

**TITLE IX--SATELLITE HOME VIEWER EXTENSION AND REAUTHORIZATION ACT OF 2004**

**SECTION 1. SHORT TITLES; TABLE OF CONTENTS.**

(a) *Short Titles-* This title may be cited as the `Satellite Home Viewer Extension and Reauthorization Act of 2004' or the `W. J. (Billy) Tauzin Satellite Television Act of 2004'.  
(b) *Table of Contents-* The table of contents for this Act is as follows:

Sec. 1. Short titles; table of contents.
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**TITLE I--STATUTORY LICENSE FOR SATELLITE CARRIERS**

**SEC. 101. EXTENSION OF AUTHORITY.**

(a) *In General-* Section 4(a) of the Satellite Home Viewer Act of 1994 (17 U.S.C. 119 note; Public Law 103-369; 108 Stat. 3481) is amended by striking `December 31, 2004' and inserting `December 31, 2009'.

(b) *Extension for Certain Subscribers-* Section 119(e) of title 17, United States Code, is amended by striking `December 31, 2004' and inserting `December 31, 2009'.

**SEC. 102. REPORTING OF SUBSCRIBERS; SIGNIFICANTLY VIEWED AND OTHER SIGNALS; TECHNICAL AMENDMENTS.**

Section 119(a) of title 17, United States Code, is amended--

(1) in paragraph (1)--

(A) in the paragraph heading, by striking `AND PBS SATELLITE FEED';

(B) in the first sentence, by striking `(3), (4), and (6)' and inserting `(5), (6), and (8)';

(C) in the first sentence, by striking `or by the Public Broadcasting Service satellite feed'; and

(D) by striking the second sentence;

(2) in paragraph (2)--

(A) in subparagraph (A), by striking `(3), (4), (5), and (6)' and inserting `(5), (6), (7), and (8)'; and

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

(C) **EXCEPTIONS-**

(i) **STATES WITH SINGLE FULL-POWER NETWORK STATION-** In a State in which there is licensed by the Federal Communications Commission a single full-power station that was a network station on January 1, 1995, the statutory license provided for in subparagraph (A) shall apply to the secondary transmission by a satellite carrier of the primary transmission of that station to any subscriber in a community that is located within that State and that is not within the first 50 television markets as listed in the regulations of the Commission as in effect on such date (47 CFR 76.51).

(ii) **STATES WITH ALL NETWORK STATIONS AND SUPERSTATIONS IN SAME LOCAL MARKET-** In a State in which all network stations and superstations licensed by the Federal Communications Commission within that State as of January 1, 1995, are assigned to the same local market and that local market does not encompass all counties of that State, the statutory license provided under subparagraph (A) shall apply to the secondary transmission by a satellite carrier of the primary transmissions of such station to all subscribers in the State who reside in a local market that is within the first 50 major television

markets as listed in the regulations of the Commission as in effect on such date (section 76.51 of title 47 of the Code of Federal Regulations).

`(iii) **ADDITIONAL STATIONS-** *In the case of that State in which are located 4 counties that--*

*`(I) on January 1, 2004, were in local markets principally comprised of counties in another State, and*

*`(II) had a combined total of 41,340 television households, according to the U.S. Television Household Estimates by Nielsen Media Research for 2004,*

*the statutory license provided under subparagraph (A) shall apply to secondary transmissions by a satellite carrier to subscribers in any such county of the primary transmissions of any network station located in that State, if the satellite carrier was making such secondary transmissions to any subscribers in that county on January 1, 2004.*

`(iv) **CERTAIN ADDITIONAL STATIONS-** *If 2 adjacent counties in a single State are in a local market comprised principally of counties located in another State, the statutory license provided for in subparagraph (A) shall apply to the secondary transmission by a satellite carrier to subscribers in those 2 counties of the primary transmissions of any network station located in the capital of the State in which such 2 counties are located, if--*

*`(I) the 2 counties are located in a local market that is in the top 100 markets for the year 2003 according to Nielsen Media Research; and*

*`(II) the total number of television households in the 2 counties combined did not exceed 10,000 for the year 2003 according to Nielsen Media Research.*

`(v) **APPLICABILITY OF ROYALTY RATES-** *The royalty rates under subsection (b)(1)(B) apply to the secondary transmissions to which the statutory license under subparagraph (A) applies under clauses (i), (ii), (iii), and (iv).*

`(D) **SUBMISSION OF SUBSCRIBER LISTS TO NETWORKS-**

*`(i) INITIAL LISTS-* *A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station--*

*`(I) a list identifying (by name and address, including street or rural route number, city, State, and zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission to subscribers in unserved households; and*

*`(II) a separate list, aggregated by designated market area (as defined in section 122(j)) (by name and address,*

*including street or rural route number, city, State, and zip code), which shall indicate those subscribers being served pursuant to paragraph (3), relating to significantly viewed stations.*

*“(ii) MONTHLY LISTS- After the submission of the initial lists under clause (i), on the 15th of each month, the satellite carrier shall submit to the network--*

*“(I) a list identifying (by name and address, including street or rural route number, city, State, and zip code) any persons who have been added or dropped as subscribers under clause (i)(I) since the last submission under clause (i); and*

*“(II) a separate list, aggregated by designated market area (by name and street address, including street or rural route number, city, State, and zip code), identifying those subscribers whose service pursuant to paragraph (3), relating to significantly viewed stations, has been added or dropped.*

*“(iii) USE OF SUBSCRIBER INFORMATION- Subscriber information submitted by a satellite carrier under this subparagraph may be used only for purposes of monitoring compliance by the satellite carrier with this subsection.*

*“(iv) APPLICABILITY- The submission requirements of this subparagraph shall apply to a satellite carrier only if the network to which the submissions are to be made places on file with the Register of Copyrights a document identifying the name and address of the person to whom such submissions are to be made. The Register shall maintain for public inspection a file of all such documents.’;*

*(3) by striking paragraph (8);*

*(4) by redesignating paragraphs (9) through (12) as paragraphs (10) through (13), respectively;*

*(5) by redesignating paragraphs (3) through (7) as paragraphs (5) through (9), respectively;*

*(6) by inserting after paragraph (2) the following:*

*“(3) SECONDARY TRANSMISSIONS OF SIGNIFICANTLY VIEWED SIGNALS-*

*“(A) IN GENERAL- Notwithstanding the provisions of paragraph (2)(B), and subject to subparagraph (B) of this paragraph, the statutory license provided for in paragraphs (1) and (2) shall apply to the secondary transmission of the primary transmission of a network station or a superstation to a subscriber who resides outside the station's local market (as defined in section 122(j)) but within a community in which the signal has been determined by the Federal Communications Commission, to be significantly viewed in such community, pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect*

on April 15, 1976, applicable to determining with respect to a cable system whether signals are significantly viewed in a community.

“(B) *LIMITATION*- Subparagraph (A) shall apply only to secondary transmissions of the primary transmissions of network stations and superstations to subscribers who receive secondary transmissions from a satellite carrier pursuant to the statutory license under section 122.

“(C) *WAIVER*-

“(i) *IN GENERAL*- A subscriber who is denied the secondary transmission of the primary transmission of a network station under subparagraph (B) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station in the local market affiliated with the same network where the subscriber is located. The network station shall accept or reject the subscriber's request for a waiver within 30 days after receipt of the request. If the network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station shall be deemed to agree to the waiver request. Unless specifically stated by the network station, a waiver that was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 under section 339(c)(2) of the Communications Act of 1934 shall not constitute a waiver for purposes of this subparagraph.

“(ii) *SUNSET*- The authority under clause (i) to grant waivers shall terminate on December 31, 2008, and any such waiver in effect shall terminate on that date.’;

(7) in paragraph (2)(B)(i), by adding at the end the following new sentence: ‘The limitation in this clause shall not apply to secondary transmissions under paragraph (3).’.

### **SEC. 103. STATUTORY LICENSE FOR SATELLITE CARRIERS OUTSIDE LOCAL MARKETS.**

Section 119 of title 17, United States Code, is amended as follows:

(1) Subsection (a) is amended by inserting after paragraph (3), as added by section 102 of this Act, the following:

“(4) *STATUTORY LICENSE WHERE RETRANSMISSIONS INTO LOCAL MARKET AVAILABLE*-

“(A) *RULES FOR SUBSCRIBERS TO ANALOG SIGNALS UNDER SUBSECTION (e)*-

“(i) *FOR THOSE RECEIVING DISTANT ANALOG SIGNALS*- In the case of a subscriber of a satellite carrier who is eligible to receive the secondary transmission of the primary analog transmission of a network station solely by reason of subsection (e) (in this subparagraph referred to as a ‘distant analog signal’), and who, as of October 1, 2004, is receiving the distant analog signal of that network station, the following shall apply:

*`(I) In a case in which the satellite carrier makes available to the subscriber the secondary transmission of the primary analog transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122, the statutory license under paragraph (2) shall apply only to secondary transmissions by that satellite carrier to that subscriber of the distant analog signal of a station affiliated with the same television network--*

*`(aa) if, within 60 days after receiving the notice of the satellite carrier under section 338(h)(1) of the Communications Act of 1934, the subscriber elects to retain the distant analog signal; but*

