL.—The Commission shall assess and collect application fees at such rates as the Commission shall establish in a schedule of application fees to recover the costs of the Commission to process applications.

“(2) ADJUSTMENT OF SCHEDULE.—

“(A) IN GENERAL.—In every even-numbered year, the Commission shall review the schedule of application fees established under this subsection and, except as provided in subparagraph (B), set a new amount for each fee in the schedule that is equal to the amount of the fee on the date when the fee was established or the date when the fee was last amended under paragraph (3), whichever is later—

“(i) increased or decreased by the percentage change in the Consumer Price Index during the period beginning on such date and ending on the date of the review; and

“(ii) rounded to the nearest \$5 increment.

“(B) THRESHOLD FOR ADJUSTMENT.—The Commission may not adjust a fee under subparagraph (A) if—

“(i) in the case of a fee the current amount of which is less than \$200, the adjustment would result in a change in the current amount of less than \$10; or

“(ii) in the case of a fee the current amount of which is \$200 or more, the adjustment would result in a change in the current amount of less than 5 percent.

“(C) CURRENT AMOUNT DEFINED.—In subparagraph (B), the term ‘current amount’ means, with respect to a fee, the amount of the fee on the date

when the fee was established, the date when the fee was last adjusted under subparagraph (A), or the date when the fee was last amended under paragraph (3), whichever is latest.

“(3) AMENDMENTS.—In addition to the adjustments required by paragraph (2), the Commission shall by rule amend the schedule of application fees established under this subsection if the Commission determines that the schedule requires amendment so that such fees reflect increases or decreases in the costs of processing applications at the Commission and the consolidation or addition of new categories of applications.

“(c) REGULATORY FEES.—

“(1) IN GENERAL.—The Commission shall assess and collect regulatory fees at such rates as the Commission shall establish in a schedule of regulatory fees that will result in the collection, in each fiscal year, of an amount that can reasonably be expected to equal the difference between—

“(A) the amounts described in subsection (a) with respect to such fiscal year; and

“(B) the amount of application fees reasonably expected to be collected in such fiscal year.

“(2) ADJUSTMENT OF SCHEDULE.—

“(A) IN GENERAL.—For each fiscal year, the Commission shall by rule adjust the schedule of regulatory fees established under this subsection to—

“(i) reflect unexpected increases or decreases in the number of units subject to the payment of such fees; and

“(ii) result in the collection of the amount required by paragraph (1).

“(B) ROUNDING.—In making adjustments under this paragraph, the Commission may round fees to the nearest \$5 increment.

“(3) AMENDMENTS.—In addition to the adjustments required by paragraph (2), the Commission shall by rule amend the schedule of regulatory fees established under this subsection if the Commission determines that the schedule requires amendment so that such fees reflect the full-time equivalent number of employees within the bureaus and offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission’s activities. In making an amendment under this paragraph, the Commission may not change the total amount of regulatory fees required by paragraph (1) to be collected in a fiscal year.

“(d) JUDICIAL REVIEW PROHIBITED.—An adjustment or amendment to a schedule of fees under subsection (b) or (c) is not subject to judicial review.

“(e) NOTICE TO CONGRESS.—The Commission shall transmit to Congress notification—

“(1) of any adjustment under subsection (b)(2) or (c)(2) immediately upon the adoption of such adjustment; and

“(2) of any amendment under subsection (b)(3) or (c)(3) not later than 90 days before the effective date of such amendment.

“(f) ENFORCEMENT.—

“(1) PENALTIES FOR LATE PAYMENT.—The Commission shall by rule prescribe a penalty for late payment of fees under this section. Such penalty shall be 25 percent of the amount of the fee that was not paid in a timely manner.

“(2) INTEREST ON UNPAID FEES AND PENALTIES.—The Commission shall charge interest, at a rate determined under section 3717 of title 31, United States Code, on a fee or penalty under this section that is not paid in a timely manner. Such section 3717 shall not otherwise apply with respect to a fee or penalty under this section.

“(3) DISMISSAL OF APPLICATIONS OR FILINGS.—The Commission may dismiss any application or other filing for failure to pay in a timely manner any fee, interest, or penalty under this section.

“(4) REVOCATIONS.—

“(A) IN GENERAL.—In addition to or in lieu of the penalties and dismissals authorized by paragraphs (1) and (3), the Commission may revoke any instrument of authorization held by any licensee that has not paid in a timely manner a regulatory fee assessed under this section or any related interest or penalty.

“(B) NOTICE.—Revocation action may be taken by the Commission under this paragraph after notice of the Commission’s intent to take such action is sent to the licensee by registered mail, return receipt requested, at the licensee’s last known address. The notice shall provide the licensee at least 30 days to either pay the fee, interest, and any penalty or show cause why the fee, interest, or penalty does not apply to the licensee or should otherwise be waived or payment deferred.

“(C) HEARING.—

“(i) GENERALLY NOT REQUIRED.—A hearing is not required under this paragraph unless the licensee’s response presents a substantial and material question of fact.

“(ii) EVIDENCE AND BURDENS.—In any case where a hearing is conducted under this paragraph, the hearing shall be based on written evidence only, and the burden of proceeding with the introduction of evidence and the burden of proof shall be on the licensee.

“(iii) COSTS.—Unless the licensee substantially prevails in the hearing, the Commission may assess the licensee for the costs of such hearing.

“(D) OPPORTUNITY TO PAY PRIOR TO REVOCATION.—Any Commission order adopted under this paragraph shall determine the amount due, if any, and provide the licensee with at least 30 days to pay that amount or have its authorization revoked.

“(E) FINALITY.—No order of revocation under this paragraph shall become final until the licensee has exhausted its right to judicial review of such order under section 402(b)(5).

“(g) WAIVER, REDUCTION, AND DEFERMENT.—The Commission may waive, reduce, or defer payment of a fee, interest charge, or penalty in any specific instance for good cause shown, if such action would promote the public interest.

“(h) PAYMENT RULES.—The Commission shall by rule permit payment—

“(1) in the case of fees in large amounts, by installments; and

“(2) in the case of fees in small amounts, in advance for a number of years not to exceed the term of the license held by the payor.

“(i) EXCEPTIONS.—

“(1) PARTIES TO WHICH FEES ARE NOT APPLICABLE.—

“(A) APPLICATION FEES.—The application fees established under this section shall not be applicable to—

“(i) a governmental entity;

“(ii) a nonprofit entity licensed in the Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, Public Safety, or Special Emergency Radio service; or

“(iii) a noncommercial radio station or noncommercial television station.

“(B) REGULATORY FEES.—The regulatory fees established under this section shall not be applicable to—

“(i) a governmental entity or nonprofit entity;

“(ii) an amateur radio operator licensee under part 97 of the Commission’s rules (47 C.F.R. part 97); or

“(iii) a noncommercial radio station or noncommercial television station.

“(2) COST OF COLLECTION.—

“(A) APPLICATION FEES.—If, in the judgment of the Commission, the cost of collecting an application fee established under this section would exceed the amount collected, the Commission may by rule eliminate such fee.

“(B) REGULATORY FEES.—If, in the judgment of the Commission, the cost of collecting a regulatory fee established under this section from a party would exceed the amount collected from such party, the Commission may exempt such party from paying such fee.

“(j) ACCOUNTING SYSTEM.—The Commission shall develop accounting systems necessary to make the amendments authorized by subsections (b)(3) and (c)(3).”

(b) CONFORMING AMENDMENTS.—The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended—

(1) by repealing section 8; and

(2) in section 309(j)(6)(H), by striking “charges imposed pursuant to section 8 of this Act” and inserting “application fees assessed under section 9”.

(c) TRANSITIONAL RULES.—

(1) APPLICATION FEES.—An application fee established under section 8 of the Communications Act of 1934, as such section is in effect on the day before the effective date described in section 103 of this Act, shall remain in effect under subsection (b) of section 9 of the Communications Act of 1934, as amended by subsection (a) of this section, until such time as the Commission adjusts or amends such fee under subsection (b)(2) or (b)(3) of such section 9, as so amended.

(2) REGULATORY FEES.—A regulatory fee established under section 9 of the Communications Act of 1934, as such section is in effect on the day before the effective date described in section 103 of this Act, shall remain in effect under subsection (c) of section 9 of the Communications Act of 1934, as amended by subsection (a) of this section, until such time as the Commission adjusts or

amends such fee under subsection (c)(2) or (c)(3) of such section 9, as so amended.

(d) **RULEMAKING TO AMEND SCHEDULE OF REGULATORY FEES.**—

(1) **IN GENERAL.**—Not later than 1 year after the effective date described in section 103, the Commission shall complete a rulemaking proceeding under subsection (c)(3) of section 9 of the Communications Act of 1934, as amended by subsection (a) of this section.

(2) **REPORT TO CONGRESS.**—If the Commission has not completed the rulemaking proceeding required by paragraph (1) by the date that is 6 months after the effective date described in section 103, the Commission shall submit to Congress a report on the progress of such rulemaking proceeding.

SEC. 103. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on October 1, 2018.

TITLE II—FCC PROCESS REFORM

SEC. 201. FCC PROCESS REFORM.

(a) **IN GENERAL.**—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. 13. TRANSPARENCY AND EFFICIENCY.

“(a) INITIAL RULEMAKING AND INQUIRY.—

“(1) RULEMAKING.—Not later than 1 year after the date of the enactment of this section, the Commission shall complete a rulemaking proceeding and adopt procedural changes to its rules to maximize opportunities for public participation and efficient decisionmaking.

“(2) REQUIREMENTS FOR RULEMAKING.—The rules adopted under paragraph (1) shall—

“(A) set minimum comment periods for comment and reply comment, subject to a determination by the Commission that good cause exists for departing from such minimum comment periods, for—

“(i) significant regulatory actions, as defined in Executive Order No. 12866; and

“(ii) all other rulemaking proceedings;

“(B) establish policies concerning the submission of extensive new comments, data, or reports towards the end of the comment period in the proceedings described in clauses (i) and (ii) of subparagraph (A);

“(C) establish policies regarding treatment of comments, ex parte communications, and data or reports (including statistical reports and reports to Congress) submitted after the comment period in the proceedings described in clauses (i) and (ii) of subparagraph (A) to ensure that the public has adequate notice of and opportunity to respond to such submissions before the Commission relies on such submissions in any order, decision, report, or action;

“(D) establish procedures for, not later than 14 days after the end of each quarter of a calendar year (or more frequently, as the Commission considers appropriate), publishing on the Internet website of the Commission and submitting to Congress a report that contains—

“(i) the status of open rulemaking proceedings and proposed orders, decisions, reports, or actions on circulation for review by the Commissioners, including which Commissioners have not cast a vote on an order, decision, report, or action that has been on circulation for more than 60 days;

“(ii) for the petitions, applications, complaints, and other requests for action by the Commission that were pending at the Commission on the last day of such quarter (or more frequent period, as the case may be)—

“(I) the number of such requests, broken down by the bureau primarily responsible for action and, for each bureau, the type of request (such as a petition, application, or complaint); and

“(II) information regarding the amount of time for which such requests have been pending, broken down as described in subclause (I); and

“(iii) a list of the congressional investigations of the Commission that were pending on the last day of such quarter (or more frequent period, as the case may be) and the cost of such investigations, individually and in the aggregate;

- “(E) establish deadlines (relative to the date of filing) for—
- “(i) in the case of a petition for a declaratory ruling under section 1.2 of title 47, Code of Federal Regulations, issuing a public notice of such petition;
 - “(ii) in the case of a petition for rulemaking under section 1.401 of such title, issuing a public notice of such petition; and
 - “(iii) in the case of a petition for reconsideration under section 1.106 or 1.429 of such title or an application for review under section 1.115 of such title, issuing a public notice of a decision on the petition or application by the Commission or under delegated authority (as the case may be);
- “(F) establish guidelines (relative to the date of filing) for the disposition of petitions filed under section 1.2 of such title;
- “(G) establish procedures for the inclusion of the specific language of the proposed rule or the proposed amendment of an existing rule in a notice of proposed rulemaking; and
- “(H) require notices of proposed rulemaking and orders adopting a rule or amending an existing rule that—
- “(i) create (or propose to create) a program activity to contain performance measures for evaluating the effectiveness of the program activity; and
 - “(ii) substantially change (or propose to substantially change) a program activity to contain—
 - “(I) performance measures for evaluating the effectiveness of the program activity as changed (or proposed to be changed); or
 - “(II) a finding that existing performance measures will effectively evaluate the program activity as changed (or proposed to be changed).
- “(3) INQUIRY.—Not later than 1 year after the date of the enactment of this section, the Commission shall complete an inquiry to seek public comment on whether and how the Commission should—
- “(A) establish procedures for allowing a bipartisan majority of Commissioners to place an order, decision, report, or action on the agenda of an open meeting;
 - “(B) establish procedures for informing all Commissioners of a reasonable number of options available to the Commission for resolving a petition, complaint, application, rulemaking, or other proceeding;
 - “(C) establish procedures for ensuring that all Commissioners have adequate time, prior to being required to decide a petition, complaint, application, rulemaking, or other proceeding (including at a meeting held pursuant to section 5(d)), to review the proposed Commission decision document, including the specific language of any proposed rule or any proposed amendment of an existing rule;
 - “(D) establish procedures for publishing the text of agenda items to be voted on at an open meeting in advance of such meeting so that the public has the opportunity to read the text before a vote is taken;
 - “(E) establish deadlines (relative to the date of filing) for disposition of applications for a license under section 1.913 of title 47, Code of Federal Regulations;
 - “(F) assign resources needed in order to meet the deadlines described in subparagraph (E), including whether the Commission’s ability to meet such deadlines would be enhanced by assessing a fee from applicants for such a license; and
 - “(G) except as otherwise provided in section 4(o), publish each order, decision, report, or action not later than 30 days after the date of the adoption of such order, decision, report, or action.
- “(4) DATA FOR PERFORMANCE MEASURES.—The Commission shall develop a performance measure or proposed performance measure required by this subsection to rely, where possible, on data already collected by the Commission.
- “(5) GAO AUDIT.—Not less frequently than every 6 months, the Comptroller General of the United States shall audit the cost estimates provided by the Commission under paragraph (2)(D)(iii) during the preceding 6-month period.
- “(b) PERIODIC REVIEW.—On the date that is 5 years after the completion of the rulemaking proceeding under subsection (a)(1), and every 5 years thereafter, the Commission shall initiate a new rulemaking proceeding to continue to consider such procedural changes to its rules as may be in the public interest to maximize opportunities for public participation and efficient decisionmaking.
- “(c) NONPUBLIC COLLABORATIVE DISCUSSIONS.—

“(1) IN GENERAL.—Notwithstanding section 552b of title 5, United States Code, a bipartisan majority of Commissioners may hold a meeting that is closed to the public to discuss official business if—

“(A) a vote or any other agency action is not taken at such meeting;

“(B) each person present at such meeting is a Commissioner, an employee of the Commission, a member of a joint board or conference established under section 410, or a person on the staff of such a joint board or conference or of a member of such a joint board or conference; and

“(C) an attorney from the Office of General Counsel of the Commission is present at such meeting.

“(2) DISCLOSURE OF NONPUBLIC COLLABORATIVE DISCUSSIONS.—Not later than 2 business days after the conclusion of a meeting held under paragraph (1), the Commission shall publish a disclosure of such meeting, including—

“(A) a list of the persons who attended such meeting; and

“(B) a summary of the matters discussed at such meeting, except for such matters as the Commission determines may be withheld under section 552b(c) of title 5, United States Code.

“(3) PRESERVATION OF OPEN MEETINGS REQUIREMENTS FOR AGENCY ACTION.—Nothing in this subsection shall limit the applicability of section 552b of title 5, United States Code, with respect to a meeting of Commissioners other than that described in paragraph (1).

“(d) ACCESS TO CERTAIN INFORMATION ON COMMISSION’S WEBSITE.—The Commission shall provide direct access from the homepage of its website to—

“(1) detailed information regarding—

“(A) the budget of the Commission for the current fiscal year;

“(B) the appropriations for the Commission for such fiscal year; and

“(C) the total number of full-time equivalent employees of the Commission; and

“(2) the performance plan most recently made available by the Commission under section 1115(b) of title 31, United States Code.

“(e) INTERNET PUBLICATION OF CERTAIN FCC POLICIES AND PROCEDURES.—The chairman of the Commission shall—

“(1) publish on the Internet website of the Commission any policies or procedures of the Commission that—

“(A) are established by the chairman; and

“(B) relate to the functioning of the Commission or the handling of the agenda of the Commission; and

“(2) update such publication not later than 48 hours after the chairman makes changes to any such policies or procedures.

“(f) FEDERAL REGISTER PUBLICATION.—

“(1) IN GENERAL.—In the case of any document adopted by the Commission that the Commission is required, under any provision of law, to publish in the Federal Register, the Commission shall, not later than the date described in paragraph (2), complete all Commission actions necessary for such document to be so published.

“(2) DATE DESCRIBED.—The date described in this paragraph is the earlier of—

“(A) the day that is 45 days after the date of the release of the document;

or

“(B) the day by which such actions must be completed to comply with any deadline under any other provision of law.

“(3) NO EFFECT ON DEADLINES FOR PUBLICATION IN OTHER FORM.—In the case of a deadline that does not specify that the form of publication is publication in the Federal Register, the Commission may comply with such deadline by publishing the document in another form. Such other form of publication does not relieve the Commission of any Federal Register publication requirement applicable to such document, including the requirement of paragraph (1).

“(g) CONSUMER COMPLAINT DATABASE.—

“(1) IN GENERAL.—In evaluating and processing consumer complaints, the Commission shall present information about such complaints in a publicly available, searchable database on its website that—

“(A) facilitates easy use by consumers; and

“(B) to the extent practicable, is sortable and accessible by—

“(i) the date of the filing of the complaint;

“(ii) the topic of the complaint;

“(iii) the party complained of; and

“(iv) other elements that the Commission considers in the public interest.

“(2) **DUPLICATIVE COMPLAINTS.**—In the case of multiple complaints arising from the same alleged misconduct, the Commission shall be required to include only information concerning one such complaint in the database described in paragraph (1) and shall take any other steps the Commission finds prudent to avoid publishing inaccurate or misleading data.

“(h) **FORM OF PUBLICATION.**—

“(1) **IN GENERAL.**—In complying with a requirement of this section to publish a document, the Commission shall publish such document on its website, in addition to publishing such document in any other form that the Commission is required to use or is permitted to and chooses to use.

“(2) **EXCEPTION.**—The Commission shall by rule establish procedures for redacting documents required to be published by this section so that the published versions of such documents do not contain—

“(A) information the publication of which would be detrimental to national security, homeland security, law enforcement, or public safety; or

“(B) information that is proprietary or confidential.

“(i) **TRANSPARENCY RELATING TO PERFORMANCE IN MEETING FOIA REQUIREMENTS.**—The Commission shall take additional steps to inform the public about its performance and efficiency in meeting the disclosure and other requirements of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), including by doing the following:

“(1) Publishing on the Commission’s website the Commission’s logs for tracking, responding to, and managing requests submitted under such section, including the Commission’s fee estimates, fee categories, and fee request determinations.

“(2) Releasing to the public all decisions made by the Commission (including decisions made by the Commission’s Bureaus and Offices) granting or denying requests filed under such section, including any such decisions pertaining to the estimate and application of fees assessed under such section.

“(3) Publishing on the Commission’s website electronic copies of documents released under such section.

“(4) Presenting information about the Commission’s handling of requests under such section in the Commission’s annual budget estimates submitted to Congress and the Commission’s annual performance and financial reports. Such information shall include the number of requests under such section the Commission received in the most recent fiscal year, the number of such requests granted and denied, a comparison of the Commission’s processing of such requests over at least the previous 3 fiscal years, and a comparison of the Commission’s results with the most recent average for the United States Government as published on www.foia.gov.

“(j) **PROMPT RELEASE OF STATISTICAL REPORTS AND REPORTS TO CONGRESS.**—Not later than January 15th of each year, the Commission shall identify, catalog, and publish an anticipated release schedule for all statistical reports and reports to Congress that are regularly or intermittently released by the Commission and will be released during such year.

“(k) **ANNUAL SCORECARD REPORTS.**—

“(1) **IN GENERAL.**—For the 1-year period beginning on January 1st of each year, the Commission shall prepare a report on the performance of the Commission in conducting its proceedings and meeting the deadlines established under subsection (a)(2)(E) and the guidelines established under subsection (a)(2)(F).

“(2) **CONTENTS.**—Each report required by paragraph (1) shall contain detailed statistics on such performance, including, with respect to each Bureau of the Commission—

“(A) with respect to each type of filing specified in subsection (a)(2)(E) or (a)(2)(F)—

“(i) the number of filings that were pending on the last day of the period covered by such report;

“(ii) the number of filings described in clause (i) for which each applicable deadline or guideline established under such subsection was not met and the average length of time such filings have been pending; and

“(iii) for filings that were resolved during such period, the average time between initiation and resolution and the percentage for which each applicable deadline or guideline established under such subsection was met;

“(B) with respect to proceedings before an administrative law judge—

“(i) the number of such proceedings completed during such period; and

“(ii) the number of such proceedings pending on the last day of such period; and

“(C) the number of independent studies or analyses published by the Commission during such period.

“(3) PUBLICATION AND SUBMISSION.—The Commission shall publish 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 each report required by paragraph (1) not later than the date that is 30 days after the last day of the period covered by such report.

“(1) DEFINITIONS.—In this section:

“(1) AMENDMENT.—The term ‘amendment’ includes, when used with respect to an existing rule, the deletion of such rule.

“(2) BIPARTISAN MAJORITY.—The term ‘bipartisan majority’ means, when used with respect to a group of Commissioners, that such group—

“(A) is a group of three or more Commissioners; and

“(B) includes, for each political party of which any Commissioner is a member, at least one Commissioner who is a member of such political party, and, if any Commissioner has no political party affiliation, at least one unaffiliated Commissioner.

“(3) PERFORMANCE MEASURE.—The term ‘performance measure’ means an objective and quantifiable outcome measure or output measure (as such terms are defined in section 1115 of title 31, United States Code).

“(4) PROGRAM ACTIVITY.—The term ‘program activity’ has the meaning given such term in section 1115 of title 31, United States Code, except that such term also includes any annual collection or distribution or related series of collections or distributions by the Commission of an amount that is greater than or equal to \$100,000,000.

“(5) OTHER DEFINITIONS.—The terms ‘agency action’, ‘ex parte communication’, and ‘rule’ have the meanings given such terms in section 551 of title 5, United States Code.”

(b) EFFECTIVE DATES AND IMPLEMENTING RULES.—

(1) EFFECTIVE DATES.—

(A) NONPUBLIC COLLABORATIVE DISCUSSIONS.—Subsection (c) of section 13 of the Communications Act of 1934, as added by subsection (a), shall apply beginning on the first date on which all of the procedural changes to the rules of the Commission required by subsection (a)(1) of such section have taken effect.

(B) REPORT RELEASE SCHEDULES.—Subsection (j) of such section 13 shall apply with respect to 2019 and any year thereafter.

(C) ANNUAL SCORECARD REPORTS.—Subsection (k) of such section 13 shall apply with respect to 2018 and any year thereafter.

(D) INTERNET PUBLICATION OF CERTAIN FCC POLICIES AND PROCEDURES.—Subsection (e) of such section 13 shall apply beginning on the date that is 30 days after the date of the enactment of this Act.

(2) RULES.—Except as otherwise provided in such section 13, the Commission shall promulgate any rules necessary to carry out such section not later than 1 year after the date of the enactment of this Act.

SEC. 202. CATEGORIZATION OF TCPA INQUIRIES AND COMPLAINTS IN QUARTERLY REPORT.

In compiling its quarterly report with respect to informal consumer inquiries and complaints, the Commission may not categorize an inquiry or complaint with respect to section 227 of the Communications Act of 1934 (47 U.S.C. 227) as being a wireline inquiry or complaint or a wireless inquiry or complaint unless the party whose conduct is the subject of the inquiry or complaint is a wireline carrier or a wireless carrier, respectively.

SEC. 203. EFFECT ON OTHER LAWS.

Nothing in this title or the amendments made by this title shall relieve the Commission from any obligations under title 5, United States Code, except where otherwise expressly provided.

SEC. 204. APPLICATION OF ANTIDEFIENCY ACT TO UNIVERSAL SERVICE PROGRAM.

Section 302 of Public Law 108–494 (118 Stat. 3998) is amended by striking “December 31, 2018” each place it appears and inserting “December 31, 2021”.

SEC. 205. REPORT ON IMPROVING SMALL BUSINESS PARTICIPATION IN FCC PROCEEDINGS.

Not later than 1 year after the date of the enactment of this Act, the Commission, in consultation with the Administrator of the Small Business Administration, shall submit to Congress a report on—

(1) actions that the Commission will take to improve the participation of small businesses in the proceedings of the Commission; and

(2) recommendations for any legislation that the Commission considers appropriate to improve such participation.

SEC. 206. TIMELY AVAILABILITY OF ITEMS ADOPTED BY VOTE OF THE COMMISSION.

(a) AMENDMENT.—Section 4 of the Communications Act of 1934 (47 U.S.C. 154) is amended by adding at the end the following:

“(o) In the case of any item that is adopted by vote of the Commission, the Commission shall publish on the Internet website of the Commission the text of such item not later than 7 days after the Secretary of the Commission has received dissenting statements from all Commissioners wishing to submit such a statement with respect to such item.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to an item that is adopted after the date that is 30 days after the date of the enactment of this Act.

TITLE III—SECURING ACCESS TO NETWORKS IN DISASTERS

SEC. 301. STUDY ON NETWORK RESILIENCY.

Not later than 36 months after the date of enactment of this Act, the Commission shall submit to Congress, and make publically available on the Commission’s website, a study on the public safety benefits and technical feasibility and cost of—

- (1) making telecommunications service provider-owned WiFi access points, and other communications technologies operating on unlicensed spectrum, available to the general public for access to 9–1–1 services, without requiring any login credentials, during times of emergency when mobile service is unavailable;
- (2) the provision by non-telecommunications service provider-owned WiFi access points of public access to 9–1–1 services during times of emergency when mobile service is unavailable; and
- (3) other alternative means of providing the public with access to 9–1–1 services during times of emergency when mobile service is unavailable.

SEC. 302. ACCESS TO ESSENTIAL SERVICE PROVIDERS DURING FEDERALLY DECLARED EMERGENCIES.

Section 427(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5189e(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “telecommunications service” and inserting “wireline or mobile telephone service, Internet access service, radio or television broadcasting, cable service, or direct broadcast satellite service”;

(B) in subparagraph (E), by striking the semicolon and inserting “; or”;

(C) by redesignating subparagraphs (A) through (E) as clauses (i) through (v), respectively; and

(D) by adding at the end the following:

“(B) is a tower owner or operator.”; and

(2) by striking “(1) provides” and inserting “(1)(A) provides”.

SEC. 303. DEFINITIONS.

As used in this title—

(1) the term “mobile service” means commercial mobile service (as defined in section 332 of the Communications Act of 1934 (47 U.S.C. 332)) or commercial mobile data service (as defined in section 6001 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1401));

(2) the term “WiFi access point” means wireless Internet access using the standard designated as 802.11 or any variant thereof; and

(3) the term “times of emergency” means either an emergency as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), or an emergency as declared by the governor of a State or territory of the United States.

TITLE IV—FCC CONSOLIDATED REPORTING

SEC. 401. COMMUNICATIONS MARKETPLACE REPORT.

Title I of the Communications Act of 1934, as amended by section 201(a), is further 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 Com-

merce 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, audio, 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. 5304)), 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) EXTENSION.—If the President designates a Commissioner as Chairman of the Commission during the last quarter of an even-numbered year, the portion of the report required by subsection (b)(4) may be published on the website of the Commission and submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate as an addendum during the first quarter of the following odd-numbered year.

“(d) 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).

“(5) CONSIDERING CABLE RATES.—In assessing the state of competition under subsection (b)(1), the Commission shall include in each report required by subsection (a) the aggregate average total amount paid by cable systems in compensation under section 325 during the period covered by such report.”.

SEC. 402. 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 (o) as subsections (k) through (n), 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) by amending subsection (b) to read as follows:

“(b) DETERMINATION.—If the Commission determines in its report under section 14 of the Communications Act of 1934, after considering the availability of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms), 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.”;
 - (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), as amended by section 206(a), is further amended—
 - (A) by striking subsection (k);
 - (B) by redesignating subsections (l) through (n) as subsections (k) through (m), respectively; and
 - (C) by redesignating the first subsection (o) (relating to use of radio and wire communications in connection with safety of life and property) as subsection (n).
 - (2) CONFORMING AMENDMENT.—Section 309(j)(8)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B)) is amended 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 (1)(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. 403. EFFECT ON AUTHORITY.

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

SEC. 404. OTHER REPORTS.

Nothing in this title or the amendments made by this title shall be construed to prohibit or otherwise prevent the Commission from producing any additional reports otherwise within the authority of the Commission.

TITLE V—ADDITIONAL PROVISIONS

SEC. 501. INDEPENDENT INSPECTOR GENERAL FOR FCC.

(a) AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

- (1) in section 8G(a)(2), by striking “the Federal Communications Commission,”; and
- (2) in section 12—
 - (A) in paragraph (1), by inserting “, the Federal Communications Commission,” after “the Chairman of the Nuclear Regulatory Commission”; and
 - (B) in paragraph (2), by inserting “the Federal Communications Commission,” after “the Environmental Protection Agency,”.

(b) TRANSITION RULE.—An individual serving as Inspector General of the Commission on the date of the enactment of this Act pursuant to an appointment made under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)—

- (1) may continue so serving until the President makes an appointment under section 3(a) of such Act with respect to the Commission consistent with the amendments made by subsection (a); and
- (2) shall, while serving under paragraph (1), remain subject to the provisions of section 8G of such Act which, immediately before the date of the enactment of this Act, applied with respect to the Inspector General of the Commission and suffer no reduction in pay.

SEC. 502. AUTHORITY OF CHIEF INFORMATION OFFICER.

(a) IN GENERAL.—The Commission shall ensure that the Chief Information Officer of the Commission has a significant role in—

- (1) the decision-making process for annual and multi-year planning, programming, budgeting, and execution decisions, related reporting requirements, and reports related to information technology;
- (2) the management, governance, and oversight processes related to information technology; and
- (3) the hiring of personnel with information technology responsibilities.

(b) CIO APPROVAL.—The Chief Information Officer of the Commission, in consultation with the Chief Financial Officer of the Commission and budget officials, shall specify and approve the allocation of amounts appropriated to the Commission for information technology, consistent with the provisions of appropriations Acts, budget guidelines, and recommendations from the Director of the Office of Management and Budget.

SEC. 503. SPOOFING PREVENTION.

(a) EXPANDING AND CLARIFYING PROHIBITION ON MISLEADING OR INACCURATE CALLER IDENTIFICATION INFORMATION.—

(1) COMMUNICATIONS FROM OUTSIDE THE UNITED STATES.—Section 227(e)(1) of the Communications Act of 1934 (47 U.S.C. 227(e)(1)) is amended by striking “in connection with any telecommunications service or IP-enabled voice service” and inserting “or any person outside the United States if the recipient is within the United States, in connection with any voice service or text messaging service”.

(2) COVERAGE OF TEXT MESSAGES AND VOICE SERVICES.—Section 227(e)(8) of the Communications Act of 1934 (47 U.S.C. 227(e)(8)) is amended—

(A) in subparagraph (A), by striking “telecommunications service or IP-enabled voice service” and inserting “voice service or a text message sent using a text messaging service”;

(B) in the first sentence of subparagraph (B), by striking “telecommunications service or IP-enabled voice service” and inserting “voice service or a text message sent using a text messaging service”; and

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

“(C) TEXT MESSAGE.—The term ‘text message’—

“(i) means a message consisting of text, images, sounds, or other information that is transmitted to or from a device that is identified as the receiving or transmitting device by means of a 10-digit telephone number or N11 service code;

“(ii) includes a short message service (commonly referred to as ‘SMS’) message and a multimedia message service (commonly referred to as ‘MMS’) message; and

“(iii) does not include—

“(I) a real-time, two-way voice or video communication; or

“(II) a message sent over an IP-enabled messaging service to another user of the same messaging service, except a message described in clause (ii).

“(D) TEXT MESSAGING SERVICE.—The term ‘text messaging service’ means a service that enables the transmission or receipt of a text message, including a service provided as part of or in connection with a voice service.

“(E) VOICE SERVICE.—The term ‘voice service’—

“(i) means any service that is interconnected with the public switched telephone network and that furnishes voice communications to an end user using resources from the North American Numbering Plan or any successor to the North American Numbering Plan adopted by the Commission under section 251(e)(1); and

“(ii) includes transmissions from a telephone facsimile machine, computer, or other device to a telephone facsimile machine.”

(3) TECHNICAL AMENDMENT.—Section 227(e) of the Communications Act of 1934 (47 U.S.C. 227(e)) is amended in the heading by inserting “MISLEADING OR” before “INACCURATE”.

(4) REGULATIONS.—

(A) IN GENERAL.—Section 227(e)(3)(A) of the Communications Act of 1934 (47 U.S.C. 227(e)(3)(A)) is amended by striking “Not later than 6 months after the date of enactment of the Truth in Caller ID Act of 2009, the Commission” and inserting “The Commission”.

(B) DEADLINE.—The Commission shall prescribe regulations to implement the amendments made by this subsection not later than 18 months after the date of enactment of this Act.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that is 6 months after the date on which the Commission prescribes regulations under paragraph (4).

(b) CONSUMER EDUCATION MATERIALS ON HOW TO AVOID SCAMS THAT RELY UPON MISLEADING OR INACCURATE CALLER IDENTIFICATION INFORMATION.—

(1) DEVELOPMENT OF MATERIALS.—Not later than 1 year after the date of enactment of this Act, the Commission, in coordination with the Federal Trade Commission, shall develop consumer education materials that provide information about—

(A) ways for consumers to identify scams and other fraudulent activity that rely upon the use of misleading or inaccurate caller identification information; and

(B) existing technologies, if any, that a consumer can use to protect against such scams and other fraudulent activity.

(2) CONTENTS.—In developing the consumer education materials under paragraph (1), the Commission shall—

(A) identify existing technologies, if any, that can help consumers guard themselves against scams and other fraudulent activity that rely upon the use of misleading or inaccurate caller identification information, including—

- (i) descriptions of how a consumer can use the technologies to protect against such scams and other fraudulent activity; and
- (ii) details on how consumers can access and use the technologies; and

(B) provide other information that may help consumers identify and avoid scams and other fraudulent activity that rely upon the use of misleading or inaccurate caller identification information.

(3) **UPDATES.**—The Commission shall ensure that the consumer education materials required under paragraph (1) are updated on a regular basis.

(4) **WEBSITE.**—The Commission shall include the consumer education materials developed under paragraph (1) on its website.

(c) **GAO REPORT ON COMBATING THE FRAUDULENT PROVISION OF MISLEADING OR INACCURATE CALLER IDENTIFICATION INFORMATION.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study of the actions the Commission and the Federal Trade Commission have taken to combat the fraudulent provision of misleading or inaccurate caller identification information, and the additional measures that could be taken to combat such activity.

(2) **REQUIRED CONSIDERATIONS.**—In conducting the study under paragraph (1), the Comptroller General shall examine—

(A) trends in the types of scams that rely on misleading or inaccurate caller identification information;

(B) previous and current enforcement actions by the Commission and the Federal Trade Commission to combat the practices prohibited by section 227(e)(1) of the Communications Act of 1934 (47 U.S.C. 227(e)(1));

(C) current efforts by industry groups and other entities to develop technical standards to deter or prevent the fraudulent provision of misleading or inaccurate caller identification information, and how such standards may help combat the current and future provision of misleading or inaccurate caller identification information; and

(D) whether there are additional actions the Commission, the Federal Trade Commission, and Congress should take to combat the fraudulent provision of misleading or inaccurate caller identification information.

(3) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Comptroller General 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 on the findings of the study under paragraph (1), including any recommendations regarding combating the fraudulent provision of misleading or inaccurate caller identification information.

(d) **RULE OF CONSTRUCTION.**—Nothing in this section, or the amendments made by this section, shall be construed to modify, limit, or otherwise affect any rule or order adopted by the Commission in connection with—

(1) the Telephone Consumer Protection Act of 1991 (Public Law 102–243; 105 Stat. 2394) or the amendments made by that Act; or

(2) the CAN–SPAM Act of 2003 (15 U.S.C. 7701 et seq.).

SEC. 504. REPORT ON PROMOTING BROADBAND INTERNET ACCESS SERVICE FOR VETERANS.

(a) **VETERAN DEFINED.**—In this section, the term “veteran” has the meaning given the term in section 101 of title 38, United States Code.

(b) **REPORT REQUIRED.**—Not later than 1 year after the date of the enactment of this Act, the Commission shall submit to Congress a report on promoting broadband Internet access service for veterans, in particular low-income veterans and veterans residing in rural areas. In such report, the Commission shall—

(1) examine such access and how to promote such access; and

(2) provide findings and recommendations for Congress with respect to such access and how to promote such access.

(c) **PUBLIC NOTICE AND OPPORTUNITY TO COMMENT.**—In preparing the report required by subsection (b), the Commission shall provide the public with notice and an opportunity to comment on broadband Internet access service for veterans, in particular low-income veterans and veterans residing in rural areas, and how to promote such access.

SEC. 505. METHODOLOGY FOR COLLECTION OF MOBILE SERVICE COVERAGE DATA.

(a) **DEFINITIONS.**—In this section—

(1) the term “commercial mobile data service” has the meaning given the term in section 6001 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1401);

(2) the term “commercial mobile service” has the meaning given the term in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d));

(3) the term “coverage data” means, if commercial mobile service or commercial mobile data service is available, general information about the service, which may include available speed tiers, radio frequency signal levels, and network and performance characteristics; and

(4) the term “Universal Service program” means the universal service support mechanisms established under section 254 of the Communications Act of 1934 (47 U.S.C. 254) and the regulations issued under that section.

(b) **METHODOLOGY ESTABLISHED.**—Not later than 180 days after the conclusion of the Mobility Fund Phase II Auction, the Commission shall promulgate regulations to establish a methodology that shall apply to the collection of coverage data by the Commission for the purposes of—

- (1) the Universal Service program; or
- (2) any other similar program.

(c) **REQUIREMENTS.**—The methodology established under subsection (b) shall—

- (1) contain standard definitions for different available technologies such as 2G, 3G, 4G, and 4G LTE;
- (2) enhance the consistency and robustness of how the data are collected by different parties;
- (3) improve the validity and reliability of coverage data; and
- (4) increase the efficiency of coverage data collection.

SEC. 506. ACCURACY OF DISPATCHABLE LOCATION FOR 9-1-1 CALLS.

(a) **PROCEEDING REQUIRED.**—Not later than 18 months after the date of the enactment of this Act, the Commission shall conclude a proceeding to consider adopting rules to ensure that the dispatchable location is conveyed with a 9-1-1 call, regardless of the technological platform used and including with calls from multi-line telephone systems (as defined in section 6502 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1471)).

(b) **RELATIONSHIP TO OTHER PROCEEDINGS.**—In conducting the proceeding required by subsection (a), the Commission may consider information and conclusions from other Commission proceedings regarding the accuracy of the dispatchable location for a 9-1-1 call, but nothing in this section shall be construed to require the Commission to reconsider any information or conclusion from a proceeding regarding the accuracy of the dispatchable location for a 9-1-1 call in which the Commission has adopted rules or issued an order before the date of the enactment of this Act.

(c) **DEFINITIONS.**—In this section:

(1) **9-1-1 CALL.**—The term “9-1-1 call” means a voice call that is placed, or a message that is sent by other means of communication, to a public safety answering point (as defined in section 222 of the Communications Act of 1934 (47 U.S.C. 222)) for the purpose of requesting emergency services.

(2) **DISPATCHABLE LOCATION.**—The term “dispatchable location” means the street address of the calling party, and additional information such as room number, floor number, or similar information necessary to adequately identify the location of the calling party.

SEC. 507. NTIA STUDY ON INTERAGENCY PROCESS FOLLOWING CYBERSECURITY INCIDENTS.

(a) **IN GENERAL.**—The Assistant Secretary of Commerce for Communications and Information shall complete a study on how the National Telecommunications and Information Administration can best coordinate the interagency process following cybersecurity incidents.

(b) **REPORT TO CONGRESS.**—Not later than 18 months after the date of the enactment of this Act, the Assistant Secretary 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 detailing the findings and recommendations of the study conducted under subsection (a).

SEC. 508. TRIBAL DIGITAL ACCESS.

(a) **TRIBAL BROADBAND DATA REPORT.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, the 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 evaluating broadband coverage in Indian country (as defined in section 1151 of title 18, United States Code) and on land held by a Native Corporation pursuant to the Alaska Native Claims Settlement Act.

(2) **REQUIRED ASSESSMENTS.**—The report required by paragraph (1) shall include the following:

(A) An assessment of areas of Indian country (as so defined) and land held by a Native Corporation pursuant to the Alaska Native Claims Settlement Act that have adequate broadband coverage.

(B) An assessment of unserved areas of Indian country (as so defined) and land held by a Native Corporation pursuant to the Alaska Native Claims Settlement Act.

(b) TRIBAL BROADBAND RULEMAKING.—Not later than 30 months after the date of the enactment of this Act, the Commission shall complete a proceeding to address the unserved areas identified in the report under subsection (a).

TITLE VI—VIEWER PROTECTION

SEC. 601. RESERVE SOURCE FOR PAYMENT OF TV BROADCASTER RELOCATION COSTS.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the Broadcast Repack Fund.

(b) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—If the Commission makes the certification described in paragraph (2), amounts in the Broadcast Repack Fund shall be available to the Commission to make reimbursements pursuant to subsection (b)(4)(A)(i) or (b)(4)(A)(ii) of section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1452).

