

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

1 {York Stenographic Services, Inc.}

2 RPTS BURDETTE

3 HIF084.160

4

5 MARKUP ON H.R. _____, A BILL TO AMEND THE COMMUNICATIONS ACT

6 OF 1934 TO EXTEND EXPIRING PROVISIONS RELATING TO THE

7 RETRANSMISSION OF SIGNALS OF TELEVISION BROADCAST STATIONS,

8 AND FOR OTHER PURPOSES

9 TUESDAY, MARCH 25, 2014

10 House of Representatives,

11 Subcommittee on Communications and Technology

12 Committee on Energy and Commerce

13 Washington, D.C.

14 The subcommittee met, pursuant to call, at 10:04 a.m.,
15 in Room 2123 of the Rayburn House Office Building, Hon. Greg
16 Walden [Chairman of the Subcommittee] presiding.

17 Members present: Representatives Walden, Latta,
18 Shimkus, Terry, Blackburn, Scalise, Lance, Guthrie, Gardner,

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

19 Pompeo, Kinzinger, Long, Ellmers, Barton, Upton (ex officio),
20 Eshoo, Doyle, Matsui, Welch, Lujan, Dingell, Pallone and
21 Waxman (ex officio).

22 Staff present: Nick Abraham, Legislative Clerk; Gary
23 Andres, Staff Director; Ray Baum, Senior Policy
24 Advisor/Director of Coalitions; Mike Bloomquist, General
25 Counsel; Sean Bonyun, Communications Director; Matt Bravo,
26 Professional Staff Member; Gene Fullano, Detailee, Telecom;
27 Kelsey Guyselman, Counsel, Telecom; Sydne Harwick,
28 Legislative Clerk; Kirby Howard, Legislative Clerk; Grace
29 Koh, Counsel, Telecom; David Redl, Chief Counsel, Telecom;
30 Charlotte Savercool, Legislative Coordinator; Tom Wilbur,
31 Digital Media Advisor; Jessica Wilkerson, Legislative Clerk;
32 Michelle Ash, Democratic Chief Counsel, Commerce,
33 Manufacturing, and Trade; Jen Berenholz, Democratic Chief
34 Clerk; Shawn Chang, Democratic Chief Counsel, Communications
35 and Technology; Patrick Donovan, Democratic FCC Detailee;
36 Karen Lightfoot, Democratic Communications Director, and
37 Senior Policy Advisor; Margaret McCarthy, Democratic
38 Professional Staff Member; and Kara van Stralen, Democratic
39 Policy Analyst.

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

|

40 Mr. {Walden.} Good morning. The Subcommittee on
41 Communications and Technology will come to order. At the
42 conclusion of opening statements yesterday, the chair called
43 up the committee print and the bill was open for amendment at
44 any point. The chair now recognizes himself to offer the
45 Eshoo-Walden amendment labeled CBO_304, and the clerk will
46 report the amendment.

47 The {Clerk.} Amendment to discussion draft offered by
48 Mr. Walden and Ms. Eshoo

49 [The amendment of Mr. Walden and Ms. Eshoo follows:]

50 ***** INSERT 1 *****

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

|
51 Mr. {Walden.} Without objection, the reading of the
52 amendment is dispensed with, and I will recognize myself for
53 5 minutes in support of the amendment.

54 Good morning, everyone. At this time we resume the
55 markup of the discussion draft to reauthorize the law that
56 ensures that 1.5 million subscribers in hard-to-reach areas
57 continue to receive broadcast content via their chosen
58 satellite provider. Keep in mind, satellite TV providers
59 have more than 34 million customers nationwide. So this
60 truly is prime-time legislation, and we are ready to move
61 forward.

62 This draft legislation represents more than a year of
63 work, discussions, hearings and negotiations, both among
64 affected industries and among ourselves on both sides of the
65 aisle and within our respective parties. It proposes
66 reasonable reforms, that can become law, to the current state
67 of the video market, sensible, modern day deregulatory
68 changes that are supported by the major competitors in the
69 marketplace, broadcasters, major cable operators and
70 satellite operators, and as you know, getting all three of
71 these on the same page is no easy task, something I know my
72 colleagues understand. Any major changes put at risk our

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

73 ability to move forward in a positive way to reauthorize this
74 important service.

75 My Democratic colleagues have expressed some concerns,
76 and we have worked to find common ground that would allow us
77 to support a bipartisan bill within the framework of the
78 narrow reforms that we have laid out. We will have some work
79 to do, but we are encouraged by the compromises that we have
80 reached so far.

81 In particular, we are able to agree on revisions to the
82 integration ban provisions in Section 6 of the draft. Mr.
83 Latta and Mr. Green's bipartisan legislation on this issue
84 was the inspiration for the language in the draft, and the
85 compromise achieves the same goal--the repeal of cable card
86 integration ban--and yet addresses the concerns raised by
87 some of our colleagues across the aisle.