*`(bb) only until such time as the subscriber elects to receive such local analog signal.*

*`(II) Notwithstanding subclause (I), the statutory license under paragraph (2) shall not apply with respect to any subscriber who is eligible to receive the distant analog signal of a television network station solely by reason of subsection (e), unless the satellite 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 a list, aggregated by designated market area (as defined in section 122(j)(2)(C)), that--*

*`(aa) identifies that subscriber by name and address (street or rural route number, city, State, and zip code) and specifies the distant analog signals received by the subscriber; and*

*`(bb) states, to the best of the satellite carrier's knowledge and belief, after having made diligent and good faith inquiries, that the subscriber is eligible under subsection (e) to receive the distant analog signals.*

*`(ii) FOR THOSE NOT RECEIVING DISTANT ANALOG SIGNALS- In the case of any subscriber of a satellite carrier who is eligible to receive the distant analog signal of a network station solely by reason of subsection (e) and who did not receive a distant analog signal of a station affiliated with the same network on October 1, 2004, the statutory license under paragraph (2) shall not apply to secondary transmissions by that satellite carrier to that subscriber of the distant analog signal of a station affiliated with the same network.*

*`(B) RULES FOR OTHER SUBSCRIBERS- In the case of a subscriber of a satellite carrier who is eligible to receive the secondary transmission of the primary analog transmission of a network station under the statutory license under paragraph (2) (in this subparagraph referred to as a `distant analog 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 secondary transmission of the primary analog transmission of a local network station affiliated*

*with the same television network pursuant to the statutory license under section 122, the statutory license under paragraph (2) shall apply only to secondary transmissions by that satellite carrier to that subscriber of the distant analog signal of a station affiliated with the same television network if the subscriber's satellite carrier, not later than March 1, 2005, submits to that television network a list, aggregated by designated market area (as defined in section 122(j)(2)(C)), that identifies that subscriber by name and address (street or rural route number, city, State, and zip code) and specifies the distant analog signals received by the subscriber.*

*“(ii) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the secondary transmission of the primary analog transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122, the statutory license under paragraph (2) shall apply only to secondary transmissions by that satellite carrier of the distant analog signal of a station affiliated with the same network to that subscriber if--*

*“(I) that subscriber seeks to subscribe to such distant analog signal before the date on which such carrier commences to provide pursuant to the statutory license under section 122 the secondary transmissions of the primary analog transmission of stations from the local market of such local network station; and*

*“(II) the satellite carrier, within 60 days after such date, submits to each television network a list that identifies each subscriber in that local market provided such an analog signal by name and address (street or rural route number, city, State, and zip code) and specifies the distant analog signals received by the subscriber.*

*“(C) FUTURE APPLICABILITY- The statutory license under paragraph (2) shall not apply to the secondary transmission by a satellite carrier of a primary analog transmission of a network station to a person who--*

*“(i) is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004; and*

*“(ii) 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 secondary transmission of the primary analog transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122, and such secondary transmission of such primary transmission can reach such person.*

*“(D) SPECIAL RULES FOR DISTANT DIGITAL SIGNALS- The statutory license under paragraph (2) shall apply to secondary transmissions by a satellite carrier to a subscriber of primary digital transmissions of*

*network stations if such secondary transmissions to such subscriber are permitted under section 339(a)(2)(D) of the Communications Act of 1934, as in effect on the day after the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, except that the reference to section 73.683(a) of title 47, Code of Federal Regulations, referred to in section 339(a)(2)(D)(i)(I) shall refer to such section as in effect on the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004.*

*“(E) OTHER PROVISIONS NOT AFFECTED- This paragraph shall not affect the applicability of the statutory license to secondary transmissions under paragraph (3) or to unserved households included under paragraph (12).*

*“(F) WAIVER- A subscriber who is denied the secondary transmission of a network station under subparagraph (C) or (D) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station in the local market affiliated with the same network where the subscriber is located. The network station shall accept or reject the subscriber's request for a waiver within 30 days after receipt of the request. If the network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station shall be deemed to agree to the waiver request. Unless specifically stated by the network station, a waiver that was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 under section 339(c)(2) of the Communications Act of 1934 shall not constitute a waiver for purposes of this subparagraph.*

*“(G) AVAILABLE DEFINED- For purposes of this paragraph, a satellite carrier makes available a secondary transmission of the primary transmission of a local station to a subscriber or person if the satellite carrier offers that secondary transmission to other subscribers who reside in the same zip code as that subscriber or person.’*

*(2) Subsection (a) is amended by adding at the end the following:*

*“(14) WAIVERS- A subscriber who is denied the secondary transmission of a signal of a network station under subsection (a)(2)(B) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station asserting that the secondary transmission is prohibited. The network station shall accept or reject a subscriber's request for a waiver within 30 days after receipt of the request. 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. Unless specifically stated by the network station, a waiver that was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 under section 339(c)(2) of the Communications Act of 1934, and that was in effect on such date of enactment, shall constitute a waiver for purposes of this paragraph.’*

*(3) Subsection (b)(1) is amended by striking subparagraph (B) and inserting the following:*

*“(B) a royalty fee for that 6-month period, computed by multiplying the total number of subscribers receiving each secondary transmission of each superstation or network station during each calendar month by the appropriate rate in effect under this section.”*

*(4) Subsection (b)(1) is further amended by adding at the end the following flush sentence: “Notwithstanding the provisions of subparagraph (B), a satellite carrier whose secondary transmissions are subject to statutory licensing under paragraph (1) or (2) of subsection (a) shall have no royalty obligation for secondary transmissions to a subscriber under paragraph (3) of such subsection.”*

*(5) Subsection (c) is amended to read as follows:*

*“(c) Adjustment of Royalty Fees-*

*“(1) APPLICABILITY AND DETERMINATION OF ROYALTY FEES FOR ANALOG SIGNALS-*

*“(A) INITIAL FEE- The appropriate fee for purposes of determining the royalty fee under subsection (b)(1)(B) for the secondary transmission of the primary analog transmissions of network stations and superstations shall be the appropriate fee set forth in part 258 of title 37, Code of Federal Regulations, as in effect on July 1, 2004, as modified under this paragraph.*

*“(B) FEE SET BY VOLUNTARY NEGOTIATION- On or before January 2, 2005, the Librarian of Congress shall cause to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining the royalty fee to be paid by satellite carriers for the secondary transmission of the primary analog transmission of network stations and superstations under subsection (b)(1)(B).*

*“(C) NEGOTIATIONS- Satellite carriers, distributors, and copyright owners entitled to royalty fees under this section shall negotiate in good faith in an effort to reach a voluntary agreement or agreements for the payment of royalty fees. Any such satellite carriers, distributors and copyright owners may at any time negotiate and agree to the royalty fee, and may designate common agents to negotiate, agree to, or pay such fees. If the parties fail to identify common agents, the Librarian of Congress shall do so, after requesting recommendations from the parties to the negotiation proceeding. The*

*parties to each negotiation proceeding shall bear the cost thereof.*

*“(D) AGREEMENTS BINDING ON PARTIES; FILING OF*

*AGREEMENTS; PUBLIC NOTICE- (i) Voluntary agreements negotiated at any time in accordance with this paragraph shall be binding upon all satellite carriers, distributors, and copyright owners that a parties thereto. Copies of such agreements shall be filed with the Copyright Office within 30 days after execution in accordance with regulations that the Register of Copyrights shall prescribe.*

*“(ii)(I) Within 10 days after publication in the Federal Register of a notice of the initiation of voluntary negotiation proceedings, parties who have reached a voluntary agreement may request that the royalty fees in that agreement be applied to all satellite carriers, distributors, and copyright*

owners without convening an arbitration proceeding pursuant to subparagraph (E).

`(II) Upon receiving a request under subclause (I), the Librarian of Congress shall immediately provide public notice of the royalty fees from the voluntary agreement and afford parties an opportunity to state that they object to those fees.

`(III) The Librarian shall adopt the royalty fees from the voluntary agreement for all satellite carriers, distributors, and copyright owners without convening an arbitration proceeding unless a party with an intent to participate in the arbitration proceeding and a significant interest in the outcome of that proceeding objects under subclause (II).

`(E) *PERIOD AGREEMENT IS IN EFFECT*- The obligation to pay the royalty fees established under a voluntary agreement which has been filed with the Copyright Office in accordance with this paragraph shall become effective on the date specified in the agreement, and shall remain in effect until December 31, 2009, or in accordance with the terms of the agreement, whichever is later.

`(F) *FEE SET BY COMPULSORY ARBITRATION*-

`(i) *NOTICE OF INITIATION OF PROCEEDINGS*- On or before May 1, 2005, the Librarian of Congress shall cause notice to be published in the Federal Register of the initiation of arbitration proceedings for the purpose of determining the royalty fee to be paid for the secondary transmission of primary analog transmission of network stations and superstations under subsection (b)(1)(B) by satellite carriers and distributors--

`(I) in the absence of a voluntary agreement filed in accordance with subparagraph (D) that establishes royalty fees to be paid by all satellite carriers and distributors; or

`(II) if an objection to the fees from a voluntary agreement submitted for adoption by the Librarian of Congress to apply to all satellite carriers, distributors, and copyright owners is received under subparagraph (D) from a party with an intent to participate in the arbitration proceeding and a significant interest in the outcome of that proceeding.