(2) CERTIFICATION.—The certification described in this paragraph is a certification from the Commission to the Secretary of the Treasury that the funds available in the TV Broadcaster Relocation Fund established under subsection (d) of such section are likely to be insufficient to reimburse reasonably incurred costs described in subsection (b)(4)(A)(i) or (b)(4)(A)(ii) of such section.

(3) AVAILABILITY FOR PAYMENTS AFTER APRIL 13, 2020.—Notwithstanding subsection (b)(4)(D) of such section, the Commission may make payments pursuant to subsection (b)(4)(A)(i) or (b)(4)(A)(ii) of such section from the Broadcast Repack Fund after April 13, 2020, if, before making any such payments after such date, the Commission submits to Congress a certification that such payments are necessary to reimburse reasonably incurred costs described in such subsection.

(c) UNUSED FUNDS RESCINDED AND DEPOSITED INTO THE GENERAL FUND OF THE TREASURY.—

(1) RESCISSION AND DEPOSIT.—If any unobligated amounts remain in the Broadcast Repack Fund after the date described in paragraph (2), such amounts shall be rescinded and deposited into the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(2) DATE DESCRIBED.—The date described in this paragraph is the earlier of—

(A) the date of a certification by the Commission under paragraph (3) that all reimbursements pursuant to subsections (b)(4)(A)(i) and (b)(4)(A)(ii) of such section 6403 have been made; or

(B) July 3, 2022.

(3) CERTIFICATION.—If all reimbursements pursuant to subsections (b)(4)(A)(i) and (b)(4)(A)(ii) of such section 6403 have been made before July 3, 2022, the Commission shall submit to the Secretary of the Treasury a certification that all such reimbursements have been made.

(d) ADMINISTRATIVE COSTS.—The amount of auction proceeds that the salaries and expenses account of the Commission is required to retain under section 309(j)(8)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B)), including from the proceeds of the forward auction under section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1452), shall be sufficient to cover the administrative costs incurred by the Commission in making any reimbursements out of the Broadcast Repack Fund.

SEC. 602. PAYMENT OF RELOCATION COSTS OF TELEVISION TRANSLATOR STATIONS AND LOW POWER TELEVISION STATIONS.

(a) PAYMENT REQUIRED.—

(1) IN GENERAL.—From amounts made available under subsection (b)(2), the Commission shall reimburse costs reasonably incurred by a television translator station or low power television station on or after January 1, 2017, in order for such station to relocate its television service from one channel to another channel or otherwise modify its facility as a result of the reorganization of broadcast television spectrum under subsection (b) of section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1452). Only stations that are eligible to file and do file an application in the Commission's Special Displacement Window are eligible to seek reimbursement under this paragraph.

(2) LIMITATION.—The Commission may not make reimbursements under paragraph (1) for lost revenues.

(3) DUPLICATIVE PAYMENTS PROHIBITED.—In the case of a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations—

(A) if the licensee of such station has received reimbursement with respect to such station under subsection (b)(4)(A)(i) of such section 6403 (including from amounts made available under section 601 of this title), or from any other source, such station may not receive reimbursement under paragraph (1); and

(B) if such station has received reimbursement under paragraph (1), the licensee of such station may not receive reimbursement with respect to such station under subsection (b)(4)(A)(i) of such section 6403.

(4) ADDITIONAL LIMITATION.—The Commission may not make reimbursement under paragraph (1) for costs incurred to resolve mutually exclusive applications, including costs incurred in any auction of available channels.

(b) FUNDING.—

(1) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the Translator and Low Power Station Relocation Fund.

(2) AVAILABILITY OF FUNDS.—

(A) IN GENERAL.—Amounts in the Translator and Low Power Station Relocation Fund shall be available to the Commission to make payments required by subsection (a)(1).

(B) AVAILABILITY AFTER APRIL 13, 2020.—Amounts in the Translator and Low Power Station Relocation Fund shall not be available to the Commission to make payments required by subsection (a)(1) after April 13, 2020, unless, before making any such payments after such date, the Commission submits to Congress a certification that such payments are necessary to reimburse costs reasonably incurred by a television translator station or low power television station on or after January 1, 2017, in order for such station to relocate its television service from one channel to another channel or otherwise modify its facility as a result of the reorganization of broadcast television spectrum under subsection (b) of section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1452).

(3) UNUSED FUNDS RESCINDED AND DEPOSITED INTO THE GENERAL FUND OF THE TREASURY.—

(A) RESCISSION AND DEPOSIT.—If any unobligated amounts remain in the Translator and Low Power Station Relocation Fund after the date described in subparagraph (B), such amounts shall be rescinded and deposited into the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(B) DATE DESCRIBED.—The date described in this subparagraph is the earlier of—

(i) the date of a certification by the Commission under subparagraph (C) that all reimbursements pursuant to subsection (a)(1) have been made; or

(ii) July 3, 2023.

(C) CERTIFICATION.—If all reimbursements pursuant to subsection (a)(1) have been made before July 3, 2023, the Commission shall submit to the Secretary of the Treasury a certification that all such reimbursements have been made.

(c) ADMINISTRATIVE COSTS.—The amount of auction proceeds that the salaries and expenses account of the Commission is required to retain under section 309(j)(8)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B)), including from the proceeds of the forward auction under section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1452), shall be sufficient to cover the administrative costs incurred by the Commission in making any reimbursements out of the Translator and Low Power Station Relocation Fund.

(d) DEFINITIONS.—In this section:

(1) LOW POWER TELEVISION STATION.—The term “low power television station” means a low power TV station (as defined in section 74.701 of title 47, Code of Federal Regulations) that was licensed and transmitting for at least 9 of the 12 months prior to April 13, 2017. For purposes of the preceding sentence, the operation of analog and digital companion facilities may be combined.

(2) TELEVISION TRANSLATOR STATION.—The term “television translator station” means a television broadcast translator station (as defined in section 74.701 of title 47, Code of Federal Regulations) that was licensed and transmitting for at least 9 of the 12 months prior to April 13, 2017. For purposes of the

preceding sentence, the operation of analog and digital companion facilities may be combined.

SEC. 603. PAYMENT OF RELOCATION COSTS OF FM BROADCAST STATIONS.

(a) PAYMENT REQUIRED.—

(1) **IN GENERAL.**—From amounts made available under subsection (b)(2), the Commission shall reimburse costs reasonably incurred by an FM broadcast station for facilities necessary for such station to reasonably minimize disruption of service as a result of the reorganization of broadcast television spectrum under subsection (b) of section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1452).

(2) **LIMITATION.**—The Commission may not make reimbursements under paragraph (1) for lost revenues.

(3) **DUPLICATIVE PAYMENTS PROHIBITED.**—If an FM broadcast station has received a payment for interim facilities from the licensee of a television broadcast station that was reimbursed for such payment under subsection (b)(4)(A)(i) of such section 6403 (including from amounts made available under section 601 of this title), or from any other source, such FM broadcast station may not receive any reimbursements under paragraph (1).

(b) FUNDING.—

(1) **ESTABLISHMENT OF FUND.**—There is established in the Treasury of the United States a fund to be known as the FM Broadcast Station Relocation Fund.

(2) AVAILABILITY OF FUNDS.—

(A) **IN GENERAL.**—Amounts in the FM Broadcast Station Relocation Fund shall be available to the Commission to make payments required by subsection (a)(1).

(B) **AVAILABILITY AFTER APRIL 13, 2020.**—Amounts in the FM Broadcast Station Relocation Fund shall not be available to the Commission to make payments required by subsection (a)(1) after April 13, 2020, unless, before making any such payments after such date, the Commission submits to Congress a certification that such payments are necessary to reimburse costs reasonably incurred by an FM broadcast station for facilities necessary for such station to reasonably minimize disruption of service as a result of the reorganization of broadcast television spectrum under subsection (b) of section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1452).

(3) UNUSED FUNDS RESCINDED AND DEPOSITED INTO THE GENERAL FUND OF THE TREASURY.—

(A) **RESCISSION AND DEPOSIT.**—If any unobligated amounts remain in the FM Broadcast Station Relocation Fund after the date described in subparagraph (B), such amounts shall be rescinded and deposited into the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(B) **DATE DESCRIBED.**—The date described in this subparagraph is the earlier of—

- (i) the date of a certification by the Commission under subparagraph (C) that all reimbursements pursuant to subsection (a)(1) have been made; or
- (ii) July 3, 2022.

(C) **CERTIFICATION.**—If all reimbursements pursuant to subsection (a)(1) have been made before July 3, 2022, the Commission shall submit to the Secretary of the Treasury a certification that all such reimbursements have been made.

(c) **ADMINISTRATIVE COSTS.**—The amount of auction proceeds that the salaries and expenses account of the Commission is required to retain under section 309(j)(8)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B)), including from the proceeds of the forward auction under section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1452), shall be sufficient to cover the administrative costs incurred by the Commission in making any reimbursements out of the FM Broadcast Station Relocation Fund.

(d) **FM BROADCAST STATION DEFINED.**—In this section, the term “FM broadcast station” has the meaning given such term in section 73.310 of title 47, Code of Federal Regulations.

SEC. 604. CONSUMER EDUCATION PAYMENT.

(a) **ESTABLISHMENT OF FUND.**—There is established in the Treasury of the United States a fund to be known as the Broadcast Station Relocation Consumer Education Fund.

(b) **AVAILABILITY OF FUNDS.**—Amounts in the Broadcast Station Relocation Consumer Education Fund shall be available to the Commission to make payments solely for the purposes of consumer education relating to the reorganization of broadcast television spectrum under subsection (b) of section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1452).

(c) **ADMINISTRATIVE COSTS.**—The amount of auction proceeds that the salaries and expenses account of the Commission is required to retain under section 309(j)(8)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B)), including from the proceeds of the forward auction under section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1452), shall be sufficient to cover the administrative costs incurred by the Commission in making any payments out of the Broadcast Station Relocation Consumer Education Fund.

SEC. 605. IMPLEMENTATION AND ENFORCEMENT.

The Commission shall implement and enforce this title as if this title is a part of the Communications Act of 1934 (47 U.S.C. 151 et seq.). A violation of this title, or a regulation promulgated under this title, shall be considered to be a violation of the Communications Act of 1934, or a regulation promulgated under such Act, respectively.

SEC. 606. RULE OF CONSTRUCTION.

Nothing in this title shall alter the final transition phase completion date established by the Commission for full power and Class A television stations.

PURPOSE AND SUMMARY

H.R. 4986, the “Ray Baum’s Act of 2018” or “Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018” was introduced on February 8, 2018, by Representative Marsha Blackburn (R-TN). H.R. 4986 would reauthorize the Federal Communications Commission (FCC). The bill would maintain the FCC’s section 9 authority to assess regulatory fees and would direct the agency to review and adjust, as necessary, its fee schedule every two years. The bill also amends Title I of the Communications Act to include several agency process reforms. H.R. 4986 also includes provisions to address spoofing, broadband access for veterans, data collection for mobile service coverage, 9–1–1 location accuracy, improving access to communications during times of emergency, and improving broadband coverage in Indian country. The bill also consolidates and streamlines redundant FCC reports. Finally, the bill establishes funds in the Treasury to pay broadcaster relocation costs associated with the reorganization of broadcast television spectrum under section 6402 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1452).

BACKGROUND AND NEED FOR LEGISLATION

The Energy and Commerce Committee has prioritized the reauthorization of federal agencies in the 115th Congress, and the Federal Communications Commission has not been reauthorized since 1990.

In addition, during the 112th Congress, section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1452) provided \$1,750,000,000 in proceeds from the broadcast incentive auction for the TV Broadcaster Relocation Fund, which was to be used to reimburse broadcasters for relocation costs incurred as a result of the auction. This authorization of funds was insufficient to complete the repacking process. H.R. 4986 would provide additional funds to fully reimburse full-power, Class A broadcasters, and to reimburse costs for low power television stations, translator television stations, and FM radio stations. The bill also provides

additional funding to help educate consumers about the repacking process and how to continue accessing their local broadcast stations.

COMMITTEE ACTION

On July 25, 2017, the Subcommittee on Communications and Technology held a hearing on a discussion draft entitled “To amend the Communications Act of 1934 to reauthorize appropriations for the Federal Communications Commission, to provide for certain procedural changes to the rules of the Commission to maximize opportunities for public participation and efficient decisionmaking, and for other purposes.” The Subcommittee received testimony from:

- Mignon Clyburn, Commissioner, Federal Communications Commission;
- Michael O’Rielly, Commissioner, Federal Communications Commission; and
- Ajit Pai, Chairman, Federal Communications Commission.

On October 11, 2017, the Subcommittee on Communications and Technology met in open markup session and forwarded the discussion draft to the full Committee by a voice vote. H.R. 4986 was introduced by Representative Blackburn on February 8, 2018. H.R. 4986 was similar to the discussion draft.

On February 14, 2018, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 4986, as amended, favorably reported 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. There were no recorded votes taken in connection with ordering H.R. 4986 reported.

OVERSIGHT FINDINGS AND RECOMMENDATIONS

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

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. 4986 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, at the time this report was filed, the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available.

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.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to reauthorize the Federal Communications Commission and create a fund for the purpose of addressing the shortfall of funds authorized to complete the TV broadcast incentive auction in the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112–96, 47 U.S.C. 1452).

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 4986 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 4986 contains no earmarks, limited tax benefits, or limited tariff benefits.

DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, the following directed rule makings are contained in H.R. 4986:

1. Section 102 would require the Federal Communications Commission to issue a final rule amending the schedule of regulatory fees.

2. Section 201 would require the FCC to issue a final rule adopting procedural changes that maximize public participation and efficient decisionmaking. Section 201 also requires the Federal Communications Commission to consider revisions to these procedural changes every 5 years.

3. Section 503 would require the FCC to issue a final rule to address fraudulent, misleading, or inaccurate calls from outside the United States.

4. Section 505 would require the FCC to issue a final rule that defines the methodology used to collect commercial mobile service data.

5. Section 508 would require the FCC to issue a final rule that identifies and addresses areas of Indian country considered unserved with broadband access.

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 THE LEGISLATION

TITLE I—FCC REAUTHORIZATION

Section 101. Authorization of appropriations

This section would authorize appropriations of \$322,035,000 for fiscal years 2019 and 2020 for the Federal Communications Commission through offsetting collections authorized by section 9 of the Communications Act of 1934 (the Act) (47 U.S.C. § 151 et seq.). It also amends section 309(j) of the Act to allow spectrum auction deposits to be deposited in the Treasury.

Section 102. Application and regulatory fees

This section would amend section 9 of the Act to assess and collect application and regulatory fees to recover the costs provided for in advance in Appropriation Acts.

Section 103. Effective date

This section would provide an effective date of October 1, 2018, for this title.

TITLE II—FCC PROCESS REFORM

*Section 201. FCC process reform**Sec. 13(a) Initial Rulemaking and Inquiry*

This section would require the FCC to conduct a notice and comment rulemaking and adopt rules to (1) set minimum comment and reply comment periods for rulemaking proceedings; (2) establish policies concerning extensive comments toward the end of a comment period; (3) establish policies to ensure that the public has time to review material submitted in a proceeding after the comment cycle has closed; (4) publish the status of open rulemakings as well as list the draft items the Commissioners are currently considering; (5) establish deadlines for action on certain filings to the Commission and its bureaus; (6) establish guidelines for the disposition of petitions for declaratory ruling; (7) establish procedures for including the specific text of proposed rules in Commission Notice of Proposed Rule Makings (NPRM); and (8) to require the development of performance measures for FCC program activities, defined as each FCC program listed in the Federal budget or each program through which the FCC collects or distributes \$100 million or more.

New Section 13(a) is intended to ensure that the Commission provides a more predictable framework for making decisions as

well as adequate opportunity for public participation. Too often, the members of the public will file petitions for declaratory ruling, rule-making, or reconsideration of an FCC decision only to find that their petitions languish at the agency for an extended and often indeterminate length of time.¹ The Commission also has begun rulemakings and failed to conclude them in a timely fashion or simply to close the docket.²

With specific regard to new section 13(a)(2)(A), the bill requires the Commission to set minimum comment periods to set expectations for the public on the timeframe for the impending Commission actions. The Commission retains the flexibility to depart from such comment periods for significant regulatory actions as defined in Executive Order No. 12866 and rulemakings. This is a practice supported by the Administrative Conference of the United States (ACUS).³ The President also issued guidance to executive agencies that sixty days should be the minimum comment period to “afford the public a meaningful opportunity to comment.”⁴

Section 13(a)(2)(B) is intended to remedy a chronic problem with the FCC’s notice and comment procedures. Currently, parties can wait until near the end of the comment period to submit massive amounts of new evidence in the docket to support their positions. The last-minute inclusion deprives other stakeholders of the opportunity to adequately analyze the submission and respond.⁵ Section 13(a)(2)(C) is intended to remedy a similar situation, in which the agency submits documents very late in the process and substantially relies on those submissions to justify the regulation.⁶

Section 13(a)(2)(D) was included in H.R. 3675 in the 113th Congress and requires the FCC to report on the status of its open proceedings and to provide the public with clear information on the efficiency of the agency. During the full Committee mark-up, the section was amended to include a proposal offered by Rep. Clarke (D-NY), which would require the Commission also to report on the status of requests for action from the public as well as on the cost of Congressional investigations. The analysis of the cost of Congressional investigations will be subject to audit per section 13(a)(5).

¹ See, e.g., in re Fifty-five Unopposed Petitions for Determination of Effective Competition, Memorandum Opinion and Order, 29 FCC Rcd 3140 (2014) (closing out unopposed petitions for determination of effective competition, some of which had been filed in early December of 2011).

² See 2014 Quadrennial Regulatory Review—Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, Further Notice of Proposed Rulemaking and Report and Order, 29 FCC Rcd 4371 (2014). The Commission did not complete the 2010 Quadrennial Review, as statutorily required. Instead, it decided that it would incorporate the 2010 Review into the 2014 Quadrennial Review without producing a separate report. Similarly, the Commission failed to complete Video Competition Reports. See also Special Access for Price Cap Exchange Carriers, WC Docket No. 05–25 (which has been fully briefed several times and also is based on a petition for rulemaking, which was opened in 2002 and related to special access rates).

³ See ACUS, improving the Environment for Agency Rulemaking, Recommendation No. 93–4.

⁴ See Executive Order No. 13563, 76 Fed. Reg. 3821 (Jan. 21, 2011).

⁵ See, e.g., Comments of the National Association of Regulatory Utility Commissioners, FCC GN Docket No. 14–25 (filed Mar. 31, 2014) at 13.

⁶ This is not a theoretical concern. Just seven days before the Commissioners were due to vote on the reform of the intercarrier compensation and universal service regimes, the Wireline Competition Bureau of the FCC inundated the record with thousands of pages of lists of academic reports and published articles, studies, position papers, analyses, statistics, newspaper articles, white papers, publications, handbooks, State laws, State regulatory pleadings and decisions, reference works, industry surveys, treatises, congressional reports, and correspondence to the FCC. The National Association of Regulatory Utility Commissioners (NARUC) urged the FCC to “establish some sort of a procedure . . . to assure this sort of thing does not happen again.” See Comments of NARUC, GN Docket No. 14–25 (filed Mar. 31, 2014) at 14.

This section also would require the Commission to seek public comment on a notice of inquiry into whether and how the Commission should (1) allow a bipartisan majority of Commissioners to add an item to the Commission's agenda; (2) inform Commissioners of all options available on a given Commission item; (3) ensure that Commissioners have adequate time to review the text of Commission items; (4) publish the text of items for Commission consideration prior to Commission vote; (5) establish deadlines for the processing of applications for licenses; (6) generate additional resources for the processing of applications; and (7) publish Commission decisions within thirty days of adoption.

Section 13(a)(2)(G) requires the Commission to establish procedures for including the specific language of a proposed rule in the notice of proposed rulemaking. In the past decade, the Commission has fallen into the habit of delineating only a general summary of potential action in Notices of Proposed Rulemaking, without including the specific language of proposed rules.⁷ The inclusion of the specific text of proposed rules is "a critical step in facilitating meaningful discussion." Without the text of the proposed rules,⁸ the public is left "with the challenge of guessing what issues are really important," which "undermines the opportunity for meaningful participation and effective deliberation."⁹ The public deserves a Commission that can commit to "publishing the text of proposed rules sufficiently in advance of Commission meetings for both (i) the public to have a meaningful opportunity to comment and (ii) the Commissioners to have a meaningful opportunity to review such comments."¹⁰

Section 13(a)(2)(H) attempts to increase the transparency of the Commission's largest programs, such as the Universal Service Fund and the Interstate Telecommunications Relay Service Fund. The Government Performance Results Act of 1993 already requires the FCC and other agencies to identify yearly performance goals for all items on the Federal budget.¹¹ Despite this requirement, the Government Accountability Office has repeatedly cited the FCC for failing to establish objective, quantifiable performance measures for the various programs within the Universal Service Fund.¹² To remedy this situation, this subsection requires the Commission to develop performance measures for its program activities, defined as each program listed in the Federal budget, as well as each program

⁷ See, e.g., Letter from Frederick Butler, President, NARUC, to Susan Crawford, Visiting Professor, Yale Law School, Obama-Biden Transition Team on the FCC (Dec. 12, 2008), available at <http://www.naruc.org/Testimony/08%201212%20RV%20FCC%20Transition%20letter.pdf>. ("The FCC frequently releases vague Notices of Proposed Rulemaking that fail to articulate proposed rules and read more like Notices of Inquiry by posing countless open-ended questions.")

⁸ Michael Weinberg and Gigi B. Sohn, *An FCC for the Internet Age: Recommendations for Reforming the Federal Communications Commission*, at 4 (Mar. 5, 2010), available at <http://go.usa.gov/PyH>.

⁹ Philip J. Weiser, *FCC Reform and the Future of Telecommunications Policy* at 16–17 (Jan. 5, 2009), available at <http://fcc-reform.org/paper/fcc-reform-and-future-telecommunications-policy>.

¹⁰ Letter from Rep. John D. Dingell, Chairman, Committee on Energy and Commerce, to the Honorable Kevin J. Martin, Chairman, Federal Communications Commission (Dec. 3, 2007).

¹¹ See 5 U.S.C. § 1115 et al.

¹² See, e.g., GAO Report No. 11–11, *Improved Management Can Enhance FCC Decision Making for the Universal Service Fund Low-Income Program* (Oct. 2010); GAO Report No. 09–253, *Long-Term Strategic Vision Would Help Ensure Targeting of E-Rate Funds to Highest-Priority Uses* (Mar. 2009); GAO Report No. 08–633, *FCC Needs To Improve Performance Management and Strengthen Oversight of the High-Cost Program* (June 2008); GAO Report No. 05–151, *Greater Involvement Needed by FCC in the Management and Oversight of the E-Rate Program* (Feb. 2005).

through which the Commission collects or distributes \$100 million or more, relying on data it already collects when possible. To reduce the administrative burden, this subsection does not require the FCC to adopt performance measures immediately, but instead to adopt them as it moves forward with reforms of the Universal Service Fund, the Interstate Telecommunications Relay Service Fund, and its other program activities. The Committee expects that the Commission will include performance measures that address both the collection and distribution of funds.

Given that the FCC already has 417 separate information collections approved by the Office of Information and Regulatory Affairs,¹³ the Committee does not expect the FCC will need to create new information collections in order to establish meaningful performance measures. If the FCC determines otherwise, the Committee expects that the Commission will first look to consolidate and reduce the burden of existing collections before imposing new burdens.

Sec. 13(b) Periodic Review

This subsection would require the FCC to conduct a rulemaking to review the rules established in subsection 13(a) every five years.

Sec. 13(c) Nonpublic Collaborative Discussions

This subsection would allow a bipartisan majority of Commissioners to meet for collaborative discussions if they disclose such meetings within two business days and comply with Office of General Counsel oversight. This subsection also applies to meetings of Federal-State Joint Boards. The testimonies of multiple administrative law experts recommend the exception as a means of increasing the efficiency of Commissioner negotiations for policymaking.¹⁴ However, the Committee recognizes that this subsection creates an exception to the Government in the Sunshine Act.¹⁵ As such, the Committee does not grant this privilege lightly; the permission to engage in non-public collaborations takes effect only when the procedural safeguards required in the rulemaking as directed in section 13(a)(1) have been implemented. This section would not otherwise change the applicability of the Government in Sunshine Act to the Commission's Open Meetings.

Sec. 13(d) Access to certain information on Commission's website

This subsection would require the FCC to provide links on the Commission's home page to the current budget, appropriations, number of full-time equivalent employees, and the Commission's performance plan. This practice is followed by most other administrative agencies, and availability of this information would provide valuable insight into the operations of the Commission.

¹³See OIRA, Inventory of Currently Approved Information Collections, <http://www.reginfo.gov/public/do/PRAMain> (search for "Federal Communications Commission"); see also GAO Report No. 10-249, Information Collection and Management at the Federal Communications Commission (Jan. 2010).

¹⁴See, e.g., Testimony of Stuart Minor Benjamin, Douglas M. Maggas Professor of Law, Duke Law School, before the Subcommittee on Communications and Technology (May 15, 2015). See also Randolph J. May, *Reforming the Sunshine Act*, 49 AD. LAW REV. 415 (1997).

¹⁵Government in the Sunshine Act, Pub. L. 94-409, 90 Stat. 1241 (1976), codified at 5 U.S.C. § 552b.

While this subsection requires only that the Commission publish information for the current fiscal year, the Committee hopes the Commission will provide such information on a historical basis, as is common practice at other agencies. The cost and operation of the Commission is a matter of public record, and the Committee does not believe it will constitute a burden to require the agency to make such historical information easily accessible to the public.

Sec. 13(e) Internet publication of certain FCC policies and procedures

This subsection is based on a draft bill proposed by Rep. Loeb sack and would require the FCC to publish policies and procedures that govern the Commission's decisionmaking process. The Chairman of the Commission is considered the "CEO" of the Commission and may dictate procedures for carrying out Commission business.¹⁶ As a result, the Chairman manages the staff of the entire agency (other than those in the offices of the other Commissioners), including the General Counsel, determines which policy matters will be considered and when they will be considered, and controls the availability of information to the public and to other Commissioners.

It does not appear that the FCC maintains standard operating manuals for basic Commission decision-making functions, such as procedures for providing information to the offices of other Commissioners for agenda items, as recommended by the GAO.¹⁷ Limited information on agency procedures impedes the public's ability to determine whether the agency is functioning effectively. Other independent agencies have posted these materials on their websites and make them available to the public.¹⁸

Sec. 13(f) Federal Register publication

This subsection would require the FCC to publish the documents specified in the Federal Register no later than forty-five days after release of the document or the day specified under any other provision of law.

Sec. 13(g) Consumer complaint database

This subsection would require the FCC to put consumer complaint information in a publicly available, searchable database on its website.

Sec. 13(h) Form of publication

This subsection would require the FCC to publish documents specified in this section on its website.

Sec. 13(i) Transparency relating to performance in meeting FOIA requirements

This subsection would require the FCC to take additional steps to inform the public about its performance in meeting the disclosure requirements of the Freedom of Information Act.

¹⁶See 47 U.S.C. § 1A155(a) (stating "The member of the Commission designed by the President as chairman shall be the chief executive officer of the Commission").

¹⁷See GAO Report 10-79, "FCC Management: Improvements Needed in Communications, Decision-Making Processes, and Workforce Planning" (December 2009) at 2.

¹⁸See, e.g., NRC Procedures <http://www.nrc.gov/about-nrc/policy-making/internal.html>; FTC Procedures <https://www.ftc.gov/about-ftc/foia/foia-resources/ftc-administrative-staff-manuals>.

Sec. 13(j) Prompt release of statistical reports and reports to Congress

This subsection would require the FCC to establish a schedule for the release of its required reports.

Sec. 13(k) Annual scorecard reports

This subsection would require the FCC to report annually regarding its performance in meeting the deadlines and guidelines established in subsection (a), as well as how the Commission has used administrative law judges and independent studies.

Sec. 13(l) Definitions

This subsection would define several terms used in the Act, including “performance measure” and “program activity.”

Section 2(b). Section 2(b) sets the effective dates for the changes required in section 2(a). It also sets the schedule of the reports to be submitted under new section 13.

Specifically, Commission is required to complete its rulemaking on new section 13 no later than one year after the date of enactment and delays the implementation of the non-public collaborative discussion provisions until all rules required by section 13 have taken effect.

Section 202. Categorization of TCPA inquiries and complaints in quarterly report

Section 202 prohibits the FCC from categorizing inquiries or complaints under the Telephone Consumer Protection Act as wireline or wireless inquiries or complaints unless the complaint or inquiry originated from the conduct of a wireline or wireless carrier.

Section 203. Effect on other laws

Section 203 specifies that H.R. 4986 does not alter the general framework established by the Administrative Procedures Act and related laws, except where it does so explicitly (i.e., allowing deliberative collaboration among Commissioners and on the Federal-State Joint Boards).

Section 204. Application of Antideficiency Act to Universal Service Program

Section 204 would create a waiver of the Antideficiency Act for the Federal Universal Service Fund through December 31, 2020. The Universal Service Fund has been subject to a series of temporary waivers since 2004.

Section 205. Report on improving small business participation in FCC proceedings

Section 205 would require the Commission to consult with the Small Business Administration (SBA) to produce a report recommending actions and legislation that would improve the participation of small businesses in Commission proceedings. This section was based on a draft bill proposed by Representative Doris O. Matsui (CA-06) to remedy concerns that the small business community has not been able to engage in proceedings at the Commission. As the Commission considers how it may engage small businesses, it

must carefully consider the definition of “small business.” Since Congress has designated the SBA as the expert entity on small businesses, the Committee strongly recommends that the Commission defer to the SBA’s existing size standard definition.

Section 206. Timely availability of items adopted by vote of the Commission

This section would require the Commission to publish on their website the text of an item 7 days after receiving dissenting statements from all Commissioners.

TITLE III—SECURING ACCESS TO NETWORKS IN DISASTERS

Section 301. Study on network resiliency

This section would require the FCC to submit a report to Congress within 36 months that studies making WiFi access points available to the public at no charge during times of emergency. The FCC’s study should focus on making WiFi access points owned by telecommunications service providers available, but should also analyze whether such a requirement would be feasible for non-telecommunications service providers.

Section 302. Access to essential service providers during federally declared emergencies

Section 302 would amend section 427 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by adding wireline and mobile telephone service, Internet access service, radio and television broadcasting, cable service, direct broadcast satellite, and tower owners and operators to the list of “essential service providers” under the Act.

Section 303. Definitions

This section would define “mobile service”, “Wi-Fi access point”, and “times of emergency.”

TITLE IV—FCC CONSOLIDATED REPORTING

Section 401. Communications Marketplace Report

This subsection would require 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 Report every other year rather than every year also should reduce the administrative burden on the Commission and the reporting burden on the public.

Section 402. Consolidation of redundant reports; conforming amendments

This section would eliminate 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 would eliminate a reference to 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 would strike 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 403. Effect on authority

Section 403 would specify 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.

Section 404. Other reports

Section 404 would clarify that nothing in the Act prohibits or prevents the FCC from producing additional reports within its existing authority.

TITLE V—ADDITIONAL PROVISIONS

Section 501. Independent Inspector General for FCC

This section would establish an independent Inspector General for the FCC.

Section 502. Authority of Chief Information Officer

This section would elevate the Chief Information Officer of the FCC and gives them authority to play a significant role in planning, budgeting, and programming of the Commission’s IT budget.

Section 503. Spoofing prevention

This section would amend the Communications Act of 1934 to prohibit spoofing calls or texts originating outside the U.S., requires the Commission to conduct a rulemaking within 18 months of enactment, requires the FCC to work with the FTC to educate consumers on identifying spoofed calls, and directs the Comptroller General of the United States to conduct a study on fraudulent, misleading, or inaccurate caller ID info.

Section 504. Report on promoting Broadband Internet Access Service for veterans

This section would require the FCC to ask for public comment and then submit a report to Congress with specific recommendations on how the Commission can promote Broadband Internet Access Service among veterans, especially low-income veterans and those who reside in rural areas.

Section 505. Methodology for collection of mobile service coverage data

This section would require the FCC to promulgate regulations to improve the methodology the FCC uses to collect commercial mobile service data used for making Commission decision. The Committee recognizes that data collection from communications providers is not cost-free and the burdens associated with existing data collection obligations can be significant, particularly for small providers. The Committee directs the Commission to evaluate whether commercial sources of coverage and performance data can provide the necessary data in a manner that is timely and cost-effective. If the Commission determines that commercial solutions can be procured at a lower cost than the aggregate cost to industry of current or contemplated regulatory obligations, the Commission should choose the more efficient alternatives.

Section 506. Accuracy of dispatchable location for 9-1-1 calls

This section would direct the FCC to conduct a proceeding within 18 months of enactment that ensures dispatchable location is conveyed with a 9-1-1 call, regardless of the technological platform used, including calls from multi-line telephone systems.

Section 507. NTIA Study on interagency process following cybersecurity incidents

This section would require National Telecommunications and Information Administration (NTIA) to complete a study on how it can best coordinate the inter-agency process following cybersecurity incidents and report to Congress on its findings within 18 months.

The Committee recognizes the critical role that the National Telecommunications and Information Administration (NTIA) plays in developing and pursuing policies to foster national safety and security, including in the key area of cybersecurity. 47 U.S.C. §901(c)(2). In addition to its role as the principal adviser to the President on information and communication policies, *id.* §§901(b)(6), 902(b)(2)(D), including security and privacy policy, *id.* §902(b)(2)(H), NTIA plays a vital role in cybersecurity policy through its industry and stakeholder convenings to address pressing cybersecurity challenges, *id.* §904(b).

Section 508. Tribal digital access

This section would direct the FCC to submit a report to Congress evaluating broadband coverage in Indian country and to carry out a rulemaking to address the unserved areas identified in the report.

TITLE VI—VIEWER PROTECTION

Section 601. Reserve source for payment of TV broadcaster relocation costs

This section would establish a Broadcast Repack Fund in the Treasury of the United States to pay repacking costs for full power television stations pursuant to section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1452). Consistent with the FCC’s Incentive Auction Task Force memorandum¹⁹ on incentive auction funding, the Committee believes \$750,000,000 is necessary to sufficiently fund the repack for full power television stations.

Section 602. Payment of relocation costs of television translator stations and low power television stations

This section would establish a Translator and Low Power Station Relocation Fund in the Treasury of the United States to reimburse costs reasonably incurred by a television translator station or low power television station, to relocate its television service from one channel to another channel as a result of the broadcast incentive auction. Consistent with the FCC’s Incentive Auction Task Force memorandum²⁰ on incentive auction funding, the Committee believes \$150,000,000 is necessary to sufficiently fund the repack for television translator station or low power television stations.

In conducting rulemakings or other proceedings under this section, the Committee instructs the Commission to consider whether stations may be eligible for reimbursement from the Translator and Low Power Station Relocation Fund or the Broadcast Repack Fund for costs reasonably incurred to move or reconfigure studio-to-transmitter links or to replace studio-to-transmitter links that are no longer available because they previously operated in the new 600 MHz wireless band.

Section 603. Payment of relocation costs of FM broadcast stations

This section would establish a FM Broadcast Station Relocation Fund in the Treasury of the United States to reimburse costs reasonably incurred by an FM broadcast station for facilities necessary to reasonably minimize disruption of service as a result of the broadcast incentive auction. Consistent with the FCC’s Incentive Auction Task Force memorandum²¹ on incentive auction funding, the Committee believes \$50,000,000 is necessary to sufficiently fund the repack for FM broadcast stations.

¹⁹ See, Incentive Auction Task Force, *Memorandum on Funding for Incentive Auction Repack*, February 28, 2018.

²⁰ Id.

²¹ Id.

Section 604. Consumer education payment

This section would establish a Broadcast Station Relocation Consumer Education Fund in the Treasury of the United States to make payments for the purposes of consumer education relating to the broadcast incentive auction. To the greatest extent practicable, the Commission should coordinate any consumer education efforts with the broadcast industry. Consistent with the FCC's Incentive Auction Task Force memorandum²² on incentive auction funding, the Committee believes \$50,000,000 is necessary to sufficiently fund consumer education relating to the broadcast incentive auction.

Section 605. Implementation and enforcement

This section would direct the FCC to implement and enforce this title as if it is a part of the Communications Act (47 U.S.C. 151 et seq.).

Section 606. Rule of construction

This section would provide that nothing in this title shall alter the final transition phase completion date established by the Commission for full power and Class A television stations.

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, and 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) The Federal Communications Commission (in this Act referred to as the "Commission") shall be composed of five Commissioners appointed by the President, by and with the advice and consent of the Senate, one of whom the President shall designate as chairman.

(b)(1) Each member of the Commission shall be a citizen of the United States.

(2)(A) No member of the Commission or person employed by the Commission shall—

(i) be financially interested in any company or other entity engaged in the manufacture or sale of telecommunications equipment which is subject to regulation by the Commission;

(ii) be financially interested in any company or other entity engaged in the business of communication by wire or radio or in the use of the electromagnetic spectrum;

²²Id.

(iii) be financially interested in any company or other entity which controls any company or other entity specified in clause (i) or clause (ii), or which derives a significant portion of its total income from ownership of stocks, bonds, or other securities of any such company or other entity; or

(iv) be employed by, hold any official relation to, or own any stocks, bonds, or other securities of, any person significantly regulated by the Commission under this Act;

except that the prohibitions established in this subparagraph shall apply only to financial interests in any company or other entity which has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission.

(B)(i) The Commission shall have authority to waive, from time to time, the application of the prohibitions established in subparagraph (A) to persons employed by the Commission if the Commission determines that the financial interests of a person which are involved in a particular case are minimal, except that such waiver authority shall be subject to the provisions of section 208 of title 18, United States Code. The waiver authority established in this subparagraph shall not apply with respect to members of the Commission.

(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].

(3) The Commission, in determining whether a company or other entity has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission, shall consider (without excluding other relevant factors)—

(A) the revenues, investments, profits, and managerial efforts directed to the related communications, manufacturing, or sales activities of the company or other entity involved, as compared to the other aspects of the business of such company or other entity;

(B) the extent to which the Commission regulates and oversees the activities of such company or other entity;

(C) the degree to which the economic interests of such company or other entity may be affected by any action of the Commission; and

(D) the perceptions held by the public regarding the business activities of such company or other entity.

(4) Members of the Commission shall not engage in any other business, vocation, profession, or employment while serving as such members.

(5) The maximum number of commissioners who may be members of the same political party shall be a number equal to the least number of commissioners which constitutes a majority of the full membership of the Commission.

(c) Commissioners shall be appointed for terms of five years and until their successors are appointed and have been confirmed and

taken the oath of office, except that they shall not continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office; except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he succeeds. No vacancy in the Commission shall impair the right of the remaining commissioners to exercise all the powers of the Commission.

(d) Each Commissioner shall receive an annual salary at the annual rate payable from time to time for level IV of the Executive Schedule, payable in monthly installments. The Chairman of the Commission, during the period of his service as Chairman, shall receive an annual salary at the annual rate payable from time to time for level III of the Executive Schedule.

(e) The principal office of the Commission shall be in the District of Columbia, where its general sessions shall be held; but whenever the convenience of the public or of the parties may be promoted or delay or expense prevented thereby, the Commission may hold special sessions in any part of the United States.

(f)(1) The Commission shall have authority, subject to the provisions of the civil-service laws and the Classification Act of 1949, as amended, to appoint such officers, engineers, accountants, attorneys, inspectors, examiners, and other employees as are necessary in the exercise of its functions.

(2) Without regard to the civil-service laws, but subject to the Classification Act of 1949, each commissioner may appoint three professional assistants and a secretary, each of whom shall perform such duties as such commissioner shall direct. In addition, the chairman of the Commission may appoint, without regard to the civil-service laws, but subject to the Classification Act of 1949, an administrative assistant who shall perform such duties as the chairman shall direct.

(3) The Commission shall fix a reasonable rate of extra compensation for overtime services of engineers in charge and radio engineers of the Field Engineering and Monitoring Bureau of the Federal Communications Commission, who may be required to remain on duty between the hours of 5 o'clock postmeridian and 8 o'clock antemeridian or on Sundays or holidays to perform services in connection with the inspection of ship radio equipment and apparatus for the purposes of part II of title III of this Act or the Great Lakes Agreement, on the basis of one-half day's additional pay for each two hours or fraction thereof of at least one hour that the overtime extends beyond 5 o'clock postmeridian (but not to exceed two and one-half days' pay for the full period from 5 o'clock postmeridian to 8 o'clock antemeridian) and two additional days' pay for Sunday or holiday duty. The said extra compensation for overtime services shall be paid by the master, owner, or agent of such vessel to the local United States collector of customs or his representative, who shall deposit such collection into the Treasury of the United States to an appropriately designated receipt account: *Provided*, That the amounts of such collections received by the said collector of customs or his representatives shall be covered into the Treasury as miscellaneous receipts; and the payments of such extra compensation to the several employees entitled thereto shall be made from the annual appropriations for salaries and expenses of the Commission: *Provided further*, That to the extent that the an-

nual appropriations which are hereby authorized to be made from the general fund of the Treasury are insufficient, there are hereby authorized to be appropriated from the general fund of the Treasury such additional amounts as may be necessary to the extent that the amounts of such receipts are in excess of the amounts appropriated: *Provided further*, That such extra compensation shall be paid if such field employees have been ordered to report for duty and have so reported whether the actual inspection of the radio equipment or apparatus takes place or not: *And provided further*, That in those ports where customary working hours are other than those hereinabove mentioned, the engineers in charge are vested with authority to regulate the hours of such employees so as to agree with prevailing working hours in said ports where inspections are to be made, but nothing contained in this proviso shall be construed in any manner to alter the length of a working day for the engineers in charge and radio engineers or the overtime pay herein fixed: and *Provided further*, That, in the alternative, an entity designated by the Commission may make the inspections referred to in this paragraph.