88 This amendment will also place Section 4 in brackets. I
89 understand--well, I stand behind the language instructing the
90 Federal Communications Commission to do its job and complete
91 the Quadrennial Review of the media ownership rules before
92 tinkering with JSAs, particularly because I believe that
93 these JSAs provide benefits to rural television viewers.
94 Placing this language in brackets, however, is a show of good
95 faith to our Democratic colleagues that we intend to work to

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

96 see if we can reach agreement on that section. Our staffs
97 will continue to work toward bipartisan agreement in
98 anticipation of markup by the full committee.

99 So I want to thank the ranking members, both Mr. Waxman
100 and Ms. Eshoo, for their willingness to work with us to
101 advance this bill, and with that, I yield back the balance of
102 my time and I recognize the gentlelady from California, Ms.
103 Eshoo.

104 Ms. {Eshoo.} Good morning, Mr. Chairman, and members of
105 the committee, thank you, and thank you for the commitment
106 that you just made during your statement today and your
107 opening statement yesterday to work with us to resolve our
108 remaining differences before heading to full committee
109 markup.

110 And I think that it is important that the product that
111 we send to the full committee really has the imprimatur of
112 this subcommittee. This is the subcommittee that really
113 knows these issues the best, and there are an awful lot of
114 complexities to them, and there is an enormous amount of
115 talent and understanding here, so I appreciate the
116 commitment. I think that we can do that, and I think this
117 bipartisan amendment that we are offering together makes two
118 good changes.

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

119 First, as you said, the amendment brackets Section 4,
120 which effectively bars the FCC from modifying its rules to
121 close the loophole that broadcasters have been exploiting to
122 circumvent the FCC's media ownership rules. Again, I am
123 committed to working with my Republican colleagues to ensure
124 that the FCC completes its long-overdue 2010 Quadrennial
125 Review. It is their responsibility to do this, to do the
126 job. They need to get it done. I think that this chairman
127 is committed to doing that, and unfortunately, the former
128 chairman didn't, but we are foursquare for that being
129 accomplished as well as the 2014 review based on the
130 timetable required by law. So I am hopeful that we will
131 resolve our differences and ensure the FCC can continue to
132 uphold the core values of competition, localism and
133 diversity.

134 With respect to Section 6, our amendment keeps the door
135 open on a successor to the cable card, which I have pushed
136 for, as you know. I said just very recently during one of
137 our hearings or whatever it was, or maybe it was our
138 telephone conversation, that to deconstruct what we have now
139 and not put something in place for a successor technology, I
140 just don't think is the right way to go. I don't think it is
141 smart. And while this by no means--I shouldn't say by no

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

142 means. It is not my preferred approach but Mom said that I
143 would never get 100 percent, and she was right. It is a
144 compromise.

145 With an eye to the future, I think that we can ensure
146 consumer electronics manufacturers can continue to offer
147 consumers innovative retail alternatives to the set-top boxes
148 leased by cable operators, and I appreciate your willingness,
149 Mr. Chairman, to work with me to promote a competitive--that
150 is the operative word--competitive set-top box marketplace.

151 So while this amendment doesn't address Section 3, the
152 chairman has given me and others his assurances that we will
153 continue working together, not only we work together but also
154 with stakeholders to address the remaining concerns.

155 So I look forward to that, and I think that we are
156 headed on a good path. Yield back.

157 Mr. {Walden.} The gentlelady yields back.

158 Any further discussion on the amendment? The chair
159 recognizes the gentleman from California, Mr. Waxman.

160 Mr. {Waxman.} Thank you, Mr. Chairman. I move to
161 strike the last word.

162 I support the Eshoo-Walden amendment. It represents an
163 important agreement we have reached on cable set-top boxes,
164 which are notoriously energy inefficient. To promote retail

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

165 competition, the FCC issued a regulation in 2003 requiring
166 cable companies to use a separate device called a cable card
167 to decrypt their signals. The idea was that independent set-
168 top box manufacturers like TiVo could then use the same
169 technology. This rule was called the Integration Ban. It
170 had good intentions but the Department of Energy says that
171 the requirement to segregate security from the other features
172 of the set-top box creates significant inefficiencies. We
173 have agreed to repeal the Integration Ban. Technology has
174 advanced significantly in recent years. Cable companies want
175 the flexibility to develop more energy-efficient ways to
176 secure their signals. When they develop these new security
177 technologies, they will still need to share them with the
178 independent manufacturers, thereby preserving competition.
179 At the same time, the amendment being offered today does not
180 restrict the FCC's ability to readopt the Integration Ban in
181 the future. This is important because it preserves the
182 ability of the FCC to intervene if the cable companies act to
183 thwart competition. In effect, we are taking a ``trust by
184 verify'' approach. We are trusting that the cable companies
185 will use their new freedom to innovative responsibly, but if
186 they don't, we are preserving the FCC's authority to ensure
187 there is competition in this important market.