Such arbitrary proceeding shall be conducted under chapter 8 as in effect on the day before the date of the enactment of the Copyright Royalty and Distribution Act of 2004.

`(ii) *ESTABLISHMENT OF ROYALTY FEES*- In determining royalty fees under this subparagraph, the copyright arbitration royalty panel appointed under chapter 8, as in effect on the day before the date of the enactment of the Copyright Royalty and Distribution Act of 2004 shall establish fees for the secondary transmissions of the primary analog transmission of network stations and superstations that most clearly represent the fair market value of secondary transmissions, except that the Librarian of Congress and any copyright arbitration royalty panel shall

*adjust those fees to account for the obligations of the parties under any applicable voluntary agreement filed with the Copyright Office pursuant to subparagraph (D). In determining the fair market value, the panel shall base its decision on economic, competitive, and programming information presented by the parties, including--*

*`(I) the competitive environment in which such programming is distributed, the cost of similar signals in similar private and compulsory license marketplaces, and any special features and conditions of the retransmission marketplace;*

*`(II) the economic impact of such fees on copyright owners and satellite carriers; and*

*`(III) the impact on the continued availability of secondary transmissions to the public.*

*`(iii) PERIOD DURING WHICH DECISION OF ARBITRATION PANEL OR ORDER OF LIBRARIAN EFFECTIVE- The obligation to pay the royalty fee established under a determination which--*

*`(I) is made by a copyright arbitration royalty panel in an arbitration proceeding under this paragraph and is adopted by the Librarian of Congress under section 802(f), as in effect on the day before the date of the enactment of the Copyright Royalty and Distribution Act of 2004; or*

*`(II) is established by the Librarian under section 802(f) as in effect on the day before such date of enactment shall be effective as of January 1, 2005.*

*`(iv) PERSONS SUBJECT TO ROYALTY FEE- The royalty fee referred to in (iii) shall be binding on all satellite carriers, distributors and copyright owners, who are not party to a voluntary agreement filed with the Copyright Office under subparagraph (D).*

*`(2) APPLICABILITY AND DETERMINATION OF ROYALTY FEES FOR DIGITAL SIGNALS- The process and requirements for establishing the royalty fee payable under subsection (b)(1)(B) for the secondary transmission of the primary digital transmissions of network stations and superstations shall be the same as that set forth in paragraph (1) for the secondary transmission of the primary analog transmission of network stations and superstations, except that--*

*`(A) the initial fee under paragraph (1)(A) shall be the rates set forth in section 298.3(b)(1) and (2) of title 37, Code of Federal Regulations, as in effect on the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, reduced by 22.5 percent;*

*`(B) the notice of initiation of arbitration proceedings required in paragraph (1)(F)(i) shall be published on or before December 31, 2005; and*

*`(C) the royalty fees that are established for the secondary transmission of the primary digital transmission of network stations and superstations in*

accordance with to the procedures set forth in paragraph (1)(F)(iii) and are payable under subsection (b)(1)(B)--

    (i) shall be reduced by 22.5 percent; and

    (ii) shall be adjusted by the Librarian of Congress on January 1, 2007, and on January 1 of each year thereafter, to reflect any changes occurring during the preceding 12 months in the cost of living as determined by the most recent Consumer Price Index (for all consumers and items) published by the Secretary of Labor.'.

(6) Subsection (a)(7), as redesignated by section 102(5) of this Act, is amended--

(A) in subparagraph (A), by striking 'who does not reside in an unserved household' and inserting 'who is not eligible to receive the transmission under this section';

(B) in subparagraph (B), by striking 'who do not reside in unserved households' and inserting 'who are not eligible to receive the transmission under this section'; and

(C) in subparagraph (D), by striking 'is for private home viewing to an unserved household' and inserting 'is to a subscriber who is eligible to receive the secondary transmission under this section'.

#### **SEC. 104. STATUTORY LICENSE FOR SATELLITE RETRANSMISSION OF LOW POWER TELEVISION STATIONS.**

(a) In General- Section 119(a) of title 17, United States Code (as amended by sections 102 and 103 of this Act), is further amended by adding at the end the following:

    (15) CARRIAGE OF LOW POWER TELEVISION STATIONS-

    (A) IN GENERAL- Notwithstanding paragraph (2)(B), and subject to subparagraphs (B) through (F) of this paragraph, the statutory license provided for in paragraphs (1) and (2) shall apply to the secondary transmission of the primary transmission of a network station or a superstation that is licensed as a low power television station, to a subscriber who resides within the same local market.

    (B) GEOGRAPHIC LIMITATION-

    (i) NETWORK STATIONS- With respect to network stations, secondary transmissions provided for in subparagraph (A) shall be limited to secondary transmissions to subscribers who--

        (I) reside in the same local market as the station originating the signal; and

        (II) reside within 35 miles of the transmitter site of such station, except that in the case of such a station located in a standard metropolitan statistical area which has 1 of the 50 largest populations of all standard metropolitan statistical areas (based on the 1980 decennial census of population taken by the Secretary of Commerce), the number of miles shall be 20.

    (ii) SUPERSTATIONS- With respect to superstations, secondary transmissions provided for in subparagraph (A) shall be limited to

*secondary transmissions to subscribers who reside in the same local market as the station originating the signal.*

*“(C) NO APPLICABILITY TO REPEATERS AND TRANSLATORS- Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.*

*“(D) ROYALTY FEES- Notwithstanding subsection (b)(1)(B), a satellite carrier whose secondary transmissions of the primary transmissions of a low power television station are subject to statutory licensing under this section shall have no royalty obligation for secondary transmissions to a subscriber who resides within 35 miles of the transmitter site of such station, except that in the case of such a station located in a standard metropolitan statistical area which has 1 of the 50 largest populations of all standard metropolitan statistical areas (based on the 1980 decennial census of population taken by the Secretary of Commerce), the number of miles shall be 20. Carriage of a superstation that is a low power television station within the station's local market, but outside of the 35-mile or 20-mile radius described in the preceding sentence, shall be subject to royalty payments under section (b)(1)(B).*

*“(E) LIMITATION TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE- Secondary transmissions provided for in subparagraph (A) may be made only to subscribers who receive secondary transmissions of primary transmissions from that satellite carrier pursuant to the statutory license under section 122, and only in conformity with the requirements under 340(b) of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004.’.*

## **SEC. 105. DEFINITIONS.**

*Section 119(d) of title 17, United States Code, is amended--*

*(1) in paragraph (2)(A), by striking ‘a television broadcast station’ and inserting ‘a television station licensed by the Federal Communications Commission’;*

*(2) by amending paragraph (9) to read as follows:*

*“(9) SUPERSTATION- The term ‘superstation’ means a television station, other than a network station, licensed by the Federal Communications Commission, that is secondarily transmitted by a satellite carrier.’;*

*(3) in paragraph (10)--*

*(A) in subparagraph (B), by striking ‘granted under regulations established under section 339(c)(2) of the Communications Act of 1934’ and inserting ‘that meets the standards of subsection (a)(14) whether or not the waiver was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004’; and*

*(B) in subparagraph (D), by striking ‘(a)(11)’ and inserting ‘(a)(12)’; and*

*(4) by striking paragraphs (11) and (12) and inserting the following:*

*“(11) LOCAL MARKET- The term ‘local market’ has the meaning given such term under section 122(j), except that with respect to a low power television station,*

*the term 'local market' means the designated market area in which the station is located.*

*'(12) LOW POWER TELEVISION STATION- The term 'low power television station' means a low power television as defined under section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term 'low power television station' includes 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.*

*'(13) COMMERCIAL ESTABLISHMENT- The term 'commercial establishment'--*

*'(A) means an establishment used for commercial purposes, such as a bar, restaurant, private office, fitness club, oil rig, retail store, bank or other financial institution, supermarket, automobile or boat dealership, or any other establishment with a common business area; and*

*'(B) does not include a multi-unit permanent or temporary dwelling where private home viewing occurs, such as a hotel, dormitory, hospital, apartment, condominium, or prison.'*

#### **SEC. 106. EFFECT ON CERTAIN PROCEEDINGS.**

*Nothing in this title shall modify any remedy imposed on a party that is required by the judgment of a court in any action that was brought before May 1, 2004, against that party for a violation of section 119 of title 17, United States Code.*

#### **SEC. 107. STATUTORY LICENSE FOR SATELLITE CARRIERS RETRANSMITTING SUPERSTATION SIGNALS TO COMMERCIAL ESTABLISHMENTS.**

*(a) In General- Section 119 of title 17, United States Code, is amended--*

*(1) in subsection (a)(1)--*

*(A) by inserting 'or for viewing in a commercial establishment' after 'for private home viewing' each place it appears; and*

*(B) by striking 'household' and inserting 'subscriber';*

*(2) in subsection (b), by striking 'for private home viewing' each place it appears;*

*(3) in subsection (d)(1)--*

*(A) by striking 'for private home viewing'; and*

*(B) by inserting 'in accordance with the provisions of this section' before the period;*

*(4) in subsection (d)(6), by inserting 'pursuant to this section' before the period; and*