(4)(A) The Commission, for purposes of preparing or administering any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class of license for which the examination is being prepared or administered. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license.

(B)(i) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the amateur radio service, may—

- (I) recruit and train any individual licensed by the Commission to operate an amateur station; and
- (II) accept and employ the voluntary and uncompensated services of such individual.

(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any amateur station operator organization.

(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

- (I) the detection of improper amateur radio transmissions;
- (II) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service; and
- (III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue

sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

(C)(i) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the citizens band radio service, may—

(I) recruit and train any citizens band radio operator; and

(II) accept and employ the voluntary and uncompensated services of such operator.

(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any citizens band radio operator organization. The Commission, in accepting and employing services of individuals under this subparagraph, shall seek to achieve a broad representation of individuals and organizations interested in citizens band radio operation.

(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

(I) the detection of improper citizens band radio transmissions;

(II) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the citizens band radio service; and

(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed by the Commission under this Act) relating to the citizens band radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

(D) The Commission shall have the authority to endorse certification of individuals to perform transmitter installation, operation, maintenance, and repair duties in the private land mobile services and fixed services (as defined by the Commission by rule) if such certification programs are conducted by organizations or committees which are representative of the users in those services and which consist of individuals who are not officers or employees of the Federal Government.

(E) The authority of the Commission established in this paragraph shall not be subject to or affected by the provisions of part III of title 5, United States Code, or section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

(F) Any person who provides services under this paragraph shall not be considered, by reason of having provided such services, a Federal employee.

(G) The Commission, in accepting and employing services of individuals under subparagraphs (A) and (B), shall seek to achieve a broad representation of individuals and organizations interested in amateur station operation.

(H) The Commission may establish rules of conduct and other regulations governing the service of individuals under this paragraph.

(I) With respect to the acceptance of voluntary uncompensated services for the preparation, processing, or administration of examinations for amateur station operator licenses, pursuant to subparagraph (A) of this paragraph, individuals, or organizations which provide or coordinate such authorized volunteer services may recover from examinees reimbursement for out-of-pocket costs.

(5)(A) The Commission, for purposes of preparing and administering any examination for a commercial radio operator license or endorsement, may accept and employ the services of persons that the Commission determines to be qualified. Any person so employed may not receive compensation for such services, but may recover from examinees such fees as the Commission permits, considering such factors as public service and cost estimates submitted by such person.

(B) The Commission may prescribe regulations to select, oversee, sanction, and dismiss any person authorized under this paragraph to be employed by the Commission.

(C) Any person who provides services under this paragraph or who provides goods in connection with such services shall not, by reason of having provided such service or goods, be considered a Federal or special government employee.

(g)(1) The Commission may make such expenditures (including expenditures for rent and personal services at the seat of government and elsewhere, for office supplies, lawbooks, periodicals, and books of reference, for printing and binding, for land for use as sites for radio monitoring stations and related facilities, including living quarters where necessary in remote areas, for the construction of such stations and facilities, and for the improvement, furnishing, equipping, and repairing of such stations and facilities and of laboratories and other related facilities (including construction of minor subsidiary buildings and structures not exceeding \$25,000 in any one instance) used in connection with technical research activities), as may be necessary for the execution of the functions vested in the Commission and as may be appropriated for by the Congress in accordance with the authorizations of appropriations established in section 6. All expenditures of the Commission, including all necessary expenses for transportation incurred by the commissioners or by their employees, under their orders, in making any investigation or upon any official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman of the Commission or by such other members or officer thereof as may be designated by the Commission for that purpose.

[(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.]

(3)(A) Notwithstanding any other provision of law, in furtherance of its functions the Commission is authorized to accept, hold, administer, and use unconditional gifts, donations, and bequests of real, personal, and other property (including voluntary and uncompensated services, as authorized by section 3109 of title 5, United States Code).

(B) The Commission, for purposes of providing radio club and military-recreational call signs, may utilize the voluntary, uncompensated, and unreimbursed services of amateur radio organizations authorized by the Commission that have tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986.

(C) For the purpose of Federal law on income taxes, estate taxes, and gift taxes, property or services accepted under the authority of subparagraph (A) shall be deemed to be a gift, bequest, or devise to the United States.

(D) The Commission shall promulgate regulations to carry out the provisions of this paragraph. Such regulations shall include provisions to preclude the acceptance of any gift, bequest, or donation that would create a conflict of interest or the appearance of a conflict of interest.

(h) Three members of the Commission shall constitute a quorum thereof. The Commission shall have an official seal which shall be judicially noticed.

(i) The Commission may perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.

(j) The Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. No commissioner shall participate in any hearing or proceeding in which he has a pecuniary interest. Any party may appear before the Commission and be heard in person or by attorney. Every vote and official act the Commission shall be entered of record, and its proceedings shall be public upon the request of any party interested. The Commission is authorized to withhold publication of records or proceedings containing secret information affecting the national defense.

[(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.

(o) In the case of any item that is adopted by vote of the Commission, the Commission shall publish on the Internet website of the Commission the text of such item not later than 7 days after the Secretary of the Commission has received dissenting statements from all Commissioners wishing to submit such a statement with respect to such item.

* * * * *

[SEC. 6. AUTHORIZATION OF APPROPRIATIONS.]

[(a)] There are authorized to be appropriated for the administration of this Act by the Commission \$109,831,000 for fiscal year 1990 and \$119,831,000 for fiscal year 1991, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1990 and 1991.

[(b)] In addition to the amounts authorized to be appropriated under this section, not more than 4 percent of the amount of any fees or other charges payable to the United States which are col-

lected by the Commission during fiscal year 1990 are authorized to be made available to the Commission until expended to defray the fully distributed costs of such fees collection.

[(c) Of the amounts appropriated pursuant to subsection (a) for fiscal year 1991, such sums as may be necessary not to exceed \$2,000,000 shall be expended for upgrading and modernizing equipment at the Commission's electronic emissions test laboratory located in Laurel, Maryland.

[(d) Of the sum appropriated in any fiscal year under this section, a portion, in an amount determined under section 9(b), shall be derived from fees authorized by section 9.]

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) *AUTHORIZATION.*—*There are authorized to be appropriated to the Commission to carry out the functions of the Commission \$322,035,000 for each of the fiscal years 2019 and 2020.*

(b) *OFFSETTING COLLECTIONS.*—

(1) *IN GENERAL.*—*The sum appropriated in any fiscal year to carry out the activities described in subsection (a), to the extent and in the amounts provided for in advance in Appropriations Acts, shall be derived from fees authorized by section 9.*

(2) *DEPOSIT OF COLLECTIONS.*—*Amounts received from fees authorized by section 9 shall be deposited as an offsetting collection in, and credited to, the account through which funds are made available to carry out the activities described in subsection (a).*

(3) *DEPOSIT OF EXCESS COLLECTIONS.*—*Any fees collected in excess of the total amount of fees provided for in Appropriations Acts for a fiscal year shall be deposited in the general fund of the Treasury of the United States for the sole purpose of deficit reduction.*

* * * * *

[SEC. 8. APPLICATION FEES.

[(a) The Commission shall assess and collect application fees at such rates as the Commission shall establish or at such modified rates as it shall establish pursuant to the provisions of subsection (b) of this section.

[(b)(1) The Schedule of Application Fees established under this section shall be reviewed by the Commission every two years after October 1, 1991, and adjusted by the Commission to reflect changes in the Consumer Price Index. Increases or decreases in application fees shall apply to all categories of application fees, except that individual fees shall not be adjusted until the increase or decrease, as determined by the net change in the Consumer Price Index since the date of enactment of this section, amounts to at least \$5.00 in the case of fees under \$100.00, or 5 percent in the case of fees of \$100.00 or more. All fees which require adjustment will be rounded upward to the next \$5.00 increment. The Commission shall transmit to the Congress notification of any such adjustment not later than 90 days before the effective date of such adjustment.

[(2) Increases or decreases in application fees made pursuant to this subsection shall not be subject to judicial review.

[(c)(1) The Commission shall prescribe by regulation an additional application fee which shall be assessed as a penalty for late payment of application fees required by subsection (a) of this sec-

tion. Such penalty shall be 25 percent of the amount of the application fee which was not paid in a timely manner.

[(2) The Commission may dismiss any application or other filing for failure to pay in a timely manner any application fee or penalty under this section.

[(d)(1) The application fees established under this section shall not be applicable (A) to governmental entities and nonprofit entities licensed in the following radio services: Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, Public Safety, and Special Emergency Radio, or (B) to governmental entities licensed in other services.

[(2) The Commission may waive or defer payment of an charge in any specific instance for good cause shown, where such action would promote the public interest.

[(e) Moneys received from application fees established under this section shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act.

[(f) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

[(g) Until modified pursuant to subsection (b) of this section, the Schedule of Application Fees which the Federal Communications Commission shall prescribe pursuant to subsection (a) of this section shall be as follows:

[SCHEDULE OF APPLICATION FEES

[Service	Fee amount
PRIVATE RADIO SERVICES	
1. Marine Coast Stations	
a. New License (per station)	\$70.00
b. Modification of License (per station)	70.00
c. Renewal of License (per station)	70.00
d. Special Temporary Authority (Initial, Modifications, Extensions) ...	100.00
e. Assignments (per station)	70.00
f. Transfers of Control (per station)	35.00
g. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
2. Ship Stations	
a. New License (per application)	35.00
b. Modification of License (per application)	35.00
c. Renewal of License (per application)	35.00
d. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
3. Operational Fixed Microwave Stations	
a. New License (per station)	155.00
b. Modification of License (per station)	155.00
c. Renewal of License (per station)	155.00
d. Special Temporary Authority (Initial, Modifications, Extensions) ...	35.00
e. Assignments (per station)	155.00
f. Transfers of Control (per station)	35.00
g. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
4. Aviation (Ground Stations)	
a. New License (per station)	70.00
b. Modification of License (per station)	70.00
c. Renewal of License (per station)	70.00
d. Special Temporary Authority (Initial, Modifications, Extensions) ...	100.00
e. Assignments (per station)	70.00

f. Transfers of Control (per station)	35.00
g. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
5. Aircraft Stations	
a. New License (per application)	35.00
b. Modification of License (per application)	35.00
c. Renewal of License (per application)	35.00
d. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
6. Land Mobile Radio Stations (including Special Emergency and Public Safety Stations)	
a. New License (per call sign)	35.00
b. Modification of License (per call sign)	35.00
c. Renewal of License (per call sign)	35.00
d. Special Temporary Authority (Initial, Modifications, Extensions) ...	35.00
e. Assignments (per station)	35.00
f. Transfers of Control (per call sign)	35.00
g. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
h. Reinstatement (per call sign)	35.00
i. Specialized Mobile Radio Systems-Base Stations	
(i) New License (per call sign)	35.00
(ii) Modification of License (per call sign)	35.00
(iii) Renewal of License (per call sign)	35.00
(iv) Waiting List (annual application fee per application)	35.00
(v) Special Temporary Authority (Initial, Modifications, Extensions)	35.00
(vi) Assignments (per call sign)	35.00
(vii) Transfers of Control (per call sign)	35.00
(viii) Request for Waiver	
(1) Routine (per request)	105.00
(2) Non-Routine (per rule section/per station)	105.00
(ix) Reinstatements (per call sign)	35.00
j. Private Carrier Licenses	
(i) New License (per call sign)	35.00
(ii) Modification of License (per call sign)	35.00
(iii) Renewal of License (per call sign)	35.00
(iv) Special Temporary Authority (Initial, Modifications, Extensions)	35.00
(v) Assignments (per call sign)	35.00
(vi) Transfers of Control (per call sign)	35.00
(vii) Request for Waiver	
(1) Routine (per request)	105.00
(2) Non-Routine (per rule section/per station)	105.00
(viii) Reinstatements (per call sign)	35.00
7. General Mobile Radio Service	
a. New License (per call sign)	35.00
b. Modifications of License (per call sign)	35.00
c. Renewal of License (per call sign)	35.00
d. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
e. Special Temporary Authority (Initial, Modifications, Extensions) ...	35.00
f. Transfer of control (per call sign)	35.00
8. Restricted Radiotelephone Operator Permit	35.00
9. Request for Duplicate Station License (all services)	35.00
10. Hearing (Comparative, New, and Modifications)	6,760.00

EQUIPMENT APPROVAL SERVICES/EXPERIMENTAL RADIO

1. Certification	
a. Receivers (except TV and FM receivers)	285.00
b. All Other Devices	735.00
c. Modifications and Class II Permissive Changes	35.00
d. Request for Confidentiality	105.00

2. Type Acceptance	
a. All Devices	370.00
b. Modifications and Class II Permissive Changes	35.00
c. Request for Confidentiality	105.00
3. Type Approval (all devices)	
a. With Testing (including Major Modifications)	1,465.00
b. Without Testing (including Minor Modifications)	170.00
c. Request for Confidentiality	105.00
4. Notifications	115.00
5. Advance Approval for Subscription TV System	2,255.00
a. Request for Confidentiality	105.00
6. Assignment of Grantee Code for Equipment Identification	35.00
7. Experimental Radio Service	
a. New Construction Permit and Station Authorization (per applica- tion)	35.00
b. Modification to Existing Construction Permit and Station Author- ization (per application)	35.00
c. Renewal of Station Authorization (per application)	35.00
d. Assignment or Transfer of Control (per application)	35.00
e. Special Temporary Authority (per application)	35.00
f. Additional Application Fee for Applications Containing Requests to Withhold Information From Public Inspection (per application)	35.00

MASS MEDIA SERVICES

1. Commercial TV Stations	
a. New or Major Change Construction Permits	2,535.00
b. Minor Change	565.00
c. Hearing (Major/Minor Change, Comparative New, or Comparative Renewal)	6,760.00
d. License	170.00
e. Assignment or Transfer	
(i) Long Form (Forms 314/315)	565.00
(ii) Short Form (Form 316)	80.00
f. Renewal	100.00
g. Call Sign (New or Modification)	55.00
h. Special Temporary Authority (other than to remain silent or ex- tend an existing STA to remain silent)	100.00
i. Extension of Time to Construct or Replacement of CP	200.00
j. Permit to Deliver Programs to Foreign Broadcast Stations	55.00
k. Petition for Rulemaking for New Community of License	1,565.00
l. Ownership Report (per report)	35.00
2. Commercial Radio Stations	
a. New and Major Change Construction Permit	
(i) AM Station	2,255.00
(ii) FM Station	2,030.00
b. Minor Change	
(i) AM Station	565.00
(ii) FM Station	565.00
c. Hearing (Major/Minor Change, Comparative New, or Comparative Renewal)	6,760.00
d. License	
(i) AM	370.00
(ii) FM	115.00
(iii) AM Directional Antenna	425.00
(iv) FM Directional Antenna	355.00
(v) AM Remote Control	35.00
e. Assignment or Transfer	
(i) Long Form (Forms 314/315)	565.00
(ii) Short Form (Form 316)	80.00
f. Renewal	100.00
g. Call Sign (New or Modification)	55.00
h. Special Temporary Authority (other than to remain silent or ex- tend an existing STA to remain silent)	100.00
i. Extension of Time to Construct or Replacement of CP	200.00
j. Permit to Deliver Programs to Foreign Broadcast Stations	55.00
k. Petition for Rulemaking for New Community of License or Higher Class Channel	1,565.00
l. Ownership Report (per report)	35.00

3. FM Translators	
a. New or Major Change Construction Permit	425.00
b. License	85.00
c. Assignment or Transfer	80.00
d. Renewal	35.00
e. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
4. TV Translators and LPTV Stations	
a. New or Major Change Construction Permit	425.00
b. License	85.00
c. Assignment or Transfer	80.00
d. Renewal	35.00
e. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
5. Auxiliary Services (Includes Remote Pickup stations, TV Auxiliary Broadcast stations, Aural Broadcast STL and Intercity Relay stations, and Low Power Auxiliary stations)	
a. Major Actions	85.00
b. Renewals	35.00
c. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
6. FM/TV Boosters	
a. New and Major Change Construction Permits	425.00
b. License	85.00
c. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
7. International Broadcast Station	
a. New Construction Permit and Facilities Change CP	1,705.00
b. License	385.00
c. Assignment or Transfer (per station)	60.00
d. Renewal	95.00
e. Frequency Assignment and Coordination (per frequency hour)	35.00
f. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
8. Cable Television Service	
a. Cable Television Relay Service	
(i) Construction Permit	155.00
(ii) Assignment or Transfer	155.00
(iii) Renewal	155.00
(iv) Modification	155.00
(v) Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
b. Cable Special Relief Petition	790.00
c. 76.12 Registration Statement (per statement)	35.00
d. Aeronautical Frequency Usage Notifications (per notice)	35.00
e. Aeronautical Frequency Usage Waivers (per waiver)	35.00
9. Direct Broadcast Satellite	
a. New or Major Change Construction Permit	
(i) Application for Authorization to Construct a Direct Broadcast Satellite	2,030.00
(ii) Issuance of Construction Permit & Launch Authority	19,710.00
(iii) License to Operate Satellite	565.00
b. Hearing (Comparative New, Major/Minor Modifications, or Comparative Renewal)	6,760.00
c. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00

COMMON CARRIER SERVICES

1. All Common Carrier Services	
a. Hearing (Comparative New or Major/Minor Modifications)	6,760.00
b. Development Authority (Same application fee as regular authority in service unless otherwise indicated)	
c. Formal Complaints and Pole Attachment Complaints Filing Fee ...	120.00
d. Proceeding under section 109(b) of the Communications Assistance for Law Enforcement Act	5,000
2. Domestic Public Land Mobile Stations (includes Base, Dispatch, Control & Repeater Stations)	
a. New or Additional Facility (per transmitter)	230.00

b. Major Modifications (per transmitter)	230.00
c. Fill In Transmitters (per transmitter)	230.00
d. Major Amendment to a Pending Application (per transmitter)	230.00
e. Assignment or Transfer	
(i) First Call Sign on Application	230.00
(ii) Each Additional Call Sign	35.00
f. Partial Assignment (per call sign)	230.00
g. Renewal (per call sign)	35.00
h. Minor Modification (per transmitter)	35.00
i. Special Temporary Authority (per frequency/per location)	200.00
j. Extension of Time to Construct (per application)	35.00
k. Notice of Completion of Construction (per application)	35.00
l. Auxiliary Test Station (per transmitter)	200.00
m. Subsidiary Communications Service (per request)	100.00
n. Reinstatement (per application)	35.00
o. Combining Call Signs (per call sign)	200.00
p. Standby Transmitter (per transmitter/per location)	200.00
q. 900 MHz Nationwide Paging	
(i) Renewal	
(1) Network Organizer	35.00
(2) Network Operator (per operator/per city)	35.00
r. Air-Ground Individual License (per station)	
(i) Initial License	35.00
(ii) Renewal of License	35.00
(iii) Modification of License	35.00
3. Cellular Systems (per system)	
a. New or Additional Facilities	230.00
b. Major Modification	230.00
c. Minor Modification	60.00
d. Assignment or Transfer (including partial)	230.00
e. License to Cover Construction	
(i) Initial License for Wireline Carrier	595.00
(ii) Subsequent License for Wireline Carrier	60.00
(iii) License for Nonwireline Carrier	60.00
(iv) Fill In License (all carriers)	60.00
f. Renewal	35.00
g. Extension of Time to Complete Construction	35.00
h. Special Temporary Authority (per system)	200.00
i. Combining Cellular Geographic Service Areas (per system)	50.00
4. Rural Radio (includes Central Office, Interoffice, or Relay Facilities)	
a. New or Additional Facility (per transmitter)	105.00
b. Major Modification (per transmitter)	105.00
c. Major Amendment to Pending Application (per transmitter)	105.00
d. Minor Modification (per transmitter)	35.00
e. Assignments or Transfers	
(i) First Call Sign on Application	105.00
(ii) Each Additional Call Sign	35.00
(iii) Partial Assignment (per call sign)	105.00
f. Renewal (per call sign)	35.00
g. Extension of Time to Complete Construction (per application)	35.00
h. Notice of Completion of Construction (per application)	35.00
i. Special Temporary Authority (per frequency/per location)	200.00
j. Reinstatement (per application)	35.00
k. Combining Call Signs (per call sign)	200.00
l. Auxiliary Test Station (per transmitter)	200.00
m. Standby Transmitter (per transmitter/per location)	200.00
5. Offshore Radio Service (Mobile, Subscriber, and Central Stations; fees would also apply to any expansion of this service into coastal waters other than the Gulf of Mexico)	
a. New or Additional Facility (per transmitter)	105.00
b. Major Modifications (per transmitter)	105.00
c. Fill In Transmitters (per transmitter)	105.00
d. Major Amendment to Pending Application (per transmitter)	105.00
e. Minor Modification (per transmitter)	35.00
f. Assignment or Transfer	
(i) Each Additional Call Sign	35.00
(ii) Partial Assignment (per call sign)	105.00
g. Renewal (per call sign)	35.00
h. Extension of Time to Complete Construction (per application)	35.00

i. Reinstatement (per application)	35.00
j. Notice of Completion of Construction (per application)	35.00
k. Special Temporary Authority (per frequency/per location)	200.00
l. Combining Call Signs (per call sign)	200.00
m. Auxiliary Test Station (per transmitter)	200.00
n. Standby Transmitter (per transmitter/ per location)	200.00
6. Point-to-Point Microwave and Local Television Radio Service	
a. Conditional License (per station)	155.00
b. Major Modification of Conditional License or License Authoriza- tion (per station)	155.00
c. Certification of Completion of Construction (per station)	155.00
d. Renewal (per licensed station)	155.00
e. Assignment or Transfer	
(i) First Station on Application	55.00
(ii) Each Additional Station	35.00
f. Extension of Construction Authorization (per station)	55.00
g. Special Temporary Authority or Request for Waiver of Prior Con- struction Authorization (per request)	70.00
7. Multipoint Distribution Service (including multichannel MDS)	
a. Conditional License (per station)	155.00
b. Major Modification of Conditional License or License Authoriza- tion (per station)	155.00
c. Certification of Completion of Construction (per channel)	455.00
d. Renewal (per licensed station)	155.00
e. Assignment or Transfer	
(i) First Station on Application	55.00
(ii) Each Additional Station	35.00
f. Extension of Construction Authorization (per station)	110.00
g. Special Temporary Authority or Request for Waiver of Prior Con- struction Authorization (per request)	70.00
8. Digital Electronic Message Service	
a. Conditional License (per nodal station)	155.00
b. Modification of Conditional License or License Authorization (per nodal station)	155.00
c. Certification of Completion of Construction (per nodal station)	155.00
d. Renewal (per licensed nodal station)	155.00
e. Assignment or Transfer	
(i) First Station on Application	55.00
(ii) Each Additional Station	35.00
f. Extension of Construction Authorization (per station)	55.00
g. Special Temporary Authority or Request for Waiver of Prior Con- struction Authorization (per request)	70.00
9. International Fixed Public Radio (Public and Control Stations)	
a. Initial Construction Permit (per station)	510.00
b. Assignment or Transfer (per application)	510.00
c. Renewal (per license)	370.00
d. Modification (per station)	370.00
e. Extension of Construction Authorization (per station)	185.00
f. Special Temporary Authority or Request for Waiver (per request)	185.00
10. Fixed Satellite Transmit/Receive Earth Stations	
a. Initial Application (per station)	1,525.00
b. Modification of License (per station)	105.00
c. Assignment or Transfer	
(i) First Station on Application	300.00
(ii) Each Additional Station	100.00
d. Developmental Station (per station)	1,000.00
e. Renewal of License (per station)	105.00
f. Special Temporary Authority or Waivers of Prior Construction Au- thorization (per request)	105.00
g. Amendment of Application (per station)	105.00
h. Extension of Construction Permit (per station)	105.00
11. Small Transmit/Receive Earth Stations (2 meters or less and operat- ing in the 4/6 GHz frequency band)	
a. Lead Application	3,380.00
b. Routine Application (per station)	35.00
c. Modification of License (per station)	105.00
d. Assignment or Transfer	
(i) First Station on Application	300.00
(ii) Each Additional Station	35.00

e. Developmental Station (per station)	1,000.00
f. Renewal of License (per station)	105.00
g. Special Temporary Authority or Waivers of Prior Construction Au- thorization (per request)	105.00
h. Amendment of Application (per station)	105.00
i. Extension of Construction Permit (per station)	105.00
12. Receive Only Earth Stations	
a. Initial Application for Registration	230.00
b. Modification of License or Registration (per station)	105.00
c. Assignment or Transfer	
(i) First Station on Application	300.00
(ii) Each Additional Station	100.00
d. Renewal of License (per station)	105.00
e. Amendment of Application (per station)	105.00
f. Extension of Construction Permit (per station)	105.00
g. Waivers (per request)	105.00
13. Very Small Aperture Terminal (VSAT) Systems	
a. Initial Application (per system)	5,630.00
b. Modification of License (per system)	105.00
c. Assignment or Transfer of System	1,505.00
d. Developmental Station	1,000.00
e. Renewal of License (per system)	105.00
f. Special Temporary Authority or Waivers of Prior Construction Au- thorization (per request)	105.00
g. Amendment of Application (per system)	105.00
h. Extension of Construction Permit (per system)	105.00
14. Mobile Satellite Earth Stations	
a. Initial Application of Blanket Authorization	5,630.00
b. Initial Application for Individual Earth Station	1,350.00
c. Modification of License (per system)	105.00
d. Assignment or Transfer (per system)	1,505.00
e. Developmental Station	1,000.00
f. Renewal of License (per system)	105.00
g. Special Temporary Authority or Waivers of Prior Construction Au- thorization (per request)	105.00
h. Amendment of Application (per system)	105.00
i. Extension of Construction Permit (per system)	105.00
15. Radio determination Satellite Earth Stations	
a. Initial Application of Blanket Authorization	5,630.00
b. Initial Application for Individual Earth Station	1,350.00
c. Modification of License (per system)	105.00
d. Assignment or Transfer (per system)	1,505.00
e. Developmental Station	1,000.00
f. Renewal of License (per system)	105.00
g. Special Temporary Authority or Waivers of Prior Construction Au- thorization (per request)	105.00
h. Amendment of Application (per system)	105.00
i. Extension of Construction Permit (per system)	105.00
16. Space Stations	
a. Application for Authority to Construct	2,030.00
b. Application for Authority to Launch & Operate	
(i) Initial Application	70,000.00
(ii) Replacement Satellite	70,000.00
c. Assignment or Transfer (per satellite)	5,000.00
d. Modification	5,000.00
e. Special Temporary Authority or Waiver of Prior Construction Au- thorization (per request)	500.00
f. Amendment of Application	1,000.00
g. Extension of Construction Permit/Launch Authorization (per re- quest)	500.00
17. Section 214 Applications	
a. Overseas Cable Construction	9,125.00
b. Cable Landing License	
(i) Common Carrier	1,025.00
(ii) Non-Common Carrier	10,150.00
c. Domestic Cable Construction	610.00
d. All Other 214 Applications	610.00
e. Special Temporary Authority (all services)	610.00
f. Assignments or Transfers (all services)	610.00

18. Recognized Private Operating Status (per application)	610.00
19. Telephone Equipment Registration	155.00
20. Tariff Filings	
a. Filing Fee	490.00
b. Special Permission Filing (per filing)	490.00
21. Accounting and Audits	
a. Field Audit	62,290.00
b. Review of Attest Audit	34,000.00
c. Review of Depreciation Update Study (Single State)	20,685.00
(i) Each Additional State	680.00
d. Interpretation of Accounting Rules (per request)	2,885.00
e. Petition for Waiver (per petition)	4,660.00
22. Low-Earth Orbit Satellite Systems	
a. Application for Authority to Construct (per system of technology identical satellites)	6,000.00
b. Application for Authority to Launch and Operate (per system of technologically identical satellites)	210,000.00
c. Assignment or Transfer (per request)	6,000.00
d. Modification (per request)	15,000.00
e. Special Temporary Authority or Waiver of Prior Construction Au- thorization (per request)	1,500.00
f. Amendment of Application (per request)	3,000.00
g. Extension of Construction Permit/Launch Authorization (per re- quest)	1,500.00

MISCELLANEOUS APPLICATION FEES

1. International Telecommunications Settlements Administrative Fee for Collections (per line item)	2.00
2. Radio Operator Examinations	
a. Commercial Radio Operator Examination	35.00
b. Renewal of Commercial Radio Operator License, Permit, or Cer- tificate	35.00
c. Duplicate or Replacement Commercial Radio Operator License, Permit, or Certificate	35.00
3. Ship Inspections	
a. Inspection of Oceangoing Vessels Under Title III, Part II of the Communications Act (per inspection)	620.00
b. Inspection of Passenger Vessels Under Title III, Part III of the Communications Act (per inspection)	320.00
c. Inspection of Vessels Under the Great Lakes Agreement (per in- spection)	75.00
d. Inspection of Foreign Vessels Under the Safety of Life at Sea (SOLAS) Convention (per inspection)	540.00
e. Temporary Waiver for Compulsorily Equipped Vessel	60.00

[SEC. 9. REGULATORY FEES.

[(a) GENERAL AUTHORITY.—

[(1) RECOVERY OF COSTS.—The Commission, in accordance with this section, shall assess and collect regulatory fees to recover the costs of the following regulatory activities of the Commission: enforcement activities, policy and rulemaking activities, user information services, and international activities.

[(2) FEES CONTINGENT ON APPROPRIATIONS.—The fees described in paragraph (1) of this subsection shall be collected only if, and only in the total amounts, required in Appropriations Acts.

[(b) ESTABLISHMENT AND ADJUSTMENT OF REGULATORY FEES.—

[(1) IN GENERAL.—The fees assessed under subsection (a) shall—

[(A) be derived by determining the full-time equivalent number of employees performing the activities described in subsection (a) within the Private Radio Bureau, Mass Media Bureau, Common Carrier Bureau, and other offices of the Commission, adjusted to take into account factors

that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities, including such factors as service area coverage, shared use versus exclusive use, and other factors that the Commission determines are necessary in the public interest;

[(B) be established at amounts that will result in collection, during each fiscal year, of an amount that can reasonably be expected to equal the amount appropriated for such fiscal year for the performance of the activities described in subsection (a); and

[(C) until adjusted or amended by the Commission pursuant to paragraph (2) or (3), be the fees established by the Schedule of Regulatory Fees in subsection (g).

[(2) MANDATORY ADJUSTMENT OF SCHEDULE.—For any fiscal year after fiscal year 1994, the Commission shall, by rule, revise the Schedule of Regulatory Fees by proportionate increases or decreases to reflect, in accordance with paragraph (1)(B), changes in the amount appropriated for the performance of the activities described in subsection (a) for such fiscal year. Such proportionate increases or decreases shall—

[(A) be adjusted to reflect, within the overall amounts described in appropriations Acts under the authority of paragraph (1)(A), unexpected increases or decreases in the number of licensees or units subject to payment of such fees; and

[(B) be established at amounts that will result in collection of an aggregate amount of fees pursuant to this section that can reasonably be expected to equal the aggregate amount of fees that are required to be collected by appropriations Acts pursuant to paragraph (1)(B).

Increases or decreases in fees made by adjustments pursuant to this paragraph shall not be subject to judicial review. In making adjustments pursuant to this paragraph the Commission may round such fees to the nearest \$5 in the case of fees under \$1,000, or to the nearest \$25 in the case of fees of \$1,000 or more.

[(3) PERMITTED AMENDMENTS.—In addition to the adjustments required by paragraph (2), the Commission shall, by regulation, amend the Schedule of Regulatory Fees if the Commission determines that the Schedule requires amendment to comply with the requirements of paragraph (1)(A). In making such amendments, the Commission shall add, delete, or reclassify services in the Schedule to reflect additions, deletions, or changes in the nature of its services as a consequence of Commission rulemaking proceedings or changes in law. Increases or decreases in fees made by amendments pursuant to this paragraph shall not be subject to judicial review.

[(4) NOTICE TO CONGRESS.—The Commission shall—

[(A) transmit to the Congress notification of any adjustment made pursuant to paragraph (2) immediately upon the adoption of such adjustment; and

[(B) transmit to the Congress notification of any amendment made pursuant to paragraph (3) not later than 90 days before the effective date of such amendment.

[(c) ENFORCEMENT.—

[(1) PENALTIES FOR LATE PAYMENT.—The Commission shall prescribe by regulation an additional charge which shall be assessed as a penalty for late payment of fees required by subsection (a) of this section. Such penalty shall be 25 percent of the amount of the fee which was not paid in a timely manner.

[(2) DISMISSAL OF APPLICATIONS FOR FILINGS.—The Commission may dismiss any application or other filing for failure to pay in a timely manner any fee or penalty under this section.

[(3) REVOCATIONS.—In addition to or in lieu of the penalties and dismissals authorized by paragraphs (1) and (2), the Commission may revoke any instrument of authorization held by any entity that has failed to make payment of a regulatory fee assessed pursuant to this section. Such revocation action may be taken by the Commission after notice of the Commission's intent to take such action is sent to the licensee by registered mail, return receipt requested, at the licensee's last known address. The notice will provide the licensee at least 30 days to either pay the fee or show cause why the fee does not apply to the licensee or should otherwise be waived or payment deferred. A hearing is not required under this subsection unless the licensee's response presents a substantial and material question of fact. In any case where a hearing is conducted pursuant to this section, the hearing shall be based on written evidence only, and the burden of proceeding with the introduction of evidence and the burden of proof shall be on the licensee. Unless the licensee substantially prevails in the hearing, the Commission may assess the licensee for the costs of such hearing. Any Commission order adopted pursuant to this subsection shall determine the amount due, if any, and provide the licensee with at least 30 days to pay that amount or have its authorization revoked. No order of revocation under this subsection shall become final until the licensee has exhausted its right to judicial review of such order under section 402(b)(5) of this title.

[(d) WAIVER, REDUCTION, AND DEFERMENT.—The Commission may waive, reduce, or defer payment of a fee in any specific instance for good cause shown, where such action would promote the public interest.

[(e) DEPOSIT OF COLLECTIONS.—Moneys received from fees established under this section shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.

[(f) REGULATIONS.—

[(1) IN GENERAL.—The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

[(2) INSTALLMENT PAYMENTS.—Such rules and regulations shall permit payment by installments in the case of fees in large amounts, and in the case of fees in small amounts, shall require the payment of the fee in advance for a number of years not to exceed the term of the license held by the payor.

[(g) SCHEDULE.—Until amended by the Commission pursuant to subsection (b), the Schedule of Regulatory Fees which the Federal Communications Commission shall, subject to subsection (a)(2), assess and collect shall be as follows:

【Schedule of Regulatory Fees

【Bureau/Category	Annual Reg- ulatory Fee
【Private Radio Bureau	
Exclusive use services (per license)	
Land Mobile (above 470 MHz, Base Station and SMRS) (47 C.F.R. Part 90)	\$16
Microwave (47 C.F.R. Part 94)	16
Interactive Video Data Service (47 C.F.R. Part 95)	16
Shared use services (per license unless otherwise noted)	7
Amateur vanity call-signs	7
Mass Media Bureau (per license)	
AM radio (47 C.F.R. Part 73)	
Class D Daytime	250
Class A Fulltime	900
Class B Fulltime	500
Class C Fulltime	200
Construction permits	100
FM radio (47 C.F.R. Part 73)	
Classes C, C1, C2, B	900
Classes A, B1, C3	600
Construction permits	500
TV (47 C.F.R. Part 73)	
VHF Commercial	
Markets 1 thru 10	18,000
Markets 11 thru 25	16,000
Markets 26 thru 50	12,000
Markets 51 thru 100	8,000
Remaining Markets	5,000
Construction permits	4,000
UHF Commercial	
Markets 1 thru 10	14,400
Markets 11 thru 25	12,800
Markets 26 thru 50	9,600
Markets 51 thru 100	6,400
Remaining Markets	4,000
Construction permits	3,200
Low Power TV, TV Translator, and TV Booster (47 C.F.R. Part 74)	135
Broadcast Auxiliary (47 C.F.R. Part 74)	25
International (HF) Broadcast (47 C.F.R. Part 73)	200
Cable Antenna Relay Service (47 C.F.R. Part 78)	220
Cable Television System (per 1,000 subscribers) (47 C.F.R. Part 76)	370
Common Carrier Bureau	
Radio Facilities	
Cellular Radio (per 1,000 subscribers) (47 C.F.R. Part 22)	60
Personal Communications (per 1,000 subscribers) (47 C.F.R.)	60
Space Station (per operational station in geosynchronous orbit) (47 C.F.R. Part 25)	65,000
Space Station (per system in low-earth orbit) (47 C.F.R. Part 25)	90,000
Public Mobile (per 1,000 subscribers) (47 C.F.R. Part 22)	60
Domestic Public Fixed (per call sign) (47 C.F.R. Part 21)	55
International Public Fixed (per call sign) (47 C.F.R. Part 23)	110
Earth Stations (47 C.F.R. Part 25)	
VSAT and equivalent C-Band antennas (per 100 antennas)	6
Mobile satellite earth stations (per 100 antennas)	6
Earth station antennas	
Less than 9 meters (per 100 antennas)	6
9 Meters or more	
Transmit/Receive and Transmit Only (per meter)	85
Receive only (per meter)	55
Carriers	
Inter-Exchange Carrier (per 1,000 presubscribed access lines)	60
Local Exchange Carrier (per 1,000 access lines)	60

【Schedule of Regulatory Fees—Continued

【Bureau/Category	Annual Reg- ulatory Fee
Competitive access provider (per 1,000 subscribers)	60
International circuits (per 100 active 64KB circuit or equivalent)	220

【(h) EXCEPTIONS.—The charges established under this section shall not be applicable to (1) governmental entities or nonprofit entities; or (2) to amateur radio operator licenses under part 97 of the Commission's regulations (47 C.F.R. Part 97).

【(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 Commission shall prepare an analysis of its progress in developing such systems and 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. 9. APPLICATION AND REGULATORY FEES.

(a) *GENERAL AUTHORITY.*—The Commission shall assess and collect application fees and regulatory fees to recover the costs of carrying out the activities described in section 6(a) only to the extent and in the amounts provided for in advance in Appropriations Acts.

(b) *APPLICATION FEES.*—

(1) *IN GENERAL.*—The Commission shall assess and collect application fees at such rates as the Commission shall establish in a schedule of application fees to recover the costs of the Commission to process applications.

(2) *ADJUSTMENT OF SCHEDULE.*—

(A) *IN GENERAL.*—In every even-numbered year, the Commission shall review the schedule of application fees established under this subsection and, except as provided in subparagraph (B), set a new amount for each fee in the schedule that is equal to the amount of the fee on the date when the fee was established or the date when the fee was last amended under paragraph (3), whichever is later—

(i) increased or decreased by the percentage change in the Consumer Price Index during the period beginning on such date and ending on the date of the review; and

(ii) rounded to the nearest \$5 increment.

(B) *THRESHOLD FOR ADJUSTMENT.*—The Commission may not adjust a fee under subparagraph (A) if—

(i) in the case of a fee the current amount of which is less than \$200, the adjustment would result in a change in the current amount of less than \$10; or

(ii) in the case of a fee the current amount of which is \$200 or more, the adjustment would result in a change in the current amount of less than 5 percent.

(C) *CURRENT AMOUNT DEFINED.*—In subparagraph (B), the term “current amount” means, with respect to a fee, the amount of the fee on the date when the fee was established, the date when the fee was last adjusted under subpara-

graph (A), or the date when the fee was last amended under paragraph (3), whichever is latest.

(3) AMENDMENTS.—In addition to the adjustments required by paragraph (2), the Commission shall by rule amend the schedule of application fees established under this subsection if the Commission determines that the schedule requires amendment so that such fees reflect increases or decreases in the costs of processing applications at the Commission and the consolidation or addition of new categories of applications.

(c) REGULATORY FEES.—

(1) IN GENERAL.—The Commission shall assess and collect regulatory fees at such rates as the Commission shall establish in a schedule of regulatory fees that will result in the collection, in each fiscal year, of an amount that can reasonably be expected to equal the difference between—

(A) the amounts described in subsection (a) with respect to such fiscal year; and

(B) the amount of application fees reasonably expected to be collected in such fiscal year.

(2) ADJUSTMENT OF SCHEDULE.—

(A) IN GENERAL.—For each fiscal year, the Commission shall by rule adjust the schedule of regulatory fees established under this subsection to—

(i) reflect unexpected increases or decreases in the number of units subject to the payment of such fees; and

(ii) result in the collection of the amount required by paragraph (1).

(B) ROUNDING.—In making adjustments under this paragraph, the Commission may round fees to the nearest \$5 increment.

(3) AMENDMENTS.—In addition to the adjustments required by paragraph (2), the Commission shall by rule amend the schedule of regulatory fees established under this subsection if the Commission determines that the schedule requires amendment so that such fees reflect the full-time equivalent number of employees within the bureaus and offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities. In making an amendment under this paragraph, the Commission may not change the total amount of regulatory fees required by paragraph (1) to be collected in a fiscal year.

(d) JUDICIAL REVIEW PROHIBITED.—An adjustment or amendment to a schedule of fees under subsection (b) or (c) is not subject to judicial review.

(e) NOTICE TO CONGRESS.—The Commission shall transmit to Congress notification—

(1) of any adjustment under subsection (b)(2) or (c)(2) immediately upon the adoption of such adjustment; and

(2) of any amendment under subsection (b)(3) or (c)(3) not later than 90 days before the effective date of such amendment.

(f) ENFORCEMENT.—

(1) PENALTIES FOR LATE PAYMENT.—The Commission shall by rule prescribe a penalty for late payment of fees under this sec-

tion. Such penalty shall be 25 percent of the amount of the fee that was not paid in a timely manner.

(2) *INTEREST ON UNPAID FEES AND PENALTIES.*—The Commission shall charge interest, at a rate determined under section 3717 of title 31, United States Code, on a fee or penalty under this section that is not paid in a timely manner. Such section 3717 shall not otherwise apply with respect to a fee or penalty under this section.