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

188 I want to thank Chairman Walden and Ranking Member Eshoo
189 for working tirelessly together to find common ground, and I
190 urge my colleagues to support this amendment. Yield back my
191 time.

192 Mr. {Walden.} I thank the gentleman for his comments,
193 and the gentleman yields back the balance of his time.

194 The {Chairman.} Will the gentleman yield?

195 Mr. {Walden.} The Chair now recognizes the big
196 chairman, Mr. Upton, for 5 minutes.

197 The {Chairman.} Strike the last word.

198 I just want to say, I commend you and Ms. Eshoo, Mr.
199 Waxman, members on both sides of the aisle. You know, as
200 folks look at this issue, failure to act means a million and
201 a half subscribers will lose their signal. That is not what
202 we intend to do. We are trying to work in a bipartisan way
203 to try and get this done. It is very important. And this
204 overall issue is one that quite frankly is almost trying to
205 balance three basketballs together. It is very difficult,
206 and I think that we have done the job between cable,
207 satellite and broadcasters. We have done it. No one is
208 entirely happy, that is for sure, but at the end of the day,
209 we have to think about the million and a half folks that will
210 lose their signal if we fail to act.

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

211 It has been a tough slog the last couple weeks. I
212 commend those that have been in the pit working to get this
213 thing done. I think this is a good product. I think that
214 this Manager's Amendment is a good one, and I appreciate the
215 bipartisanship and hard work by the staff, I should say, as
216 well, to try and get the issues on the table and I look
217 forward to supporting this when we conclude the markup in
218 subcommittee this morning, and I yield back my time.

219 Mr. {Walden.} The gentleman yields back his time. Any
220 others seeking comment on the amendment? Yes?

221 Mr. {Welch.} Stroke the last word.

222 Mr. {Walden.} The gentleman from Vermont.

223 Mr. {Welch.} Thank you very much, Mr. Chairman.

224 A couple of things. Number one, congratulations on
225 reaching this bipartisan agreement. I appreciate your good
226 working and working with Ranking Member Eshoo.

227 Secondly, this reflects some of the good things that are
228 happening in the industry. Broadcasters are producing
229 incredible service. The content providers by many critics
230 and by many viewers see this as the heyday of content.
231 Viewers are really appreciating what they see. So there is
232 good service, there is good distribution through our cable
233 and satellite companies. And those are the three things that

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

234 our chairman just mentioned.

235 But the frustration for me, frankly, is that there is
236 one group that is being left out of our attention, and that
237 is the consumer. The prices that they are paying are brutal.
238 They really are. And, you know, a lot of us will make
239 statements that are heartfelt about how tough it is for
240 everyday folks to pay their bills by the end of the month,
241 and I think all of us know how important cable and satellite
242 programming is to the people that we represent, and for some,
243 it is sports, for some, it is the drama, for some, it is
244 other programming that they can get. But the prices that
245 they have been paying have been marching up steadily, and it
246 is not as though I am suggesting that we can solve that issue
247 in this bill, but I do believe that we together have to begin
248 addressing the consumer concerns that I think are just going
249 to get more and more significant.

250 You know, the price has been going up a lot, as you all
251 know. Over the past 20 years, cable prices have increased at
252 more than twice the rate of inflation, about 6 percent a
253 year, from 2007 to 2011, which is the height of the
254 recession, you know, when all of our folks were on pins and
255 needles about whether they were going to keep their job and a
256 lot of the people we represent lost their jobs. The

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

257 distributors increased the price of expanded basic cable
258 service by 22 percent. You know, that is telling because at
259 a time when people are hanging on by their fingernails, when
260 they are having to basically make really hard decisions about
261 their family budget, the pricing power for this industry was
262 such that even in very, very tough times, when the number of
263 people subscribing was flat or declining, they were able to
264 increase those prices by 22 percent.

265 So in my view, that should be a concern to all of us.
266 You know, you have to have a model of financing where
267 broadcasters are going to get the revenue that is required to
268 produce good programming, and we have got to have a cable and
269 satellite financial structure that is going to allow them to
270 get that signal out to the people that need and want it that
271 we represent, but there has got to be some inquiry, I think,
272 into the business model that includes taking a look at how
273 our consumers basically have no choice. They have got to buy
274 whatever is offered to them, by and large. There is very
275 limited choice. There is very limited pressure on some of
276 the sports programming and the prices that get passed along.