*(5) in subsection (d)(8)--*

*(A) by striking 'who' and inserting 'or entity that';*

*(B) by striking 'for private home viewing'; and*

*(C) by inserting 'in accordance with the provisions of this section' before the period.*

*(b) Conforming Amendments- Subsections (a)(4) and (d)(1)(A) of section 111 of title 17, United States Code, are each amended by striking 'for private home viewing'.*

**SEC. 108. EXPEDITED CONSIDERATION OF VOLUNTARY AGREEMENTS TO PROVIDE SATELLITE SECONDARY TRANSMISSIONS TO LOCAL MARKETS.**

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

*(f) Expedited Consideration by Justice Department of Voluntary Agreements To Provide Satellite Secondary Transmissions to Local Markets-*

*(1) IN GENERAL- In a case in which no satellite carrier makes available, to subscribers located in a local market, as defined in section 122(j)(2), the secondary transmission into that market of a primary transmission of one or more television broadcast stations licensed by the Federal Communications Commission, and two or more satellite carriers request a business review letter in accordance with section 50.6 of title 28, Code of Federal Regulations (as in effect on July 7, 2004), in order to assess the legality under the antitrust laws of proposed business conduct to make or carry out an agreement to provide such secondary transmission into such local market, the appropriate official of the Department of Justice shall respond to the request no later than 90 days after the date on which the request is received.*

*(2) DEFINITION- For purposes of this subsection, the term 'antitrust laws'--*

*(A) has the meaning given that term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section 5 applies to unfair methods of competition; and*

*(B) includes any State law similar to the laws referred to in paragraph (1).'*

**SEC. 109. STUDY.**

*No later than June 30, 2008, the Register of Copyrights shall report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate the Register's findings and recommendations on the operation and revision of the statutory licenses under sections 111, 119, and 122 of title 17, United States Code. The report shall include, but not be limited to, the following:*

*(1) A comparison of the royalties paid by licensees under such sections, including historical rates of increases in these royalties, a comparison between*

*the royalties under each such section and the prices paid in the marketplace for comparable programming.*

*(2) An analysis of the differences in the terms and conditions of the licenses under such sections, an analysis of whether these differences are required or justified by historical, technological, or regulatory differences that affect the satellite and cable industries, and an analysis of whether the cable or satellite industry is placed in a competitive disadvantage due to these terms and conditions.*

*(3) An analysis of whether the licenses under such sections are still justified by the bases upon which they were originally created.*

*(4) An analysis of the correlation, if any, between the royalties, or lack thereof, under such sections and the fees charged to cable and satellite subscribers,*

*addressing whether cable and satellite companies have passed to subscribers any savings realized as a result of the royalty structure and amounts under such sections.*

*(5) An analysis of issues that may arise with respect to the application of the licenses under such sections to the secondary transmissions of the primary transmissions of network stations and superstations that originate as digital signals, including issues that relate to the application of the unserved household limitations under section 119 of title 17, United States Code, and to the determination of royalties of cable systems and satellite carriers.*

#### **SEC. 110. ADDITIONAL STUDY.**

*No later than December 31, 2005, the Register of Copyrights shall report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate the Register's findings and recommendations on the following:*

*(1) The extent to which the unserved household limitation for network stations contained in section 119 of title 17, United States Code, has operated efficiently and effectively and has forwarded the goal of title 17, United States Code, to protect copyright owners of over-the-air television programming, including what amendments, if any, are necessary to effectively identify the application of the limitation to individual households to receive secondary transmissions of primary digital transmissions of network stations.*

*(2) The extent to which secondary transmissions of primary transmissions of network stations and superstations under section 119 of title 17, United States Code, harm copyright owners of broadcast programming throughout the United States and the effect, if any, of the statutory license under section 122 of title 17, United States Code, in reducing such harm.*

#### **SEC. 111. SPECIAL RULES.**

*(a) Restrictions on Transmission of Distant Television Stations in Areas of Alaska Where Local-Into-Local Service Is Available- Section 119(a) of title 17, United States Code, is amended by adding at the end thereof the following:*

*“(16) RESTRICTED TRANSMISSION OF OUT-OF-STATE DISTANT NETWORK SIGNALS INTO CERTAIN MARKETS-*

*“(A) OUT-OF-STATE NETWORK AFFILIATES- Notwithstanding any other provision of this title, the statutory license in this subsection and subsection (b) shall not apply to any secondary transmission of the primary transmission of a network station located outside of the State of Alaska to any subscriber in that State to whom the secondary transmission of the primary transmission of a television station located in that State is made available by the satellite carrier pursuant to section 122.*

*“(B) EXCEPTION- The limitation in subparagraph (A) shall not apply to the secondary transmission of the primary transmission of a digital signal of a network station located outside of the State of Alaska if at the time that the secondary transmission is made, no television station licensed to a community in the State and affiliated with the same network makes primary transmissions of a digital signal.’.*

*(b) Extra DMA Deemed Local- Section 122(j)(2) of title 17, United States Code, is amended by adding at the end thereof the following:*

*“(D) CERTAIN AREAS OUTSIDE OF ANY DESIGNATED MARKET AREA- Any census area, borough, or other area in the State of Alaska that is outside of a designated market area, as determined by Nielsen Media Research, shall be deemed to be part of one of the local markets in the State of Alaska. A satellite carrier may determine which local market in the State of Alaska will be deemed to be the relevant local market in connection with each subscriber in such census area, borough, or other area.”*

#### **SEC. 112. TECHNICAL AMENDMENT.**

*Section 803(b)(1)(A)(i)(V) of title 17, United States Code, as amended by the Copyright Royalty and Distribution Reform Act of 2004, is amended by inserting before the period at the end the following: “, except that in the case of proceedings under section 111 that are scheduled to commence in 2005, such notice may not be published.*

#### **TITLE II--FEDERAL COMMUNICATIONS COMMISSION OPERATIONS**

#### **SEC. 201. EXTENSION OF RETRANSMISSION CONSENT EXEMPTION.**

*Section 325(b)(2)(C) of the Communications Act of 1934 (47 U.S.C. 325(b)(2)(C)) is amended by striking ‘December 31, 2004’ and inserting ‘December 31, 2009’.*

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

*(a) Amendment- Part I of title III of the Communications Act of 1934 is amended by inserting after section 339 (47 U.S.C. 339) the following new section:*

#### **‘SEC. 340. SIGNIFICANTLY VIEWED SIGNALS PERMITTED TO BE CARRIED.**

*“(a) Significantly Viewed Stations- In addition to the broadcast signals that subscribers may receive under section 338 and 339, a satellite carrier is also authorized to retransmit to a subscriber located in a community the signal of any station located outside the local market in which such subscriber is located, to the extent such signal--*

*“(1) has, before the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, been determined by the Federal Communications Commission to be a signal a cable operator may carry as significantly viewed in such community, except to the extent that such signal is prevented from being carried by a cable system in such community under the Commission's network nonduplication and syndicated exclusivity rules; or*

*“(2) is, after such date of enactment, determined by the Commission to be significantly viewed in such community in accordance with the same standards and procedures concerning shares of viewing hours and audience surveys as are applicable under the rules, regulations, and authorizations of the Commission to determining with respect to a cable system whether signals are significantly viewed in a community.*

*“(b) Limitations-*

*“(1) ANALOG SERVICE LIMITED TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE- With respect to a signal that originates as an analog signal of a network station, this section shall apply only to retransmissions to subscribers of a satellite carrier who receive retransmissions of a signal that originates as an analog signal of a local network station from that satellite carrier pursuant to section 338.*

*“(2) DIGITAL SERVICE LIMITATIONS- With respect to a signal that originates as a digital signal of a network station, this section shall apply only if--*

*“(A) the subscriber receives from the satellite carrier pursuant to section 338 the retransmission of the digital signal of a network station in the subscriber's local market that is affiliated with the same television network; and*

*“(B) either--*

*“(i) the retransmission of the local network station occupies at least the equivalent bandwidth as the digital signal retransmitted pursuant to this section; or*

*“(ii) the retransmission of the local network station is comprised of the entire bandwidth of the digital signal broadcast by such local network station.*

*“(3) LIMITATION NOT APPLICABLE WHERE NO NETWORK AFFILIATES- The limitations in paragraphs (1) and (2) shall not prohibit a retransmission under this section to a subscriber located in a local market in which there are no network stations affiliated with the same television network as the station whose signal is being retransmitted pursuant to this section.*

*“(4) AUTHORITY TO GRANT STATION-SPECIFIC WAIVERS- Paragraphs (1) and (2) shall not prohibit a retransmission of a network station to a subscriber if and to the extent that the network station in the local market in which the subscriber is located, and that is affiliated with the same television network, has privately negotiated and affirmatively granted a waiver from the requirements of paragraph (1) and (2) to such satellite carrier with respect to retransmission of the significantly viewed station to such subscriber.*

*“(c) Publication and Modifications of Lists; Regulations-*

*“(1) IN GENERAL- The Commission shall--*

*“(A) within 60 days after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004--*

*“(i) publish a list of the stations that are eligible for retransmission under subsection (a) (1) and the communities in which such stations are eligible for such retransmission; and*

*“(ii) commence a rulemaking proceeding to implement this section by publication of a notice of proposed rulemaking;*

*“(B) adopt rules pursuant to such rulemaking within one year after such date of enactment.*

*“(2) PUBLIC AVAILABILITY OF LIST- The Commission shall make readily available to the public in electronic form, on the Internet website of the Commission or other comparable facility, a list of the stations that are eligible for retransmission under subsection (a) and the communities in which such stations*

are eligible for such retransmission. The Commission shall update such list within 10 business days after the date on which the Commission issues an order making any modification of such stations and communities.