(3) *DISMISSAL OF APPLICATIONS OR FILINGS.*—The Commission may dismiss any application or other filing for failure to pay in a timely manner any fee, interest, or penalty under this section.

(4) *REVOCATIONS.*—

(A) *IN GENERAL.*—In addition to or in lieu of the penalties and dismissals authorized by paragraphs (1) and (3), the Commission may revoke any instrument of authorization held by any licensee that has not paid in a timely manner a regulatory fee assessed under this section or any related interest or penalty.

(B) *NOTICE.*—Revocation action may be taken by the Commission under this paragraph after notice of the Commission's intent to take such action is sent to the licensee by registered mail, return receipt requested, at the licensee's last known address. The notice shall provide the licensee at least 30 days to either pay the fee, interest, and any penalty or show cause why the fee, interest, or penalty does not apply to the licensee or should otherwise be waived or payment deferred.

(C) *HEARING.*—

(i) *GENERALLY NOT REQUIRED.*—A hearing is not required under this paragraph unless the licensee's response presents a substantial and material question of fact.

(ii) *EVIDENCE AND BURDENS.*—In any case where a hearing is conducted under this paragraph, the hearing shall be based on written evidence only, and the burden of proceeding with the introduction of evidence and the burden of proof shall be on the licensee.

(iii) *COSTS.*—Unless the licensee substantially prevails in the hearing, the Commission may assess the licensee for the costs of such hearing.

(D) *OPPORTUNITY TO PAY PRIOR TO REVOCATION.*—Any Commission order adopted under this paragraph shall determine the amount due, if any, and provide the licensee with at least 30 days to pay that amount or have its authorization revoked.

(E) *FINALITY.*—No order of revocation under this paragraph shall become final until the licensee has exhausted its right to judicial review of such order under section 402(b)(5).

(g) *WAIVER, REDUCTION, AND DEFERMENT.*—The Commission may waive, reduce, or defer payment of a fee, interest charge, or penalty in any specific instance for good cause shown, if such action would promote the public interest.

(h) *PAYMENT RULES.*—The Commission shall by rule permit payment—

- (1) *in the case of fees in large amounts, by installments; and*
- (2) *in the case of fees in small amounts, in advance for a number of years not to exceed the term of the license held by the payor.*

(i) *EXCEPTIONS.*—

(1) *PARTIES TO WHICH FEES ARE NOT APPLICABLE.*—

(A) *APPLICATION FEES.*—The application fees established under this section shall not be applicable to—

- (i) *a governmental entity;*
- (ii) *a nonprofit entity licensed in the Local Government, Police, Fire, Highway Maintenance, Forestry Conservation, Public Safety, or Special Emergency Radio service; or*
- (iii) *a noncommercial radio station or noncommercial television station.*

(B) *REGULATORY FEES.*—The regulatory fees established under this section shall not be applicable to—

- (i) *a governmental entity or nonprofit entity;*
- (ii) *an amateur radio operator licensee under part 97 of the Commission's rules (47 C.F.R. part 97); or*
- (iii) *a noncommercial radio station or noncommercial television station.*

(2) *COST OF COLLECTION.*—

(A) *APPLICATION FEES.*—If, in the judgment of the Commission, the cost of collecting an application fee established under this section would exceed the amount collected, the Commission may by rule eliminate such fee.

(B) *REGULATORY FEES.*—If, in the judgment of the Commission, the cost of collecting a regulatory fee established under this section from a party would exceed the amount collected from such party, the Commission may exempt such party from paying such fee.

(j) *ACCOUNTING SYSTEM.*—The Commission shall develop accounting systems necessary to make the amendments authorized by subsections (b)(3) and (c)(3).

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SEC. 13. TRANSPARENCY AND EFFICIENCY.

(a) *INITIAL RULEMAKING AND INQUIRY.*—

(1) *RULEMAKING.*—Not later than 1 year after the date of the enactment of this section, the Commission shall complete a rulemaking proceeding and adopt procedural changes to its rules to maximize opportunities for public participation and efficient decisionmaking.

(2) *REQUIREMENTS FOR RULEMAKING.*—The rules adopted under paragraph (1) shall—

(A) *set minimum comment periods for comment and reply comment, subject to a determination by the Commission that good cause exists for departing from such minimum comment periods, for—*

- (i) *significant regulatory actions, as defined in Executive Order No. 12866; and*
- (ii) *all other rulemaking proceedings;*

(B) establish policies concerning the submission of extensive new comments, data, or reports towards the end of the comment period in the proceedings described in clauses (i) and (ii) of subparagraph (A);

(C) establish policies regarding treatment of comments, ex parte communications, and data or reports (including statistical reports and reports to Congress) submitted after the comment period in the proceedings described in clauses (i) and (ii) of subparagraph (A) to ensure that the public has adequate notice of and opportunity to respond to such submissions before the Commission relies on such submissions in any order, decision, report, or action;

(D) establish procedures for, not later than 14 days after the end of each quarter of a calendar year (or more frequently, as the Commission considers appropriate), publishing on the Internet website of the Commission and submitting to Congress a report that contains—

(i) the status of open rulemaking proceedings and proposed orders, decisions, reports, or actions on circulation for review by the Commissioners, including which Commissioners have not cast a vote on an order, decision, report, or action that has been on circulation for more than 60 days;

(ii) for the petitions, applications, complaints, and other requests for action by the Commission that were pending at the Commission on the last day of such quarter (or more frequent period, as the case may be)—

(I) the number of such requests, broken down by the bureau primarily responsible for action and, for each bureau, the type of request (such as a petition, application, or complaint); and

(II) information regarding the amount of time for which such requests have been pending, broken down as described in subclause (I); and

(iii) a list of the congressional investigations of the Commission that were pending on the last day of such quarter (or more frequent period, as the case may be) and the cost of such investigations, individually and in the aggregate;

(E) establish deadlines (relative to the date of filing) for—

(i) in the case of a petition for a declaratory ruling under section 1.2 of title 47, Code of Federal Regulations, issuing a public notice of such petition;

(ii) in the case of a petition for rulemaking under section 1.401 of such title, issuing a public notice of such petition; and

(iii) in the case of a petition for reconsideration under section 1.106 or 1.429 of such title or an application for review under section 1.115 of such title, issuing a public notice of a decision on the petition or application by the Commission or under delegated authority (as the case may be);

(F) establish guidelines (relative to the date of filing) for the disposition of petitions filed under section 1.2 of such title;

(G) establish procedures for the inclusion of the specific language of the proposed rule or the proposed amendment of an existing rule in a notice of proposed rulemaking; and
 (H) require notices of proposed rulemaking and orders adopting a rule or amending an existing rule that—

(i) create (or propose to create) a program activity to contain performance measures for evaluating the effectiveness of the program activity; and

(ii) substantially change (or propose to substantially change) a program activity to contain—

(I) performance measures for evaluating the effectiveness of the program activity as changed (or proposed to be changed); or

(II) a finding that existing performance measures will effectively evaluate the program activity as changed (or proposed to be changed).

(3) *INQUIRY.*—Not later than 1 year after the date of the enactment of this section, the Commission shall complete an inquiry to seek public comment on whether and how the Commission should—

(A) establish procedures for allowing a bipartisan majority of Commissioners to place an order, decision, report, or action on the agenda of an open meeting;

(B) establish procedures for informing all Commissioners of a reasonable number of options available to the Commission for resolving a petition, complaint, application, rulemaking, or other proceeding;

(C) establish procedures for ensuring that all Commissioners have adequate time, prior to being required to decide a petition, complaint, application, rulemaking, or other proceeding (including at a meeting held pursuant to section 5(d)), to review the proposed Commission decision document, including the specific language of any proposed rule or any proposed amendment of an existing rule;

(D) establish procedures for publishing the text of agenda items to be voted on at an open meeting in advance of such meeting so that the public has the opportunity to read the text before a vote is taken;

(E) establish deadlines (relative to the date of filing) for disposition of applications for a license under section 1.913 of title 47, Code of Federal Regulations;

(F) assign resources needed in order to meet the deadlines described in subparagraph (E), including whether the Commission's ability to meet such deadlines would be enhanced by assessing a fee from applicants for such a license; and

(G) except as otherwise provided in section 4(o), publish each order, decision, report, or action not later than 30 days after the date of the adoption of such order, decision, report, or action.

(4) *DATA FOR PERFORMANCE MEASURES.*—The Commission shall develop a performance measure or proposed performance measure required by this subsection to rely, where possible, on data already collected by the Commission.

(5) *GAO AUDIT.*—Not less frequently than every 6 months, the Comptroller General of the United States shall audit the cost estimates provided by the Commission under paragraph (2)(D)(iii) during the preceding 6-month period.

(b) *PERIODIC REVIEW.*—On the date that is 5 years after the completion of the rulemaking proceeding under subsection (a)(1), and every 5 years thereafter, the Commission shall initiate a new rulemaking proceeding to continue to consider such procedural changes to its rules as may be in the public interest to maximize opportunities for public participation and efficient decisionmaking.

(c) *NONPUBLIC COLLABORATIVE DISCUSSIONS.*—

(1) *IN GENERAL.*—Notwithstanding section 552b of title 5, United States Code, a bipartisan majority of Commissioners may hold a meeting that is closed to the public to discuss official business if—

(A) a vote or any other agency action is not taken at such meeting;

(B) each person present at such meeting is a Commissioner, an employee of the Commission, a member of a joint board or conference established under section 410, or a person on the staff of such a joint board or conference or of a member of such a joint board or conference; and

(C) an attorney from the Office of General Counsel of the Commission is present at such meeting.

(2) *DISCLOSURE OF NONPUBLIC COLLABORATIVE DISCUSSIONS.*—Not later than 2 business days after the conclusion of a meeting held under paragraph (1), the Commission shall publish a disclosure of such meeting, including—

(A) a list of the persons who attended such meeting; and

(B) a summary of the matters discussed at such meeting, except for such matters as the Commission determines may be withheld under section 552b(c) of title 5, United States Code.

(3) *PRESERVATION OF OPEN MEETINGS REQUIREMENTS FOR AGENCY ACTION.*—Nothing in this subsection shall limit the applicability of section 552b of title 5, United States Code, with respect to a meeting of Commissioners other than that described in paragraph (1).

(d) *ACCESS TO CERTAIN INFORMATION ON COMMISSION'S WEBSITE.*—The Commission shall provide direct access from the homepage of its website to—

(1) detailed information regarding—

(A) the budget of the Commission for the current fiscal year;

(B) the appropriations for the Commission for such fiscal year; and

(C) the total number of full-time equivalent employees of the Commission; and

(2) the performance plan most recently made available by the Commission under section 1115(b) of title 31, United States Code.

(e) *INTERNET PUBLICATION OF CERTAIN FCC POLICIES AND PROCEDURES.*—The chairman of the Commission shall—

(1) publish on the Internet website of the Commission any policies or procedures of the Commission that—

- (A) are established by the chairman; and
 (B) relate to the functioning of the Commission or the handling of the agenda of the Commission; and
 (2) update such publication not later than 48 hours after the chairman makes changes to any such policies or procedures.
- (f) **FEDERAL REGISTER PUBLICATION.**—
 (1) **IN GENERAL.**—In the case of any document adopted by the Commission that the Commission is required, under any provision of law, to publish in the Federal Register, the Commission shall, not later than the date described in paragraph (2), complete all Commission actions necessary for such document to be so published.
 (2) **DATE DESCRIBED.**—The date described in this paragraph is the earlier of—
 (A) the day that is 45 days after the date of the release of the document; or
 (B) the day by which such actions must be completed to comply with any deadline under any other provision of law.
 (3) **NO EFFECT ON DEADLINES FOR PUBLICATION IN OTHER FORM.**—In the case of a deadline that does not specify that the form of publication is publication in the Federal Register, the Commission may comply with such deadline by publishing the document in another form. Such other form of publication does not relieve the Commission of any Federal Register publication requirement applicable to such document, including the requirement of paragraph (1).
- (g) **CONSUMER COMPLAINT DATABASE.**—
 (1) **IN GENERAL.**—In evaluating and processing consumer complaints, the Commission shall present information about such complaints in a publicly available, searchable database on its website that—
 (A) facilitates easy use by consumers; and
 (B) to the extent practicable, is sortable and accessible by—
 (i) the date of the filing of the complaint;
 (ii) the topic of the complaint;
 (iii) the party complained of; and
 (iv) other elements that the Commission considers in the public interest.
 (2) **DUPLICATIVE COMPLAINTS.**—In the case of multiple complaints arising from the same alleged misconduct, the Commission shall be required to include only information concerning one such complaint in the database described in paragraph (1) and shall take any other steps the Commission finds prudent to avoid publishing inaccurate or misleading data.
- (h) **FORM OF PUBLICATION.**—
 (1) **IN GENERAL.**—In complying with a requirement of this section to publish a document, the Commission shall publish such document on its website, in addition to publishing such document in any other form that the Commission is required to use or is permitted to and chooses to use.
 (2) **EXCEPTION.**—The Commission shall by rule establish procedures for redacting documents required to be published by this section so that the published versions of such documents do not contain—

(A) information the publication of which would be detrimental to national security, homeland security, law enforcement, or public safety; or

(B) information that is proprietary or confidential.

(i) **TRANSPARENCY RELATING TO PERFORMANCE IN MEETING FOIA REQUIREMENTS.**—The Commission shall take additional steps to inform the public about its performance and efficiency in meeting the disclosure and other requirements of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), including by doing the following:

(1) Publishing on the Commission's website the Commission's logs for tracking, responding to, and managing requests submitted under such section, including the Commission's fee estimates, fee categories, and fee request determinations.

(2) Releasing to the public all decisions made by the Commission (including decisions made by the Commission's Bureaus and Offices) granting or denying requests filed under such section, including any such decisions pertaining to the estimate and application of fees assessed under such section.

(3) Publishing on the Commission's website electronic copies of documents released under such section.

(4) Presenting information about the Commission's handling of requests under such section in the Commission's annual budget estimates submitted to Congress and the Commission's annual performance and financial reports. Such information shall include the number of requests under such section the Commission received in the most recent fiscal year, the number of such requests granted and denied, a comparison of the Commission's processing of such requests over at least the previous 3 fiscal years, and a comparison of the Commission's results with the most recent average for the United States Government as published on www.foia.gov.

(j) **PROMPT RELEASE OF STATISTICAL REPORTS AND REPORTS TO CONGRESS.**—Not later than January 15th of each year, the Commission shall identify, catalog, and publish an anticipated release schedule for all statistical reports and reports to Congress that are regularly or intermittently released by the Commission and will be released during such year.

(k) **ANNUAL SCORECARD REPORTS.**—

(1) **IN GENERAL.**—For the 1-year period beginning on January 1st of each year, the Commission shall prepare a report on the performance of the Commission in conducting its proceedings and meeting the deadlines established under subsection (a)(2)(E) and the guidelines established under subsection (a)(2)(F).

(2) **CONTENTS.**—Each report required by paragraph (1) shall contain detailed statistics on such performance, including, with respect to each Bureau of the Commission—

(A) with respect to each type of filing specified in subsection (a)(2)(E) or (a)(2)(F)—

(i) the number of filings that were pending on the last day of the period covered by such report;

(ii) the number of filings described in clause (i) for which each applicable deadline or guideline estab-

lished under such subsection was not met and the average length of time such filings have been pending; and
 (iii) for filings that were resolved during such period, the average time between initiation and resolution and the percentage for which each applicable deadline or guideline established under such subsection was met;

(B) with respect to proceedings before an administrative law judge—

(i) the number of such proceedings completed during such period; and

(ii) the number of such proceedings pending on the last day of such period; and

(C) the number of independent studies or analyses published by the Commission during such period.

(3) PUBLICATION AND SUBMISSION.—The Commission shall publish 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 each report required by paragraph (1) not later than the date that is 30 days after the last day of the period covered by such report.

(l) DEFINITIONS.—In this section:

(1) AMENDMENT.—The term “amendment” includes, when used with respect to an existing rule, the deletion of such rule.

(2) BIPARTISAN MAJORITY.—The term “bipartisan majority” means, when used with respect to a group of Commissioners, that such group—

(A) is a group of three or more Commissioners; and

(B) includes, for each political party of which any Commissioner is a member, at least one Commissioner who is a member of such political party, and, if any Commissioner has no political party affiliation, at least one unaffiliated Commissioner.

(3) PERFORMANCE MEASURE.—The term “performance measure” means an objective and quantifiable outcome measure or output measure (as such terms are defined in section 1115 of title 31, United States Code).

(4) PROGRAM ACTIVITY.—The term “program activity” has the meaning given such term in section 1115 of title 31, United States Code, except that such term also includes any annual collection or distribution or related series of collections or distributions by the Commission of an amount that is greater than or equal to \$100,000,000.

(5) OTHER DEFINITIONS.—The terms “agency action”, “ex parte communication”, and “rule” have the meanings given such terms in section 551 of title 5, United States Code.

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, audio, and data services among providers of telecommuni-

cations, 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. 5304)), 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) *EXTENSION.*—If the President designates a Commissioner as Chairman of the Commission during the last quarter of an even-numbered year, the portion of the report required by subsection (b)(4) may be published on the website of the Commission and submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate as an addendum during the first quarter of the following odd-numbered year.

(d) *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).

(5) CONSIDERING CABLE RATES.—In assessing the state of competition under subsection (b)(1), the Commission shall include in each report required by subsection (a) the aggregate average total amount paid by cable systems in compensation under section 325 during the period covered by such report.

TITLE II—COMMON CARRIERS

PART I—COMMON CARRIER REGULATION

* * * * *

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

(a) The Commission shall examine into transactions entered into by any common carrier which relate to the furnishing of equipment, supplies, research, services, finances, credit, or personnel to such carrier and/or which may affect the changes made or to be made and/or the services rendered or to be rendered by such carrier, in wire or radio communications subject to this Act, and shall report to the Congress whether any such transactions have affected or are likely to affect adversely the ability of the carrier to render adequate service to the public, or may result in any undue or unreasonable increase in charges or in the maintenance of undue or unreasonable charges for such service; and in order to fully examine into such transactions the Commission shall have access to and the right of inspection and examination of all accounts, records, and memoranda including all documents, papers, and correspondence now or hereafter existing, of persons furnishing such equipment, supplies, research, services, finances, credit, or personnel. The Commission shall include in its report its recommendations for necessary legislation in connection with such transactions, and shall report specifically whether in its opinion legislation should be enacted (1) authorizing the Commission to declare any such transactions void or to permit such transactions to be carried out subject to such modification of their terms and conditions as the Commission shall deem desirable in the public interest; and/or (2) subjecting such transactions to the approval of the Commission where the person furnishing or seeking to furnish the equipment, supplies, research, service, finances, credit or personnel is a person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such carrier; and/or (3) authorizing the Commission to require that all or any transactions of carriers involving the furnishing of equipment, supplies, research, services, finances, credit, or personnel to such carrier be upon competitive bids on such terms and conditions and subject to such regulations as it shall prescribe as necessary in the public interest.

[(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) **DEFINITIONS.**—As used in this section—

(1) The term “automatic telephone dialing system” means equipment which has the capacity—

(A) to store or produce telephone numbers to be called, using a random or sequential number generator; and

(B) to dial such numbers.

(2) The term “established business relationship”, for purposes only of subsection (b)(1)(C)(i), shall have the meaning given the term in section 64.1200 of title 47, Code of Federal Regulations, as in effect on January 1, 2003, except that—

(A) such term shall include a relationship between a person or entity and a business subscriber subject to the same terms applicable under such section to a relationship between a person or entity and a residential subscriber; and

(B) an established business relationship shall be subject to any time limitation established pursuant to paragraph (2)(G).

(3) The term “telephone facsimile machine” means equipment which has the capacity (A) to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line, or (B) to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper.

(4) The term “telephone solicitation” means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person, but such term does not include a call or message (A) to any person with that person’s prior express invitation or permission, (B) to any person with whom the caller has an established business relationship, or (C) by a tax exempt nonprofit organization.

(5) The term “unsolicited advertisement” means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person’s prior express invitation or permission, in writing or otherwise.

(b) **RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.**—

(1) **PROHIBITIONS.**—It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States—

(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of

the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

(i) to any emergency telephone line (including any “911” line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency);

(ii) to the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment; or

(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call, unless such call is made solely to collect a debt owed to or guaranteed by the United States;

(B) to initiate any telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call is initiated for emergency purposes, is made solely pursuant to the collection of a debt owed to or guaranteed by the United States, or is exempted by rule or order by the Commission under paragraph (2)(B);

(C) to use any telephone facsimile machine, computer, or other device to send, to a telephone facsimile machine, an unsolicited advertisement, unless—

(i) the unsolicited advertisement is from a sender with an established business relationship with the recipient;

(ii) the sender obtained the number of the telephone facsimile machine through—

(I) the voluntary communication of such number, within the context of such established business relationship, from the recipient of the unsolicited advertisement, or

(II) a directory, advertisement, or site on the Internet to which the recipient voluntarily agreed to make available its facsimile number for public distribution,

except that this clause shall not apply in the case of an unsolicited advertisement that is sent based on an established business relationship with the recipient that was in existence before the date of enactment of the Junk Fax Prevention Act of 2005 if the sender possessed the facsimile machine number of the recipient before such date of enactment; and

(iii) the unsolicited advertisement contains a notice meeting the requirements under paragraph (2)(D),

except that the exception under clauses (i) and (ii) shall not apply with respect to an unsolicited advertisement sent to a telephone facsimile machine by a sender to whom a request has been made not to send future unsolicited advertisements to such telephone facsimile machine that complies with the requirements under paragraph (2)(E); or

(D) to use an automatic telephone dialing system in such a way that two or more telephone lines of a multi-line business are engaged simultaneously.

(2) REGULATIONS; EXEMPTIONS AND OTHER PROVISIONS.—The Commission shall prescribe regulations to implement the requirements of this subsection. In implementing the requirements of this subsection, the Commission—

(A) shall consider prescribing regulations to allow businesses to avoid receiving calls made using an artificial or prerecorded voice to which they have not given their prior express consent;

(B) may, by rule or order, exempt from the requirements of paragraph (1)(B) of this subsection, subject to such conditions as the Commission may prescribe—

(i) calls that are not made for a commercial purpose; and

(ii) such classes or categories of calls made for commercial purposes as the Commission determines—

(I) will not adversely affect the privacy rights that this section is intended to protect; and

(II) do not include the transmission of any unsolicited advertisement;

(C) may, by rule or order, exempt from the requirements of paragraph (1)(A)(iii) of this subsection calls to a telephone number assigned to a cellular telephone service that are not charged to the called party, subject to such conditions as the Commission may prescribe as necessary in the interest of the privacy rights this section is intended to protect;

(D) shall provide that a notice contained in an unsolicited advertisement complies with the requirements under this subparagraph only if—

(i) the notice is clear and conspicuous and on the first page of the unsolicited advertisement;

(ii) the notice states that the recipient may make a request to the sender of the unsolicited advertisement not to send any future unsolicited advertisements to a telephone facsimile machine or machines and that failure to comply, within the shortest reasonable time, as determined by the Commission, with such a request meeting the requirements under subparagraph (E) is unlawful;

(iii) the notice sets forth the requirements for a request under subparagraph (E);

(iv) the notice includes—

(I) a domestic contact telephone and facsimile machine number for the recipient to transmit such a request to the sender; and

(II) a cost-free mechanism for a recipient to transmit a request pursuant to such notice to the sender of the unsolicited advertisement; the Commission shall by rule require the sender to provide such a mechanism and may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, exempt certain

classes of small business senders, but only if the Commission determines that the costs to such class are unduly burdensome given the revenues generated by such small businesses;

(v) the telephone and facsimile machine numbers and the cost-free mechanism set forth pursuant to clause (iv) permit an individual or business to make such a request at any time on any day of the week; and

(vi) the notice complies with the requirements of subsection (d);

(E) shall provide, by rule, that a request not to send future unsolicited advertisements to a telephone facsimile machine complies with the requirements under this subparagraph only if—

(i) the request identifies the telephone number or numbers of the telephone facsimile machine or machines to which the request relates;

(ii) the request is made to the telephone or facsimile number of the sender of such an unsolicited advertisement provided pursuant to subparagraph (D)(iv) or by any other method of communication as determined by the Commission; and

(iii) the person making the request has not, subsequent to such request, provided express invitation or permission to the sender, in writing or otherwise, to send such advertisements to such person at such telephone facsimile machine;

(F) may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, allow professional or trade associations that are tax-exempt non-profit organizations to send unsolicited advertisements to their members in furtherance of the association's tax-exempt purpose that do not contain the notice required by paragraph (1)(C)(iii), except that the Commission may take action under this subparagraph only—

(i) by regulation issued after public notice and opportunity for public comment; and

(ii) if the Commission determines that such notice required by paragraph (1)(C)(iii) is not necessary to protect the ability of the members of such associations to stop such associations from sending any future unsolicited advertisements;

(G)(i) may, consistent with clause (ii), limit the duration of the existence of an established business relationship, however, before establishing any such limits, the Commission shall—

(I) determine whether the existence of the exception under paragraph (1)(C) relating to an established business relationship has resulted in a significant number of complaints to the Commission regarding the sending of unsolicited advertisements to telephone facsimile machines;

(II) determine whether a significant number of any such complaints involve unsolicited advertisements

that were sent on the basis of an established business relationship that was longer in duration than the Commission believes is consistent with the reasonable expectations of consumers;

(III) evaluate the costs to senders of demonstrating the existence of an established business relationship within a specified period of time and the benefits to recipients of establishing a limitation on such established business relationship; and

(IV) determine whether with respect to small businesses, the costs would not be unduly burdensome; and

(ii) may not commence a proceeding to determine whether to limit the duration of the existence of an established business relationship before the expiration of the 3-month period that begins on the date of the enactment of the Junk Fax Prevention Act of 2005; and

(H) may restrict or limit the number and duration of calls made to a telephone number assigned to a cellular telephone service to collect a debt owed to or guaranteed by the United States.

(3) PRIVATE RIGHT OF ACTION.—A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

(A) an action based on a violation of this subsection or the regulations prescribed under this subsection to enjoin such violation,

(B) an action to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater, or

(C) both such actions.

If the court finds that the defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

(c) PROTECTION OF SUBSCRIBER PRIVACY RIGHTS.—

(1) RULEMAKING PROCEEDING REQUIRED.—Within 120 days after the date of enactment of this section, the Commission shall initiate a rulemaking proceeding concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object. The proceeding shall—

(A) compare and evaluate alternative methods and procedures (including the use of electronic databases, telephone network technologies, special directory markings, industry-based or company-specific “do not call” systems, and any other alternatives, individually or in combination) for their effectiveness in protecting such privacy rights, and in terms of their cost and other advantages and disadvantages;

(B) evaluate the categories of public and private entities that would have the capacity to establish and administer such methods and procedures;

(C) consider whether different methods and procedures may apply for local telephone solicitations, such as local telephone solicitations of small businesses or holders of second class mail permits;

(D) consider whether there is a need for additional Commission authority to further restrict telephone solicitations, including those calls exempted under subsection (a)(3) of this section, and, if such a finding is made and supported by the record, propose specific restrictions to the Congress; and

(E) develop proposed regulations to implement the methods and procedures that the Commission determines are most effective and efficient to accomplish the purposes of this section.

(2) REGULATIONS.—Not later than 9 months after the date of enactment of this section, the Commission shall conclude the rulemaking proceeding initiated under paragraph (1) and shall prescribe regulations to implement methods and procedures for protecting the privacy rights described in such paragraph in an efficient, effective, and economic manner and without the imposition of any additional charge to telephone subscribers.

(3) USE OF DATABASE PERMITTED.—The regulations required by paragraph (2) may require the establishment and operation of a single national database to compile a list of telephone numbers of residential subscribers who object to receiving telephone solicitations, and to make that compiled list and parts thereof available for purchase. If the Commission determines to require such a database, such regulations shall—

(A) specify a method by which the Commission will select an entity to administer such database;

(B) require each common carrier providing telephone exchange service, in accordance with regulations prescribed by the Commission, to inform subscribers for telephone exchange service of the opportunity to provide notification, in accordance with regulations established under this paragraph, that such subscriber objects to receiving telephone solicitations;

(C) specify the methods by which each telephone subscriber shall be informed, by the common carrier that provides local exchange service to that subscriber, of (i) the subscriber's right to give or revoke a notification of an objection under subparagraph (A), and (ii) the methods by which such right may be exercised by the subscriber;

(D) specify the methods by which such objections shall be collected and added to the database;

(E) prohibit any residential subscriber from being charged for giving or revoking such notification or for being included in a database compiled under this section;

(F) prohibit any person from making or transmitting a telephone solicitation to the telephone number of any subscriber included in such database;

(G) specify (i) the methods by which any person desiring to make or transmit telephone solicitations will obtain access to the database, by area code or local exchange prefix, as required to avoid calling the telephone numbers of sub-

scribers included in such database; and (ii) the costs to be recovered from such persons;

(H) specify the methods for recovering, from persons accessing such database, the costs involved in identifying, collecting, updating, disseminating, and selling, and other activities relating to, the operations of the database that are incurred by the entities carrying out those activities;

(I) specify the frequency with which such database will be updated and specify the method by which such updating will take effect for purposes of compliance with the regulations prescribed under this subsection;

(J) be designed to enable States to use the database mechanism selected by the Commission for purposes of administering or enforcing State law;

(K) prohibit the use of such database for any purpose other than compliance with the requirements of this section and any such State law and specify methods for protection of the privacy rights of persons whose numbers are included in such database; and

(L) require each common carrier providing services to any person for the purpose of making telephone solicitations to notify such person of the requirements of this section and the regulations thereunder.

(4) CONSIDERATIONS REQUIRED FOR USE OF DATABASE METHOD.—If the Commission determines to require the database mechanism described in paragraph (3), the Commission shall—

(A) in developing procedures for gaining access to the database, consider the different needs of telemarketers conducting business on a national, regional, State, or local level;

(B) develop a fee schedule or price structure for recouping the cost of such database that recognizes such differences and—

(i) reflect the relative costs of providing a national, regional, State, or local list of phone numbers of subscribers who object to receiving telephone solicitations;

(ii) reflect the relative costs of providing such lists on paper or electronic media; and

(iii) not place an unreasonable financial burden on small businesses; and

(C) consider (i) whether the needs of telemarketers operating on a local basis could be met through special markings of area white pages directories, and (ii) if such directories are needed as an adjunct to database lists prepared by area code and local exchange prefix.

(5) PRIVATE RIGHT OF ACTION.—A person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may, if otherwise permitted by the laws or rules of court of a State bring in an appropriate court of that State—

(A) an action based on a violation of the regulations prescribed under this subsection to enjoin such violation,

(B) an action to recover for actual monetary loss from such a violation, or to receive up to \$500 in damages for each such violation, whichever is greater, or

(C) both such actions.

It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of the regulations prescribed under this subsection. If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

(6) RELATION TO SUBSECTION (b).—The provisions of this subsection shall not be construed to permit a communication prohibited by subsection (b).

(d) TECHNICAL AND PROCEDURAL STANDARDS.—

(1) PROHIBITION.—It shall be unlawful for any person within the United States—

(A) to initiate any communication using a telephone facsimile machine, or to make any telephone call using any automatic telephone dialing system, that does not comply with the technical and procedural standards prescribed under this subsection, or to use any telephone facsimile machine or automatic telephone dialing system in a manner that does not comply with such standards; or

(B) to use a computer or other electronic device to send any message via a telephone facsimile machine unless such person clearly marks, in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time it is sent and an identification of the business, other entity, or individual sending the message and the telephone number of the sending machine or of such business, other entity, or individual.

(2) TELEPHONE FACSIMILE MACHINES.—The Commission shall revise the regulations setting technical and procedural standards for telephone facsimile machines to require that any such machine which is manufactured after one year after the date of enactment of this section clearly marks, in a margin at the top or bottom of each transmitted page or on the first page of each transmission, the date and time sent, an identification of the business, other entity, or individual sending the message, and the telephone number of the sending machine or of such business, other entity, or individual.

(3) ARTIFICIAL OR PRERECORDED VOICE SYSTEMS.—The Commission shall prescribe technical and procedural standards for systems that are used to transmit any artificial or prerecorded voice message via telephone. Such standards shall require that—

(A) all artificial or prerecorded telephone messages (i) shall, at the beginning of the message, state clearly the identity of the business, individual, or other entity initiating the call, and (ii) shall, during or after the message,

state clearly the telephone number or address of such business, other entity, or individual; and

(B) any such system will automatically release the called party's line within 5 seconds of the time notification is transmitted to the system that the called party has hung up, to allow the called party's line to be used to make or receive other calls.

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

(1) IN GENERAL.—It shall be unlawful for any person within the United States, **[in connection with any telecommunications service or IP-enabled voice service]** *or any person outside the United States if the recipient is within the United States, in connection with any voice service or text messaging service*, to cause any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value, unless such transmission is exempted pursuant to paragraph (3)(B).

(2) PROTECTION FOR BLOCKING CALLER IDENTIFICATION INFORMATION.—Nothing in this subsection may be construed to prevent or restrict any person from blocking the capability of any caller identification service to transmit caller identification information.

(3) REGULATIONS.—

(A) IN GENERAL.—**[Not later than 6 months after the date of enactment of the Truth in Caller ID Act of 2009, the Commission]** *The Commission* shall prescribe regulations to implement this subsection.

(B) CONTENT OF REGULATIONS.—

(i) IN GENERAL.—The regulations required under subparagraph (A) shall include such exemptions from the prohibition under paragraph (1) as the Commission determines is appropriate.

(ii) SPECIFIC EXEMPTION FOR LAW ENFORCEMENT AGENCIES OR COURT ORDERS.—The regulations required under subparagraph (A) shall exempt from the prohibition under paragraph (1) transmissions in connection with—

(I) any authorized activity of a law enforcement agency; or

(II) a court order that specifically authorizes the use of caller identification manipulation.

[(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.]

(5) PENALTIES.—

(A) CIVIL FORFEITURE.—

(i) IN GENERAL.—Any person that is determined by the Commission, in accordance with paragraphs (3) and (4) of section 503(b), to have violated this sub-

section shall be liable to the United States for a forfeiture penalty. A forfeiture penalty under this paragraph shall be in addition to any other penalty provided for by this Act. The amount of the forfeiture penalty determined under this paragraph shall not exceed \$10,000 for each violation, or 3 times that amount for each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$1,000,000 for any single act or failure to act.

(ii) RECOVERY.—Any forfeiture penalty determined under clause (i) shall be recoverable pursuant to section 504(a).

(iii) PROCEDURE.—No forfeiture liability shall be determined under clause (i) against any person unless such person receives the notice required by section 503(b)(3) or section 503(b)(4).

(iv) 2-YEAR STATUTE OF LIMITATIONS.—No forfeiture penalty shall be determined or imposed against any person under clause (i) if the violation charged occurred more than 2 years prior to the date of issuance of the required notice or notice of apparent liability.

(B) CRIMINAL FINE.—Any person who willfully and knowingly violates this subsection shall upon conviction thereof be fined not more than \$10,000 for each violation, or 3 times that amount for each day of a continuing violation, in lieu of the fine provided by section 501 for such a violation. This subparagraph does not supersede the provisions of section 501 relating to imprisonment or the imposition of a penalty of both fine and imprisonment.

(6) ENFORCEMENT BY STATES.—

(A) IN GENERAL.—The chief legal officer of a State, or any other State officer authorized by law to bring actions on behalf of the residents of a State, may bring a civil action, as *parens patriae*, on behalf of the residents of that State in an appropriate district court of the United States to enforce this subsection or to impose the civil penalties for violation of this subsection, whenever the chief legal officer or other State officer has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a violation of this subsection or a regulation under this subsection.

(B) NOTICE.—The chief legal officer or other State officer shall serve written notice on the Commission of any civil action under subparagraph (A) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

(C) AUTHORITY TO INTERVENE.—Upon receiving the notice required by subparagraph (B), the Commission shall have the right—

(i) to intervene in the action;

(ii) upon so intervening, to be heard on all matters arising therein; and

(iii) to file petitions for appeal.

(D) CONSTRUCTION.—For purposes of bringing any civil action under subparagraph (A), nothing in this paragraph shall prevent the chief legal officer or other State officer from exercising the powers conferred on that officer by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(E) VENUE; SERVICE OR PROCESS.—

(i) VENUE.—An action brought under subparagraph (A) shall be brought in a district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(ii) SERVICE OF PROCESS.—In an action brought under subparagraph (A)—

(I) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

(II) a person who participated in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(7) EFFECT ON OTHER LAWS.—This subsection does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.

(8) DEFINITIONS.—For purposes of this subsection:

(A) CALLER IDENTIFICATION INFORMATION.—The term “caller identification information” means information provided by a caller identification service regarding the telephone number of, or other information regarding the origination of, a call made using a [telecommunications service or IP-enabled voice service] *voice service or a text message sent using a text messaging service.*

(B) CALLER IDENTIFICATION SERVICE.—The term “caller identification service” means any service or device designed to provide the user of the service or device with the telephone number of, or other information regarding the origination of, a call made using a [telecommunications service or IP-enabled voice service] *voice service or a text message sent using a text messaging service.* Such term includes automatic number identification services.

[(C) IP-ENABLED VOICE SERVICE.—The term “IP-enabled voice service” has the meaning given that term by section 9.3 of the Commission’s regulations (47 C.F.R. 9.3), as those regulations may be amended by the Commission from time to time.]

(C) TEXT MESSAGE.—The term “text message”—

(i) means a message consisting of text, images, sounds, or other information that is transmitted to or

from a device that is identified as the receiving or transmitting device by means of a 10-digit telephone number or N11 service code;

(ii) includes a short message service (commonly referred to as "SMS") message and a multimedia message service (commonly referred to as "MMS") message; and

(iii) does not include—

(I) a real-time, two-way voice or video communication; or

(II) a message sent over an IP-enabled messaging service to another user of the same messaging service, except a message described in clause (ii).

(D) **TEXT MESSAGING SERVICE.**—The term "text messaging service" means a service that enables the transmission or receipt of a text message, including a service provided as part of or in connection with a voice service.

(E) **VOICE SERVICE.**—The term "voice service"—

(i) means any service that is interconnected with the public switched telephone network and that furnishes voice communications to an end user using resources from the North American Numbering Plan or any successor to the North American Numbering Plan adopted by the Commission under section 251(e)(1); and

(ii) includes transmissions from a telephone facsimile machine, computer, or other device to a telephone facsimile machine.

(9) **LIMITATION.**—Notwithstanding any other provision of this section, subsection (f) shall not apply to this subsection or to the regulations under this subsection.

(f) **EFFECT ON STATE LAW.**—

(1) **STATE LAW NOT PREEMPTED.**—Except for the standards prescribed under subsection (d) and subject to paragraph (2) of this subsection, nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits—

(A) the use of telephone facsimile machines or other electronic devices to send unsolicited advertisements;

(B) the use of automatic telephone dialing systems;

(C) the use of artificial or prerecorded voice messages; or

(D) the making of telephone solicitations.

(2) **STATE USE OF DATABASES.**—If, pursuant to subsection (c)(3), the Commission requires the establishment of a single national database of telephone numbers of subscribers who object to receiving telephone solicitations, a State or local authority may not, in its regulation of telephone solicitations, require the use of any database, list, or listing system that does not include the part of such single national database that relates to such State.

(g) **ACTIONS BY STATES.**—

(1) **AUTHORITY OF STATES.**—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in

a pattern or practice of telephone calls or other transmissions to residents of that State in violation of this section or the regulations prescribed under this section, the State may bring a civil action on behalf of its residents to enjoin such calls, an action to recover for actual monetary loss or receive \$500 in damages for each violation, or both such actions. If the court finds the defendant willfully or knowingly violated such regulations, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section or regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

(5) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(7) LIMITATION.—Whenever the Commission has instituted a civil action for violation of regulations prescribed under this section, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action

against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

(8) DEFINITION.—As used in this subsection, the term “attorney general” means the chief legal officer of a State.

(h) JUNK FAX ENFORCEMENT REPORT.—The Commission shall submit an annual report to Congress regarding the enforcement during the past year of the provisions of this section relating to sending of unsolicited advertisements to telephone facsimile machines, which report shall include—

(1) the number of complaints received by the Commission during such year alleging that a consumer received an unsolicited advertisement via telephone facsimile machine in violation of the Commission's rules;

(2) the number of citations issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

(3) the number of notices of apparent liability issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

(4) for each notice referred to in paragraph (3)—

(A) the amount of the proposed forfeiture penalty involved;

(B) the person to whom the notice was issued;

(C) the length of time between the date on which the complaint was filed and the date on which the notice was issued; and

(D) the status of the proceeding;

(5) the number of final orders imposing forfeiture penalties issued pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

(6) for each forfeiture order referred to in paragraph (5)—

(A) the amount of the penalty imposed by the order;

(B) the person to whom the order was issued;

(C) whether the forfeiture penalty has been paid; and

(D) the amount paid;

(7) for each case in which a person has failed to pay a forfeiture penalty imposed by such a final order, whether the Commission referred such matter for recovery of the penalty; and

(8) for each case in which the Commission referred such an order for recovery—

(A) the number of days from the date the Commission issued such order to the date of such referral;

(B) whether an action has been commenced to recover the penalty, and if so, the number of days from the date the Commission referred such order for recovery to the date of such commencement; and

(C) whether the recovery action resulted in collection of any amount, and if so, the amount collected.

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PART II—DEVELOPMENT OF COMPETITIVE MARKETS

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SEC. 257. MARKET ENTRY BARRIERS PROCEEDING.

(a) **ELIMINATION OF BARRIERS.**—Within 15 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall complete a proceeding for the purpose of identifying and eliminating, by regulations pursuant to its authority under this Act (other than this section), market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services, or in the provision of parts or services to providers of telecommunications services and information services.

