

COMMUNICATIONS ACT AMENDMENT—TRANSLATOR
BROADCAST STATION OPERATIONS

JUNE 14, 1976.—Committed to the Committee of the Whole House on the
state of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign
Commerce, submitted the following

REPORT

[Including cost estimate of the Congressional Budget Office]

[To accompany H.R. 9689]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 9689) to amend section 318 of the Communications Act of 1934, as amended, to enable the Federal Communications Commission to authorize translator broadcast stations to originate limited amounts of local programming, and to authorize frequency modulation radio translator stations to operate unattended in the same manner as is now permitted for television broadcast translator stations, having considered the same, reports favorably thereon without amendment and recommend that the bill do pass.

[H.R. 9689, 94th Cong., 2d sess.]

A BILL To amend section 318 of the Communication Act of 1934, as amended, to enable the Federal Communications Commission to authorize translator broadcast stations to originate limited amounts of local programming, and to authorize frequency modulation radio translator stations to operate unattended in the same manner as is now permitted for television broadcast translator stations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (3) of the first proviso of section 318 of the Communications Act of 1934 (47 U.S.C. 318) is amended—

(1) by striking out “solely” and inserting in lieu thereof “primarily”, and

(2) by striking out “television”.

PURPOSE OF THE LEGISLATION

The bill (H.R. 9689) would (1) authorize translator broadcast stations to originate limited amounts of local programming, and (2) au-

thorize FM radio translator stations to operate unattended in the same manner as is now permitted of television broadcast translator stations.

BACKGROUND

Translator stations are low-power broadcasting stations which receive the incoming signals of a television or FM radio station, amplify the incoming signals, convert—or “translate”—them to a different output frequency, and retransmit the signals to the community or area to be served. Translators have been utilized in areas of the country where, because of terrain or extreme distances, it is not possible to receive directly the signals of the originating television or FM radio station. They were conceived as simple, inexpensive devices which could be made available to small communities where the demand for television or FM radio service was great and financial resources were meager. In such areas, translators frequently provide local residents with their only source of television or FM radio reception.

The Congress enacted amendments to the Communications Act of 1934 relating to television translator operations in 1960 (Public Law 86-609). At that time there were estimated to be over 1,000 television translator operations. There were no FM radio translator operations then, but new technology has allowed FM radio signals to be transmitted by translator operations. Since then VHF television translator operations have doubled and the total number of translator operations (VHF and UHF television and FM radio) now exceeds 3,600.

Translator operations are financed in various ways. Primary broadcast stations have financed the translators to expand the coverage of their signals. In most cases, the installations are cooperatively financed. Contributions are solicited throughout the community or memberships may be sold in a television or FM radio club in order to finance the facility. In this regard, several State legislatures have enacted laws to assist in financing television translator operation and maintenance. Direct community support is usually needed because the vast majority of translators do not generate revenue from their operations.

UNATTENDED FM TRANSLATOR OPERATIONS

Translators were conceived as simple, inexpensive devices designed to provide broadcast signals to the residents of sparsely populated, rural, remote, or mountainous areas. Technological advances through the past decade have made FM translator stations possible and, in 1970, the Federal Communications Commission authorized such stations. In order to make the FM translator stations more economically feasible, the Committee recommends that section 318, be amended as proposed, to authorize the FM translators to operate unattended in the same manner as is now permitted for television translator stations.

The Committee finds that the FM translator service is a valuable communications service in underserved and sparsely populated areas of the country. Given the existing exception for unattended television translator operation, the Committee perceives no reason for refusing to extend this exception to FM translators.

LIMITED LOCAL ORIGINATION

The FCC has construed section 318 as limiting translators to re-broadcasting the signals of primary television and FM stations without any significant alteration of the characteristics of the incoming signals. In a 1968 rulemaking proceeding, the Commission interpreted section 318 to allow UHF translators to originate 20 seconds of commercial advertising per hour, limited to slide, still photograph, and recorded voice announcements, and in 1975 this permissible commercial origination was expanded to 30 seconds per hour. No program origination whatsoever has been allowed.

The FCC has stated that translator stations are not self-supporting and must depend on public generosity to sustain their operations. The Commission has also noted that the prohibition on program origination in many instances deprives those people dependent on translator service of their only potential source of local programming, such as emergency alerts and coverage of local political and other news events. The FCC has therefore requested this legislation to allow the Commission to authorize limited amounts of local origination by translator stations. H.R. 9689 would accomplish this result by substituting the word "primarily" for "solely" in clause (3) of the first proviso of section 318.

In requesting this legislation, the FCC has suggested that specific limitations on the amount of local origination to be permitted could be best determined in a Commission rulemaking proceeding to implement the proposed section 318 amendments. The Commission has further stated that in deciding upon such limitations it would be bound by the section 318 requirement that origination be limited to the extent necessary to insure that translators retain their primary characteristics as rebroadcast stations.