“(3) **MODIFICATIONS**- In addition to cable operators and television broadcast station licensees, the Commission shall permit a satellite carrier to petition for decisions and orders--

“(A) by which stations may be added to those that are eligible for retransmission under subsection (a), and by which communities may be added in which such stations are eligible for such retransmission; and

“(B) by which network nonduplication or syndicated exclusivity regulations are applied to the retransmission in accordance with subsection (e).

“(d) **Effect on Other Obligations and Rights**-

“(1) **NO EFFECT ON CARRIAGE OBLIGATIONS**- Carriage of a signal under this section is not mandatory, and any right of a station licensee to have the signal of such station carried under section 338 is not affected by the eligibility of such station to be carried under this section.

“(2) **RETRANSMISSION CONSENT RIGHTS NOT AFFECTED**- The eligibility of the signal of a station to be carried under this section does not affect any right of the licensee of such station to grant (or withhold) retransmission consent under section 325(b)(1).

“(e) **Network Nonduplication and Syndicated Exclusivity**-

“(1) **NOT APPLICABLE EXCEPT AS PROVIDED BY COMMISSION REGULATIONS**- Signals eligible to be carried under this section are not subject to the Commission's regulations concerning network nonduplication or syndicated exclusivity unless, pursuant to regulations adopted by the Commission, the Commission determines to permit network nonduplication or syndicated exclusivity to apply within the appropriate zone of protection.

“(2) **LIMITATION**- Nothing in this subsection or Commission regulations shall permit the application of network nonduplication or syndicated exclusivity regulations to the retransmission of distant signals of network stations that are carried by a satellite carrier pursuant to a statutory license under section 119(a)(2)(A) or (B) of title 17, United States Code, with respect to persons who reside in unserved households, under 119(a)(4)(A), or under section 119(a)(12), of such title.

“(f) **Enforcement**-

“(1) **ORDERS AND DAMAGES**- Upon complaint, the Commission shall issue a cease and desist order to any satellite carrier found to have violated this section in carrying any television broadcast station. Such order may, if a complaining station requests damages--

“(A) provide for the award of damages to a complaining station that establishes that the violation was committed in bad faith, in an amount up to \$50 per subscriber, per station, per day of the violation; and

“(B) provide for the award of damages to a prevailing satellite carrier if the Commission determines that the complaint was frivolous, in an amount

*up to \$50 per subscriber alleged to be in violation, per station alleged, per day of the alleged violation.*

*“(2) COMMISSION DECISION- The Commission shall issue a final determination resolving a complaint brought under this subsection not later than 180 days after the submission of a complaint under this subsection. The Commission may hear witnesses if it clearly appears, based on written filings by the parties, that there is a genuine dispute about material facts. Except as provided in the preceding sentence, the Commission may issue a final ruling based on written filings by the parties.*

*“(3) REMEDIES IN ADDITION- The remedies under this subsection are in addition to any remedies available under title 17, United States Code.*

*“(4) NO EFFECT ON COPYRIGHT PROCEEDINGS- Any determination, action, or failure to act of the Commission under this subsection shall have no effect on any proceeding under title 17, United States Code, and shall not be introduced in evidence in any proceeding under that title. In no instance shall a Commission enforcement proceeding under this subsection be required as a predicate to the pursuit of a remedy available under title 17.*

*“(g) Notices Concerning Significantly Viewed Stations- Each satellite carrier that proposes to commence the retransmission of a station pursuant to this section in any local market shall--*

*“(1) not less than 60 days before commencing such retransmission, provide a written notice to any television broadcast station in such local market of such proposal; and*

*“(2) designate on such carrier's website all significantly viewed signals carried pursuant to section 340 and the communities in which the signals are carried.*

*“(h) Additional Corresponding Changes in Regulations-*

*“(1) COMMUNITY-BY-COMMUNITY ELECTIONS- The Commission shall, no later than October 30, 2005, revise section 76.66 of its regulations (47 CFR 76.66), concerning satellite broadcast signal carriage, to permit (at the next cycle of elections under section 325) a television broadcast station that is located in a local market into which a satellite carrier retransmits a television broadcast station pursuant to section 338, to elect, with respect to such satellite carrier, between retransmission consent pursuant to such section 325 and mandatory carriage pursuant to section 338 separately for each county within such station's local market, if--*

*“(A) the satellite carrier has notified the station, pursuant to paragraph (3), that it intends to carry another affiliate of the same network pursuant to this section during the relevant election period in the station's local market; or*

*“(B) on the date notification under paragraph (3) was due, the satellite carrier was retransmitting into the station's local market pursuant to this section an affiliate of the same television network.*

*“(2) UNIFIED NEGOTIATIONS- In revising its regulations as required by paragraph (1), the Commission shall provide that any such station shall conduct a unified negotiation for the entire portion of its local market for which retransmission consent is elected.*

*“(3) ADDITIONAL PROVISIONS- The Commission shall, no later than October 30, 2005, revise its regulations to provide the following:*

*“(A) NOTIFICATIONS BY SATELLITE CARRIER- A satellite carrier's retransmission of television broadcast stations pursuant to this section shall be subject to the following limitations:*

*“(i) In any local market in which the satellite carrier provides service pursuant to section 338 on the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the carrier may notify a television broadcast station in that market, at least 60 days prior to any date on which the station must thereafter make an election under section 76.66 of the Commission's regulations (47 CFR 76.66), of--*

*“(I) each affiliate of the same television network that the carrier reserves the right to retransmit into that station's local market pursuant to this section during the next election cycle under such section of such regulations; and  
“(II) for each such affiliate, the communities into which the satellite carrier reserves the right to make such retransmissions.*

*“(ii) In any local market in which the satellite carrier commences service pursuant to section 338 after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the carrier may notify a station in that market, at least 60 days prior to the introduction of such service in that market, and thereafter at least 60 days prior to any date on which the station must thereafter make an election under section 76.66 of the Commission's regulations (47 CFR 76.66), of each affiliate of the same television network that the carrier reserves the right to retransmit into that station's local market during the next election cycle under such section of such regulations.*

*“(iii) Beginning with the 2005 election cycle, a satellite carrier may only retransmit pursuant to this section during the pertinent election period a signal--*

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

*“(II) that it was retransmitting into the local market under this section as of the date such notifications were due.*

*“(B) HARMONIZATION OF ELECTIONS AND RETRANSMISSION CONSENT AGREEMENTS- If a satellite carrier notifies a television broadcast station that it reserves the right to retransmit an affiliate of the same television network during the next election cycle pursuant to this section, the station may choose between retransmission consent and mandatory carriage for any portion of the 3-year election cycle that is not covered by an existing retransmission consent agreement.*

*“(i) Definitions- As used in this section:*

*“(1) LOCAL MARKET; SATELLITE CARRIER; SUBSCRIBER; TELEVISION BROADCAST STATION- The terms ‘local market’, ‘satellite carrier’, ‘subscriber’, and ‘television broadcast station’ have the meanings given such terms in section 338(k).*

*“(2) NETWORK STATION; TELEVISION NETWORK- The terms ‘network station’ and ‘television network’ have the meanings given such terms in section 339(d).*

*“(3) COMMUNITY- The term ‘community’ means--*

*“(A) a county or a cable community, as determined under the rules, regulations, and authorizations of the Commission applicable to determining with respect to a cable system whether signals are significantly viewed; or*

*“(B) a satellite community, as determined under such rules, regulations, and authorizations (or revisions thereof) as the Commission may prescribe in implementing the requirements of this section.*

*“(4) BANDWIDTH- The terms ‘equivalent bandwidth’ and ‘entire bandwidth’ shall be defined by the Commission by regulation, except that this paragraph shall not be construed--*

*“(A) to prevent a satellite operator from using compression technology;*

*“(B) to require a satellite operator to use the identical bandwidth or bit rate as the local or distant broadcaster whose signal it is retransmitting;*

*“(C) to require a satellite operator to use the identical bandwidth or bit rate for a local network station as it does for a distant network station;*

*“(D) to affect a satellite operator's obligations under subsection (a)(1); or*

*“(E) to affect the definitions of ‘program related’ and ‘primary video’.*”

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

*(a) Amendments- Section 338 of the Communications Act of 1934 (47 U.S.C. 338(d)) is amended--*

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

*(2) by inserting after subsection (f) the following new subsection:*

*“(g) Carriage of Local Stations on a Single Dish-*

*“(1) SINGLE DISH- Each satellite carrier that retransmits the analog signals of local television broadcast stations in a local market shall retransmit such analog signals in such market by means of a single reception antenna and associated equipment.*

*“(2) EXCEPTION- If the carrier retransmits signals in the digital television service, the carrier shall retransmit such digital signals in such market by means of a single reception antenna and associated equipment, but such antenna and associated equipment may be separate from the single reception antenna and associated equipment used for analog television service signals.*