(b) **NATIONAL POLICY.**—In carrying out subsection (a), the Commission shall seek to promote the policies and purposes of this Act favoring diversity of media voices, vigorous economic competition, technological advancement, and promotion of the public interest, convenience, and necessity.

[(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.]

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TITLE III—SPECIAL PROVISIONS RELATING TO RADIO

PART I—GENERAL PROVISIONS

* * * * *

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

(a) Subject to the provisions of this section, the Commission shall determine, in the case of each application filed with it to which section 308 applies, whether the public interest, convenience, and necessity will be served by the granting of such application, and, if the Commission, upon examination of such application and upon consideration of such other matters as the Commission may officially notice, shall find that public interest, convenience, and necessity would be served by the granting thereof, it shall grant such application.

(b) Except as provided in subsection (c) of this section, no such application—

(1) for an instrument of authorization in the case of a station in the broadcasting or common carrier services, or

(2) for an instrument of authorization in the case of a station in any of the following categories:

- (A) industrial radio positioning stations for which frequencies are assigned on an exclusive basis,
 - (B) aeronautical en route stations,
 - (C) aeronautical advisory stations,
 - (D) airdrome control stations,
 - (E) aeronautical fixed stations, and
 - (F) such other stations or classes of stations, not in the broadcasting or common carrier services, as the Commission shall by rule prescribe,
- shall be granted by the Commission earlier than thirty days following issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial amendment thereof.

(c) Subsection (b) of this section shall not apply—

(1) to any minor amendment of an application to which such subsection is applicable, or

(2) to any application for—

(A) a minor change in the facilities of an authorized station,

(B) consent to an involuntary assignment or transfer under section 310(b) or to an assignment or transfer thereunder which does not involve a substantial change in ownership or control,

(C) a license under section 319(c) or, pending application for or grant of such license, any special or temporary authorization to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as would be authorized by such license,

(D) extension of time to complete construction of authorized facilities,

(E) an authorization of facilities for remote pickups, studio links and similar facilities for use in the operation of a broadcast station,

(F) authorizations pursuant to section 325(c) where the programs to be transmitted are special events not of a continuing nature,

(G) a special temporary authorization for nonbroadcast operation not to exceed thirty days where no application for regular operation is contemplated to be filed or not to exceed sixty days pending the filing of an application for such regular operation, or

(H) an authorization under any of the proviso clauses of section 308(a).

(d)(1) Any party in interest may file with the Commission a petition to deny any application (whether as originally filed or as amended) to which subsection (b) of this section applies at any time prior to the day of Commission grant thereof without hearing or the day of formal designation thereof for hearing; except that with respect to any classification of applications, the Commission from time to time by rule may specify a shorter period (no less than thirty days following the issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial

amendment thereof), which shorter period shall be reasonably related to the time when the applications would normally be reached for processing. The petitioner shall serve a copy of such petition on the applicant. The petition shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with subsection (a) (or subsection (k) in the case of renewal of any broadcast station license). Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof. The applicant shall be given the opportunity to file a reply in which allegations of fact or denials thereof shall similarly be supported by affidavit.

(2) If the Commission finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there are no substantial and material questions of fact and that a grant of the application would be consistent with subsection (a) (or subsection (k) in the case of renewal of any broadcast station license), it shall make the grant, deny the petition, and issue a concise statement of the reasons for denying the petition, which statement shall dispose of all substantial issues raised by the petition. If a substantial and material question of fact is presented or if the Commission for any reason is unable to find that grant of the application would be consistent with subsection (a) (or subsection (k) in the case of renewal of any broadcast station license), it shall proceed as provided in subsection (e).

(e) If, in the case of any application to which subsection (a) of this section applies, a substantial and material question of fact is presented or the Commission for any reason is unable to make the finding specified in such subsection, it shall formally designate the application for hearing on the ground or reasons then obtaining and shall forthwith notify the applicant and all other known parties in interest of such action and the ground and reasons therefor, specifying with particularity the matters and things in issue but not including issues or requirements phrased generally. When the Commission has so designated an application for hearing, the parties in interest, if any, who are not notified by the Commission of such action may acquire the status of a party to the proceeding thereon by filing a petition for intervention showing the basis for their interest not more than thirty days after publication of the hearing issues or any substantial amendment thereto in the Federal Register. Any hearing subsequently held upon such application shall be a full hearing in which the applicant and all other parties in interest shall be permitted to participate. The burden of proceeding with the introduction of evidence and the burden of proof shall be upon the applicant, except that with respect to any issue presented by a petition to deny or a petition to enlarge the issues, such burdens shall be as determined by the Commission.

(f) When an application subject to subsection (b) has been filed, the Commission, notwithstanding the requirements of such subsection, may, if the grant of such application is otherwise authorized by law and if it finds that there are extraordinary circumstances requiring temporary operations in the public interest and that delay in the institution of such temporary operations would seriously prejudice the public interest, grant a temporary au-

thorization, accompanied by a statement of its reasons therefor, to permit such temporary operations for a period not exceeding 180 days, and upon making like findings may extend such temporary authorization for additional periods not to exceed 180 days. When any such grant of a temporary authorization is made, the Commission shall give expeditious treatment to any timely filed petition to deny such application and to any petition for rehearing of such grant filed under section 405.

(g) The Commission is authorized to adopt reasonable classifications of applications and amendments in order to effectuate the purposes of this section.

(h) Such station licenses as the Commission may grant shall be in such general form as it may prescribe, but each license shall contain, in addition to other provisions, a statement of the following conditions to which such license shall be subject: (1) The station license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term thereof nor in any other manner than authorized therein; (2) neither the license nor the right granted thereunder shall be assigned or otherwise transferred in violation of this Act; (3) every license issued under this Act shall be subject in terms to the right of use or control conferred by section 706 of this Act.

(i) RANDOM SELECTION.—

(1) GENERAL AUTHORITY.—Except as provided in paragraph (5), if there is more than one application for any initial license or construction permit, then the Commission shall have the authority to grant such license or permit to a qualified applicant through the use of a system of random selection.

(2) No license or construction permit shall be granted to an applicant selected pursuant to paragraph (1) unless the Commission determines the qualifications of such applicant pursuant to subsection (a) and section 308(b). When substantial and material questions of fact exist concerning such qualifications, the Commission shall conduct a hearing in order to make such determinations. For the purposes of making such determinations, the Commission may, by rule, and notwithstanding any other provision of law—

(A) adopt procedures for the submission of all or part of the evidence in written form;

(B) delegate the function of presiding at the taking of written evidence to Commission employees other than administrative law judges; and

(C) omit the determination required by subsection (a) with respect to any application other than the one selected pursuant to paragraph (1).

(3)(A) The Commission shall establish rules and procedures to ensure that, in the administration of any system of random selection under this subsection used for granting licenses or construction permits for any media of mass communications, significant preferences will be granted to applicants or groups of applicants, the grant to which of the license or permit would increase the diversification of ownership of the media of mass communications. To further diversify the ownership of the media of mass communications, an additional significant preference shall be granted to any applicant controlled by a member or members of minority group.

(B) The Commission shall have authority to require each qualified applicant seeking a significant preference under subparagraph (A) to submit to the Commission such information as may be necessary to enable the Commission to make a determination regarding whether such applicant shall be granted such preference. Such information shall be submitted in such form, at such times, and in accordance with such procedures, as the Commission may require.

(C) For purposes of this paragraph:

(i) The term “media of mass communication” includes television, radio, cable television, multipoint distribution service, direct broadcast satellite service, and other services, the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

(ii) The term “minority group” includes Blacks, Hispanics, American Indians, Alaska Natives, Asians, and Pacific Islanders.

(4)(A) The Commission shall, after notice and opportunity for hearing, prescribe rules establishing a system of random selection for use by the Commission under this subsection in any instance in which the Commission, in its discretion, determines that such use is appropriate for the granting of any license or permit in accordance with paragraph (1).

(B) The Commission shall have authority to amend such rules from time to time to the extent necessary to carry out the provisions of this subsection. Any such amendment shall be made after notice and opportunity for hearing.

(C) Not later than 180 days after the date of enactment of this subparagraph, the Commission shall prescribe such transfer disclosures and antitrafficking restrictions and payment schedules as are necessary to prevent the unjust enrichment of recipients of licenses or permits as a result of the methods employed to issue licenses under this subsection.

(5) TERMINATION OF AUTHORITY.—(A) Except as provided in subparagraph (B), the Commission shall not issue any license or permit using a system of random selection under this subsection after July 1, 1997.

(B) Subparagraph (A) of this paragraph shall not apply with respect to licenses or permits for stations described in section 397(6) of this Act.

(j) USE OF COMPETITIVE BIDDING.—

(1) GENERAL AUTHORITY.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit, then, except as provided in paragraph (2), the Commission shall grant the license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

(2) EXEMPTIONS.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

(A) for public safety radio services, including private internal radio services used by State and local governments and non-government entities and including emergency road services provided by not-for-profit organizations, that—

(i) are used to protect the safety of life, health, or property; and

(ii) are not made commercially available to the public;

(B) for initial licenses or construction permits for digital television service given to existing terrestrial broadcast licensees to replace their analog television service licenses; or

(C) for stations described in section 397(6) of this Act.

(3) DESIGN OF SYSTEMS OF COMPETITIVE BIDDING.—For each class of licenses or permits that the Commission grants through the use of a competitive bidding system, the Commission shall, by regulation, establish a competitive bidding methodology. The Commission shall seek to design and test multiple alternative methodologies under appropriate circumstances. The Commission shall, directly or by contract, provide for the design and conduct (for purposes of testing) of competitive bidding using a contingent combinatorial bidding system that permits prospective bidders to bid on combinations or groups of licenses in a single bid and to enter multiple alternative bids within a single bidding round. In identifying classes of licenses and permits to be issued by competitive bidding, in specifying eligibility and other characteristics of such licenses and permits, and in designing the methodologies for use under this subsection, the Commission shall include safeguards to protect the public interest in the use of the spectrum and shall seek to promote the purposes specified in section 1 of this Act and the following objectives:

(A) the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas, without administrative or judicial delays;

(B) promoting economic opportunity and competition and ensuring that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women;

(C) recovery for the public of a portion of the value of the public spectrum resource made available for commercial use and avoidance of unjust enrichment through the methods employed to award uses of that resource;

(D) efficient and intensive use of the electromagnetic spectrum;

(E) ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed—

(i) before issuance of bidding rules, to permit notice and comment on proposed auction procedures; and

(ii) after issuance of bidding rules, to ensure that interested parties have a sufficient time to develop business plans, assess market conditions, and evaluate the availability of equipment for the relevant services; and

(F) for any auction of eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)), the recovery of 110 percent of estimated relocation or sharing costs as provided to the Commission pursuant to section 113(g)(4) of such Act.

(4) CONTENTS OF REGULATIONS.—In prescribing regulations pursuant to paragraph (3), the Commission shall—

(A) consider alternative payment schedules and methods of calculation, including lump sums or guaranteed installment payments, with or without royalty payments, or other schedules or methods that promote the objectives described in paragraph (3)(B), and combinations of such schedules and methods;

(B) include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural areas, to prevent stockpiling or warehousing of spectrum by licensees or permittees, and to promote investment in and rapid deployment of new technologies and services;

(C) consistent with the public interest, convenience, and necessity, the purposes of this Act, and the characteristics of the proposed service, prescribe area designations and bandwidth assignments that promote (i) an equitable distribution of licenses and services among geographic areas, (ii) economic opportunity for a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women, and (iii) investment in and rapid deployment of new technologies and services;

(D) ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services, and, for such purposes, consider the use of tax certificates, bidding preferences, and other procedures;

(E) require such transfer disclosures and antitrafficking restrictions and payment schedules as may be necessary to prevent unjust enrichment as a result of the methods employed to issue licenses and permits; and

(F) prescribe methods by which a reasonable reserve price will be required, or a minimum bid will be established, to obtain any license or permit being assigned pursuant to the competitive bidding, unless the Commission determines that such a reserve price or minimum bid is not in the public interest.

(5) BIDDER AND LICENSEE QUALIFICATION.—No person shall be permitted to participate in a system of competitive bidding pursuant to this subsection unless such bidder submits such information and assurances as the Commission may require to demonstrate that such bidder's application is acceptable for filing. No license shall be granted to an applicant selected pursuant to this subsection unless the Commission determines that the applicant is qualified pursuant to subsection (a) and sections 308(b) and 310. Consistent with the objectives described

in paragraph (3), the Commission shall, by regulation, prescribe expedited procedures consistent with the procedures authorized by subsection (i)(2) for the resolution of any substantial and material issues of fact concerning qualifications.

(6) RULES OF CONSTRUCTION.—Nothing in this subsection, or in the use of competitive bidding, shall—

(A) alter spectrum allocation criteria and procedures established by the other provisions of this Act;

(B) limit or otherwise affect the requirements of subsection (h) of this section, section 301, 304, 307, 310, or 706, or any other provision of this Act (other than subsections (d)(2) and (e) of this section);

(C) diminish the authority of the Commission under the other provisions of this Act to regulate or reclaim spectrum licenses;

(D) be construed to convey any rights, including any expectation of renewal of a license, that differ from the rights that apply to other licenses within the same service that were not issued pursuant to this subsection;

(E) be construed to relieve the Commission of the obligation in the public interest to continue to use engineering solutions, negotiation, threshold qualifications, service regulations, and other means in order to avoid mutual exclusivity in application and licensing proceedings;

(F) be construed to prohibit the Commission from issuing nationwide, regional, or local licenses or permits;

(G) be construed to prevent the Commission from awarding licenses to those persons who make significant contributions to the development of a new telecommunications service or technology; or

(H) be construed to relieve any applicant for a license or permit of the obligation to pay [charges imposed pursuant to section 8 of this Act] *application fees assessed under section 9*.

(7) CONSIDERATION OF REVENUES IN PUBLIC INTEREST DETERMINATIONS.—

(A) CONSIDERATION PROHIBITED.—In making a decision pursuant to section 303(c) to assign a band of frequencies to a use for which licenses or permits will be issued pursuant to this subsection, and in prescribing regulations pursuant to paragraph (4)(C) of this subsection, the Commission may not base a finding of public interest, convenience, and necessity on the expectation of Federal revenues from the use of a system of competitive bidding under this subsection.

(B) CONSIDERATION LIMITED.—In prescribing regulations pursuant to paragraph (4)(A) of this subsection, the Commission may not base a finding of public interest, convenience, and necessity solely or predominantly on the expectation of Federal revenues from the use of a system of competitive bidding under this subsection.

(C) CONSIDERATION OF DEMAND FOR SPECTRUM NOT AFFECTED.—Nothing in this paragraph shall be construed to prevent the Commission from continuing to consider consumer demand for spectrum-based services.

(8) TREATMENT OF REVENUES.—

(A) GENERAL RULE.—Except as provided in subparagraphs (B), (D), (E), (F), and (G), all proceeds from the use of a competitive bidding system under this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

(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.】**

(C) DEPOSIT AND USE OF AUCTION ESCROW ACCOUNTS.—Any deposits the Commission may require for the qualification of any person to bid in a system of competitive bidding pursuant to this subsection shall be deposited in **【an interest bearing account at a financial institution designated for purposes of this subsection by the Commission (after consultation with the Secretary of the Treasury).】** *the Treasury*. Within 45 days following the conclusion of the competitive bidding—

(i) the deposits of successful bidders shall be **【paid to the Treasury】** *deposited in the general fund of the Treasury (where such deposits shall be used for the sole purpose of deficit reduction)*, except as otherwise provided in subparagraphs (D)(ii), (E)(ii), (F), and (G)**【;】**; and

(ii) the deposits of unsuccessful bidders shall be returned to such bidders**【; and】**, *and payments representing the return of such deposits shall not be subject to administrative offset under section 3716(c) of title 31, United States Code.*

【(iii) the interest accrued to the account shall be deposited in the general fund of the Treasury, where such amount shall be dedicated for the sole purpose of deficit reduction.】

(D) PROCEEDS FROM REALLOCATED FEDERAL SPECTRUM.—

(i) IN GENERAL.—Except as provided in clause (ii), cash proceeds attributable to the auction of any eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) shall be deposited in the Spectrum Relocation Fund estab-

lished under section 118 of such Act, and shall be available in accordance with that section.

(ii) CERTAIN OTHER PROCEEDS.—Notwithstanding subparagraph (A) and except as provided in subparagraph (B), in the case of proceeds (including deposits and upfront payments from successful bidders) attributable to the auction of eligible frequencies described in paragraph (2) of section 113(g) of the National Telecommunications and Information Administration Organization Act that are required to be auctioned by section 6401(b)(1)(B) of the Middle Class Tax Relief and Job Creation Act of 2012, such portion of such proceeds as is necessary to cover the relocation or sharing costs (as defined in paragraph (3) of such section 113(g)) of Federal entities relocated from such eligible frequencies shall be deposited in the Spectrum Relocation Fund. The remainder of such proceeds shall be deposited in the Public Safety Trust Fund established by section 6413(a)(1) of the Middle Class Tax Relief and Job Creation Act of 2012.

(E) TRANSFER OF RECEIPTS.—

(i) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the Digital Television Transition and Public Safety Fund.

(ii) PROCEEDS FOR FUNDS.—Notwithstanding subparagraph (A), the proceeds (including deposits and upfront payments from successful bidders) from the use of a competitive bidding system under this subsection with respect to recovered analog spectrum shall be deposited in the Digital Television Transition and Public Safety Fund.

(iii) TRANSFER OF AMOUNT TO TREASURY.—On September 30, 2009, the Secretary shall transfer \$7,363,000,000 from the Digital Television Transition and Public Safety Fund to the general fund of the Treasury.

(iv) RECOVERED ANALOG SPECTRUM.—For purposes of clause (i), the term “recovered analog spectrum” has the meaning provided in paragraph (15)(C)(vi).

(F) CERTAIN PROCEEDS DESIGNATED FOR PUBLIC SAFETY TRUST FUND.—Notwithstanding subparagraph (A) and except as provided in subparagraphs (B) and (D)(ii), the proceeds (including deposits and upfront payments from successful bidders) from the use of a system of competitive bidding under this subsection pursuant to section 6401(b)(1)(B) of the Middle Class Tax Relief and Job Creation Act of 2012 shall be deposited in the Public Safety Trust Fund established by section 6413(a)(1) of such Act.

(G) INCENTIVE AUCTIONS.—

(i) IN GENERAL.—Notwithstanding subparagraph (A) and except as provided in subparagraph (B), the Commission may encourage a licensee to relinquish voluntarily some or all of its licensed spectrum usage rights in order to permit the assignment of new initial li-

censes subject to flexible-use service rules by sharing with such licensee a portion, based on the value of the relinquished rights as determined in the reverse auction required by clause (ii)(I), of the proceeds (including deposits and upfront payments from successful bidders) from the use of a competitive bidding system under this subsection.

(ii) LIMITATIONS.—The Commission may not enter into an agreement for a licensee to relinquish spectrum usage rights in exchange for a share of auction proceeds under clause (i) unless—

(I) the Commission conducts a reverse auction to determine the amount of compensation that licensees would accept in return for voluntarily relinquishing spectrum usage rights; and

(II) at least two competing licensees participate in the reverse auction.

(iii) TREATMENT OF REVENUES.—Notwithstanding subparagraph (A) and except as provided in subparagraph (B), the proceeds (including deposits and upfront payments from successful bidders) from any auction, prior to the end of fiscal year 2022, of spectrum usage rights made available under clause (i) that are not shared with licensees under such clause shall be deposited as follows:

(I) \$1,750,000,000 of the proceeds from the incentive auction of broadcast television spectrum required by section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 shall be deposited in the TV Broadcaster Relocation Fund established by subsection (d)(1) of such section.

(II) All other proceeds shall be deposited—

(aa) prior to the end of fiscal year 2022, in the Public Safety Trust Fund established by section 6413(a)(1) of such Act; and

(bb) after the end of fiscal year 2022, in the general fund of the Treasury, where such proceeds shall be dedicated for the sole purpose of deficit reduction.

(iv) CONGRESSIONAL NOTIFICATION.—At least 3 months before any incentive auction conducted under this subparagraph, the Chairman of the Commission, in consultation with the Director of the Office of Management and Budget, shall notify the appropriate committees of Congress of the methodology for calculating the amounts that will be shared with licensees under clause (i).

(v) DEFINITION.—In this subparagraph, the term “appropriate committees of Congress” means—

(I) the Committee on Commerce, Science, and Transportation of the Senate;

(II) the Committee on Appropriations of the Senate;

(III) the Committee on Energy and Commerce of the House of Representatives; and

(IV) the Committee on Appropriations of the House of Representatives.

(9) USE OF FORMER GOVERNMENT SPECTRUM.—The Commission shall, not later than 5 years after the date of enactment of this subsection, issue licenses and permits pursuant to this subsection for the use of bands of frequencies that—

(A) in the aggregate span not less than 10 megahertz; and

(B) have been reassigned from Government use pursuant to part B of the National Telecommunications and Information Administration Organization Act.

(10) AUTHORITY CONTINGENT ON AVAILABILITY OF ADDITIONAL SPECTRUM.—

(A) INITIAL CONDITIONS.—The Commission's authority to issue licenses or permits under this subsection shall not take effect unless—

(i) the Secretary of Commerce has submitted to the Commission the report required by section 113(d)(1) of the National Telecommunications and Information Administration Organization Act;

(ii) such report recommends for immediate reallocation bands of frequencies that, in the aggregate, span not less than 50 megahertz;

(iii) such bands of frequencies meet the criteria required by section 113(a) of such Act; and

(iv) the Commission has completed the rulemaking required by section 332(c)(1)(D) of this Act.

(B) SUBSEQUENT CONDITIONS.—The Commission's authority to issue licenses or permits under this subsection on and after 2 years after the date of the enactment of this subsection shall cease to be effective if—

(i) the Secretary of Commerce has failed to submit the report required by section 113(a) of the National Telecommunications and Information Administration Organization Act;

(ii) the President has failed to withdraw and limit assignments of frequencies as required by paragraphs (1) and (2) of section 114(a) of such Act;

(iii) the Commission has failed to issue the regulations required by section 115(a) of such Act;

(iv) the Commission has failed to complete and submit to Congress, not later than 18 months after the date of enactment of this subsection, a study of current and future spectrum needs of State and local government public safety agencies through the year 2010, and a specific plan to ensure that adequate frequencies are made available to public safety licensees; or

(v) the Commission has failed under section 332(c)(3) to grant or deny within the time required by such section any petition that a State has filed within 90 days after the date of enactment of this subsection; until such failure has been corrected.

(11) TERMINATION.—The authority of the Commission to grant a license or permit under this subsection shall expire

September 30, 2022, except that, with respect to the electromagnetic spectrum identified under section 1004(a) of the Spectrum Pipeline Act of 2015, such authority shall expire on September 30, 2025.

[(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.]

(13) RECOVERY OF VALUE OF PUBLIC SPECTRUM IN CONNECTION WITH PIONEER PREFERENCES.—

(A) IN GENERAL.—Notwithstanding paragraph (6)(G), the Commission shall not award licenses pursuant to a preferential treatment accorded by the Commission to persons who make significant contributions to the development of a new telecommunications service or technology, except in accordance with the requirements of this paragraph.

(B) RECOVERY OF VALUE.—The Commission shall recover for the public a portion of the value of the public spectrum resource made available to such person by requiring such person, as a condition for receipt of the license, to agree to pay a sum determined by—

(i) identifying the winning bids for the licenses that the Commission determines are most reasonably comparable in terms of bandwidth, scope of service area, usage restrictions, and other technical characteristics to the license awarded to such person, and excluding licenses that the Commission determines are subject to bidding anomalies due to the award of preferential treatment;

(ii) dividing each such winning bid by the population of its service area (hereinafter referred to as the per capita bid amount);

(iii) computing the average of the per capita bid amounts for the licenses identified under clause (i);

(iv) reducing such average amount by 15 percent; and

(v) multiplying the amount determined under clause (iv) by the population of the service area of the license obtained by such person.

(C) INSTALLMENTS PERMITTED.—The Commission shall require such person to pay the sum required by subparagraph (B) in a lump sum or in guaranteed installment payments, with or without royalty payments, over a period of not more than 5 years.

(D) RULEMAKING ON PIONEER PREFERENCES.—Except with respect to pending applications described in clause (iv) of this subparagraph, the Commission shall prescribe regulations specifying the procedures and criteria by which the Commission will evaluate applications for preferential treatment in its licensing processes (by precluding the filing of mutually exclusive applications) for persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service. Such regulations shall—

(i) specify the procedures and criteria by which the significance of such contributions will be determined, after an opportunity for review and verification by experts in the radio sciences drawn from among persons who are not employees of the Commission or by any applicant for such preferential treatment;

(ii) include such other procedures as may be necessary to prevent unjust enrichment by ensuring that the value of any such contribution justifies any reduction in the amounts paid for comparable licenses under this subsection;

(iii) be prescribed not later than 6 months after the date of enactment of this paragraph;

(iv) not apply to applications that have been accepted for filing on or before September 1, 1994; and

(v) cease to be effective on the date of the expiration of the Commission's authority under subparagraph (F).

(E) IMPLEMENTATION WITH RESPECT TO PENDING APPLICATIONS.—In applying this paragraph to any broadband licenses in the personal communications service awarded pursuant to the preferential treatment accorded by the Federal Communications Commission in the Third Report and Order in General Docket 90–314 (FCC 93–550, released February 3, 1994)—

(i) the Commission shall not reconsider the award of preferences in such Third Report and Order, and the Commission shall not delay the grant of licenses based on such awards more than 15 days following the date

of enactment of this paragraph, and the award of such preferences and licenses shall not be subject to administrative or judicial review;

(ii) the Commission shall not alter the bandwidth or service areas designated for such licenses in such Third Report and Order;

(iii) except as provided in clause (v), the Commission shall use, as the most reasonably comparable licenses for purposes of subparagraph (B)(i), the broadband licenses in the personal communications service for blocks A and B for the 20 largest markets (ranked by population) in which no applicant has obtained preferential treatment;

(iv) for purposes of subparagraph (C), the Commission shall permit guaranteed installment payments over a period of 5 years, subject to—

(I) the payment only of interest on unpaid balances during the first 2 years, commencing not later than 30 days after the award of the license (including any preferential treatment used in making such award) is final and no longer subject to administrative or judicial review, except that no such payment shall be required prior to the date of completion of the auction of the comparable licenses described in clause (iii); and

(II) payment of the unpaid balance and interest thereon after the end of such 2 years in accordance with the regulations prescribed by the Commission; and

(v) the Commission shall recover with respect to broadband licenses in the personal communications service an amount under this paragraph that is equal to not less than \$400,000,000, and if such amount is less than \$400,000,000, the Commission shall recover an amount equal to \$400,000,000 by allocating such amount among the holders of such licenses based on the population of the license areas held by each licensee.

The Commission shall not include in any amounts required to be collected under clause (v) the interest on unpaid balances required to be collected under clause (iv).

(F) EXPIRATION.—The authority of the Commission to provide preferential treatment in licensing procedures (by precluding the filing of mutually exclusive applications) to persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service shall expire on the date of enactment of the Balanced Budget Act of 1997.

(G) EFFECTIVE DATE.—This paragraph shall be effective on the date of its enactment and apply to any licenses issued on or after August 1, 1994, by the Federal Communications Commission pursuant to any licensing procedure that provides preferential treatment (by precluding the filing of mutually exclusive applications) to persons who

make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service.

(14) AUCTION OF RECAPTURED BROADCAST TELEVISION SPECTRUM.—

(A) LIMITATIONS ON TERMS OF TERRESTRIAL TELEVISION BROADCAST LICENSES.—A full-power television broadcast license that authorizes analog television service may not be renewed to authorize such service for a period that extends beyond June 12, 2009.

(B) SPECTRUM REVERSION AND RESALE.—

(i) The Commission shall—

(I) ensure that, as licenses for analog television service expire pursuant to subparagraph (A), each licensee shall cease using electromagnetic spectrum assigned to such service according to the Commission's direction; and

(II) reclaim and organize the electromagnetic spectrum in a manner consistent with the objectives described in paragraph (3) of this subsection.

(ii) Licensees for new services occupying spectrum reclaimed pursuant to clause (i) shall be assigned in accordance with this subsection.

(C) CERTAIN LIMITATIONS ON QUALIFIED BIDDERS PROHIBITED.—In prescribing any regulations relating to the qualification of bidders for spectrum reclaimed pursuant to subparagraph (B)(i), the Commission, for any license that may be used for any digital television service where the grade A contour of the station is projected to encompass the entirety of a city with a population in excess of 400,000 (as determined using the 1990 decennial census), shall not—

(i) preclude any party from being a qualified bidder for such spectrum on the basis of—

(I) the Commission's duopoly rule (47 C.F.R. 73.3555(b)); or

(II) the Commission's newspaper cross-ownership rule (47 C.F.R. 73.3555(d)); or

(ii) apply either such rule to preclude such a party that is a winning bidder in a competitive bidding for such spectrum from using such spectrum for digital television service.

(15) COMMISSION TO DETERMINE TIMING OF AUCTIONS.—

(A) COMMISSION AUTHORITY.—Subject to the provisions of this subsection (including paragraph (11)), but notwithstanding any other provision of law, the Commission shall determine the timing of and deadlines for the conduct of competitive bidding under this subsection, including the timing of and deadlines for qualifying for bidding; conducting auctions; collecting, depositing, and reporting revenues; and completing licensing processes and assigning licenses.

(B) TERMINATION OF PORTIONS OF AUCTIONS 31 AND 44.—Except as provided in subparagraph (C), the Commission shall not commence or conduct auctions 31 and 44 on June

19, 2002, as specified in the public notices of March 19, 2002, and March 20, 2002 (DA 02–659 and DA 02–563).

(C) EXCEPTION.—

(i) BLOCKS EXCEPTED.—Subparagraph (B) shall not apply to the auction of—

(I) the C-block of licenses on the bands of frequencies located at 710–716 megahertz, and 740–746 megahertz; or

(II) the D-block of licenses on the bands of frequencies located at 716–722 megahertz.

(ii) ELIGIBLE BIDDERS.—The entities that shall be eligible to bid in the auction of the C-block and D-block licenses described in clause (i) shall be those entities that were qualified entities, and that submitted applications to participate in auction 44, by May 8, 2002, as part of the original auction 44 short form filing deadline.

(iii) AUCTION DEADLINES FOR EXCEPTED BLOCKS.—Notwithstanding subparagraph (B), the auction of the C-block and D-block licenses described in clause (i) shall be commenced no earlier than August 19, 2002, and no later than September 19, 2002, and the proceeds of such auction shall be deposited in accordance with paragraph (8) not later than December 31, 2002.

[(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.]]

(v) ADDITIONAL DEADLINES FOR RECOVERED ANALOG SPECTRUM.—Notwithstanding subparagraph (B), the Commission shall conduct the auction of the licenses for recovered analog spectrum by commencing the bidding not later than January 28, 2008, and shall deposit the proceeds of such auction in accordance with paragraph (8)(E)(ii) not later than June 30, 2008.

(vi) RECOVERED ANALOG SPECTRUM.—For purposes of clause (v), the term “recovered analog spectrum” means the spectrum between channels 52 and 69, inclusive (between frequencies 698 and 806 megahertz, inclusive) reclaimed from analog television service broadcasting under paragraph (14), other than—

(I) the spectrum required by section 337 to be made available for public safety services; and

(II) the spectrum auctioned prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005.

(D) RETURN OF PAYMENTS.—Within one month after the date of enactment of this paragraph, the Commission shall return to the bidders for licenses in the A-block, B-block, and E-block of auction 44 the full amount of all upfront payments made by such bidders for such licenses.

(16) SPECIAL AUCTION PROVISIONS FOR ELIGIBLE FREQUENCIES.—

(A) SPECIAL REGULATIONS.—The Commission shall revise the regulations prescribed under paragraph (4)(F) of this subsection to prescribe methods by which the total cash proceeds from any auction of eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) shall at least equal 110 percent of the total estimated relocation or sharing costs provided to the Commission pursuant to section 113(g)(4) of such Act.

(B) CONCLUSION OF AUCTIONS CONTINGENT ON MINIMUM PROCEEDS.—The Commission shall not conclude any auction of eligible frequencies described in section 113(g)(2) of such Act if the total cash proceeds attributable to such spectrum are less than 110 percent of the total estimated relocation or sharing costs provided to the Commission pursuant to section 113(g)(4) of such Act. If the Commission is unable to conclude an auction for the foregoing reason, the Commission shall cancel the auction, return within 45 days after the auction cancellation date any deposits from participating bidders held in escrow, and absolve such bidders from any obligation to the United States to bid in any subsequent reauction of such spectrum.

(C) AUTHORITY TO ISSUE PRIOR TO DEAUTHORIZATION.—In any auction conducted under the regulations required by subparagraph (A), the Commission may grant a license assigned for the use of eligible frequencies prior to the termination of an eligible Federal entity's authorization. However, the Commission shall condition such license by requiring that the licensee cannot cause harmful interference to such Federal entity until such entity's authorization has been terminated by the National Telecommunications and Information Administration.

(17) CERTAIN CONDITIONS ON AUCTION PARTICIPATION PROHIBITED.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Commission may not prevent a person from participating in a system of competitive bidding under this subsection if such person—

(i) complies with all the auction procedures and other requirements to protect the auction process established by the Commission; and

(ii) either—

(I) meets the technical, financial, character, and citizenship qualifications that the Commission may require under section 303(l)(1), 308(b), or 310 to hold a license; or

(II) would meet such license qualifications by means approved by the Commission prior to the grant of the license.

(B) CLARIFICATION OF AUTHORITY.—Nothing in subparagraph (A) affects any authority the Commission has to adopt and enforce rules of general applicability, including rules concerning spectrum aggregation that promote competition.

(k) BROADCAST STATION RENEWAL PROCEDURES.—

(1) STANDARDS FOR RENEWAL.—If the licensee of a broadcast station submits an application to the Commission for renewal of such license, the Commission shall grant the application if it finds, with respect to that station, during the preceding term of its license—

(A) the station has served the public interest, convenience, and necessity;

(B) there have been no serious violations by the licensee of this Act or the rules and regulations of the Commission; and

(C) there have been no other violations by the licensee of this Act or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse.

(2) CONSEQUENCE OF FAILURE TO MEET STANDARD.—If any licensee of a broadcast station fails to meet the requirements of this subsection, the Commission may deny the application for renewal in accordance with paragraph (3), or grant such application on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted.

(3) STANDARDS FOR DENIAL.—If the Commission determines, after notice and opportunity for a hearing as provided in subsection (e), that a licensee has failed to meet the requirements specified in paragraph (1) and that no mitigating factors justify the imposition of lesser sanctions, the Commission shall—

(A) issue an order denying the renewal application filed by such licensee under section 308; and

(B) only thereafter accept and consider such applications for a construction permit as may be filed under section 308 specifying the channel or broadcasting facilities of the former licensee.

(4) COMPETITOR CONSIDERATION PROHIBITED.—In making the determinations specified in paragraph (1) or (2), the Commission shall not consider whether the public interest, convenience, and necessity might be served by the grant of a license to a person other than the renewal applicant.

(l) APPLICABILITY OF COMPETITIVE BIDDING TO PENDING COMPARATIVE LICENSING CASES.—With respect to competing applications for initial licenses or construction permits for commercial radio or television stations that were filed with the Commission before July 1, 1997, the Commission shall—

(1) have the authority to conduct a competitive bidding proceeding pursuant to subsection (j) to assign such license or permit;

(2) treat the persons filing such applications as the only persons eligible to be qualified bidders for purposes of such proceeding; and

(3) waive any provisions of its regulations necessary to permit such persons to enter an agreement to procure the removal of a conflict between their applications during the 180-day period beginning on the date of enactment of the Balanced Budget Act of 1997.

* * * * *

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

(a) **VERY HIGH FREQUENCY STATIONS.**—It shall be the policy of the Federal Communications Commission to allocate channels for very high frequency commercial television broadcasting in a manner which ensures that not less than one such channel shall be allocated to each State, if technically feasible. In any case in which licensee of a very high frequency commercial television broadcast station notifies the Commission to the effect that such licensee will agree to the reallocation of its channel to a community within a State in which there is allocated no very high frequency commercial television broadcast channel at the time such notification, the Commission shall, notwithstanding any other provision of law, order such reallocation and issue a license to such licensee for that purpose pursuant to such notification for a term of not to exceed 5 years as provided in section 307(d) of the Communications Act of 1934.

(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) In taking actions to manage the spectrum to be made available for use by the private mobile services, the Commission shall consider, consistent with section 1 of this Act, whether such actions will—

- (1) promote the safety of life and property;
- (2) improve the efficiency of spectrum use and reduce the regulatory burden upon spectrum users, based upon sound engineering principles, user operational requirements, and marketplace demands;
- (3) encourage competition and provide services to the largest feasible number of users; or
- (4) increase interservice sharing opportunities between private mobile services and other services.

(b)(1) The Commission, in coordinating the assignment of frequencies to stations in the private mobile services and in the fixed

services (as defined by the Commission by rule), shall have authority to utilize assistance furnished by advisory coordinating committees consisting of individuals who are not officers or employees of the Federal Government.

(2) The authority of the Commission established in this subsection shall not be subject to or affected by the provisions of part III of title 5, United States Code, or section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

(3) Any person who provides assistance to the Commission under this subsection shall not be considered, by reason of having provided such assistance, a Federal employee.

(4) Any advisory coordinating committee which furnishes assistance to the Commission under this subsection shall not be subject to the provisions of the Federal Advisory Committee Act.

(c) REGULATORY TREATMENT OF MOBILE SERVICES.—

(1) COMMON CARRIER TREATMENT OF COMMERCIAL MOBILE SERVICES.—(A) A person engaged in the provision of a service that is a commercial mobile service shall, insofar as such person is so engaged, be treated as a common carrier for purposes of this Act, except for such provisions of title II as the Commission may specify by regulation as inapplicable to that service or person. In prescribing or amending any such regulation, the Commission may not specify any provision of section 201, 202, or 208, and may specify any other provision only if the Commission determines that—

(i) enforcement of such provision is not necessary in order to ensure that the charges, practices, classifications, or regulations for or in connection with that service are just and reasonable and are not unjustly or unreasonably discriminatory;

(ii) enforcement of such provision is not necessary for the protection of consumers; and

(iii) specifying such provision is consistent with the public interest.

(B) Upon reasonable request of any person providing commercial mobile service, the Commission shall order a common carrier to establish physical connections with such service pursuant to the provisions of section 201 of this Act. Except to the extent that the Commission is required to respond to such a request, this subparagraph shall not be construed as a limitation or expansion of the Commission's authority to order interconnection pursuant to this Act.

(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 competi-

tive 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.

(D) The Commission shall, not later than 180 days after the date of enactment of this subparagraph, complete a rulemaking required to implement this paragraph with respect to the licensing of personal communications services, including making any determinations required by subparagraph (C).

(2) NON-COMMON CARRIER TREATMENT OF PRIVATE MOBILE SERVICES.—A person engaged in the provision of a service that is a private mobile service shall not, insofar as such person is so engaged, be treated as a common carrier for any purpose under this Act. A common carrier (other than a person that was treated as a provider of a private land mobile service prior to the enactment of the Omnibus Budget Reconciliation Act of 1993) shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent such dispatch service is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982. The Commission may by regulation terminate, in whole or in part, the prohibition contained in the preceding sentence if the Commission determines that such termination will serve the public interest.

(3) STATE PREEMPTION.—(A) Notwithstanding sections 2(b) and 221(b), no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services. Nothing in this subparagraph shall exempt providers of commercial mobile services (where such services are a substitute for land line telephone exchange service for a substantial portion of the communications within such State) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the universal availability of telecommunications service at affordable rates. Notwithstanding the first sentence of this subparagraph, a State may petition the Commission for authority to regulate the rates for any commercial mobile service and the Commission shall grant such petition if such State demonstrates that—

(i) market conditions with respect to such services fail to protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory; or

(ii) such market conditions exist and such service is a replacement for land line telephone exchange service for a substantial portion of the telephone land line exchange service within such State.

The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9

months after the date of its submission, grant or deny such petition. If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such periods of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

(B) If a State has in effect on June 1, 1993, any regulation concerning the rates for any commercial mobile service offered in such State on such date, such State may, no later than 1 year after the date of enactment of the Omnibus Budget Reconciliation Act of 1993, petition the Commission requesting that the State be authorized to continue exercising authority over such rates. If a State files such a petition, the State's existing regulation shall, notwithstanding subparagraph (A), remain in effect until the Commission completes all action (including any reconsideration) on such petition. The Commission shall review such petition in accordance with the procedures established in such subparagraph, shall complete all action (including any reconsideration) within 12 months after such petition is filed, and shall grant such petition if the State satisfies the showing required under subparagraph (A)(i) or (A)(ii). If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such period of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory. After a reasonable period of time, as determined by the Commission, has elapsed from the issuance of an order under subparagraph (A) or this subparagraph, any interested party may petition the Commission for an order that the exercise of authority by a State pursuant to such subparagraph is no longer necessary to ensure that the rates for commercial mobile services are just and reasonable and not unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition in whole or in part.

(4) REGULATORY TREATMENT OF COMMUNICATIONS SATELLITE CORPORATION.—Nothing in this subsection shall be construed to alter or affect the regulatory treatment required by title IV of the Communications Satellite Act of 1962 of the corporation authorized by title III of such Act.

(5) SPACE SEGMENT CAPACITY.—Nothing in this section shall prohibit the Commission from continuing to determine whether the provision of space segment capacity by satellite systems to providers of commercial mobile services shall be treated as common carriage.