The Committee believes that the public interest in the larger and more effective use of radio and television would be well-served by enabling the FCC to authorize translator stations to originate limited amounts of local programming and funds solicitation and material. As noted, in many areas of the country translators provide the only access to satisfactory television and FM service. At present, however, such service consists solely of the programming of the distant station retransmitted by the translator. Allowing limited origination by translators would give their audiences access to local news and information of vital community interest, as well as enable translators to meet the difficult problems of financial support for their operation and service. The Committee is relying upon statements of the Commission that it will not allow the substitution of commercial advertising. While the Committee is of the view that specific limitations on the amount and nature of local origination to be allowed, as well as any attending technical or other requirements, should be determined by the Commission in a rulemaking proceeding to implement the legislation, the Committee expects that such origination will be limited to local news and vital information. Such a proceeding will afford all interested parties an opportunity to comment on the specific limitations to be imposed.

While the Committee would leave detailed implementation of this legislation to the expertise and discretion of the administrative agency, it is emphasized that the allowed origination must be so limited as to maintain the primary rebroadcasting function of translator stations. In this regard, the FCC has previously conditioned the use of translators so as to permit them to perform their supplementary function without impairing or burdening the maintenance and development of the regular television and radio services which provide the public with benefits beyond the capacity of translators. The FCC is also under an existing mandate to insure that translators operate on their assigned frequencies so as not to cause objectionable interference with other telecommunications services using the broadcast spectrum. The Committee expects that the FCC will continue to adhere to these principles in implementing this legislation.

COMMITTEE ACTION

The Committee, acting through its Subcommittee on Communications, held one day of hearings on May 12, 1976 on H.R. 9689, a bill submitted by the Federal Communications Commission. In the course of these hearings, testimony was taken from the Chairman of the Federal Communications Commission, General Counsel to the National Translator Association, and Senior Vice President of the National Cable Television Association.

H.R. 9689 was ordered reported to the House by the Committee on May 25, 1976, by a voice vote which a majority of the Committee was present.

SENATE ACTION

The Senate passed S. 2847, an identical bill, on May 27, 1976.

SECTION-BY-SECTION ANALYSIS

Section 318 of the communications Act of 1934 is amended by deleting the word "solely" in clause (3) of the first proviso and inserting in lieu thereof "primarily," thereby enabling the FCC to authorize translator broadcast stations to originate limited amounts of local programming.

Section 318 of the Act is also amended by striking out the word "television" in clause (3) of the first proviso, thereby allowing the FCC to authorize unattended FM broadcast translator operation in the same manner presently permitted for television broadcast translators.

OVERSIGHT FINDINGS

There are no formal oversight findings by the Committee pursuant to clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives.

No oversight findings have been submitted to the Committee by the Committee on Government Operations pursuant to clause 2(1)(3)(D) of the Rules of the House of Representatives.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1) (4) of the Rules of the House of Representatives, the Committee makes the following statement regarding the inflationary impact of the reported bill:

The Committee is unaware that any inflationary impact on the economy will result from the passage of H.R. 9689.

COST ESTIMATE

Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, the Committee estimates that no additional costs will be incurred if H.R. 9689 is enacted.

The cost report prepared by the Congressional Budget Office follows:

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 10, 1976.

HON. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate and Foreign Commerce, U.S.
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 9689, a bill to amend section 318 of the Communications Act of 1934.

Based on this review, it appears that no additional cost to the government would be incurred as a result of enactment of this bill.

Sincerely,

ROBERT A. LEVINE,
for Alice M. Rivlin,
Director.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

SECTION 318 OF THE COMMUNICATIONS ACT OF 1934

OPERATION OF TRANSMITTING APPARATUS

SEC. 318. The actual operation of all transmitting apparatus in any radio station for which a station license is required by this Act shall be carried on only by a person holding an operator's license issued hereunder, and no person shall operate any such apparatus in such station except under and in accordance with an operator's license issued to him by the Commission: *Provided, however,* That the Commission if it shall find that the public interest, convenience, or necessity will be served thereby may waive or modify the foregoing

provisions of this section for the operation of any station except (1) stations for which licensed operators are required by international agreement, (2) stations for which licensed operators are required for safety purposes, (3) stations engaged in broadcasting (other than those engaged [solely] *primarily* in the function of rebroadcasting the signals of [television] broadcast stations), and (4) stations operated as common carriers on frequencies below thirty thousand kilocycles: *Provided further*, That the Commission shall have power to make special regulations governing the granting of licenses for the use of automatic radio devices and for the operation of such devices.

AGENCY REPORT

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., October 16, 1975.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This will acknowledge your letter of September 30, 1975, enclosing for the Commission's comments H.R. 9689, a bill to amend section 318 of the Communications Act of 1934, as amended, to enable the Federal Communications Commission to authorize translator broadcast stations to originate limited amounts of local programing, and to authorize frequency modulation radio translator stations to operate unattended in the same manner as is now permitted for television broadcast translator stations.

This bill is a part of the Commission's legislative program for the 94th Congress and was submitted to the Congress on September 5, 1975. We urge its early enactment.

Sincerely yours,

RICHARD E. WILEY, *Chairman.*

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., September 5, 1975.