*“(3) EFFECTIVE DATE- The requirements of paragraphs (1) and (2) of this subsection shall apply on and after 18 months after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004.*

*“(4) NOTICE OF DISRUPTIONS- A carrier that is providing signals of a local television broadcast station in a local market under this section on the date of*

*enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 shall, not later than 15 months after such date of enactment, provide to the licensees for such stations and the carrier's subscribers in such local market a notice that displays prominently and conspicuously a clear statement of--*

*`(A) any reallocation of signals between different reception antennas and associated equipment that the carrier intends to make in order to comply with the requirements of this subsection;*

*`(B) the need, if any, for subscribers to obtain an additional reception antenna and associated equipment to receive such signals; and*

*`(C) any cessation of carriage or other material change in the carriage of signals as a consequence of the requirements of this paragraph.'*

*(b) Conforming Amendments: Commission Enforcement of Section; Low Power Television Stations-*

*(1) Section 338(a) of such Act is amended by striking paragraphs (1) and (2) and inserting the following:*

*`(1) IN GENERAL- Each satellite carrier providing, under section 122 of title 17, United States Code, secondary transmissions to subscribers located within the local market of a television broadcast station of a primary transmission made by that station shall carry upon request the signals of all television broadcast stations located within that local market, subject to section 325(b).*

*`(2) REMEDIES FOR FAILURE TO CARRY- In addition to the remedies available to television broadcast stations under section 501(f) of title 17, United States Code, the Commission may use the Commission's authority under this Act to assure compliance with the obligations of this subsection, but in no instance shall a Commission enforcement proceeding be required as a predicate to the pursuit of a remedy available under such section 501(f).*

*`(3) LOW POWER STATION CARRIAGE OPTIONAL- No low power television station whose signals are provided under section 119(a)(14) of title 17, United States Code, shall be entitled to insist on carriage under this section, regardless of whether the satellite carrier provides secondary transmissions of the primary transmissions of other stations in the same local market pursuant to section 122 of such title, nor shall any such carriage be considered in connection with the requirements of subsection (c) of this section.'*

*(2) Section 338(c)(1) of such Act is amended by striking `subsection (a)' and inserting `subsection (a)(1)'.*

*(3) Section 338(k) of such Act (as redesignated by subsection (a)(1)) is amended--*

*(A) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and*

*(B) by inserting after paragraph (3) the following new paragraph:*

*`(4) LOW POWER TELEVISION STATION- The term `low power television station' means a low power television station as defined under section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term `low power television station' includes 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.'*

## **SEC. 204. REPLACEMENT OF DISTANT SIGNALS WITH LOCAL SIGNALS.**

*(a) Replacement- Section 339(a) of the Communications Act of 1934 (47 U.S.C. 339(a)) is amended--*

*(1) in paragraph (1), by adding at the end the following new sentence: `Such two network stations may be comprised of both the analog signal and digital signal of not more than two network stations.';*

*(2) by redesignating paragraph (2) as paragraph (3);*

*(3) by inserting after paragraph (1) the following new paragraph:*

*`(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 TO ANALOG SIGNALS-*

*`(i) FOR THOSE RECEIVING DISTANT ANALOG SIGNALS- In the case of a subscriber of a satellite carrier who is eligible to receive the analog 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 analog signal'), and who, as of October 1, 2004, is receiving the distant analog signal of that network station, the following shall apply:*

*`(I) In a case in which the satellite carrier makes available to the subscriber the analog 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 analog 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 analog signal; but*

*`(bb) only until such time as the subscriber elects to receive such local analog signal.*

*`(II) Notwithstanding subclause (I), the carrier may not retransmit the distant analog signal to any subscriber who is eligible to receive the analog 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 ANALOG SIGNALS- In the case of any subscriber of a satellite carrier who is eligible to receive the distant analog 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 analog signal of a station affiliated with the same network on October 1, 2004, the carrier may not provide the secondary transmissions of the distant analog*

*signal of a station affiliated with the same network to that subscriber.*

*“(B) RULES FOR OTHER SUBSCRIBERS TO ANALOG SIGNALS- In the case of a subscriber of a satellite carrier who is eligible to receive the analog signal of a network station under this section (in this subparagraph referred to as a ‘distant analog 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 analog 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 analog signal of a station affiliate 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 analog signal of a local network station pursuant to section 338, the carrier may only provide the secondary transmissions of the distant analog signal of a station affiliated with the same network to that subscriber if--*

*“(I) that subscriber seeks to subscribe to such distant analog signal before the date on which such carrier commences to carry pursuant to section 338 the analog signals of stations from the local market of such local network station; and*

*“(II) the satellite carrier, within 60 days after such date, submits to each television network the list and statement required by subparagraph (F)(ii).*

*“(C) FUTURE APPLICABILITY- A satellite carrier may not provide a distant analog 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 Home Viewer Extension and Reauthorization Act of 2004; and*

*“(ii) 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 analog 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.*

*“(D) SPECIAL RULES FOR DISTANT DIGITAL SIGNALS-*

*“(i) ELIGIBILITY- In the case of a subscriber of a satellite carrier who, with respect to a local network station--*

*“(I) is a subscriber whose household is located outside the coverage area of the analog signal of such station as*

*predicted by the model specified in subsection (c)(3) of this section for the signal intensity required under section 73.683(a) of title 47 of the Code of Federal Regulations, or a successor regulation;*

*`(II) is in an unserved household as determined under section 119(d)(1)(A) of title 17, United States Code; or  
` (III) is, after the date on which the conditions required by clause (vii) are met with respect to such station, determined under clause (vi) of this subparagraph to be unable to receive a digital signal of such local network station that exceeds the signal intensity standard specified in such clause;*

*such subscriber is eligible to receive the digital signal of a distant network station affiliated with the same network under this section (in this subparagraph referred to as a `distant digital signal') subject to the provisions of this subparagraph.*

*`(ii) PRE-ENACTMENT DISTANT DIGITAL SIGNAL SUBSCRIBERS- Any eligible subscriber under this subparagraph who is a lawful subscriber to such a distant digital signal as of the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 may continue to receive such distant digital signal, whether or not such subscriber elects to subscribe to local digital signals.*

*`(iii) LOCAL-TO-LOCAL ANALOG MARKETS- In a case in which the satellite carrier makes available to an eligible subscriber under this subparagraph the analog signal of a local network station pursuant to section 338, the carrier may only provide the distant digital signal of a station affiliated with the same network to that subscriber if--*

*`(I) in the case of any local market in the 48 contiguous States of the United States, the distant digital 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;*

*`(II) in any local market, the retransmission of the distant digital signal of the distant station occupies at least the equivalent bandwidth (as such term is defined by the Commission under section 340(h)(4)) as the digital signal broadcast by such station; and*

*`(III) the subscriber subscribes to the analog signal of such local network station within 60 days after such signal is made available by the satellite carrier, and adds to or replaces such analog signal with the digital signal from such local network station within 60 days after such signal*

*is made available by the satellite carrier, except that such distant digital signal may continue to be provided to a subscriber who cannot be reached by the satellite transmission of the local digital signal.*

*“(iv) LOCAL-TO-LOCAL DIGITAL MARKETS- After the date on which a satellite carrier makes available the digital signal of a local network station, the carrier may not offer the distant digital signal of a network station affiliated with the same television network to any new subscriber to such distant digital signal after such date, except that such distant digital signal may be provided to a new subscriber who cannot be reached by the satellite transmission of the local digital signal.*

*“(v) NON-LOCAL-TO-LOCAL MARKETS- After the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, if the satellite carrier does not make available the digital signal of a local network station in a local market, the satellite carrier may offer a new subscriber after such date who is eligible under this subparagraph a distant digital signal from a station affiliated with the same network and, in the case of any local market in the 48 contiguous States of the United States, 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, except that--*

*“(I) such carrier may continue to provide such distant digital signal to such a subscriber after the date on which the carrier makes available the digital signal of a local network station affiliated with such network only if such subscriber subscribes to the digital signal from such local network station; and*

*“(II) the limitation contained in subclause (I) of this clause shall not apply to a subscriber that cannot be reached by the satellite transmission of the local digital signal.*

*“(vi) SIGNAL TESTING FOR DIGITAL SIGNALS-*

*“(I) A subscriber shall be eligible for a distant digital signal under clause (i)(III) if such subscriber 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) of title 47, Code of Federal Regulations, as in effect on the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004.*

*“(II) Such test shall be conducted, upon written request for a digital signal strength test by the subscriber to the satellite carrier, within 30 days after the date the*

*subscriber submits such request for the test. Such test shall be conducted by a qualified and independent person selected by the satellite carrier and the network station or stations, 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.*

*“(III) Unless the satellite carrier and the network station or stations otherwise agree, the costs of conducting the test shall be borne as follows:*

*“(aa) If the subscriber is not eligible for a distant digital signal under clause (i)(I) of this subparagraph (by reason of being outside of the coverage area of the analog signal), the satellite carrier may request the station licensee for a waiver.*

*“(bb) If the licensee agrees to a waiver, or fails to respond to a waiver request within 30 days, the subscriber may receive such distant digital signal.*