(6) FOREIGN OWNERSHIP.—The Commission, upon a petition for waiver filed within 6 months after the date of enactment of the Omnibus Budget Reconciliation Act of 1993, may waive the application of section 310(b) to any foreign ownership that lawfully existed before May 24, 1993, of any provider of a private land mobile service that will be treated as a common carrier as a result of the enactment of the Omnibus Budget Reconciliation Act of 1993, but only upon the following conditions:

(A) The extent of foreign ownership interest shall not be increased above the extent which existed on May 24, 1993.

(B) Such waiver shall not permit the subsequent transfer of ownership to any other person in violation of section 310(b).

(7) PRESERVATION OF LOCAL ZONING AUTHORITY.—

(A) GENERAL AUTHORITY.—Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

(B) LIMITATIONS.—

(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof—

(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

(C) DEFINITIONS.—For purposes of this paragraph—

(i) the term “personal wireless services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(ii) the term “personal wireless service facilities” means facilities for the provision of personal wireless services; and

(iii) the term “unlicensed wireless service” means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v)).

(8) MOBILE SERVICES ACCESS.—A person engaged in the provision of commercial mobile services, insofar as such person is so engaged, shall not be required to provide equal access to common carriers for the provision of telephone toll services. If the Commission determines that subscribers to such services are denied access to the provider of telephone toll services of the subscribers’ choice, and that such denial is contrary to the public interest, convenience, and necessity, then the Commission shall prescribe regulations to afford subscribers unblocked access to the provider of telephone toll services of the subscribers’ choice through the use of a carrier identification code assigned to such provider or other mechanism. The requirements for unblocking shall not apply to mobile satellite services unless the Commission finds it to be in the public interest to apply such requirements to such services.

(d) DEFINITIONS.—For purposes of this section—

(1) the term “commercial mobile service” means any mobile service (as defined in section 3) that is provided for profit and makes interconnected service available (A) to the public or (B) to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission;

(2) the term “interconnected service” means service that is interconnected with the public switched network (as such terms are defined by regulation by the Commission) or service for which a request for interconnection is pending pursuant to subsection (c)(1)(B); and

(3) the term “private mobile service” means any mobile service (as defined in section 3) that is not a commercial mobile service or the functional equivalent of a commercial mobile service, as specified by regulation by the Commission.

* * * * *

SEC. 336. BROADCAST SPECTRUM FLEXIBILITY.

(a) COMMISSION ACTION.—If the Commission determines to issue additional licenses for advanced television services, the Commission—

(1) should limit the initial eligibility for such licenses to persons that, as of the date of such issuance, are licensed to operate a television broadcast station or hold a permit to construct such a station (or both); and

(2) shall adopt regulations that allow the holders of such licenses to offer such ancillary or supplementary services on des-

ignated frequencies as may be consistent with the public interest, convenience, and necessity.

(b) CONTENTS OF REGULATIONS.—In prescribing the regulations required by subsection (a), the Commission shall—

(1) only permit such licensee or permittee to offer ancillary or supplementary services if the use of a designated frequency for such services is consistent with the technology or method designated by the Commission for the provision of advanced television services;

(2) limit the broadcasting of ancillary or supplementary services on designated frequencies so as to avoid derogation of any advanced television services, including high definition television broadcasts, that the Commission may require using such frequencies;

(3) apply to any other ancillary or supplementary service such of the Commission's regulations as are applicable to the offering of analogous services by any other person, except that no ancillary or supplementary service shall have any rights to carriage under section 614 or 615 or be deemed a multichannel video programming distributor for purposes of section 628;

(4) adopt such technical and other requirements as may be necessary or appropriate to assure the quality of the signal used to provide advanced television services, and may adopt regulations that stipulate the minimum number of hours per day that such signal must be transmitted; and

(5) prescribe such other regulations as may be necessary for the protection of the public interest, convenience, and necessity.

(c) RECOVERY OF LICENSE.—If the Commission grants a license for advanced television services to a person that, as of the date of such issuance, is licensed to operate a television broadcast station or holds a permit to construct such a station (or both), the Commission shall, as a condition of such license, require that either the additional license or the original license held by the licensee be surrendered to the Commission for reallocation or reassignment (or both) pursuant to Commission regulation.

(d) PUBLIC INTEREST REQUIREMENT.—Nothing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience, and necessity. In the Commission's review of any application for renewal of a broadcast license for a television station that provides ancillary or supplementary services, the television licensee shall establish that all of its program services on the existing or advanced television spectrum are in the public interest. Any violation of the Commission rules applicable to ancillary or supplementary services shall reflect upon the licensee's qualifications for renewal of its license.

(e) FEES.—

(1) SERVICES TO WHICH FEES APPLY.—If the regulations prescribed pursuant to subsection (a) permit a licensee to offer ancillary or supplementary services on a designated frequency—

(A) for which the payment of a subscription fee is required in order to receive such services, or

(B) for which the licensee directly or indirectly receives compensation from a third party in return for transmitting

material furnished by such third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required), the Commission shall establish a program to assess and collect from the licensee for such designated frequency an annual fee or other schedule or method of payment that promotes the objectives described in subparagraphs (A) and (B) of paragraph (2).

(2) COLLECTION OF FEES.—The program required by paragraph (1) shall—

(A) be designed (i) to recover for the public a portion of the value of the public spectrum resource made available for such commercial use, and (ii) to avoid unjust enrichment through the method employed to permit such uses of that resource;

(B) recover for the public an amount that, to the extent feasible, equals but does not exceed (over the term of the license) the amount that would have been recovered had such services been licensed pursuant to the provisions of section 309(j) of this Act and the Commission's regulations thereunder; and

(C) be adjusted by the Commission from time to time in order to continue to comply with the requirements of this paragraph.

(3) TREATMENT OF REVENUES.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), all proceeds obtained pursuant to the regulations required by this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

(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 section and regulating and supervising advanced television services. 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.

[(4) REPORT.—Within 5 years after the date of enactment of the Telecommunications Act of 1996, the Commission shall report 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.*

(f) PRESERVATION OF LOW-POWER COMMUNITY TELEVISION BROADCASTING.—

(1) CREATION OF CLASS A LICENSES.—

(A) RULEMAKING REQUIRED.—Within 120 days after the date of the enactment of the Community Broadcasters Protection Act of 1999, the Commission shall prescribe regula-

tions to establish a class A television license to be available to licensees of qualifying low-power television stations. Such regulations shall provide that—

(i) the license shall be subject to the same license terms and renewal standards as the licenses for full-power television stations except as provided in this subsection; and

(ii) each such class A licensee shall be accorded primary status as a television broadcaster as long as the station continues to meet the requirements for a qualifying low-power station in paragraph (2).

(B) NOTICE TO AND CERTIFICATION BY LICENSEES.—Within 30 days after the date of the enactment of the Community Broadcasters Protection Act of 1999, the Commission shall send a notice to the licensees of all low-power television licenses that describes the requirements for class A designation. Within 60 days after such date of enactment, licensees intending to seek class A designation shall submit to the Commission a certification of eligibility based on the qualification requirements of this subsection. Absent a material deficiency, the Commission shall grant certification of eligibility to apply for class A status.

(C) APPLICATION FOR AND AWARD OF LICENSES.—Consistent with the requirements set forth in paragraph (2)(A) of this subsection, a licensee may submit an application for class A designation under this paragraph within 30 days after final regulations are adopted under subparagraph (A) of this paragraph. Except as provided in paragraphs (6) and (7), the Commission shall, within 30 days after receipt of an application of a licensee of a qualifying low-power television station that is acceptable for filing, award such a class A television station license to such licensee.

(D) RESOLUTION OF TECHNICAL PROBLEMS.—The Commission shall act to preserve the service areas of low-power television licensees pending the final resolution of a class A application. If, after granting certification of eligibility for a class A license, technical problems arise requiring an engineering solution to a full-power station's allotted parameters or channel assignment in the digital television Table of Allotments, the Commission shall make such modifications as necessary—

(i) to ensure replication of the full-power digital television applicant's service area, as provided for in sections 73.622 and 73.623 of the Commission's regulations (47 CFR 73.622, 73.623); and

(ii) to permit maximization of a full-power digital television applicant's service area consistent with such sections 73.622 and 73.623,

if such applicant has filed an application for maximization or a notice of its intent to seek such maximization by December 31, 1999, and filed a bona fide application for maximization by May 1, 2000. Any such applicant shall comply with all applicable Commission rules regarding the construction of digital television facilities.

(E) CHANGE APPLICATIONS.—If a station that is awarded a construction permit to maximize or significantly enhance its digital television service area, later files a change application to reduce its digital television service area, the protected contour of that station shall be reduced in accordance with such change modification.

(2) QUALIFYING LOW-POWER TELEVISION STATIONS.—For purposes of this subsection, a station is a qualifying low-power television station if—

(A)(i) during the 90 days preceding the date of the enactment of the Community Broadcasters Protection Act of 1999—

(I) such station broadcast a minimum of 18 hours per day;

(II) such station broadcast an average of at least 3 hours per week of programming that was produced within the market area served by such station, or the market area served by a group of commonly controlled low-power stations that carry common local programming produced within the market area served by such group; and

(III) such station was in compliance with the Commission's requirements applicable to low-power television stations; and

(ii) from and after the date of its application for a class A license, the station is in compliance with the Commission's operating rules for full-power television stations; or

(B) the Commission determines that the public interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission.

(3) COMMON OWNERSHIP.—No low-power television station authorized as of the date of the enactment of the Community Broadcasters Protection Act of 1999 shall be disqualified for a class A license based on common ownership with any other medium of mass communication.

(4) ISSUANCE OF LICENSES FOR ADVANCED TELEVISION SERVICES TO TELEVISION TRANSLATOR STATIONS AND QUALIFYING LOW-POWER TELEVISION STATIONS.—The Commission is not required to issue any additional license for advanced television services to the licensee of a class A television station under this subsection, or to any licensee of any television translator station, but shall accept a license application for such services proposing facilities that will not cause interference to the service area of any other broadcast facility applied for, protected, permitted, or authorized on the date of filing of the advanced television application. Such new license or the original license of the applicant shall be forfeited after the end of the digital television service transition period, as determined by the Commission. A licensee of a low-power television station or television translator station may, at the option of licensee, elect to convert to the provision of advanced television services on its analog channel, but shall not be required to convert to digital operation until the end of such transition period.

(5) NO PREEMPTION OF SECTION 337.—Nothing in this subsection preempts or otherwise affects section 337 of this Act.

(6) INTERIM QUALIFICATION.—

(A) STATIONS OPERATING WITHIN CERTAIN BANDWIDTH.—

The Commission may not grant a class A license to a low-power television station for operation between 698 and 806 megahertz, but the Commission shall provide to low-power television stations assigned to and temporarily operating in that bandwidth the opportunity to meet the qualification requirements for a class A license. If such a qualified applicant for a class A license is assigned a channel within the core spectrum (as such term is defined in MM Docket No. 87–286, February 17, 1998), the Commission shall issue a class A license simultaneously with the assignment of such channel.

(B) CERTAIN CHANNELS OFF-LIMITS.—The Commission may not grant under this subsection a class A license to a low-power television station operating on a channel within the core spectrum that includes any of the 175 additional channels referenced in paragraph 45 of its February 23, 1998, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order (MM Docket No. 87–268). Within 18 months after the date of the enactment of the Community Broadcasters Protection Act of 1999, the Commission shall identify by channel, location, and applicable technical parameters those 175 channels.

(7) NO INTERFERENCE REQUIREMENT.—The Commission may not grant a class A license, nor approve a modification of a class A license, unless the applicant or licensee shows that the class A station for which the license or modification is sought will not cause—

(A) interference within—

(i) the predicted Grade B contour (as of the date of the enactment of the Community Broadcasters Protection Act of 1999, or November 1, 1999, whichever is later, or as proposed in a change application filed on or before such date) of any television station transmitting in analog format; or

(ii)(I) the digital television service areas provided in the DTV Table of Allotments; (II) the areas protected in the Commission's digital television regulations (47 CFR 73.622(e) and (f)); (III) the digital television service areas of stations subsequently granted by the Commission prior to the filing of a class A application; and (IV) stations seeking to maximize power under the Commission's rules, if such station has complied with the notification requirements in paragraph (1)(D);

(B) interference within the protected contour of any low-power television station or low-power television translator station that—

(i) was licensed prior to the date on which the application for a class A license, or for the modification of such a license, was filed;

(ii) was authorized by construction permit prior to such date; or

(iii) had a pending application that was submitted prior to such date; or

(C) interference within the protected contour of 80 miles from the geographic center of the areas listed in section 22.625(b)(1) or 90.303 of the Commission's regulations (47 CFR 22.625(b)(1) and 90.303) for frequencies in—

(i) the 470–512 megahertz band identified in section 22.621 or 90.303 of such regulations; or

(ii) the 482–488 megahertz band in New York.

(8) PRIORITY FOR DISPLACED LOW-POWER STATIONS.—Low-power stations that are displaced by an application filed under this section shall have priority over other low-power stations in the assignment of available channels.

(g) EVALUATION.—Within 10 years after the date the Commission first issues additional licenses for advanced television services, the Commission shall conduct an evaluation of the advanced television services program. Such evaluation shall include—

(1) an assessment of the willingness of consumers to purchase the television receivers necessary to receive broadcasts of advanced television services;

(2) an assessment of alternative uses, including public safety use, of the frequencies used for such broadcasts; and

(3) the extent to which the Commission has been or will be able to reduce the amount of spectrum assigned to licensees.

(h)(1) Within 60 days after receiving a request (made in such form and manner and containing such information as the Commission may require) under this subsection from a low-power television station to which this subsection applies, the Commission shall authorize the licensee or permittee of that station to provide digital data service subject to the requirements of this subsection as a pilot project to demonstrate the feasibility of using low-power television stations to provide high-speed wireless digital data service, including Internet access to unserved areas.

(2) The low-power television stations to which this subsection applies are as follows:

(A) KHLM–LP, Houston, Texas.

(B) WTAM–LP, Tampa, Florida.

(C) WWRJ–LP, Jacksonville, Florida.

(D) WVBG–LP, Albany, New York.

(E) KHHI–LP, Honolulu, Hawaii.

(F) KPHE–LP (K19DD), Phoenix, Arizona.

(G) K34FI, Bozeman, Montana.

(H) K65GZ, Bozeman, Montana.

(I) WXOB–LP, Richmond, Virginia.

(J) WIIW–LP, Nashville, Tennessee.

(K) A station and repeaters to be determined by the Federal Communications Commission for the sole purpose of providing service to communities in the Kenai Peninsula Borough and Matanuska Susitna Borough.

(L) WSPY–LP, Plano, Illinois.

(M) W24AJ, Aurora, Illinois.

(3) Notwithstanding any requirement of section 553 of title 5, United States Code, the Commission shall promulgate regulations establishing the procedures, consistent with the requirements of paragraphs (4) and (5), governing the pilot

projects for the provision of digital data services by certain low power television licensees within 120 days after the date of enactment of LPTV Digital Data Services Act. The regulations shall set forth—

- (A) requirements as to the form, manner, and information required for submitting requests to the Commission to provide digital data service as a pilot project;
 - (B) procedures for testing interference to digital television receivers caused by any pilot project station or remote transmitter;
 - (C) procedures for terminating any pilot project station or remote transmitter or both that causes interference to any analog or digital full-power television stations, class A television station, television translators or any other users of the core television band;
 - (D) specifications for reports to be filed quarterly by each low power television licensee participating in a pilot project;
 - (E) procedures by which a low power television licensee participating in a pilot project shall notify television broadcast stations in the same market upon commencement of digital data services and for ongoing coordination with local broadcasters during the test period; and
 - (F) procedures for the receipt and review of interference complaints on an expedited basis consistent with paragraph (5)(D).
- (4) A low-power television station to which this subsection applies may not provide digital data service unless—
- (A) the provision of that service, including any remote return-path transmission in the case of 2-way digital data service, does not cause any interference in violation of the Commission's existing rules, regarding interference caused by low power television stations to full-service analog or digital television stations, class A television stations, or television translator stations; and
 - (B) the station complies with the Commission's regulations governing safety, environmental, and sound engineering practices, and any other Commission regulation under paragraph (3) governing pilot program operations.
- (5)(A) The Commission may limit the provision of digital data service by a low-power television station to which this subsection applies if the Commission finds that—
- (i) the provision of 2-way digital data service by that station causes any interference that cannot otherwise be remedied; or
 - (ii) the provision of 1-way digital data service by that station causes any interference.
- (B) The Commission shall grant any such station, upon application (made in such form and manner and containing such information as the Commission may require) by the licensee or permittee of that station, authority to move the station to another location, to modify its facilities to operate on a different channel, or to use booster or auxiliary transmitting locations, if the grant of authority will not cause interference to the allowable or protected service areas of full service digital tele-

vision stations, National Television Standards Committee assignments, or television translator stations, and provided, however, no such authority shall be granted unless it is consistent with existing Commission regulations relating to the movement, modification, and use of non-class A low power television transmission facilities in order—

(i) to operate within television channels 2 through 51, inclusive; or

(ii) to demonstrate the utility of low-power television stations to provide high-speed 2-way wireless digital data service.

(C) The Commission shall require quarterly reports from each station authorized to provide digital data services under this subsection that include—

(i) information on the station's experience with interference complaints and the resolution thereof;

(ii) information on the station's market success in providing digital data service; and

(iii) such other information as the Commission may require in order to administer this subsection.

(D) The Commission shall resolve any complaints of interference with television reception caused by any station providing digital data service authorized under this subsection within 60 days after the complaint is received by the Commission.

(6) The Commission shall assess and collect from any low-power television station authorized to provide digital data service under this subsection an annual fee or other schedule or method of payment comparable to any fee imposed under the authority of this Act on providers of similar services. Amounts received by the Commission under this paragraph may be retained by the Commission as an offsetting collection to the extent necessary to cover the costs of developing and implementing the pilot program authorized by this subsection, and regulating and supervising the provision of digital data service by low-power television stations under this subsection. Amounts received by the Commission under this paragraph in excess of any amount retained under the preceding sentence shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

(7) In this subsection, the term "digital data service" includes—

(A) digitally-based interactive broadcast service; and

(B) wireless Internet access, without regard to—

(i) whether such access is—

(I) provided on a one-way or a two-way basis;

(II) portable or fixed; or

(III) connected to the Internet via a band allocated to Interactive Video and Data Service; and

(ii) the technology employed in delivering such service, including the delivery of such service via multiple transmitters at multiple locations.

(8) Nothing in this subsection limits the authority of the Commission under any other provision of law.

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

(1) **ADVANCED TELEVISION SERVICES.**—The term “advanced television services” means television services provided using digital or other advanced technology as further defined in the opinion, report, and order of the Commission entitled “Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service”, MM Docket 87–268, adopted September 17, 1992, and successor proceedings.

(2) **DESIGNATED FREQUENCIES.**—The term “designated frequency” means each of the frequencies designated by the Commission for licenses for advanced television services.

(3) **HIGH DEFINITION TELEVISION.**—The term “high definition television” refers to systems that offer approximately twice the vertical and horizontal resolution of receivers generally available on the date of enactment of the Telecommunications Act of 1996, as further defined in the proceedings described in paragraph (1) of this subsection.

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

(a) **PROVISIONS RELATING TO CARRIAGE OF DISTANT SIGNALS.**—

(1) **CARRIAGE PERMITTED.**—

(A) **IN GENERAL.**—Subject to section 119 of title 17, United States Code, any satellite carrier shall be permitted to provide the signals of no more than two network stations in a single day for each television network to any household not located within the local markets of those network stations.

(B) **ADDITIONAL SERVICE.**—In addition to signals provided under subparagraph (A), any satellite carrier may also provide service under the statutory license of section 122 of title 17, United States Code, to the local market within which such household is located. The service provided under section 122 of such title may be in addition to the two signals provided under section 119 of such title.

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

(A) **RULES FOR GRANDFATHERED SUBSCRIBERS.**—

(i) **FOR THOSE RECEIVING DISTANT SIGNALS.**—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station solely by reason of section 119(e) of title 17, United States Code (in this subparagraph referred to as a “distant signal”), and who, as of October 1, 2009, is receiving the distant signal of that network station, the following shall apply:

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

distant signal of a station affiliated with the same network to that subscriber—

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

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

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

(ii) FOR THOSE NOT RECEIVING DISTANT SIGNALS.—In the case of any subscriber of a satellite carrier who is eligible to receive the distant signal of a network station solely by reason of section 119(e) of title 17, United States Code, and who did not receive a distant signal of a station affiliated with the same network on October 1, 2009, the carrier may not provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber.

(B) RULES FOR OTHER SUBSCRIBERS.—

(i) IN GENERAL.—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station under this section (in this subparagraph referred to as a “distant signal”), other than subscribers to whom subparagraph (A) applies, the following shall apply:

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

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

(aa) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to carry pursuant to

section 338 the signals of stations from the local market of such local network station; and

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

(ii) SPECIAL CIRCUMSTANCES.—A subscriber of a satellite carrier who was lawfully receiving the distant signal of a network station on the day before the date of enactment of the Satellite Television Extension and Localism Act of 2010 may receive both such distant signal and the local signal of a network station affiliated with the same network until such subscriber chooses to no longer receive such distant signal from such carrier, whether or not such subscriber elects to subscribe to such local signal.

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

(i) is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338 (and the retransmission of such signal by such carrier can reach such subscriber); or

(ii) lawfully subscribes to and receives a distant signal on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, and, subsequent to such subscription, the satellite carrier makes available to that subscriber the signal of a local network station affiliated with the same network as the distant signal (and the retransmission of such signal by such carrier can reach such subscriber), unless such person subscribes to the signal of the local network station within 60 days after such signal is made available.

(D) SPECIAL RULES FOR DISTANT SIGNALS.—

(i) ELIGIBILITY AND SIGNAL TESTING.—A subscriber of a satellite carrier shall be eligible to receive a distant signal of a network station affiliated with the same network under this section if, with respect to a local network station, such subscriber—

(I) is a subscriber whose household is not predicted by the model specified in subsection (c)(3) to receive the signal intensity required under section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of title 47, Code of Federal Regulations, or a successor regulation;

(II) is determined, based on a test conducted in accordance with section 73.686(d) of title 47, Code of Federal Regulations, or any successor regulation, not to be able to receive a signal that exceeds the signal intensity standard in section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of such title, or a successor regulation; or

(III) is in an unserved household, as determined under section 119(d)(10)(A) of title 17, United States Code.

(ii) PRE-ENACTMENT DISTANT SIGNAL SUBSCRIBERS.—Any eligible subscriber under this subparagraph who is a lawful subscriber to such a distant signal as of the date of enactment of the Satellite Television Extension and Localism Act of 2010 may continue to receive such distant signal.

(iii) TIME-SHIFTING PROHIBITED.—In a case in which the satellite carrier makes available to an eligible subscriber under this subparagraph the signal of a local network station pursuant to section 338, the carrier may only provide the distant signal of a station affiliated with the same network to that subscriber if, in the case of any local market in the 48 contiguous States of the United States, the distant signal is the secondary transmission of a station whose prime time network programming is generally broadcast simultaneously with, or later than, the prime time network programming of the affiliate of the same network in the local market.

(iv) SAVINGS PROVISION.—Nothing in this subparagraph shall be construed to affect a satellite carrier's obligations under section 338.

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

(F) NOTICES TO NETWORKS OF DISTANT SIGNAL SUBSCRIBERS.—

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

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

(aa) name;

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

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

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

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

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

(aa) name;

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

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

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

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

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

(3) PENALTY FOR VIOLATION.—Any satellite carrier that knowingly and willfully provides the signals of television stations to subscribers in violation of this subsection shall be liable for a forfeiture penalty under section 503 in the amount of \$50,000 for each violation or each day of a continuing violation, except that paragraph (2)(D) of this subsection, relating to the provision of distant digital signals, shall be enforceable under the provisions of section 340(f)

(b) EXTENSION OF NETWORK NONDUPLICATION, SYNDICATED EXCLUSIVITY, AND SPORTS BLACKOUT TO SATELLITE RETRANSMISSION.—

(1) EXTENSION OF PROTECTIONS.—Within 45 days after the date of the enactment of the Satellite Home Viewer Improvement Act of 1999, the Commission shall commence a single rulemaking proceeding to establish regulations that—

(A) apply network nonduplication protection (47 CFR 76.92) syndicated exclusivity protection (47 CFR 76.151), and sports blackout protection (47 CFR 76.67) to the retransmission of the signals of nationally distributed superstations by satellite carriers to subscribers; and

(B) to the extent technically feasible and not economically prohibitive, apply sports blackout protection (47 CFR 76.67) to the retransmission of the signals of network stations by satellite carriers to subscribers.

(2) DEADLINE FOR ACTION.—The Commission shall complete all actions necessary to prescribe regulations required by this section so that the regulations shall become effective within 1 year after such date of enactment.

(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.]

(2) WAIVERS.—A subscriber who is denied the retransmission of a signal of a network station under section 119 of title 17, United States Code, may request a waiver from such denial by submitting a request, through such subscriber's satellite carrier, to the network station asserting that the retransmission is prohibited. The network station shall accept or reject a subscriber's request for a waiver within 30 days after receipt of the request. The subscriber shall be permitted to receive such retransmission under section 119(d)(10)(B) of title 17, United States Code, if such station agrees to the waiver request and files with the satellite carrier a written waiver with respect to that subscriber allowing the subscriber to receive such retransmission. If a television network station fails to accept or reject a subscriber's request for a waiver within the 30-day period after receipt of the request, that station shall be deemed to agree to the waiver request and have filed such written waiver.

(3) ESTABLISHMENT OF IMPROVED PREDICTIVE MODEL AND ON-LOCATION TESTING REQUIRED.—

(A) PREDICTIVE MODEL.—Within 270 days after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the Commission shall develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations, through the use of an antenna, to receive signals in accordance with the signal intensity standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, or a successor regulation, including to account for the continuing operation of translator stations and low power television stations. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Commission in CS Docket No. 98–201, as previously revised with respect to analog signals, and as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05–182, FCC 05–199 (released December 9, 2005). The Commission shall establish procedures for the continued

refinement in the application of the model by the use of additional data as it becomes available.

(B) ON-LOCATION TESTING.—The Commission shall issue an order completing its rulemaking proceeding in ET Docket No. 06–94 within 270 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010. In conducting such rulemaking, the Commission shall seek ways to minimize consumer burdens associated with on-location testing.

(4) OBJECTIVE VERIFICATION.—

(A) IN GENERAL.—If a subscriber’s request for a waiver under paragraph (2) is rejected and the subscriber submits to the subscriber’s satellite carrier a request for a test verifying the subscriber’s inability to receive a signal of the signal intensity referenced in clause (i) of subsection (a)(2)(D), the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct the test referenced in such clause. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such clause demonstrate that the subscriber does not receive a signal that meets or exceeds the requisite signal intensity standard in such clause, the subscriber shall not be denied the retransmission of a signal of a network station under section 119(d)(10)(A) of title 17, United States Code.

(B) DESIGNATION OF TESTER AND ALLOCATION OF COSTS.—If the satellite carrier and the network station or stations asserting that the retransmission is prohibited are unable to agree on such a person to conduct the test, the person shall be designated by an independent and neutral entity designated by the Commission by rule. Unless the satellite carrier and the network station or stations otherwise agree, the costs of conducting the test under this paragraph shall be borne by the satellite carrier, if the station’s signal meets or exceeds such requisite signal intensity standard, or by the network station, if its signal fails to meet or exceed such standard.

(C) AVOIDANCE OF UNDUE BURDEN.—Commission regulations prescribed under this paragraph shall seek to avoid any undue burden on any party.

(D) REDUCTION OF VERIFICATION BURDENS.—Within 1 year after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the Commission shall by rule exempt from the verification requirements of subparagraph (A) any request for a test made by a subscriber to a satellite carrier to whom the retransmission of the signals of local broadcast stations is available under section 338 from such carrier.

(E) EXCEPTION.—A satellite carrier may refuse to engage in the testing process. If the carrier does so refuse, a subscriber in a local market in which the satellite carrier does not offer the signals of local broadcast stations under sec-

tion 338 may, at his or her own expense, authorize a signal intensity test to be performed pursuant to the procedures specified by the Commission in section 73.686(d) of title 47, Code of Federal Regulations, by a tester who is approved by the satellite carrier and by each affected network station, or who has been previously approved by the satellite carrier and by each affected network station but not previously disapproved. A tester may not be so disapproved for a test after the tester has commenced such test. The tester shall give 5 business days advance written notice to the satellite carrier and to the affected network station or stations. A signal intensity test conducted in accordance with this subparagraph shall be determinative of the signal strength received at that household for purposes of determining whether the household is capable of receiving a signal.

(5) DEFINITION.—Notwithstanding subsection (d)(4), for purposes of paragraphs (2) and (4) of this subsection, the term “satellite carrier” includes a distributor (as defined in section 119(d)(1) of title 17, United States Code), but only if the satellite distributor’s relationship with the subscriber includes billing, collection, service activation, and service deactivation.

(d) DEFINITIONS.—For the purposes of this section:

(1) LOCAL MARKET.—The term “local market” has the meaning given that term under section 122(j) of title 17, United States Code.

(2) NATIONALLY DISTRIBUTED SUPERSTATION.—The term “nationally distributed superstation” means a television broadcast station, licensed by the Commission, that—

(A) is not owned or operated by or affiliated with a television network that, as of January 1, 1995, offered interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more States;

(B) on May 1, 1991, was retransmitted by a satellite carrier and was not a network station at that time; and

(C) was, as of July 1, 1998, retransmitted by a satellite carrier under the statutory license of section 119 of title 17, United States Code.

(3) NETWORK STATION.—The term “network station” has the meaning given such term under section 119(d) of title 17, United States Code.

(4) SATELLITE CARRIER.—The term “satellite carrier” has the meaning given such term under section 119(d) of title 17, United States Code.

(5) TELEVISION NETWORK.—The term “television network” means a television network in the United States which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated broadcast stations in 10 or more States.

* * * * *

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) The Congress hereby finds and declares that—

(1) it is in the public interest to encourage the growth and development of public radio and television broadcasting, including the use of such media for instructional, educational, and cultural purposes;

(2) it is in the public interest to encourage the growth and development of nonbroadcast telecommunications technologies for the delivery of public telecommunications services;

(3) expansion and development of public telecommunications and of diversity of its programming depend on freedom, imagination, and initiative on both local and national levels;

(4) the encouragement and support of public telecommunications, while matters of importance for private and local development, are also of appropriate and important concern to the Federal Government;

(5) it furthers the general welfare to encourage public telecommunications services which will be responsive to the interests of people both in particular localities and throughout the United States, which will constitute an expression of diversity and excellence, and which will constitute a source of alternative telecommunications services for all the citizens of the Nation;

(6) it is in the public interest to encourage the development of programming that involves creative risks and that addresses the needs of unserved and underserved audiences, particularly children and minorities;

(7) it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will most effectively make public telecommunications services available to all citizens of the United States;

(8) public television and radio stations and public telecommunications services constitute valuable local community resources for utilizing electronic media to address national concerns and solve local problems through community programs and outreach programs;

(9) it is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies; and

(10) a private corporation should be created to facilitate the development of public telecommunications and to afford maximum protection from extraneous interference and control.

Corporation Established

(b) There is authorized to be established a nonprofit corporation, to be known as the "Corporation for Public Broadcasting", which will not be an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this section, and, to the extent consistent with this section, to the District of Columbia Nonprofit Corporation Act.

Board of Directors

(c)(1) The Corporation for Public Broadcasting shall have a Board of Directors (hereinafter in this section referred to as the "Board"), consisting of 9 members appointed by the President, by and with the advice and consent of the Senate. No more than 5 members of the Board appointed by the President may be members of the same political party.

(2) The 9 members of the Board appointed by the President (A) shall be selected from among citizens of the United States (not regular full-time employees of the United States) who are eminent in such fields as education, cultural and civic affairs, or the arts, including radio and television; and (B) shall be selected so as to provide as nearly as practicable a broad representation of various regions of the Nation, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Corporation.

(3) Of the members of the Board appointed by the President under paragraph (1), one member shall be selected from among individuals who represent the licensees and permittees of public television stations, and one member shall be selected from among individuals who represent the licensees and permittees of public radio stations.

(4) The members of the initial Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act.

(5) The term of office of each member of the Board appointed by the President shall be 6 years, except as provided in section 5(c) of the Public Telecommunications Act of 1992. Any member whose term has expired may serve until such member's successor has taken office, or until the end of the calendar year in which such member's term has expired, whichever is earlier. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term. No member of the Board shall be eligible to serve in excess of 2 consecutive full terms.

(6) Any vacancy in the Board shall not affect its power, but shall be filled in the manner consistent with this Act.

(7) Members of the Board shall attend not less than 50 percent of all duly convened meetings of the Board in any calendar year. A member who fails to meet the requirement of the preceding sentence shall forfeit membership and the President shall appoint a new member to fill such vacancy not later than 30 days after such vacancy is determined by the Chairman of the Board.

Election of Chairman and Vice Chairman; Compensation

(d)(1) Members of the Board shall annually elect one of their members to be Chairman and elect one or more of their members as a Vice Chairman or Vice Chairmen.

(2) The members of the Board shall not, by reason of such membership, be deemed to be officers or employees of the United States. They shall, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this subpart, be entitled to receive compensation at the rate of \$150 per day, including traveltime. No Board member shall receive compensation of more than \$10,000 in any fiscal year. While away from their homes or regular places of business, Board members shall be allowed travel and actual, reasonable, and necessary expenses.

Officers and Employees

(e)(1) The Corporation shall have a President, and such other officers as may be named and appointed by the Board for terms and at rates of compensation fixed by the Board. No officer or employee of the Corporation may be compensated by the Corporation at an annual rate of pay which exceeds the rate of basic pay in effect from time to time for level I of the Executive Schedule under section 5312 of title 5, United States Code. No individual other than a citizen of the United States may be an officer of the Corporation. No officer of the Corporation, other than the Chairman or a Vice Chairman, may receive any salary or other compensation (except for compensation for services on boards of directors of other organizations that do not receive funds from the Corporation, on committees of such boards, and in similar activities for such organizations) from any sources other than the Corporation for services rendered during the period of his or her employment by the Corporation. Service by any officer on boards of directors of other organizations, on committees of such boards, and in similar activities for such organizations shall be subject to annual advance approval by the Board and subject to the provisions of the Corporation's Statement of Ethical Conduct. All officers shall serve at the pleasure of the Board.

(2) Except as provided in the second sentence of subsection (c)(1) of this section, no political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation.

Nonprofit and Nonpolitical Nature of the Corporation

(f)(1) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(3) The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

Purposes and Activities of Corporation

(g)(1) In order to achieve the objectives and to carry out the purposes of this subpart, as set out in subsection (a), the Corporation is authorized to—

(A) facilitate the full development of public telecommunications in which programs of high quality, diversity, creativity, excellence, and innovation, which are obtained from diverse sources, will be made available to public telecommunications entities, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature;

(B) assist in the establishment and development of one or more interconnection systems to be used for the distribution of public telecommunications services so that all public telecommunications entities may disseminate such services at times chosen by the entities;

(C) assist in the establishment and development of one or more systems of public telecommunications entities throughout the United States; and

(D) carry out its purposes and functions and engage in its activities in ways that will most effectively assure the maximum freedom of the public telecommunications entities and systems from interference with, or control of, program content or other activities.

(2) In order to carry out the purposes set forth in subsection (a), the Corporation is authorized to—

(A) obtain grants from and make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

(B) contract with or make grants to public telecommunications entities, national, regional, and other systems of public telecommunications entities, and independent producers and production entities, for the production or acquisition of public telecommunications services to be made available for use by public telecommunications entities, except that—

(i) to the extent practicable, proposals for the provision of assistance by the Corporation in the production or acquisition of programs or series of programs shall be evaluated on the basis of comparative merit by panels of outside experts, representing diverse interests and perspectives, appointed by the Corporation; and

(ii) nothing in this subparagraph shall be construed to prohibit the exercise by the Corporation of its prudent business judgement with respect to any grant to assist in the production or acquisition of any program or series of programs recommended by any such panel;

(C) make payments to existing and new public telecommunications entities to aid in financing the production or acquisition of public telecommunications services by such entities, particularly innovative approaches to such services, and other costs of operation of such entities;

(D) establish and maintain, or contribute to, a library and archives of noncommercial educational and cultural radio and television programs and related materials and develop public awareness of, and disseminate information about, public tele-

communications services by various means, including the publication of a journal;

(E) arrange, by grant to or contract with appropriate public or private agencies, organizations, or institutions, for interconnection facilities suitable for distribution and transmission of public telecommunications services to public telecommunications entities;

(F) hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out the purposes of this subpart;

(G) conduct (directly or through grants or contracts) research, demonstrations, or training in matters related to public television or radio broadcasting and the use of nonbroadcast communications technologies for the dissemination of noncommercial educational and cultural television or radio programs;

(H) make grants or contracts for the use of nonbroadcast telecommunications technologies for the dissemination to the public of public telecommunications services; and

(I) take such other actions as may be necessary to accomplish the purposes set forth in subsection (a).

Nothing contained in this paragraph shall be construed to commit the Federal Government to provide any sums for the payment of any obligation of the Corporation which exceeds amounts provided in advance in appropriation Acts.

(3) To carry out the foregoing purposes and engage in the foregoing activities, the Corporation shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-1001 et seq.), except that the Corporation is prohibited from—

(A) owning or operating any television or radio broadcast station, system, or network, community antenna television system, interconnection system or facility, program production facility, or any public telecommunications entity, system, or network; and

(B) producing programs, scheduling programs for dissemination, or disseminating programs to the public.

(4) All meetings of the Board of Directors of the Corporation, including any committee of the Board, shall be open to the public under such terms, conditions, and exceptions as are set forth in subsection (k)(4).

(5) The Corporation, in consultation with interested parties, shall create a 5-year plan for the development of public telecommunications services. Such plan shall be updated annually by the Corporation.

Interconnection Service

(h)(1) Nothing in this Act, or in any other provision of law, shall be construed to prevent United States communications common carriers from rendering free or reduced rate communications interconnection services for public television or radio services, subject to such rules and regulations as the Commission may prescribe.

(2) Subject to such terms and conditions as may be established by public telecommunications entities receiving space satellite interconnection facilities or services purchased or arranged for, in

whole or in part, with funds authorized under this part, other public telecommunications entities shall have reasonable access to such facilities or services for the distribution of educational and cultural programs to public telecommunications entities. Any remaining capacity shall be made available to other persons for the transmission of noncommercial educational and cultural programs and program information relating to such programs, to public telecommunications entities, at a charge or charges comparable to the charge or charges, if any, imposed upon a public telecommunications entity for the distribution of noncommercial educational and cultural programs to public telecommunications entities. No such person shall be denied such access whenever sufficient capacity is available.

【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.】

Right to Repeal, Alter, or Amend

(j) The right to repeal, alter, or amend this section at any time is expressly reserved.

Financing; Open Meetings and Financial Records

(k)(1)(A) There is hereby established in the Treasury a fund which shall be known as the Public Broadcasting Fund (hereinafter in this subsection referred to as the "Fund"), to be administered by the Secretary of the Treasury.

(B) There is authorized to be appropriated to the Fund, for each of the fiscal years 1978, 1979 and 1980, an amount equal to 40 percent of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, except that the amount so appropriated shall not exceed \$121,000,000 for fiscal year 1978,

\$140,000,000 for fiscal year 1979, and \$160,000,000 for fiscal year 1980.

(C) There is authorized to be appropriated to the Fund, for each of the fiscal years 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, and 1993, an amount equal to 40 percent of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, except that the amount so appropriated shall not exceed \$265,000,000 for fiscal year 1992, \$285,000,000 for fiscal year 1993, \$310,000,000 for fiscal year 1994, \$375,000,000 for fiscal year 1995, and \$425,000,000 for fiscal year 1996.

(D) In addition to any amounts authorized under any other provision of this or any other Act to be appropriated to the Fund, \$20,000,000 are hereby authorized to be appropriated to the Fund (notwithstanding any other provision of this subsection) specifically for transition from the use of analog to digital technology for the provision of public broadcasting services for fiscal year 2001.

(E) Funds appropriated under this subsection shall remain available until expended.

[(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.]

(2)(A) The funds authorized to be appropriated by this subsection shall be used by the Corporation, in a prudent and financially responsible manner, solely for its grants, contracts, and administrative costs, except that the Corporation may not use any funds appropriated under this subpart for purposes of conducting any reception, or providing any other entertainment, for any officer or employee of the Federal Government or any State or local government. The Corporation shall determine the amount of non-Federal financial support received by public broadcasting entities during each of the fiscal years referred to in paragraph (1) for the purpose of determining the amount of each authorization, and shall certify such amount to the Secretary of the Treasury, except that the Corporation may include in its certification non-Federal financial support received by a public broadcasting entity during its most recent fiscal year ending before September 30 of the year for which certification is made. Upon receipt of such certification, the Secretary of the Treasury shall make available to the Corporation, from such funds as may be appropriated to the Fund, the amount authorized for each of the fiscal years pursuant to the provisions of this subsection.

(B) Funds appropriated and made available under this subsection shall be disbursed by the Secretary of the Treasury on a fiscal year basis.