HON. CARL ALBERT,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The Commission has adopted as part of its Legislative Program for the 94th Congress a proposal to amend Section 318 of the Communications Act of 1934, as amended, to remove the licensed operator requirement for FM translators and FM transmitters and to permit the carrying of certain kinds of programming on FM and TV translators.

Section 318 now requires a licensed operator for all broadcast stations except those "engaged solely in the function of rebroadcasting the signals of television broadcast stations." This excepts TV translators from the licensed operator requirement provided no material is originated on the translator. The Commission believes that FM translators, like TV translators, should be included in the exception.

Technical development now enables FM transmitters without a licensed operator on duty to operate without causing interference to other radio services. The Commission believes that Section 318 should reflect this advanced technology by excepting FM broadcast transmitters from the licensed operator requirement.

We also believe that certain kinds of material should be permitted to originate on TV and FM translators operating without a licensed operator. Deletion of the word "solely" from the quoted provision would permit translators to broadcast announcements relevant to the local community.

The Commission's draft bill to accomplish the foregoing objective was submitted to the Office of Management and Budget for its consideration. We have now been advised by that Office that from the standpoint of the Administration's program that would be no objection to the presentation of the draft bill to the Congress for its consideration. Accordingly, there are enclosed six copies of our draft bill and explanatory statement on this subject.

The consideration of the House of Representatives of the proposed amendment to the Communications Act of 1934 would be greatly appreciated. The Commission would be most happy to furnish any additional information that may be desired by the House or by the Committee to which this proposal is referred.

Sincerely yours,

RICHARD E. WILEY, *Chairman.*

EXPLANATION OF PROPOSED AMENDMENT TO SECTION 318 OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED, TO ENABLE THE COMMISSION TO AUTHORIZE TRANSLATOR BROADCAST STATIONS TO ORIGINATE LIMITED AMOUNTS OF LOCAL PROGRAMMING, AND TO AUTHORIZE FM RADIO TRANSLATOR STATIONS TO OPERATE UNATTENDED IN THE SAME MANNER AS IS NOW PERMITTED FOR TELEVISION BROADCAST TRANSLATOR STATIONS

Translator stations are low-power broadcasting stations which receive the incoming signals of a television or FM radio station, amplify the incoming signals, convert—or "translate"—them to a different output frequency, and retransmit the signals to the community or area which it is desired to serve. Translators are needed in certain areas of the country where, because of terrain or extreme distances, it is not possible to receive directly the signals of the originating television or FM radio station. They were conceived as simple, inexpensive devices which could be made available to small communities where the demand for television or FM radio service was great and financial resources were meager. In such areas, translators frequently provide local residents with their only source of television or FM radio reception.

Section 318 of the Communications Act of 1934, as amended, 47 U.S.C. § 318, (clause (3) of the first proviso), limits translators to re-broadcasting the signals of their primary stations without any significant alteration of the characteristics of the incoming signals. Although the Commission has interpreted Section 318 to allow UHF television translators to broadcast twenty seconds of commercial advertising per hour, the origination is restricted to slide announcements, and no program origination is permitted. Consequently, translator stations are not self-supporting and must depend on public generosity for their

support. In addition, Section 318's prohibition of program origination in many instances deprives those people dependent on translator stations for their television or FM radio reception of news of local political interest or events which vitally affect them. We believe the proposal substitution of the word "primarily" for "solely" will allow the Commission to authorize limited amounts of local origination in keeping with the public interest.

We recognize the proposal does not set any specific limitations as to the amount of local origination to be permitted. We believe, however, that such a limitation could be best determined in a rulemaking proceeding conducted by the Commission to implement this legislation during which the comments received from all interested parties could be analyzed and evaluated. In deciding upon such a limitation the Commission would, of course, be bound by the requirement of Section 318 that origination be limited to the extent necessary to insure that translator stations retain their primary characteristics as rebroadcast stations.

It should be noted that cable television interests have expressed their concern to the Commission with respect to what effect our proposal might have on the relationship of translators and cable systems. Cable operators expressed particular concern with regard to possible interference between VHF television translator stations (those operating on output channels 2 through 13) and cable television systems when broadcast channels are authorized for translator use. We cannot perceive that this proposal would have any effect whatsoever on the matter of electrical interference as it would merely enable the Commission to promulgate rules to authorize program origination by translators. This would have no effect on the frequencies on which translators operate. In any event, if the proposal is enacted into law, the cable operators would have ample opportunity to present their views at the rule-making proceeding the Commission would institute before adopting any rules to effectuate the statute.

We also propose striking the word "television" from Section 318. As previously noted, translators were conceived as simple, inexpensive devices designed to provide broadcast signals to the residents of sparsely populated, rural, remote, or mountainous areas. To make such stations economically feasible, Congress enacted Section 318 in 1960 to enable the Commission to permit television translator stations to operate without a licensed operator. At that time, there were only television translator stations. However, technological advances through the past decade have made FM translator stations possible and, in 1970 the Commission authorized such stations. Now, in order to make the FM translator stations economically feasible, it is necessary to amend Section 318, as proposed, to authorize the FM translators to operate unattended in the same manner as is now permitted for television translator stations.

In sum, the Commission believes the public interest would be served by adoption of the proposed amendment.