*“(cc) If the licensee refuses to grant a waiver, the subscriber may request the satellite carrier to conduct the test.*

*“(dd) If the satellite carrier requests the test and--*

*“(AA) the station's signal is determined to exceed such signal intensity standard, the costs of the test shall be borne by the satellite carrier;*

*“(BB) the station's signal is determined to not exceed such signal intensity standard, the costs of the test shall be borne by the licensee.*

*“(ee) If the satellite carrier does not request the test, or fails to respond within 30 days, the subscriber may request the test be conducted under the supervision of the carrier, and the costs of the test shall be borne by the subscriber in accordance with regulations prescribed by the Commission. Such regulations shall also require the carrier to notify the subscriber of the typical costs of such test.*

*“(vii) TRIGGER EVENTS FOR USE OF TESTING- A subscriber shall not be eligible for a distant digital signal under clause (i)(III) pursuant to a test conducted under clause (vii) until--*

*“(I) in the case of a subscriber whose household is located within the area predicted to be served (by the predictive model for analog signals under subsection (b)(3) of this section) by the signal of a local network station and who is seeking a distant digital signal of a station affiliated with the same network as that local network station--*

*“(aa) April 30, 2006, if such local network station is within the top 100 television markets and--*

*“(AA) has received a tentative digital television service channel designation that is the same as such station's current digital television service channel; or*

*`(BB) has been found by the Commission to have lost interference protection; or*

*`(bb) July 15, 2007, for any other local network stations, other than translator stations licensed to broadcast on the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004; or*

*`(II) in the case of a translator station, one year after the date on which the Commission completes all actions necessary for the allocation and assignment of digital television licenses to television translator stations.*

*`(viii) TESTING WAIVERS- Upon request by a local network station, the Commission may grant a waiver with respect to such station to the beginning of testing under clause (vii), and prohibit subscribers from receiving digital signal strength testing with respect to such station. Such a request shall be filed not less than 5 months prior to the implementation deadline specified in such clause, and the Commission*

*shall act on such request by such implementation deadline. Such a waiver shall expire at the end of not more than 6 months, except that a waiver may be renewed upon a proper showing. The Commission may only grant such a request upon submission of clear and convincing evidence that the station's digital signal coverage is limited due to the unremediable presence of one or more of the following:*

*`(I) the need for international coordination or approvals;*

*`(II) clear zoning or environmental legal impediments;*

*`(III) force majeure;*

*`(IV) the station experiences a substantial decrease in its digital signal coverage area due to necessity of using side-mounted antenna;*

*`(V) substantial technical problems that result in a station experiencing a substantial decrease in its coverage area solely due to actions to avoid interference with emergency response providers; or*

*`(VI) no satellite carrier is providing the retransmission of the analog signals of local network stations under section 338 in the local market.*

*Under no circumstances may such a waiver be based upon financial exigency.*

*`(ix) SPECIAL WAIVER PROVISION FOR TRANSLATORS- Upon request by a television translator station, the Commission may grant, for not more than 3 years, a waiver with respect to such station to the beginning of testing under clause (vii), and prohibit subscribers from receiving digital signal strength testing with respect to such station, if the Commission determines that the translator station is not broadcasting a digital signal due to one or more of the following:*

*`(I) frequent occurrence of inclement weather; or*

*`(II) mountainous terrain at the transmitter tower location.*

*“(x) SAVINGS PROVISION- Nothing in this subparagraph shall be construed to affect a satellite carrier's obligations under section 338.*

*“(xi) DEFINITION- For purposes of clause (viii), the term ‘emergency response providers’ means Federal, State, or local governmental and nongovernmental emergency public safety, law enforcement, fire, emergency response, emergency medical (including hospital emergency facilities), and related personnel, organizations, agencies, or authorities.*

*“(E) AUTHORITY TO GRANT STATION-SPECIFIC WAIVERS- This paragraph shall not prohibit a retransmission of a distant analog signal or distant digital signal (within the meaning of subparagraph (A), (B), or (D)) 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.'; and*

*(4) in paragraph (3) (as redesignated by paragraph (2) of this subsection), by adding at the end the following: `, 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) Study of Digital Strength Testing Procedures- Section 339(c) of such Act (47 U.S.C. 339(c)) is amended by striking paragraph (1) and inserting the following:*

*`(1) STUDY OF DIGITAL STRENGTH TESTING PROCEDURES-*

*`(A) STUDY REQUIRED- Not later than one 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 standard 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 one 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.'*

## **SEC. 205. ADDITIONAL NOTICES TO SUBSCRIBERS, NETWORKS, AND STATIONS CONCERNING SIGNAL CARRIAGE.**

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

*\(h) Additional Notices to Subscribers, Networks, and Stations Concerning Signal Carriage-*

*\(1) NOTICES TO AND ELECTIONS BY SUBSCRIBERS CONCERNING GRANDFATHERED SIGNALS- Any carrier that provides a distant signal of a network station to a subscriber pursuant section 339(a)(2)(A) shall--*

*\(A) within 60 days after the local signal of a network station of the same television network is available pursuant to section 338, or within 60 days after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, whichever is later, send a notice to the subscriber--*

*\(i) offering to substitute the local network signal for the duplicating distant network signal; and*

*\(ii) informing the subscriber that, if the subscriber fails to respond in 60 days, the subscriber will lose the distant network signal but will be permitted to subscribe to the local network signal; and*

*\(B) if the subscriber--*

*\(i) elects to substitute such local network signal within such 60 days, switch such subscriber to such local network signal within 10 days after the end of such 60-day period; or*

*“(ii) fails to respond within such 60 days, terminate the distant network signal within 10 days after the end of such 60-day period.*  
*“(2) NOTICE TO STATION LICENSEES OF COMMENCEMENT OF LOCAL-INTO-LOCAL SERVICE-*

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

*“(B) CONTENTS OF COMMENCEMENT NOTICE- The notice required by such regulations shall inform each television broadcast station licensee within any local market in which a satellite carrier proposes to commence carriage of signals of stations from that market, not later than 60 days prior to the commencement of such carriage--*

*“(i) of the carrier's intention to launch local-into-local service under this section in a local market, the identity of that local market, and the location of the carrier's proposed local receive facility for that local market;*

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

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

*“(iv) that failure to make such election will result in the loss of the right to demand carriage under this section for the remainder of the 3-year cycle of carriage under section 325.*

*“(C) TRANSMISSION OF NOTICES- Such regulations shall require that each satellite carrier shall transmit the notices required by such regulation via certified mail to the address for such television station licensee listed in the consolidated database system maintained by the Commission.’*

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

*(a) Amendment- Section 338 of the Communications Act of 1934 (47 U.S.C. 338) is further amended by inserting after subsection (h) (as added by section 205) the following new subsection:*

*“(i) Privacy Rights of Satellite Subscribers-*

*“(1) NOTICE- At the time of entering into an agreement to provide any satellite service or other service to a subscriber and at least once a year thereafter, a satellite carrier shall provide notice in the form of a separate, written statement to such subscriber which clearly and conspicuously informs the subscriber of--*

*“(A) the nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;*

*“(B) the nature, frequency, and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made;*

*`(C) the period during which such information will be maintained by the satellite carrier;*

*`(D) the times and place at which the subscriber may have access to such information in accordance with paragraph (5); and*

*`(E) the limitations provided by this section with respect to the collection and disclosure of information by a satellite carrier and the right of the subscriber under paragraphs (7) and (9) to enforce such limitations.*

*In the case of subscribers who have entered into such an agreement before the effective date of this subsection, such notice shall be provided within 180 days of such date and at least once a year thereafter.*

*`(2) DEFINITIONS- For purposes of this subsection, other than paragraph (9)--*

*`(A) the term 'personally identifiable information' does not include any record of aggregate data which does not identify particular persons;*

*`(B) the term 'other service' includes any wire or radio communications service provided using any of the facilities of a satellite carrier that are used in the provision of satellite service; and*

*`(C) the term 'satellite carrier' includes, in addition to persons within the definition of satellite carrier, any person who--*

*`(i) is owned or controlled by, or under common ownership or control with, a satellite carrier; and*

*`(ii) provides any wire or radio communications service.*

*`(3) PROHIBITIONS-*

*`(A) CONSENT TO COLLECTION- Except as provided in subparagraph (B), a satellite carrier shall not use any facilities used by the satellite carrier to collect personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned.*

*`(B) EXCEPTIONS- A satellite carrier may use such facilities to collect such information in order to--*

*`(i) obtain information necessary to render a satellite service or other service provided by the satellite carrier to the subscriber; or*

*`(ii) detect unauthorized reception of satellite communications.*

*`(4) DISCLOSURE-*

*`(A) CONSENT TO DISCLOSURE- Except as provided in subparagraph (B), a satellite carrier shall not disclose personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned and shall take such actions as are necessary to prevent unauthorized access to such information by a person other than the subscriber or satellite carrier.*

*`(B) EXCEPTIONS- A satellite carrier may disclose such information if the disclosure is--*

*`(i) necessary to render, or conduct a legitimate business activity related to, a satellite service or other service provided by the satellite carrier to the subscriber;*

*`(ii) subject to paragraph (9), made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed;*