(3)(A)(i) The Corporation shall establish an annual budget for use in allocating amounts from the Fund. Of the amounts appropriated into the Fund available for allocation for any fiscal year—

(I) \$10,200,000 shall be available for the administrative expenses of the Corporation for fiscal year 1989, and for each

succeeding fiscal year the amount which shall be available for such administrative expenses shall be the sum of the amount made available to the Corporation under this subclause for such expenses in the preceding fiscal year plus the greater of 4 percent of such amount or a percentage of such amount equal to the percentage change in the Consumer Price Index, except that none of the amounts allocated under subclauses (II), (III), and (IV) and clause (v) shall be used for any administrative expenses of the Corporation and not more than 5 percent of all the amounts appropriated into the Fund available for allocation for any fiscal year shall be available for such administrative expenses;

(II) 6 percent of such amounts shall be available for expenses incurred by the Corporation for capital costs relating to telecommunications satellites, the payment of programming royalties and other fees, the costs of interconnection facilities and operations (as provided in clause (iv)(I)), and grants which the Corporation may make for assistance to stations that broadcast programs in languages other than English or for assistance in the provision of affordable training programs for employees at public broadcast stations, and if the available funding level permits, for projects and activities that will enhance public broadcasting;

(III) 75 percent of the remainder (after allocations are made under subclause (I) and subclause (II)) shall be allocated in accordance with clause (ii);

(IV) 25 percent of such remainder shall be allocated in accordance with clause (iii).

(ii) Of the amounts allocated under clause (i)(III) for any fiscal year—

(I) 75 percent of such amounts shall be available for distribution among the licensees and permittees of public television stations pursuant to paragraph (6)(B); and

(II) 25 percent of such amounts shall be available for distribution under subparagraph (B)(i), and in accordance with any plan implemented under paragraph (6)(A), for national public television programming.

(iii) Of the amounts allocated under clause (i)(IV) for any fiscal year—

(I) 70 percent of such amounts shall be available for distribution among the licensees and permittees of public radio stations pursuant to paragraph (6)(B);

(II) 7 percent of such amounts shall be available for distribution under subparagraph (B)(i) for public radio programming; and

(III) 23 percent of such amounts shall be available for distribution among the licensees and permittees of public radio stations pursuant to paragraph (6)(B), solely to be used for acquiring or producing programming that is to be distributed nationally and is designed to serve the needs of a national audience.

(iv)(I) From the amount provided pursuant to clause (i)(II), the Corporation shall defray an amount equal to 50 percent of the total costs of interconnection facilities and operations to facilitate the

availability of public television and radio programs among public broadcasts stations.

(II) Of the amounts received as the result of any contract, lease agreement, or any other arrangement under which the Corporation directly or indirectly makes available interconnection facilities, 50 percent of such amounts shall be distributed to the licensees and permittees of public television stations and public radio stations. The Corporation shall not have any authority to establish any requirements, guidelines, or limitations with respect to the use of such amounts by such licensees and permittees.

(v) Of the interest on the amounts appropriated into the Fund which is available for allocation for any fiscal year—

(I) 75 percent shall be available for distribution for the purposes referred to in clause (ii)(II); and

(II) 25 percent shall be available for distribution for the purposes referred to in clause (iii)(II) and (III).

(B)(i) The Corporation shall utilize the funds allocated pursuant to subparagraph (A)(ii)(II) and subparagraph (A)(iii)(II) to make grants for production of public television or radio programs by independent producers and production entities and public telecommunications entities, producers of national children's educational programming, and producers of programs addressing the needs and interest of minorities, and for acquisition of such programs by public telecommunications entities. The Corporation may make grants to public telecommunications entities and producers for the production of programs in languages other than English. Of the funds utilized pursuant to this clause, a substantial amount shall be distributed to independent producers and production entities, producers of national children's educational programming, and producers of programming addressing the needs and interests of minorities for the production of programs.

(ii) All funds available for distribution under clause (i) shall be distributed to entities outside the Corporation and shall not be used for the general administrative costs of the Corporation, the salaries or related expenses of Corporation personnel and members of the Board, or for expenses of consultants and advisers to the Corporation.

(iii)(I) For fiscal year 1990 and succeeding fiscal years, the Corporation shall, in carrying out its obligations under clause (i) with respect to public television programming, provide adequate funds for an independent production service.

(II) Such independent production service shall be separate from the Corporation and shall be incorporated under the laws of the District of Columbia for the purpose of contracting with the Corporation for the expenditure of funds for the production of public television programs by independent producers and independent production entities.

(III) The Corporation shall work with organizations or associations of independent producers or independent production entities to develop a plan and budget for the operation of such service that is acceptable to the Corporation.

(IV) The Corporation shall ensure that the funds provided to such independent production service shall be used exclusively in pursuit of the Corporation's obligation to expand the diversity and innovativeness of programming available to public broadcasting.

[(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.]

(VI) The Corporation shall not contract to provide funds to any such independent production service, unless that service agrees to comply with public inspection requirements established by the Corporation within 3 months after the date of enactment of this subclause. Under such requirements the service shall maintain at its offices a public file, updated regularly, containing information relating to the service's award of funds for the production of programming. The information shall be available for public inspection and copying for at least 3 years and shall be of the same kind as the information required to be maintained by the Corporation under subsection (1)(4)(B).

(4) Funds may not be distributed pursuant to this subsection to the Public Broadcasting Service or National Public Radio (or any successor organization), or to the licensee or permittee of any public broadcast station, unless the governing body of any such organization, any committee of such governing body, or any advisory body of any such organization, holds open meetings preceded by reasonable notice to the public. All persons shall be permitted to attend any meeting of the board, or of any such committee or body, and no person shall be required, as a condition to attendance at any such meeting, to register such person's name or to provide any other information. Nothing contained in this paragraph shall be construed to prevent any such board, committee, or body from holding closed sessions to consider matters relating to individual employees, proprietary information, litigation and other matters requiring the confidential advice of counsel, commercial or financial information obtained from a person on a privileged or confidential basis, or the purchase of property or services whenever the premature exposure of such purchase would compromise the business interests of any such organization. If any such meeting is closed pursuant to the provisions of this paragraph, the organization involved shall thereafter (within a reasonable period of time) make available to the public a written statement containing an explanation of the reasons for closing the meeting.

(5) Funds may not be distributed pursuant to this subsection to any public telecommunications entity that does not maintain for public examination copies of the annual financial and audit reports, or other information regarding finances, submitted to the Corporation pursuant to subsection (1)(3)(B).

(6)(A) The Corporation shall conduct a study and prepare a plan in consultation with public television licensees (or designated representatives of those licensees) and the Public Broadcasting Service, on how funds available to the Corporation under paragraph (3)(A)(ii)(II) can be best allocated to meet the objectives of this Act with regard to national public television programming. The plan, which shall be based on the conclusions resulting from the study,

shall be submitted by the Corporation to the Congress not later than January 31, 1990. Unless directed otherwise by an Act of Congress, the Corporation shall implement the plan during the first fiscal year beginning after the fiscal year in which the plan is submitted to Congress.

(B) The Corporation shall make a basic grant from the portion reserved for television stations under paragraph (3)(A)(ii)(I) to each licensee and permittee of a public television station that is on the air. The Corporation shall assist radio stations to maintain and improve their service where public radio is the only broadcast service available. The balance of the portion reserved for television stations and the total portion reserved for radio stations under paragraph (3)(A)(iii)(I) shall be distributed to licensees and permittees of such stations in accordance with eligibility criteria (which the Corporation shall review periodically in consultation with public radio and television licensees or permittees, or their designated representatives) that promote the public interest in public broadcasting, and on the basis of a formula designed to—

(i) provide for the financial needs and requirements of stations in relation to the communities and audiences such stations undertake to serve;

(ii) maintain existing, and stimulate new, sources of non-Federal financial support for stations by providing incentives for increases in such support; and

(iii) assure that each eligible licensee and permittee of a public radio station receives a basic grant.

(7) The funds distributed pursuant to paragraph (3)(A)(ii)(I) and (iii)(I) may be used at the discretion of the recipient for purposes related primarily to the production or acquisition of programming.

(8)(A) Funds may not be distributed pursuant to this subpart to any public broadcast station (other than any station which is owned and operated by a state, a political or special purpose subdivision of a state or a public agency) unless such station establishes a community advisory board. Any such station shall undertake good faith efforts to assure that (i) its advisory board meets at regular intervals; (ii) the members of its advisory board regularly attend the meetings of the advisory board; and (iii) the composition of its advisory board are reasonably representative of the diverse needs and interests of the communities served by such station.

(B) The board shall be permitted to review the programming goals established by the station, the service provided by the station, and the significant policy decisions rendered by the station. The board may also be delegated any other responsibilities, as determined by the governing body of the station. The board shall advise the governing body of the station with respect to whether the programming and other policies of such station are meeting the specialized educational and cultural needs of the communities served by the station, and may make such recommendations as it considers appropriate to meet such needs.

(C) The role of the board shall be solely advisory in nature, except to the extent other responsibilities are delegated to the board by the governing body of the station. In no case shall the board have any authority to exercise any control over the daily management or operation of the station.

(D) In the case of any public broadcast station (other than any station which is owned and operated by a state, a political or special purpose subdivision of a State, or a public agency) in existence on the effective date of this paragraph, such station shall comply with the requirements of this paragraph with respect to the establishment of a community advisory board not later than 180 days after such effective date.

(E) The provision of subparagraph (A) prohibiting the distribution of funds to any public broadcast station (other than any station which is owned and operated by a State, a political or special purpose subdivision of a State, or a public agency) unless such station establishes a community advisory board shall be the exclusive remedy for the enforcement of the provisions of this paragraph.

(9) Funds may not be distributed pursuant to this subsection to the Public Broadcasting Service or National Public Radio (or any successor organization) unless assurances are provided to the Corporation that no officer or employee of the Public Broadcasting Service or National Public Radio (or any successor organization), as the case may be, will be compensated in excess of reasonable compensation as determined pursuant to Section 4958 of the Internal Revenue Code for services that the officer or employee renders to organization, and unless further assurances are provided to the Corporation that no officer or employee of such an entity will be loaned money by that entity on an interest-free basis.

(10)(A) There is hereby established in the Treasury a fund which shall be known as the Public Broadcasting Satellite Interconnection Fund (hereinafter in this subsection referred to as the "Satellite Interconnection Fund"), to be administered by the Secretary of the Treasury.

(B) There is authorized to be appropriated to the Satellite Interconnection Fund, for fiscal year 1991, the amount of \$200,000,000. If such amount is not appropriated in full for fiscal year 1991, the portion of such amount not yet appropriated is authorized to be appropriated for fiscal years 1992 and 1993. Funds appropriated to the Satellite Interconnection Fund shall remain available until expended.

(C) The Secretary of the Treasury shall make available and disburse to the Corporation, at the beginning of fiscal year 1991 and of each succeeding fiscal year thereafter, such funds as have been appropriated to the Satellite Interconnection Fund for the fiscal year in which such disbursement is to be made.

(D) Notwithstanding any other provision of this subsection except paragraphs (4), (5), (8), and (9), all funds appropriated to the Satellite Interconnection Fund and interest thereon—

(i) shall be distributed by the Corporation to the licensees and permittees of noncommercial educational television broadcast stations providing public telecommunications services or the national entity they designate for satellite interconnection purposes and to those public telecommunications entities participating in the public radio satellite interconnection system or the national entity they designate for satellite interconnection purposes, exclusively for the capital costs of the replacement, refurbishment, or upgrading of their national satellite interconnection systems and associated maintenance of such systems; and

(ii) shall not be used for the administrative costs of the Corporation, the salaries or related expenses of Corporation personnel and members of the Board, or for expenses of consultants and advisers to the Corporation.

(11)(A) Funds may not be distributed pursuant to this subsection for any fiscal year to the licensee or permittee of any public broadcast station if such licensee or permittee—

(i) fails to certify to the Corporation that such licensee or permittee complies with the Commission's regulations concerning equal employment opportunity as published under section 73.2080 of title 47, Code of Federal Regulations, or any successor regulations thereto; or

(ii) fails to submit to the Corporation the report required by subparagraph (B) for the preceding calendar year.

(B) A licensee or permittee of any public broadcast station with more than five full-time employees to file annually with the Corporation a statistical report, consistent with reports required by Commission regulation, identifying by race and sex the number of employees in each of the following full-time and part-time job categories:

- (i) Officials and managers.
- (ii) Professionals.
- (iii) Technicians.
- (iv) Semiskilled operatives.
- (v) Skilled craft persons.
- (vi) Clerical and office personnel.
- (vii) Unskilled operatives.
- (viii) Service workers.

(C) In addition, such report shall state the number of job openings occurring during the course of the year. Where the job openings were filled in accordance with the regulations described in subparagraph (A)(i), the report shall so certify, and where the job openings were not filled in accordance with such regulations, the report shall contain a statement providing reasons therefor. The statistical report shall be available to the public at the central office and at every location where more than five full-time employees are regularly assigned to work.

(12) Funds may not be distributed under this subsection to any public broadcasting entity that directly or indirectly—

(A) rents contributor or donor names (or other personally identifiable information) to or from, or exchanges such names or information with, any Federal, State, or local candidate, political party, or political committee; or

(B) discloses contributor or donor names, or other personally identifiable information, to any nonaffiliated third party unless—

(i) such entity clearly and conspicuously discloses to the contributor or donor that such information may be disclosed to such third party;

(ii) the contributor or donor is given the opportunity, before the time that such information is initially disclosed, to direct that such information not be disclosed to such third party; and

(iii) the contributor or donor is given an explanation of how the contributor or donor may exercise that nondisclosure option.

Records and Audit

(1)(A) The accounts of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that such requirements shall not preclude shared auditing arrangements between any public telecommunications entity and its licensee where such licensee is a public or private institution. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents and custodians shall be afforded to such person or persons.

(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.

(2)(A) The financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representative of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers and property of the Corporation shall remain in possession and custody of the Corporation.

(B) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform Congress of the financial operations and condition of the Corporation, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit,

which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President, to the Secretary, and to the Corporation at the time submitted to the Congress.

(3)(A) Not later than 1 year after the effective date of this paragraph, the Corporation, in consultation with the Comptroller General, and as appropriate with others, shall develop accounting principles which shall be used uniformly by all public telecommunications entities receiving funds under this subpart, taking into account organizational differences among various categories of such entities. Such principles shall be designed to account fully for all funds received and expended for public telecommunications purposes by such entities.

(B) Each public telecommunications entity receiving funds under this subpart shall be required—

(i) to keep its books, records, and accounts in such form as may be required by the Corporation;

(ii)(I) to undergo a biennial audit by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State, which audit shall be in accordance with auditing standards developed by the Corporation, in consultation with the Comptroller General; or

(II) to submit a financial statement in lieu of the audit required by subclause (I) if the Corporation determines that the cost burden of such audit on such entity is excessive in light of the financial condition of such entity; and

(iii) to furnish biennially to the Corporation a copy of the audit report required pursuant to the clause (ii), as well as such other information regarding finances (including an annual financial report) as the Corporation may require.

(C) Any recipient of assistance by grant or contract under this section, other than a fixed price contract awarded pursuant to competitive bidding procedures, shall keep such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of such assistance, that total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the projects or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(D) The Corporation or any of its duly authorized representatives shall have access to any books, documents, papers, and records of any recipient of assistance for the purpose of auditing and examining all funds received or expended for public telecommunications purposes by the recipient. The Comptroller General of the United States or any of his duly authorized representatives also shall have access to such books, documents, papers, and records for the purpose of auditing and examining all funds received or expended for public telecommunications purposes during any fiscal year for which Federal funds are available to the Corporation.

(4)(A) The Corporation shall maintain the information described in subparagraphs (B), (C), and (D) at its offices for public inspection and copying for at least 3 years, according to such reasonable guidelines as the Corporation may issue. This public file shall be

updated regularly. This paragraph shall be effective upon its enactment and shall apply to all grants awarded after January 1, 1993.

(B) Subsequent to any award of funds by the Corporation for the production or acquisition of national broadcasting programming pursuant to subsection (k)(3)(A) (ii)(II) or (iii)(II), the Corporation shall make available for public inspection the following:

(i) Grant and solicitation guidelines for proposals for such programming.

(ii) The reasons for selecting the proposal for which the award was made.

(iii) Information on each program for which the award was made, including the names of the awardee and producer (and if the awardee or producer is a corporation or partnership, the principals of such corporation or partnership), the monetary amount of the award, and the title and description of the program (and of each program in a series of programs).

(iv) A report based on the final audit findings resulting from any audit of the award by the Corporation or the Comptroller General.

(v) Reports which the Corporation shall require to be provided by the awardee relating to national public broadcasting programming funded, produced, or acquired by the awardee with such funds. Such reports shall include, where applicable, the information described in clauses (i), (ii), and (iii), but shall exclude proprietary, confidential, or privileged information.

(C) The Corporation shall make available for public inspection the final report required by the Corporation on an annual basis from each recipient of funds under subsection (k)(3)(A)(iii)(III), excluding proprietary, confidential, or privileged information.

(D) The Corporation shall make available for public inspection an annual list of national programs distributed by public broadcasting entities that receive funds under subsection (k)(3)(A) (ii)(III) or (iii)(II) and are engaged primarily in the national distribution of public television or radio programs. Such list shall include the names of the programs (or program series), producers, and providers of funding.

[(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 Corpora-

tion 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

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

(a) Nothing contained in this part shall be deemed (1) to amend any other provision of, or requirement under, this Act; or (2) except to the extent authorized in subsection (b), to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over public telecommunications, or over the Corporation or any of its grantees or contractors, or over the charter or bylaws of the Corporation, or over the curriculum, program of instruction, or personnel of any educational institution, school system, or public telecommunications entity.

(b)(1) Equal opportunity in employment shall be afforded to all persons by the Public Broadcasting Service and National Public Radio (or any successor organization) and by all public telecommunications entities receiving funds pursuant to subpart C (hereinafter in this subsection referred to as "recipients"), in accordance with the equal employment opportunity regulations of the Commission, and no person shall be subjected to discrimination in employment by any recipient on the grounds of race, color, religion, national origin, or sex.

(2)(A) The Secretary is authorized and directed to enforce this subsection and to prescribe such rules and regulations as may be necessary to carry out the functions of the Secretary under this subsection.

(B) The Secretary shall provide for close coordination with the Commission in the administration of the responsibilities of the Secretary under this subsection which are of interest to or affect the functions of the Commission so that, to the maximum extent possible consistent with the enforcement responsibilities of each, the reporting requirements of public telecommunications entities shall be uniformly based upon consistent definitions and categories of information.

(3)(A) The Corporation shall incorporate into each grant agreement or contract with any recipient entered into on or after the effective date of the rules and regulations prescribed by the Secretary pursuant to paragraph (2)(A), a statement indicating that, as a material part of the terms and conditions of the grant agreement or contract, the recipient will comply with the provisions of paragraph (1) and the rules and regulations prescribed pursuant to paragraph (2)(A). Any person which desires to be a recipient (within the meaning of paragraph (1)) of funds under subpart C shall, before receiving any such funds, provide to the Corporation any information which the Corporation may require to satisfy itself that such person is affording equal opportunity in employment in accordance with the requirements of this subsection. Determinations

made by the Corporation in accordance with the preceding sentence shall be based upon guidelines relating to equal opportunity in employment which shall be established by rule by the Secretary.

(B) If the Corporation is not satisfied that any such person is affording equal opportunity in employment in accordance with the requirements of this subsection, the Corporation shall notify the Secretary, and the Secretary shall review the matter and make a final determination regarding whether such person is affording equal opportunity in employment. In any case in which the Secretary conducts a review under the preceding sentence the Corporation shall make funds available to the person involved pursuant to the grant application of such person (if the Corporation would have approved such application but for the finding of the Corporation under this paragraph) pending a final determination of the Secretary upon completion of such review. The Corporation shall monitor the equal employment opportunity practices of each recipient throughout the duration of the grant or contract.

(C) The provisions of subparagraph (A) and subparagraph (B) shall take effect on the effective date of the rules and regulations prescribed by the Secretary pursuant to paragraph (2)(A).

(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.

(5) Whenever the Secretary makes a final determination, pursuant to the rules and regulations which the Secretary shall prescribe, that a recipient is not in compliance with paragraph (1), the Secretary shall within 10 days after such determination, notify the recipient in writing of such determination and request the recipient to secure compliance. Unless the recipient within 120 days after receipt of such written notice—

(A) demonstrates to the Secretary that the violation has been corrected; or

(B) enters into a compliance agreement approved by the Secretary;

the Secretary shall direct the Corporation to reduce or suspend any further payments of funds under this part to the recipient and the Corporation shall comply with such directive. Resumption of payments shall take place only when the Secretary certifies to the Corporation that the recipient has entered into a compliance agreement approved by the Secretary. A recipient whose funds have been reduced or suspended under this paragraph may apply at any time to the Secretary for such certification.

(c) Nothing in this section shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the content or distribution of public telecommunications programs and services, or

over the curriculum or program of instruction of any educational institution or school system.

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TITLE VI—CABLE COMMUNICATIONS

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PART II—USE OF CABLE CHANNELS AND CABLE OWNERSHIP RESTRICTIONS

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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) shall waive the requirements of this paragraph for all existing multichannel multipoint distribution services and satellite master antenna television services which are owned by a cable operator on the date of enactment of this paragraph;

(2) may waive the requirements of this paragraph to the extent the Commission determines is necessary to ensure that all significant portions of a franchise area are able to obtain video programming; and

(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)**.

(c) The Commission may prescribe rules with respect to the ownership or control of cable systems by persons who own or control other media of mass communications which serve the same community served by a cable system.

(d) Any State or franchising authority may not prohibit the ownership or control of a cable system by any person because of such person's ownership or control of any other media of mass communications or other media interests. Nothing in this section shall be construed to prevent any State or franchising authority from prohibiting the ownership or control of a cable system in a jurisdiction by any person (1) because of such person's ownership or control of any other cable system in such jurisdiction; or (2) in circumstances in which the State or franchising authority determines that the acquisition of such a cable system may eliminate or reduce competition in the delivery of cable service in such jurisdiction.

(e)(1) Subject to paragraph (2), a State or franchising authority may hold any ownership interest in any cable system.

(2) Any State or franchising authority shall not exercise any editorial control regarding the content of any cable service on a cable system in which such governmental entity holds ownership interest (other than programming on any channel designated for educational or governmental use), unless such control is exercised through an entity separate from the franchising authority.

(f)(1) In order to enhance effective competition, the Commission shall, within one year after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, conduct a proceeding—

(A) to prescribe rules and regulations establishing reasonable limits on the number of cable subscribers a person is authorized to reach through cable systems owned by such person, or in which such person has an attributable interest;

(B) to prescribe rules and regulations establishing reasonable limits on the number of channels on a cable system that can be occupied by a video programmer in which a cable operator has an attributable interest; and

(C) to consider the necessity and appropriateness of imposing limitations on the degree to which multichannel video programming distributors may engage in the creation or production of video programming.

(2) In prescribing rules and regulations under paragraph (1), the Commission shall, among other public interest objectives—

(A) ensure that no cable operator or group of cable operators can unfairly impede, either because of the size of any individual operator or because of joint actions by a group of operators of sufficient size, the flow of video programming from the video programmer to the consumer;

(B) ensure that cable operators affiliated with video programmers do not favor such programmers in determining carriage on their cable systems or do not unreasonably restrict the flow of the video programming of such programmers to other video distributors;

(C) take particular account of the market structure, ownership patterns, and other relationships of the cable television industry, including the nature and market power of the local franchise, the joint ownership of cable systems and video programmers, and the various types of non-equity controlling interests;

(D) account for any efficiencies and other benefits that might be gained through increased ownership or control;

(E) make such rules and regulations reflect the dynamic nature of the communications marketplace;

(F) not impose limitations which would bar cable operators from serving previously unserved rural areas; and

(G) not impose limitations which would impair the development of diverse and high quality video programming.

(g) This section shall not apply to prohibit any combination of any interests held by any person on July 1, 1984, to the extent of the interests so held as of such date, if the holding of such interests was not inconsistent with any applicable Federal or State law or regulations in effect on that date.

(h) For purposes of this section, the term “media of mass communications” shall have the meaning given such term under section 309(i)(3)(C)(i) of this Act.

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PART III—FRANCHISING AND REGULATION

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SEC. 623. REGULATION OF RATES.

(a) COMPETITION PREFERENCE; LOCAL AND FEDERAL REGULATION.—

(1) IN GENERAL.—No Federal agency or State may regulate the rates for the provision of cable service except to the extent provided under this section and section 612. Any franchising authority may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section. No Federal agency, State, or franchising authority may regulate the rates for cable service of a cable system that is owned or operated by a local government or franchising authority within whose jurisdiction that cable system is located and that is the only cable system located within such jurisdiction.

(2) PREFERENCE FOR COMPETITION.—If the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State or franchising authority under this section. If the Commission finds that a cable system is not subject to effective competition—

(A) the rates for the provision of basic cable service shall be subject to regulation by a franchising authority, or by the Commission if the Commission exercises jurisdiction pursuant to paragraph (6), in accordance with the regulations prescribed by the Commission under subsection (b); and

(B) the rates for cable programming services shall be subject to regulation by the Commission under subsection (c).

(3) QUALIFICATION OF FRANCHISING AUTHORITY.—A franchising authority that seeks to exercise the regulatory jurisdiction permitted under paragraph (2)(A) shall file with the Commission a written certification that—

(A) the franchising authority will adopt and administer regulations with respect to the rates subject to regulation under this section that are consistent with the regulations prescribed by the Commission under subsection (b);

(B) the franchising authority has the legal authority to adopt, and the personnel to administer, such regulations; and

(C) procedural laws and regulations applicable to rate regulation proceedings by such authority provide a reasonable opportunity for consideration of the views of interested parties.

(4) APPROVAL BY COMMISSION.—A certification filed by a franchising authority under paragraph (3) shall be effective 30 days after the date on which it is filed unless the Commission finds, after notice to the authority and a reasonable opportunity for the authority to comment, that—

(A) the franchising authority has adopted or is administering regulations with respect to the rates subject to

regulation under this section that are not consistent with the regulations prescribed by the Commission under subsection (b);

(B) the franchising authority does not have the legal authority to adopt, or the personnel to administer, such regulations; or

(C) procedural laws and regulations applicable to rate regulation proceedings by such authority do not provide a reasonable opportunity for consideration of the views of interested parties.

If the Commission disapproves a franchising authority's certification, the Commission shall notify the franchising authority of any revisions or modifications necessary to obtain approval.

(5) REVOCATION OF JURISDICTION.—Upon petition by a cable operator or other interested party, the Commission shall review the regulation of cable system rates by a franchising authority under this subsection. A copy of the petition shall be provided to the franchising authority by the person filing the petition. If the Commission finds that the franchising authority has acted inconsistently with the requirements of this subsection, the Commission shall grant appropriate relief. If the Commission, after the franchising authority has had a reasonable opportunity to comment, determines that the State and local laws and regulations are not in conformance with the regulations prescribed by the Commission under subsection (b), the Commission shall revoke the jurisdiction of such authority.

(6) EXERCISE OF JURISDICTION BY COMMISSION.—If the Commission disapproves a franchising authority's certification under paragraph (4), or revokes such authority's jurisdiction under paragraph (5), the Commission shall exercise the franchising authority's regulatory jurisdiction under paragraph (2)(A) until the franchising authority has qualified to exercise that jurisdiction by filing a new certification that meets the requirements of paragraph (3). Such new certification shall be effective upon approval by the Commission. The Commission shall act to approve or disapprove any such new certification within 90 days after the date it is filed.

(7) AGGREGATION OF EQUIPMENT COSTS.—

(A) IN GENERAL.—The Commission shall allow cable operators, pursuant to any rules promulgated under subsection (b)(3), to aggregate, on a franchise, system, regional, or company level, their equipment costs into broad categories, such as converter boxes, regardless of the varying levels of functionality of the equipment within each such broad category. Such aggregation shall not be permitted with respect to equipment used by subscribers who receive only a rate regulated basic service tier.

(B) REVISION TO COMMISSION RULES; FORMS.—Within 120 days of the date of enactment of the Telecommunications Act of 1996, the Commission shall issue revisions to the appropriate rules and forms necessary to implement subparagraph (A).

(b) ESTABLISHMENT OF BASIC SERVICE TIER RATE REGULATIONS.—

(1) COMMISSION OBLIGATION TO SUBSCRIBERS.—The Commission shall, by regulation, ensure that the rates for the basic service tier are reasonable. Such regulations shall be designed to achieve the goal of protecting subscribers of any cable system that is not subject to effective competition from rates for the basic service tier that exceed the rates that would be charged for the basic service tier if such cable system were subject to effective competition.

(2) COMMISSION REGULATIONS.—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall prescribe, and periodically thereafter revise, regulations to carry out its obligations under paragraph (1). In prescribing such regulations, the Commission—

(A) shall seek to reduce the administrative burdens on subscribers, cable operators, franchising authorities, and the Commission;

(B) may adopt formulas or other mechanisms and procedures in complying with the requirements of subparagraph (A); and

(C) shall take into account the following factors:

(i) the rates for cable systems, if any, that are subject to effective competition;

(ii) the direct costs (if any) of obtaining, transmitting, and otherwise providing signals carried on the basic service tier, including signals and services carried on the basic service tier pursuant to paragraph (7)(B), and changes in such costs;

(iii) only such portion of the joint and common costs (if any) of obtaining, transmitting, and otherwise providing such signals as is determined, in accordance with regulations prescribed by the Commission, to be reasonably and properly allocable to the basic service tier, and changes in such costs;

(iv) the revenues (if any) received by a cable operator from advertising from programming that is carried as part of the basic service tier or from other consideration obtained in connection with the basic service tier;

(v) the reasonably and properly allocable portion of any amount assessed as a franchise fee, tax, or charge of any kind imposed by any State or local authority on the transactions between cable operators and cable subscribers or any other fee, tax, or assessment of general applicability imposed by a governmental entity applied against cable operators or cable subscribers;

(vi) any amount required, in accordance with paragraph (4), to satisfy franchise requirements to support public, educational, or governmental channels or the use of such channels or any other services required under the franchise; and

(vii) a reasonable profit, as defined by the Commission consistent with the Commission's obligations to subscribers under paragraph (1).

(3) EQUIPMENT.—The regulations prescribed by the Commission under this subsection shall include standards to establish, on the basis of actual cost, the price or rate for—

(A) installation and lease of the equipment used by subscribers to receive the basic service tier, including a converter box and a remote control unit and, if requested by the subscriber, such addressable converter box or other equipment as is required to access programming described in paragraph (8); and

(B) installation and monthly use of connections for additional television receivers.

(4) COSTS OF FRANCHISE REQUIREMENTS.—The regulations prescribed by the Commission under this subsection shall include standards to identify costs attributable to satisfying franchise requirements to support public, educational, and governmental channels or the use of such channels or any other services required under the franchise.

(5) IMPLEMENTATION AND ENFORCEMENT.—The regulations prescribed by the Commission under this subsection shall include additional standards, guidelines, and procedures concerning the implementation and enforcement of such regulations, which shall include—

(A) procedures by which cable operators may implement and franchising authorities may enforce the regulations prescribed by the Commission under this subsection;

(B) procedures for the expeditious resolution of disputes between cable operators and franchising authorities concerning the administration of such regulations;

(C) standards and procedures to prevent unreasonable charges for changes in the subscriber's selection of services or equipment subject to regulation under this section, which standards shall require that charges for changing the service tier selected shall be based on the cost of such change and shall not exceed nominal amounts when the system's configuration permits changes in service tier selection to be effected solely by coded entry on a computer terminal or by other similarly simple method; and

(D) standards and procedures to assure that subscribers receive notice of the availability of the basic service tier required under this section.

(6) NOTICE.—The procedures prescribed by the Commission pursuant to paragraph (5)(A) shall require a cable operator to provide 30 days' advance notice to a franchising authority of any increase proposed in the price to be charged for the basic service tier.

(7) COMPONENTS OF BASIC TIER SUBJECT TO RATE REGULATION.—

(A) MINIMUM CONTENTS.—Each cable operator of a cable system shall provide its subscribers a separately available basic service tier to which subscription is required for access to any other tier of service. Such basic service tier shall, at a minimum, consist of the following:

(i) All signals carried in fulfillment of the requirements of sections 614 and 615.

(ii) Any public, educational, and governmental access programming required by the franchise of the cable system to be provided to subscribers.

(iii) Any signal of any television broadcast station that is provided by the cable operator to any subscriber, except a signal which is secondarily transmitted by a satellite carrier beyond the local service area of such station.

(B) PERMITTED ADDITIONS TO BASIC TIER.—A cable operator may add additional video programming signals or services to the basic service tier. Any such additional signals or services provided on the basic service tier shall be provided to subscribers at rates determined under the regulations prescribed by the Commission under this subsection.

(8) BUY-THROUGH OF OTHER TIERS PROHIBITED.—

(A) PROHIBITION.—A cable operator may not require the subscription to any tier other than the basic service tier required by paragraph (7) as a condition of access to video programming offered on a per channel or per program basis. A cable operator may not discriminate between subscribers to the basic service tier and other subscribers with regard to the rates charged for video programming offered on a per channel or per program basis.

(B) EXCEPTION; LIMITATION.—The prohibition in subparagraph (A) shall not apply to a cable system that, by reason of the lack of addressable converter boxes or other technological limitations, does not permit the operator to offer programming on a per channel or per program basis in the same manner required by subparagraph (A). This subparagraph shall not be available to any cable operator after—

(i) the technology utilized by the cable system is modified or improved in a way that eliminates such technological limitation; or

(ii) 10 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, subject to subparagraph (C).

(C) WAIVER.—If, in any proceeding initiated at the request of any cable operator, the Commission determines that compliance with the requirements of subparagraph (A) would require the cable operator to increase its rates, the Commission may, to the extent consistent with the public interest, grant such cable operator a waiver from such requirements for such specified period as the Commission determines reasonable and appropriate.

(c) REGULATION OF UNREASONABLE RATES.—

(1) COMMISSION REGULATIONS.—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish the following:

(A) criteria prescribed in accordance with paragraph (2) for identifying, in individual cases, rates for cable programming services that are unreasonable;

(B) fair and expeditious procedures for the receipt, consideration, and resolution of complaints from any franchising authority (in accordance with paragraph (3)) alleging that a rate for cable programming services charged by a cable operator violates the criteria prescribed under subparagraph (A), which procedures shall include the minimum showing that shall be required for a complaint to obtain Commission consideration and resolution of whether the rate in question is unreasonable; and

(C) the procedures to be used to reduce rates for cable programming services that are determined by the Commission to be unreasonable and to refund such portion of the rates or charges that were paid by subscribers after the filing of the first complaint filed with the franchising authority under paragraph (3) and that are determined to be unreasonable.

(2) FACTORS TO BE CONSIDERED.—In establishing the criteria for determining in individual cases whether rates for cable programming services are unreasonable under paragraph (1)(A), the Commission shall consider, among other factors—

(A) the rates for similarly situated cable systems offering comparable cable programming services, taking into account similarities in facilities, regulatory and governmental costs, the number of subscribers, and other relevant factors;

(B) the rates for cable systems, if any, that are subject to effective competition;

(C) the history of the rates for cable programming services of the system, including the relationship of such rates to changes in general consumer prices;

(D) the rates, as a whole, for all the cable programming, cable equipment, and cable services provided by the system, other than programming provided on a per channel or per program basis;

(E) capital and operating costs of the cable system, including the quality and costs of the customer service provided by the cable system; and

(F) the revenues (if any) received by a cable operator from advertising from programming that is carried as part of the service for which a rate is being established, and changes in such revenues, or from other consideration obtained in connection with the cable programming services concerned.

(3) REVIEW OF RATE CHANGES.—The Commission shall review any complaint submitted by a franchising authority after the date of enactment of the Telecommunications Act of 1996 concerning an increase in rates for cable programming services and issue a final order within 90 days after it receives such a complaint, unless the parties agree to extend the period for such review. A franchising authority may not file a complaint under this paragraph unless, within 90 days after such increase becomes effective it receives subscriber complaints.

(4) SUNSET OF UPPER TIER RATE REGULATION.—This subsection shall not apply to cable programming services provided after March 31, 1999.

(d) **UNIFORM RATE STRUCTURE REQUIRED.**—A cable operator shall have a rate structure, for the provision of cable service, that is uniform throughout the geographic area in which cable service is provided over its cable system. This subsection does not apply to (1) a cable operator with respect to the provision of cable service over its cable system in any geographic area in which the video programming services offered by the operator in that area are subject to effective competition, or (2) any video programming offered on a per channel or per program basis. Bulk discounts to multiple dwelling units shall not be subject to this subsection, except that a cable operator of a cable system that is not subject to effective competition may not charge predatory prices to a multiple dwelling unit. Upon a prima facie showing by a complainant that there are reasonable grounds to believe that the discounted price is predatory, the cable system shall have the burden of showing that its discounted price is not predatory.

(e) **DISCRIMINATION; SERVICES FOR THE HEARING IMPAIRED.**—Nothing in this title shall be construed as prohibiting any Federal agency, State, or a franchising authority from—

(1) prohibiting discrimination among subscribers and potential subscribers to cable service, except that no Federal agency, State, or franchising authority may prohibit a cable operator from offering reasonable discounts to senior citizens or other economically disadvantaged group discounts; or

(2) requiring and regulating the installation or rental of equipment which facilitates the reception of cable service by hearing impaired individuals.

(f) **NEGATIVE OPTION BILLING PROHIBITED.**—A cable operator shall not charge a subscriber for any service or equipment that the subscriber has not affirmatively requested by name. For purposes of this subsection, a subscriber's failure to refuse a cable operator's proposal to provide such service or equipment shall not be deemed to be an affirmative request for such service or equipment.

(g) **COLLECTION OF INFORMATION.**—The Commission shall, by regulation, require cable operators to file with the Commission or a franchising authority, as appropriate, within one year after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992 and annually thereafter, such financial information as may be needed for purposes of administering and enforcing this section.

(h) **PREVENTION OF EVASIONS.**—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish standards, guidelines, and procedures to prevent evasions, including evasions that result from retiering, of the requirements of this section and shall, thereafter, periodically review and revise such standards, guidelines, and procedures.

(i) **SMALL SYSTEM BURDENS.**—In developing and prescribing regulations pursuant to this section, the Commission shall design such regulations to reduce the administrative burdens and cost of compliance for cable systems that have 1,000 or fewer subscribers.

(j) **RATE REGULATION AGREEMENTS.**—During the term of an agreement made before July 1, 1990, by a franchising authority and a cable operator providing for the regulation of basic cable service rates, where there was not effective competition under

Commission rules in effect on that date, nothing in this section (or the regulations thereunder) shall abridge the ability of such franchising authority to regulate rates in accordance with such an agreement.

[(k) REPORTS ON AVERAGE PRICES.—

[(1) IN GENERAL.—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 cable systems that the Commission has found are subject to effective competition under subsection (a)(2) compared with cable systems that the Commission has found are not subject to such effective competition.

[(2) INCLUSION IN ANNUAL REPORT.—

[(A) IN GENERAL.—The Commission shall include in its report under paragraph (1) the aggregate average total amount paid by cable systems in compensation under section 325.

[(B) FORM.—The Commission shall publish information under this paragraph in a manner substantially similar to the way other comparable information is published in such report.

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

(1) The term “effective competition” means that—

(A) fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system;

(B) the franchise area is—

(i) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and

(ii) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area;

(C) a multichannel video programming distributor operated by the franchising authority for that franchise area offers video programming to at least 50 percent of the households in that franchise area; or

(D) a local exchange carrier or its affiliate (or any multichannel video programming distributor using the facilities of such carrier or its affiliate) offers video programming services directly to subscribers by any means (other than direct-to-home satellite services) in the franchise area of an unaffiliated cable operator which is providing cable service in that franchise area, but only if the video programming services so offered in that area are comparable to the video programming services provided by the unaffiliated cable operator in that area.

(2) The term “cable programming service” means any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than (A) video

programming carried on the basic service tier, and (B) video programming offered on a per channel or per program basis.

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

(1) IN GENERAL.—Subsections (a), (b), and (c) do not apply to a small cable operator with respect to—

(A) cable programming services, or

(B) a basic service tier that was the only service tier subject to regulation as of December 31, 1994, in any franchise area in which that operator services 50,000 or fewer subscribers.

(2) DEFINITION OF SMALL CABLE OPERATOR.—For purposes of this subsection, the term “small cable operator” means a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000.

[(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.

[(o)] (n) STREAMLINED PETITION PROCESS FOR SMALL CABLE OPERATORS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this subsection, the Commission shall complete a rulemaking to establish a streamlined process for filing of an effective competition petition pursuant to this section for small cable operators, particularly those who serve primarily rural areas.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed to have any effect on the duty of a small cable operator to prove the existence of effective competition under this section.

(3) DEFINITION OF SMALL CABLE OPERATOR.—In this subsection, the term “small cable operator” has the meaning given the term in subsection (m)(2).

* * * * *

SEC. 624A. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

(a) FINDINGS.—The Congress finds that—

(1) new and recent models of television receivers and video cassette recorders often contain premium features and functions that are disabled or inhibited because of cable scrambling, encoding, or encryption technologies and devices, including converter boxes and remote control devices required by cable operators to receive programming;

(2) if these problems are allowed to persist, consumers will be less likely to purchase, and electronics equipment manufacturers will be less likely to develop, manufacture, or offer for sale, television receivers and video cassette recorders with new and innovative features and functions;

(3) cable operators should use technologies that will prevent signal thefts while permitting consumers to benefit from such features and functions in such receivers and recorders; and

(4) compatibility among televisions, video cassette recorders, and cable systems can be assured with narrow technical standards that mandate a minimum degree of common design and operation, leaving all features, functions, protocols, and other product and service options for selection through open competition in the market.

(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.]

(2) **SCRAMBLING AND ENCRYPTION**.—In issuing the regulations referred to in paragraph (1), the Commission shall determine whether and, if so, under what circumstances to permit cable systems to scramble or encrypt signals or to restrict cable systems in the manner in which they encrypt or scramble signals, except that the Commission shall not limit the use of scrambling or encryption technology where the use of such technology does not interfere with the functions of subscribers' television receivers or video cassette recorders.

(c) RULEMAKING REQUIREMENTS.—

(1) **FACTORS TO BE CONSIDERED**.—In prescribing the regulations required by this section, the Commission shall consider—

(A) the need to maximize open competition in the market for all features, functions, protocols, and other product and service options of converter boxes and other cable converters unrelated to the descrambling or decryption of cable television signals;

(B) the costs and benefits to consumers of imposing compatibility requirements on cable operators and television manufacturers in a manner that, while providing effective protection against theft or unauthorized reception of cable service, will minimize interference with or nullification of the special functions of subscribers' television receivers or video cassette recorders, including functions that permit the subscriber—

(i) to watch a program on one channel while simultaneously using a video cassette recorder to tape a program on another channel;

(ii) to use a video cassette recorder to tape two consecutive programs that appear on different channels; and

(iii) to use advanced television picture generation and display features; and

(C) the need for cable operators to protect the integrity of the signals transmitted by the cable operator against theft or to protect such signals against unauthorized reception.

(2) REGULATIONS REQUIRED.—The regulations prescribed by the Commission under this section shall include such regulations as are necessary—

(A) to specify the technical requirements with which a television receiver or video cassette recorder must comply in order to be sold as “cable compatible” or “cable ready”;

(B) to require cable operators offering channels whose reception requires a converter box—

(i) to notify subscribers that they may be unable to benefit from the special functions of their television receivers and video cassette recorders, including functions that permit subscribers—

(I) to watch a program on one channel while simultaneously using a video cassette recorder to tape a program on another channel;

(II) to use a video cassette recorder to tape two consecutive programs that appear on different channels; and

(III) to use advanced television picture generation and display features; and

(ii) to the extent technically and economically feasible, to offer subscribers the option of having all other channels delivered directly to the subscribers’ television receivers or video cassette recorders without passing through the converter box;

(C) to promote the commercial availability, from cable operators and retail vendors that are not affiliated with cable systems, of converter boxes and of remote control devices compatible with converter boxes;

(D) to ensure that any standards or regulations developed under the authority of this section to ensure compatibility between televisions, video cassette recorders, and cable systems do not affect features, functions, protocols, and other product and service options other than those specified in paragraph (1)(B), including telecommunications interface equipment, home automation communications, and computer network services;

(E) to require a cable operator who offers subscribers the option of renting a remote control unit—

(i) to notify subscribers that they may purchase a commercially available remote control device from any source that sells such devices rather than renting it from the cable operator; and

(ii) to specify the types of remote control units that are compatible with the converter box supplied by the cable operator; and

(F) to prohibit a cable operator from taking any action that prevents or in any way disables the converter box

supplied by the cable operator from operating compatibly with commercially available remote control units.

(d) **REVIEW OF REGULATIONS.**—The Commission shall periodically review and, if necessary, modify the regulations issued pursuant to this section in light of any actions taken in response to such regulations and to reflect improvements and changes in cable systems, television receivers, video cassette recorders, and similar technology.

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

(a) **PURPOSE.**—The purpose of this section is to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market, to increase the availability of satellite cable programming and satellite broadcast programming to persons in rural and other areas not currently able to receive such programming, and to spur the development of communications technologies.

(b) **PROHIBITION.**—It shall be unlawful for a cable operator, a satellite cable programming vendor in which a cable operator has an attributable interest, or a satellite broadcast programming vendor to engage in unfair methods of competition or unfair or deceptive acts or practices, the purpose or effect of which is to hinder significantly or to prevent any multichannel video programming distributor from providing satellite cable programming or satellite broadcast programming to subscribers or consumers.

(c) **REGULATIONS REQUIRED.**—

(1) **PROCEEDING REQUIRED.**—Within 180 days after the date of enactment of this section, the Commission shall, in order to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market and the continuing development of communications technologies, prescribe regulations to specify particular conduct that is prohibited by subsection (b).

(2) **MINIMUM CONTENTS OF REGULATIONS.**—The regulations to be promulgated under this section shall—

(A) establish effective safeguards to prevent a cable operator which has an attributable interest in a satellite cable programming vendor or a satellite broadcast programming vendor from unduly or improperly influencing the decision of such vendor to sell, or the prices, terms, and conditions of sale of, satellite cable programming or satellite broadcast programming to any unaffiliated multichannel video programming distributor;

(B) prohibit discrimination by a satellite cable programming vendor in which a cable operator has an attributable interest or by a satellite broadcast programming vendor in the prices, terms, and conditions of sale or delivery of satellite cable programming or satellite broadcast programming among or between cable systems, cable operators, or other multichannel video programming distributors, or their agents or buying groups; except that such a satellite cable programming vendor in which a cable operator has

an attributable interest or such a satellite broadcast programming vendor shall not be prohibited from—

(i) imposing reasonable requirements for creditworthiness, offering of service, and financial stability and standards regarding character and technical quality;

(ii) establishing different prices, terms, and conditions to take into account actual and reasonable differences in the cost of creation, sale, delivery, or transmission of satellite cable programming or satellite broadcast programming;

(iii) establishing different prices, terms, and conditions which take into account economies of scale, cost savings, or other direct and legitimate economic benefits reasonably attributable to the number of subscribers served by the distributor; or

(iv) entering into an exclusive contract that is permitted under subparagraph (D);

(C) prohibit practices, understandings, arrangements, and activities, including exclusive contracts for satellite cable programming or satellite broadcast programming between a cable operator and a satellite cable programming vendor or satellite broadcast programming vendor, that prevent a multichannel video programming distributor from obtaining such programming from any satellite cable programming vendor in which a cable operator has an attributable interest or any satellite broadcast programming vendor in which a cable operator has an attributable interest for distribution to persons in areas not served by a cable operator as of the date of enactment of this section; and

(D) with respect to distribution to persons in areas served by a cable operator, prohibit exclusive contracts for satellite cable programming or satellite broadcast programming between a cable operator and a satellite cable programming vendor in which a cable operator has an attributable interest or a satellite broadcast programming vendor in which a cable operator has an attributable interest, unless the Commission determines (in accordance with paragraph (4)) that such contract is in the public interest.

(3) LIMITATIONS.—

(A) GEOGRAPHIC LIMITATIONS.—Nothing in this section shall require any person who is engaged in the national or regional distribution of video programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

(B) APPLICABILITY TO SATELLITE RETRANSMISSIONS.—Nothing in this section shall apply (i) to the signal of any broadcast affiliate of a national television network or other television signal that is retransmitted by satellite but that is not satellite broadcast programming, or (ii) to any internal satellite communication of any broadcast network or cable network that is not satellite broadcast programming.

(4) PUBLIC INTEREST DETERMINATIONS ON EXCLUSIVE CONTRACTS.—In determining whether an exclusive contract is in the public interest for purposes of paragraph (2)(D), the Commission shall consider each of the following factors with respect to the effect of such contract on the distribution of video programming in areas that are served by a cable operator:

(A) the effect of such exclusive contract on the development of competition in local and national multichannel video programming distribution markets;

(B) the effect of such exclusive contract on competition from multichannel video programming distribution technologies other than cable;

(C) the effect of such exclusive contract on the attraction of capital investment in the production and distribution of new satellite cable programming;

(D) the effect of such exclusive contract on diversity of programming in the multichannel video programming distribution market; and

(E) the duration of the exclusive contract.

(5) SUNSET PROVISION.—The prohibition required by paragraph (2)(D) shall cease to be effective 10 years after the date of enactment of this section, unless the Commission finds, in a proceeding conducted during the last year of such 10-year period, that such prohibition continues to be necessary to preserve and protect competition and diversity in the distribution of video programming.

(d) ADJUDICATORY PROCEEDING.—Any multichannel video programming distributor aggrieved by conduct that it alleges constitutes a violation of subsection (b), or the regulations of the Commission under subsection (c), may commence an adjudicatory proceeding at the Commission.

(e) REMEDIES FOR VIOLATIONS.—

(1) REMEDIES AUTHORIZED.—Upon completion of such adjudicatory proceeding, the Commission shall have the power to order appropriate remedies, including, if necessary, the power to establish prices, terms, and conditions of sale of programming to the aggrieved multichannel video programming distributor.

(2) ADDITIONAL REMEDIES.—The remedies provided in paragraph (1) are in addition to and not in lieu of the remedies available under title V or any other provision of this Act.

(f) PROCEDURES.—The Commission shall prescribe regulations to implement this section. The Commission's regulations shall—

(1) provide for an expedited review of any complaints made pursuant to this section;

(2) establish procedures for the Commission to collect such data, including the right to obtain copies of all contracts and documents reflecting arrangements and understandings alleged to violate this section, as the Commission requires to carry out this section; and

(3) provide for penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

[(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 di-

rectly 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).

[(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.]

(h) EXEMPTIONS FOR PRIOR CONTRACTS.—

(1) IN GENERAL.—Nothing in this section shall affect any contract that grants exclusive distribution rights to any person with respect to satellite cable programming and that was entered into on or before June 1, 1990, except that the provisions of subsection (c)(2)(C) shall apply for distribution to persons in areas not served by a cable operator.

(2) LIMITATION ON RENEWALS.—A contract that was entered into on or before June 1, 1990, but that is renewed or extended after the date of enactment of this section shall not be exempt under paragraph (1).

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

(1) The term “satellite cable programming” has the meaning provided under section 705 of this Act, except that such term does not include satellite broadcast programming.

(2) The term “satellite cable programming vendor” means a person engaged in the production, creation, or wholesale distribution for sale of satellite cable programming, but does not include a satellite broadcast programming vendor.

(3) The term “satellite broadcast programming” means broadcast video programming when such programming is retransmitted by satellite and the entity retransmitting such programming is not the broadcaster or an entity performing such retransmission on behalf of and with the specific consent of the broadcaster.

(4) The term “satellite broadcast programming vendor” means a fixed service satellite carrier that provides service pursuant to section 119 of title 17, United States Code, with respect to satellite broadcast programming.

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TITLE VII—MISCELLANEOUS PROVISIONS

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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.】

(b) ACCOUNTABILITY CRITERIA.—Within 18 months after such date of enactment, the Commission shall prescribe such regulations as are necessary to implement this section. Such regulations shall ensure that—

(1) video programming first published or exhibited after the effective date of such regulations is fully accessible through the provision of closed captions, except as provided in subsection (d); and

(2) video programming providers or owners maximize the accessibility of video programming first published or exhibited prior to the effective date of such regulations through the provision of closed captions, except as provided in subsection (d).

(c) DEADLINES FOR CAPTIONING.—

(1) IN GENERAL.—The regulations prescribed pursuant to subsection (b) shall include an appropriate schedule of deadlines for the provision of closed captioning of video programming once published or exhibited on television.

(2) DEADLINES FOR PROGRAMMING DELIVERED USING INTERNET PROTOCOL.—

(A) REGULATIONS ON CLOSED CAPTIONING ON VIDEO PROGRAMMING DELIVERED USING INTERNET PROTOCOL.—Not later than 6 months after the submission of the report to the Commission required by subsection (e)(1) of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Commission shall revise its regulations to require the provision of closed captioning on video programming delivered using Internet protocol that was published or exhibited on television with captions after the effective date of such regulations.

(B) SCHEDULE.—The regulations prescribed under this paragraph shall include an appropriate schedule of deadlines for the provision of closed captioning, taking into account whether such programming is prerecorded and edited for Internet distribution, or whether such programming is live or near-live and not edited for Internet distribution.

(C) COST.—The Commission may delay or waive the regulation promulgated under subparagraph (A) to the extent the Commission finds that the application of the regulation to live video programming delivered using Internet protocol with captions after the effective date of such regulations would be economically burdensome to providers of video programming or program owners.

(D) REQUIREMENTS FOR REGULATIONS.—The regulations prescribed under this paragraph—

(i) shall contain a definition of “near-live programming” and “edited for Internet distribution”;

(ii) may exempt any service, class of service, program, class of program, equipment, or class of equipment for which the Commission has determined that the application of such regulations would be economi-

cally burdensome for the provider of such service, program, or equipment;

(iii) shall clarify that, for the purposes of implementation, of this subsection, the terms “video programming distributors” and “video programming providers” include an entity that makes available directly to the end user video programming through a distribution method that uses Internet protocol;

(iv) and describe the responsibilities of video programming providers or distributors and video programming owners;

(v) shall establish a mechanism to make available to video programming providers and distributors information on video programming subject to the Act on an ongoing basis;

(vi) shall consider that the video programming provider or distributor shall be deemed in compliance if such entity enables the rendering or pass through of closed captions and makes a good faith effort to identify video programming subject to the Act using the mechanism created in (v); and

(vii) shall provide that de minimis failure to comply with such regulations by a video programming provider or owner shall not be treated as a violation of the regulations.

(3) ALTERNATE MEANS OF COMPLIANCE.—An entity may meet the requirements of this section through alternate means than those prescribed by regulations pursuant to subsection (b), as revised pursuant to paragraph (2)(A) of this subsection, if the requirements of this section are met, as determined by the Commission.

(d) EXEMPTIONS.—Notwithstanding subsection (b)—

(1) the Commission may exempt by regulation programs, classes of programs, or services for which the Commission has determined that the provision of closed captioning would be economically burdensome to the provider or owner of such programming;

(2) a provider of video programming or the owner of any program carried by the provider shall not be obligated to supply closed captions if such action would be inconsistent with contracts in effect on the date of enactment of the Telecommunications Act of 1996, except that nothing in this section shall be construed to relieve a video programming provider of its obligations to provide services required by Federal law; and

(3) a provider of video programming or program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such petition upon a showing that the requirements contained in this section would be economically burdensome. During the pendency of such a petition, such provider or owner shall be exempt from the requirements of this section. The Commission shall act to grant or deny any such petition, in whole or in part, within 6 months after the Commission receives such petition, unless the Commission finds that an extension of the 6-month

period is necessary to determine whether such requirements are economically burdensome.

(e) **UNDUE BURDEN.**—The term “undue burden” means significant difficulty or expense. In determining whether the closed captions necessary to comply with the requirements of this paragraph would result in an undue economic burden, the factors to be considered include—

(1) the nature and cost of the closed captions for the programming;

(2) the impact on the operation of the provider or program owner;

(3) the financial resources of the provider or program owner; and

(4) the type of operations of the provider or program owner.

(f) **VIDEO DESCRIPTION.**—

(1) **REINSTATEMENT OF REGULATIONS.**—On the day that is 1 year after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Commission shall, after a rulemaking, reinstate its video description regulations contained in the Implementation of Video Description of Video Programming Report and Order (15 F.C.C.R. 15,230 (2000)), recon. granted in part and denied in part, (16 F.C.C.R. 1251 (2001)), modified as provided in paragraph (2).

(2) **MODIFICATIONS TO REINSTATED REGULATIONS.**—Such regulations shall be modified only as follows:

(A) The regulations shall apply to video programming, as defined in subsection (h), insofar as such programming is transmitted for display on television in digital format.

(B) The Commission shall update the list of the top 25 designated market areas, the list of the top 5 national non-broadcast networks that have at least 50 hours per quarter of prime time programming that is not exempt under this paragraph, and the beginning calendar quarter for which compliance shall be calculated.

(C) The regulations may permit a provider of video programming or a program owner to petition the Commission for an exemption from the requirements of this section upon a showing that the requirements contained in this section be economically burdensome.

(D) The Commission may exempt from the regulations established pursuant to paragraph (1) a service, class of services, program, class of programs, equipment, or class of equipment for which the Commission has determined that the application of such regulations would be economically burdensome for the provider of such service, program, or equipment.

(E) The regulations shall not apply to live or near-live programming.

(F) The regulations shall provide for an appropriate phased schedule of deadlines for compliance.

(G) The Commission shall consider extending the exemptions and limitations in the reinstated regulations for technical capability reasons to all providers and owners of video programming.

(3) INQUIRIES ON FURTHER VIDEO DESCRIPTION REQUIREMENTS.—The Commission shall commence the following inquiries not later than 1 year after the completion of the phase-in of the reinstated regulations and shall report to Congress 1 year thereafter on the findings for each of the following:

(A) VIDEO DESCRIPTION IN TELEVISION PROGRAMMING.—

The availability, use, and benefits of video description on video programming distributed on television, the technical and creative issues associated with providing such video description, and the financial costs of providing such video description for providers of video programming and program owners.

(B) VIDEO DESCRIPTION IN VIDEO PROGRAMMING DISTRIBUTED ON THE INTERNET.—The technical and operational issues, costs, and benefits of providing video descriptions for video programming that is delivered using Internet protocol.

(4) CONTINUING COMMISSION AUTHORITY.—

(A) IN GENERAL.—The Commission may not issue additional regulations unless the Commission determines, at least 2 years after completing the reports required in paragraph (3), that the need for and benefits of providing video description for video programming, insofar as such programming is transmitted for display on television, are greater than the technical and economic costs of providing such additional programming.

(B) LIMITATION.—If the Commission makes the determination under subparagraph (A) and issues additional regulations, the Commission may not increase, in total, the hour requirement for additional described programming by more than 75 percent of the requirement in the regulations reinstated under paragraph (1).

(C) APPLICATION TO DESIGNATED MARKET AREAS.—

(i) IN GENERAL.—After the Commission completes the reports on video description required in paragraph (3), the Commission shall phase in the video description regulations for the top 60 designated market areas, except that the Commission may grant waivers to entities in specific designated market areas where it deems appropriate.

(ii) PHASE-IN DEADLINE.—The phase-in described in clause (i) shall be completed not later than 6 years after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010.

(iii) REPORT.—Nine years after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010, the 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 assessing—

(I) the types of described video programming that is available to consumers;

(II) consumer use of such programming;

(III) the costs to program owners, providers, and distributors of creating such programming;

(IV) the potential costs to program owners, providers, and distributors in designated market areas outside of the top 60 of creating such programming;

(V) the benefits to consumers of such programming;

(VI) the amount of such programming currently available; and

(VII) the need for additional described programming in designated market areas outside the top 60.

(iv) **ADDITIONAL MARKET AREAS.**—Ten years after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Commission shall have the authority, based upon the findings, conclusions, and recommendations contained in the report under clause (iii), to phase in the video description regulations for up to an additional 10 designated market areas each year—

(I) if the costs of implementing the video description regulations to program owners, providers, and distributors in those additional markets are reasonable, as determined by the Commission; and

(II) except that the Commission may grant waivers to entities in specific designated market areas where it deems appropriate.

(g) **EMERGENCY INFORMATION.**—Not later than 1 year after the Advisory Committee report under subsection (e)(2) is submitted to the Commission, the Commission shall complete a proceeding to—

(1) identify methods to convey emergency information (as that term is defined in section 79.2 of title 47, Code of Federal Regulations) in a manner accessible to individuals who are blind or visually impaired; and

(2) promulgate regulations that require video programming providers and video programming distributors (as those terms are defined in section 79.1 of title 47, Code of Federal Regulations) and program owners to convey such emergency information in a manner accessible to individuals who are blind or visually impaired.

(h) **DEFINITIONS.**—For purposes of this section, section 303, and section 330:

(1) **VIDEO DESCRIPTION.**—The term “video description” means the insertion of audio narrated descriptions of a television program’s key visual elements into natural pauses between the program’s dialogue.

(2) **VIDEO PROGRAMMING.**—The term “video programming” means programming by, or generally considered comparable to programming provided by a television broadcast station, but not including consumer-generated media (as defined in section 3).

(j) **PRIVATE RIGHTS OF ACTIONS PROHIBITED.**—Nothing in this section shall be construed to authorize any private right of action

to enforce any requirement of this section or any regulation thereunder. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

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TELECOMMUNICATIONS ACT OF 1996

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SEC. 2. TABLE OF CONTENTS.

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TITLE VII—MISCELLANEOUS PROVISIONS

* * * * *
[710. Authorization of appropriations.]

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TITLE VII—MISCELLANEOUS PROVISIONS

* * * * *

SEC. 706. ADVANCED TELECOMMUNICATIONS INCENTIVES.

(a) **IN GENERAL.**—The Commission and each State commission with regulatory jurisdiction over telecommunications services shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment.

[(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 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.]

(b) DETERMINATION.—*If the Commission determines in its report under section 14 of the Communications Act of 1934, after considering the availability of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms), 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.*

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

(1) ADVANCED TELECOMMUNICATIONS CAPABILITY.—The term “advanced telecommunications capability” is defined, without regard to any transmission media or technology, as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.

(2) ELEMENTARY AND SECONDARY SCHOOLS.—The term “elementary and secondary schools” means elementary and secondary schools, as defined in section 8101 of the Elementary and Secondary Education Act of 1965.

* * * * *

[SEC. 710. AUTHORIZATION OF APPROPRIATIONS.

[(a)] IN GENERAL.—In addition to any other sums authorized by law, there are authorized to be appropriated to the Federal Communications Commission such sums as may be necessary to carry out this Act and the amendments made by this Act.

[(b)] EFFECT ON FEES.—For the purposes of section 9(b)(2) (47 U.S.C. 159(b)(2)), additional amounts appropriated pursuant to subsection (a) shall be construed to be changes in the amounts appropriated for the performance of activities described in section 9(a) of the Communications Act of 1934.

[(c)] FUNDING AVAILABILITY.—Section 309(j)(8)(B) (47 U.S.C. 309(j)(8)(B)) is amended by adding at the end the following new sentence: “Such offsetting collections are authorized to remain available until expended.”.]

PUBLIC LAW 108-494

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TITLE III—UNIVERSAL SERVICE

* * * * *

SEC. 302. APPLICATION OF CERTAIN TITLE 31 PROVISIONS TO UNIVERSAL SERVICE FUND.

(a) IN GENERAL.—During the period beginning on the date of enactment of this Act and ending on [December 31, 2018] *December*

31, 2021, section 1341 and subchapter II of chapter 15 of title 31, United States Code, do not apply—

(1) to any amount collected or received as Federal universal service contributions required by section 254 of the Communications Act of 1934 (47 U.S.C. 254), including any interest earned on such contributions; nor

(2) to the expenditure or obligation of amounts attributable to such contributions for universal service support programs established pursuant to that section.

(b) POST-2005 FULFILLMENT OF PROTECTED OBLIGATIONS.—Section 1341 and subchapter II of chapter 15 of title 31, United States Code, do not apply after [December 31, 2018] *December 31, 2021*, to an expenditure or obligation described in subsection (a)(2) made or authorized during the period described in subsection (a).

**ROBERT T. STAFFORD DISASTER RELIEF AND
EMERGENCY ASSISTANCE ACT**

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**TITLE IV—MAJOR DISASTER
ASSISTANCE PROGRAMS**

* * * * *

SEC. 427. ESSENTIAL SERVICE PROVIDERS.

(a) DEFINITION.—In this section, the term “essential service provider” means an entity that—

[(1) provides] (1) (A) provides —

[(A) telecommunications service] (i) *wireline or mobile telephone service, Internet access service, radio or television broadcasting, cable service, or direct broadcast satellite service;*

[(B)] (ii) electrical power;

[(C)] (iii) natural gas;

[(D)] (iv) water and sewer services; or

[(E)] (v) any other essential service, as determined by the President[;]; or

(B) *is a tower owner or operator;*

(2) is—

(A) a municipal entity;

(B) a nonprofit entity; or

(C) a private, for profit entity; and

(3) is contributing to efforts to respond to an emergency or major disaster.

(b) AUTHORIZATION FOR ACCESSIBILITY.—Unless exceptional circumstances apply, in an emergency or major disaster, the head of a Federal agency, to the greatest extent practicable, shall not—

(1) deny or impede access to the disaster site to an essential service provider whose access is necessary to restore and repair an essential service; or

(2) impede the restoration or repair of the services described in subsection (a)(1).

(c) IMPLEMENTATION.—In implementing this section, the head of a Federal agency shall follow all applicable Federal laws, regulations, and policies.

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COMMUNICATIONS SATELLITE ACT OF 1962

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**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.]

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PUBLIC LAW 109-34

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[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.】

BROADBAND DATA IMPROVEMENT ACT

TITLE I—BROADBAND DATA IMPROVEMENT

* * * * *

SEC. 103 IMPROVING FEDERAL DATA ON BROADBAND.

(a) IMPROVING SECTION 706 INQUIRY.—Section 706 of the Telecommunications Act of 1996 (47 U.S.C. 157 note) is amended—

(1) by striking “regularly” in subsection (b) and inserting “annually”;

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following:

“(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.”.

【(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) IN GENERAL.—For the purpose of evaluating, on a statistically significant basis, the national characteristics of the use of broadband service capability, the Commission shall conduct and make public periodic surveys of consumers in urban, suburban, and rural areas in the large business, small business, and residential consumer markets to determine—

(A) the types of technology used to provide the broadband service capability to which consumers subscribe;

(B) the amounts consumers pay per month for such capability;

(C) the actual data transmission speeds of such capability;

(D) the types of applications and services consumers most frequently use in conjunction with such capability;

(E) for consumers who have declined to subscribe to broadband service capability, the reasons given by such consumers for declining such capability;

(F) other sources of broadband service capability which consumers regularly use or on which they rely; and

(G) any other information the Commission deems appropriate for such purpose.

(2) PUBLIC AVAILABILITY.—The Commission shall make publicly available the results of surveys conducted under this subsection at least once per year.

[(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.

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INSPECTOR GENERAL ACT OF 1978

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REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL
ENTITIES

SEC. 8G. (a) Notwithstanding section 12 of this Act, as used in this section—

(1) the term “Federal entity” means any Government corporation (within the meaning of section 103(1) of title 5, United States Code), any Government controlled corporation (within the meaning of section 103(2) of such title), or any other entity in the Executive branch of the Government, or any independent regulatory agency, but does not include—

(A) an establishment (as defined under section 12(2) of this Act) or part of an establishment;

(B) a designated Federal entity (as defined under paragraph (2) of this subsection) or part of a designated Federal entity;

(C) the Executive Office of the President;

(D) the Central Intelligence Agency;

(E) the General Accounting Office; or

(F) any entity in the judicial or legislative branches of the Government, including the Administrative Office of the United States Courts and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol;

(2) the term “designated Federal entity” means Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection, the Board for International Broadcasting, the Committee for Purchase From People Who Are Blind or Severely Disabled, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Defense Intelligence Agency, the Equal Employment Opportunity Commission, the Farm Credit Administration, [the Federal Communications Commission,] the Federal Deposit Insurance Corporation, the Federal Election Commission, the Election Assistance Commission, the Federal Housing Finance Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Geospatial-Intelligence Agency, the National Labor Relations Board, the National Science Foundation, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, the Smithsonian Institution, the United States International Trade Commission, the Postal Regulatory Commission, and the United States Postal Service;

(3) the term “head of the Federal entity” means any person or persons designated by statute as the head of a Federal entity, and if no such designation exists, the chief policymaking of-

ficer or board of a Federal entity as identified in the list published pursuant to subsection (h)(1) of this section;

(4) the term “head of the designated Federal entity” means the board or commission of the designated Federal entity, or in the event the designated Federal entity does not have a board or commission, any person or persons designated by statute as the head of a designated Federal entity and if no such designation exists, the chief policymaking officer or board of a designated Federal entity as identified in the list published pursuant to subsection (h)(1) of this section, except that—

(A) with respect to the National Science Foundation, such term means the National Science Board;

(B) with respect to the United States Postal Service, such term means the Governors (within the meaning of section 102(3) of title 39, United States Code);

(C) with respect to the Federal Labor Relations Authority, such term means the members of the Authority (described under section 7104 of title 5, United States Code);

(D) with respect to the Committee for Purchase From People Who Are Blind or Severely Disabled, such term means the Chairman of the Committee for Purchase From People Who Are Blind or Severely Disabled;

(E) with respect to the National Archives and Records Administration, such term means the Archivist of the United States;

(F) with respect to the National Credit Union Administration, such term means the National Credit Union Administration Board (described under section 102 of the Federal Credit Union Act (12 U.S.C. 1752a);

(G) with respect to the National Endowment of the Arts, such term means the National Council on the Arts;

(H) with respect to the National Endowment for the Humanities, such term means the National Council on the Humanities; and

(I) with respect to the Peace Corps, such term means the Director of the Peace Corps;

(5) the term “Office of Inspector General” means an Office of Inspector General of a designated Federal entity; and

(6) the term “Inspector General” means an Inspector General of a designated Federal entity.

(b) No later than 180 days after the date of the enactment of this section, there shall be established and maintained in each designated Federal entity an Office of Inspector General. The head of the designated Federal entity shall transfer to such office the offices, units, or other components, and the functions, powers, or duties thereof, that such head determines are properly related to the functions of the Office of Inspector General and would, if so transferred, further the purposes of this section. There shall not be transferred to such office any program operating responsibilities.

(c) Except as provided under subsection (f) of this section, the Inspector General shall be appointed by the head of the designated Federal entity in accordance with the applicable laws and regulations governing appointments within the designated Federal entity. Each Inspector General shall be appointed without regard to political affiliation and solely on the basis of integrity and demonstrated

ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. For purposes of implementing this section, the Chairman of the Board of Governors of the Federal Reserve System shall appoint the Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection. The Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection shall have all of the authorities and responsibilities provided by this Act with respect to the Bureau of Consumer Financial Protection, as if the Bureau were part of the Board of Governors of the Federal Reserve System.

(d)(1) Each Inspector General shall report to and be under the general supervision of the head of the designated Federal entity, but shall not report to, or be subject to supervision by, any other officer or employee of such designated Federal entity. Except as provided in paragraph (2), the head of the designated Federal entity shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.

(2)(A) The Secretary of Defense, in consultation with the Director of National Intelligence, may prohibit the inspector general of an element of the intelligence community specified in subparagraph (D) from initiating, carrying out, or completing any audit or investigation, or from accessing information available to an element of the intelligence community specified in subparagraph (D),, or from accessing information available to an element of the intelligence community specified in subparagraph (D), if the Secretary determines that the prohibition is necessary to protect vital national security interests of the United States.

(B) If the Secretary exercises the authority under subparagraph (A), the Secretary shall submit to the committees of Congress specified in subparagraph (E) an appropriately classified statement of the reasons for the exercise of such authority not later than 7 days after the exercise of such authority.

(C) At the same time the Secretary submits under subparagraph (B) a statement on the exercise of the authority in subparagraph (A) to the committees of Congress specified in subparagraph (E), the Secretary shall notify the inspector general of such element of the submittal of such statement and, to the extent consistent with the protection of intelligence sources and methods, provide such inspector general with a copy of such statement. Such inspector general may submit to such committees of Congress any comments on a notice or statement received by the inspector general under this subparagraph that the inspector general considers appropriate.

(D) The elements of the intelligence community specified in this subparagraph are as follows:

- (i) The Defense Intelligence Agency.
- (ii) The National Geospatial-Intelligence Agency.
- (iii) The National Reconnaissance Office.
- (iv) The National Security Agency.

(E) The committees of Congress specified in this subparagraph are—

(i) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

(ii) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(e)(1) In the case of a designated Federal entity for which a board, chairman of a committee, or commission is the head of the designated Federal entity, a removal under this subsection may only be made upon the written concurrence of a $\frac{2}{3}$ majority of the board, committee, or commission.”

(2) If an Inspector General is removed from office or is transferred to another position or location within a designated Federal entity, the head of the designated Federal entity shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.

(f)(1) For purposes of carrying out subsection (c) with respect to the United States Postal Service, the appointment provisions of section 202(e) of title 39, United States Code, shall be applied.

(2) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service (hereinafter in this subsection referred to as the “Inspector General”) shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report the significant activities being carried out by the Postal Inspection Service to such Inspector General.

(3)(A)(i) Notwithstanding subsection (d), the Inspector General shall be under the authority, direction, and control of the Governors with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

(I) ongoing civil or criminal investigations or proceedings;

(II) undercover operations;

(III) the identity of confidential sources, including protected witnesses;

(IV) intelligence or counterintelligence matters; or

(V) other matters the disclosure of which would constitute a serious threat to national security.

(ii) With respect to the information described under clause (i), the Governors may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Governors determine that such prohibition is necessary to prevent the disclosure of any information described under clause (i) or to prevent the significant impairment to the national interests of the United States.

(iii) If the Governors exercise any power under clause (i) or (ii), the Governors shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House

of Representatives, and to other appropriate committees or subcommittees of the Congress.

(B) In carrying out the duties and responsibilities specified in this Act, the Inspector General—

(i) may initiate, conduct and supervise such audits and investigations in the United States Postal Service as the Inspector General considers appropriate; and

(ii) shall give particular regard to the activities of the Postal Inspection Service with a view toward avoiding duplication and insuring effective coordination and cooperation.

(C) Any report required to be transmitted by the Governors to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

(4) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of either employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

(5) As used in this subsection, the term “Governors” has the meaning given such term by section 102(3) of title 39, United States Code.

(6) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Office of Inspector General of the United States Postal Service.

(g)(1) Sections 4, 5, 6 (other than subsections (a)(7) and (a)(8) thereof), and 7 of this Act shall apply to each Inspector General and Office of Inspector General of a designated Federal entity and such sections shall be applied to each designated Federal entity and head of the designated Federal entity (as defined under subsection (a)) by substituting—

(A) “designated Federal entity” for “establishment”; and

(B) “head of the designated Federal entity” for “head of the establishment”.

(2) In addition to the other authorities specified in this Act, an Inspector General is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the designated Federal entity.

(3) Notwithstanding the last sentence of subsection (d) of this section, the provisions of subsection (a) of section 8D (other than the provisions of subparagraphs (A), (B), (C), and (E) of subsection (a)(1)) shall apply to the Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection and the Chairman of the Board of Governors of the Federal Reserve System in the same manner as such provi-

sions apply to the Inspector General of the Department of the Treasury and the Secretary of the Treasury, respectively.

(4) Each Inspector General shall—

(A) in accordance with applicable laws and regulations governing appointments within the designated Federal entity, appoint a Counsel to the Inspector General who shall report to the Inspector General;

(B) obtain the services of a counsel appointed by and directly reporting to another Inspector General on a reimbursable basis; or

(C) obtain the services of appropriate staff of the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.

(h)(1) No later than April 30, 1989, and annually thereafter, the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, shall publish in the Federal Register a list of the Federal entities and designated Federal entities and if the designated Federal entity is not a board or commission, include the head of each such entity (as defined under subsection (a) of this section).

(2) Beginning on October 31, 1989, and on October 31 of each succeeding calendar year, the head of each Federal entity (as defined under subsection (a) of this section) shall prepare and transmit to the Director of the Office of Management and Budget and to each House of the Congress a report which—

(A) states whether there has been established in the Federal entity an office that meets the requirements of this section;

(B) specifies the actions taken by the Federal entity otherwise to ensure that audits are conducted of its programs and operations in accordance with the standards for audit of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States, and includes a list of each audit report completed by a Federal or non-Federal auditor during the reporting period and a summary of any particularly significant findings; and

(C) summarizes any matters relating to the personnel, programs, and operations of the Federal entity referred to prosecutive authorities, including a summary description of any preliminary investigation conducted by or at the request of the Federal entity concerning these matters, and the prosecutions and convictions which have resulted.

* * * * *

DEFINITIONS

SEC. 12. As used in this Act—

(1) the term “head of the establishment” means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, Homeland Security, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, or Small Business, or Veterans’ Affairs; the Director of the Federal Emergency Management Agency, or the Office of

Personnel Management; the Chairman of the Nuclear Regulatory Commission, *the Federal Communications Commission*, or the Railroad Retirement Board; the Chairperson of the Thrift Depositor Protection Oversight Board; the Chief Executive Officer of the Corporation for National and Community Service; the Administrator of the Community Development Financial Institutions Fund; the chief executive officer of the Resolution Trust Corporation; the Chairperson of the Federal Deposit Insurance Corporation; the Commissioner of Social Security, Social Security Administration; the Director of the Federal Housing Finance Agency; the Board of Directors of the Tennessee Valley Authority; the President of the Export-Import Bank; the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code; the Director of the National Security Agency; or the Director of the National Reconnaissance Office; as the case may be;

(2) the term “establishment” means the Department of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, Homeland Security, or the Treasury; the Agency for International Development, the Community Development Financial Institutions Fund, the Environmental Protection Agency, *the Federal Communications Commission*, the Federal Emergency Management Agency, the General Services Administration, the National Aeronautics and Space Administration, the Nuclear Regulatory Commission, the Office of Personnel Management, the Railroad Retirement Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Small Business Administration, the Corporation for National and Community Service, or the Veterans’ Administration, the Social Security Administration, the Federal Housing Finance Agency, the Tennessee Valley Authority, the Export-Import Bank, the Commissions established under section 15301 of title 40, United States Code, the National Security Agency, or the National Reconnaissance Office, as the case may be;

(3) the term “Inspector General” means the Inspector General of an establishment;

(4) the term “Office” means the Office of Inspector General of an establishment; and

(5) the term “Federal agency” means an agency as defined in section 552(f) of title 5 (including an establishment as defined in paragraph (2)), United States Code, but shall not be construed to include the General Accounting Office.

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EXCHANGE OF LETTERS WITH ADDITIONAL COMMITTEES OF
REFERRALTREY GOWDY, SOUTH CAROLINA
CHAIRMAN

ONE HUNDRED FIFTEENTH CONGRESS

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER**Congress of the United States**
House of RepresentativesCOMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6143Majority (20) 225-5074
Minority (20) 225-3051
<http://oversight.house.gov>

March 6, 2018

The Honorable Greg Walden
Chairman, Committee on Energy & Commerce
U.S. House of Representatives


Dear Mr. Chairman:

I am writing concerning the jurisdictional interest of the Committee on Oversight and Government Reform in H.R. 4986, the "RAY BAUM'S Act of 2018." As a result of your having consulted with me concerning the provisions of the bill that fall within our Rule X jurisdiction, I agree to forego further consideration by the Committee on Oversight and Government Reform.

The Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 4986 at this time we do not waive any jurisdiction over the subject matter contained in this or similar legislation. Further, I request your support for the appointment of conferees from the Committee on Oversight and Government Reform during any House-Senate conference convened on this or related legislation.

Finally, I would ask that a copy of our exchange of letters on this matter be included in the bill report filed by the Committee on Energy & Commerce, as well as in the Congressional Record during floor consideration, to memorialize our understanding.

Sincerely,



Trey Gowdy

cc: The Honorable Paul D. Ryan, Speaker
The Honorable Elijah E. Cummings
The Honorable Frank Pallone, Jr.
The Honorable Thomas J. Wickham, Parliamentarian

GREG WALDEN, OREGON
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (302) 225-2927
Minority (102) 225-3641

March 6, 2018

The Honorable Trey Gowdy
Chairman
Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gowdy:

Thank you for your letter concerning H.R. 4986, RAY BAUM'S Act of 2018, and I appreciate your willingness to forego further consideration by the Committee on Oversight and Government Reform.

I agree that by foregoing consideration of H.R. 4986 at this time, the Committee on Oversight and Government Reform does not waive any jurisdiction over the subject matter contained in this or similar legislation. Further, I will support the appointment of conferees from the Committee on Oversight and Government Reform during any House-Senate conference convened on this or related legislation.

Finally, a copy of our exchange of letters on this matter will be included in the bill report filed by the Committee on Energy and Commerce, as well as in the *Congressional Record* during floor consideration, to memorialize our understanding.

Sincerely,


Greg Walden
Chairman



Committee on Transportation and Infrastructure
U.S. House of Representatives

Washington, DC 20515

Bill Shuster
Chairman

Peter A. DeFazio
Ranking Member

March 6, 2018

Matthew M. Sturges, Staff Director

Katherine W. Detrick, Democratic Staff Director

The Honorable Greg Walden
Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Walden:

I write concerning H.R. 4986, *RAY BAUM'S Act of 2018*. This legislation includes matters that fall within the Rule X jurisdiction of the Committee on Transportation and Infrastructure.

I recognize and appreciate your desire to bring this legislation before the House of Representatives in an expeditious manner, and accordingly, the Committee on Transportation and Infrastructure will forego action on the bill. However, this is conditional on our mutual understanding that foregoing consideration of the bill does not prejudice the Committee with respect to the appointment of conferees or to any future jurisdictional claim over the subject matters contained in the bill or similar legislation that fall within the Committee's Rule X jurisdiction. Further, this is conditional on our understanding that mutually agreed upon changes to the legislation will be incorporated into the bill prior to floor consideration. Lastly, should a conference on the bill be necessary, I request your support for the appointment of conferees from the Committee on Transportation and Infrastructure during any House-Senate conference convened on this or related legislation.

I would ask that a copy of this letter and your response acknowledging our jurisdictional interest as well as the mutually agreed upon changes to be incorporated into the bill be included in the Congressional Record during consideration of the measure on the House floor, to memorialize our understanding.

I look forward to working with the Committee on Energy and Commerce as the bill moves through the legislative process.

Sincerely,

A handwritten signature in black ink that reads "Bill Shuster". The signature is written in a cursive, flowing style.

Bill Shuster
Chairman

cc: The Honorable Paul D. Ryan
The Honorable Peter A. DeFazio
The Honorable Frank Pallone, Jr.
Mr. Thomas J. Wickham, Jr., Parliamentarian

GREG WALDEN, OREGON
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (202) 225-2927
Minority (202) 225-3641

March 6, 2018

The Honorable Bill Shuster
Chairman
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Shuster:

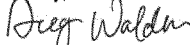
Thank you for your letter concerning H.R. 4986, RAY BAUM'S Act of 2018, which includes matters that fall within the Rule X jurisdiction of the Committee on Transportation and Infrastructure.

I appreciate your Committee's willingness to forego action on H.R. 4986 so that this legislation may be brought before the House of Representatives in an expeditious manner.

I agree that foregoing consideration of the bill does not prejudice the Committee with respect to the appointment of conferees or to any future jurisdictional claim over the subject matters contained in the bill or similar legislation that fall within the Committee's Rule X jurisdiction. Further, I agree that mutually agreed upon changes to the legislation will be incorporated into the bill prior to floor consideration. Lastly, should a conference on the bill be necessary, I will support the appropriate appointment of conferees from the Committee on Transportation and Infrastructure during any House-Senate conference convened on this or related legislation.

I will include a copy of your letter and this response in the *Congressional Record* during consideration of the measure on the House floor.

Sincerely,


Greg Walden
Chairman

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