*`(iii) a disclosure of the names and addresses of subscribers to any satellite service or other service, if--*

*`(I) the satellite carrier has provided the subscriber the opportunity to prohibit or limit such disclosure; and*

*`(II) the disclosure does not reveal, directly or indirectly, the--*

*`(aa) extent of any viewing or other use by the subscriber of a satellite service or other service provided by the satellite carrier; or*

*`(bb) the nature of any transaction made by the subscriber over any facilities used by the satellite carrier; or*

*`(iv) to a government entity as authorized under chapters 119, 121, or 206 of title 18, United States Code, except that such disclosure shall not include records revealing satellite subscriber selection of video programming from a satellite carrier.*

*`(5) ACCESS BY SUBSCRIBER- A satellite subscriber shall be provided access to all personally identifiable information regarding that subscriber which is collected and maintained by a satellite carrier. Such information shall be made available to the subscriber at reasonable times and at a convenient place designated by such satellite carrier. A satellite subscriber shall be provided reasonable opportunity to correct any error in such information.*

*`(6) DESTRUCTION OF INFORMATION- A satellite carrier shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under paragraph (5) or pursuant to a court order.*

*`(7) PENALTIES- Any person aggrieved by any act of a satellite carrier in violation of this section may bring a civil action in a United States district court. The court may award--*

*`(A) actual damages but not less than liquidated damages computed at the rate of \$100 a day for each day of violation or \$1,000, whichever is higher;*

*`(B) punitive damages; and*

*`(C) reasonable attorneys' fees and other litigation costs reasonably incurred.*

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

*`(8) RULE OF CONSTRUCTION- Nothing in this title shall be construed to prohibit any State from enacting or enforcing laws consistent with this section for the protection of subscriber privacy.*

*`(9) COURT ORDERS- Except as provided in paragraph (4)(B)(iv), a governmental entity may obtain personally identifiable information concerning a*

*satellite subscriber pursuant to a court order only if, in the court proceeding relevant to such court order--*

*`(A) such entity offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case; and  
` (B) the subject of the information is afforded the opportunity to appear and contest such entity's claim.'*

*(b) Effective Date- Section 338(i) of the Communications Act of 1934 (47 U.S.C. 338(i)) as amended by subsection (a) of this section shall be effective 60 days after the date of enactment of this Act.*

## **SEC. 207. RECIPROCAL BARGAINING OBLIGATIONS.**

*(a) Amendments- Section 325(b)(3)(C) of the Communications Act of 1934 (47 U.S.C. 325(b)(3)(C)) is amended--*

*(1) by striking `Within 45 days' and all that follows through `1999, the' and inserting `The';*

*(2) by striking the second sentence;*

*(3) by striking `and' at the end of clause (i);*

*(4) in clause (ii)--*

*(A) by striking `January 1, 2006' and inserting `January 1, 2010'; and*

*(B) by striking the period at the end and inserting `; and'; and*

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

*`(iii) until January 1, 2010, prohibit a multichannel video programming distributor from failing to negotiate in good faith for retransmission consent under this section, and it shall not be a failure to negotiate in good faith if the distributor enters into retransmission consent agreements containing different terms and conditions, including price terms, with different broadcast stations if such different terms and conditions are based on competitive marketplace considerations.'*

*(b) Deadline- The Federal Communications Commission shall prescribe regulations to implement the amendments made by subsection (a)(5) within 180 days after the date of enactment of this Act.*

## **SEC. 208. STUDY OF IMPACT ON CABLE TELEVISION SERVICE.**

*(a) Study Required- No later than 9 months after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the Federal Communications Commission shall complete an inquiry regarding the impact on competition in the multichannel video programming distribution market of the current retransmission consent, network nonduplication, syndicated exclusivity, and sports blackout rules, including the impact of those rules on the ability of rural cable operators to compete with direct broadcast satellite industry in the provision of digital broadcast television signals to consumers. Such report shall include such recommendations for changes in any statutory provisions relating to such rules as the Commission deems appropriate.*

*(b) Report Required- The Federal Communications Commission shall submit a report on the results of the inquiry required by subsection (a) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science,*

*and Transportation of the Senate not later than 9 months after the date of the enactment of this Act.*

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

*Section 339(c)(4) of the Communications Act of 1934 (47 U.S.C. 339(c)(4)) is amended by inserting after subparagraph (C) the following new subparagraphs:*

*“(D) REDUCTION OF VERIFICATION BURDENS- Within one 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 section 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 Grade B intensity signal.’.*

## **SEC. 210. SATELLITE CARRIAGE OF TELEVISION STATIONS IN NONCONTIGUOUS STATES.**

*Section 338(a) of the Communications Act of 1934 (47 U.S.C. 338(a)) is amended by adding at the end the following:*

*“(4) CARRIAGE OF SIGNALS OF LOCAL STATIONS IN CERTAIN MARKETS- A satellite carrier that offers multichannel video programming distribution service in the United States to more than 5,000,000 subscribers shall (A) within 1 year after the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, retransmit the signals originating as analog signals of each television broadcast station located in any local market within a State that is not part of the contiguous United States, and (B) within 30 months after such date of enactment retransmit the signals originating as digital signals of each such station. The retransmissions of such stations shall be made available to substantially all of the satellite carrier's subscribers in each station's local market, and the retransmissions of the stations in at least one market in the State shall be made available to substantially all of the satellite carrier's subscribers in*

*areas of the State that are not within a designated market area. The cost to subscribers of such retransmissions shall not exceed the cost of retransmissions of local television stations in other States. Within 1 year after the date of enactment of that Act, the Commission shall promulgate regulations concerning elections by television stations in such State between mandatory carriage pursuant to this section and retransmission consent pursuant to section 325(b), which shall take into account the schedule on which local television stations are made available to viewers in such State.'*

## **SEC. 211. CARRIAGE OF TELEVISION SIGNALS TO CERTAIN SUBSCRIBERS.**

*Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by inserting after section 339 the following:*

### ***`SEC. 341. CARRIAGE OF TELEVISION SIGNALS TO CERTAIN SUBSCRIBERS.***

*`(a)(1) In General- A cable operator or satellite carrier may elect to retransmit, to subscribers in an eligible county--*

*`(A) any television broadcast stations that are located in the State in which the county is located and that any cable operator or satellite carrier was retransmitting to subscribers in the county on January 1, 2004; or*

*`(B) up to 2 television broadcast stations located in the State in which the county is located, if the number of television broadcast stations that the cable operator or satellite carrier is authorized to carry under paragraph (1) is less than 3.*

*`(2) Deemed Significantly Viewed- Any station described in subsection (a) is deemed to be significantly viewed in the eligible county within the meaning of section 76.54 of the Commission's regulations (47 C.F.R. 76.54).*

*`(3) Definition of Eligible County- For purposes of this section, the term 'eligible county' means any 1 of 4 counties that--*

*`(A) are in a single State;*

*`(B) on January 1, 2004, were each in designated market areas in which the majority of counties were located in another State or States; and*

*`(C) as a group had a combined total of 41,340 television households according to the U.S. Television Household Estimates by Nielsen Media Research for 2003-2004.*

*`(4) Limitation- Carriage of a station under this section shall be at the option of the cable operator or satellite carrier.'*

*`(b) Certain Markets- Notwithstanding any other provision of law, a satellite carrier may not carry the signal of a television station into an adjacent local market that is comprised of only a portion of a county, other than to unserved households located in that county.'*

## **SEC. 212. DIGITAL TRANSITION SAVINGS PROVISION.**

*Nothing in the dates by which requirements or other provisions are effective under this Act or the amendments made by this Act shall be construed--*

*(1) to impair the authority of the Federal Communications Commission to take any action with respect to the transition by television broadcasters to the digital television service; or*

*(2) to require the Commission to take any such action.*

**SEC. 213. AUTHORIZING BROADCAST SERVICE IN UNSERVED AREAS OF ALASKA.**

*Title III of the Communications Act of 1934 is amended as follows:*

*(1) In section 307(c)(3)--*

*(A) by striking 'any hearing' and inserting in lieu thereof 'any administrative or judicial hearing'; and*

*(B) by inserting 'or section 402' after 'section 405'.*

*(2) In section 307, by adding at the end the following new subsection:*

*'(f) Notwithstanding any other provision of law, (1) any holder of a broadcast license may broadcast to an area of Alaska that otherwise does not have access to over the air broadcasts via translator, microwave, or other alternative signal delivery even if another holder of a broadcast license begins broadcasting to such area, (2) any holder of a broadcast license who has broadcast to an area of Alaska that did not have access to over the air broadcasts via translator, microwave, or other alternative signal delivery may continue providing such service even if another holder of a broadcast license begins broadcasting to such area, and shall not be fined or subject to any other penalty, forfeiture, or revocation related to providing such service including any fine, penalty, forfeiture, or revocation for continuing to operate notwithstanding orders to the contrary.'*

*(3) In section 312(g), by inserting before the period at the end the following: ', except that the Commission may extend or reinstate such station license if the holder of the station license prevails in an administrative or judicial appeal, the applicable law changes, or for any other reason to promote equity and fairness. Any broadcast license revoked or terminated in Alaska in a proceeding related to broadcasting via translator, microwave, or other alternative signal delivery is reinstated'.*