277 So all of us, Mr. Chairman, obviously have a concern
278 about the strength of the industry, all of the elements of
279 it, and you have done a good job here putting together that

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

280 is going to maintain that, but my hope is that we are going
281 to get serious about trying to take a look at some of these
282 things that are driving the price up for the consumer that my
283 view basically has no ability to control that cost and has to
284 do it on a take-it-or-leave-it basis. I yield back.

285 Mr. {Walden.} I thank the gentleman for his comments,
286 and certainly as part of our Comm Act update, these issues
287 will all be on the table, and the one thing with broadcast
288 programming, you can put up an antenna and get a pretty good
289 HD signal and about 35 stations, depending on where you are,
290 but this will certainly be an issue that is on the minds of
291 our consumers, our voters and us.

292 Mr. {Welch.} Thank you, Mr. Chairman.

293 Mr. {Walden.} Other comments on the amendment? Anyone
294 else seeking recognition?

295 If not, if there is no further discussion on the
296 amendment, the vote occurs on the amendment.

297 All those in favor shall signify by saying aye.

298 All those opposed, no.

299 The ayes have it, and the amendment is agreed to.

300 Are other amendments? And on other amendments, our
301 priority is to go with amendments that are bipartisan in
302 nature first, so are there any bipartisan amendments?

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

303 If not, I recognize the vice chair of the full
304 committee, Mrs. Blackburn, for recognition.

305 Mrs. {Blackburn.} Thank you, Mr. Chairman. I have an
306 amendment at the desk.

307 Mr. {Walden.} The clerk will report the amendment.

308 The {Clerk.} Amendment to discussion draft offered
309 disability Mrs. Blackburn of Tennessee.

310 [The amendment of Mrs. Blackburn follows:]

311 ***** INSERT 2 *****

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

|
312 Mr. {Walden.} The Chair recognizes the gentlelady from
313 Tennessee.

314 Mrs. {Blackburn.} Thank you, Mr. Chairman.

315 I am offering an amendment that would condition the
316 ability of broadcasters to opt for retransmission consent
317 payments on whether radio stations they own pay performers
318 for their music. I think we could call this the Keeping
319 Broadcasters Consistent amendment, or What is Good for the
320 Goose is Good for the Gander amendment.

321 And let me just be really clear on this. I believe a
322 broadcaster's TV signal is their property and they should
323 have the right to negotiate for fair compensation for the
324 carriage of that signal and its content. Broadcasters have
325 told this committee repeatedly that retransmission consent
326 payments are fair because cable and satellite stations make
327 millions by retransmitting local broadcast content.
328 Broadcasters seem to turn out a press release an hour saying
329 anyone who uses their members' content should pay fair market
330 value. On the other hand, when it comes to music, the same
331 broadcasters, many who own both TV and radio stations, sing a
332 completely different tune. They defend a system where their
333 AM/FM stations use musicians' work and make millions off of

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

334 it and they never pay a cent. This is a basic issue of
335 modernizing the law to get rid of a dated loophole that only
336 applies to AM/FM radio. Internet radio pays, satellite radio
337 pays creators for performances. Cable and satellite TV radio
338 stations pay music creators for their performance. Everybody
339 but AM/FM radio pays.

340 Here is a great example. When Kenny Rogers sings ``The
341 Gambler'' and it is played on Internet radio or satellite,
342 Kenny gets paid, but when it is played on AM/FM, he gets
343 nothing, and NAB's radio members won't pay Kenny for his
344 recording of ``The Gambler'' but they come before the
345 committee and they demand to be paid when the TV movie of
346 ``The Gambler'' is retransmitted. Fair pay for all creators
347 shouldn't be a gamble.

348 This is not the free market at work. In a free market,
349 performers could negotiate a fair price for their work on TV,
350 Internet or AM/FM. Instead, it is a government-sanctioned
351 taking of a creator's property. The ultimate picking of
352 winners and losers, and everyone who loves music gets the
353 short end of the stick.

354 We are the only industrialized county outside of China,
355 Iran and North Korea that does not pay performers for the use
356 of their music on radio. That has real-world consequences to

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

357 the American economy as we leave at least \$100 million a year
358 on the table overseas. They don't pay our performers because
359 we don't pay our performers. Time and again, I have asked
360 broadcasters who have come to this subcommittee--and I know
361 everyone gets tired of hearing about it. I have asked them
362 to give me an explanation for the double standard. The
363 problem is, they never give an answer because there is not a
364 reasonable explanation.

365 I yield back the balance of my time.

366 Mr. {Walden.} The gentlelady yields back the balance of
367 her time, and I forgot to read part of the script here before
368 I recognized you, which said the reading of the amendment is
369 dispensed with, so consider that done.

370 Anyone else seeking to comment on this amendment? Yes,
371 the gentlelady from California, Ms. Eshoo.

372 Ms. {Eshoo.} Thank you, Mr. Chairman.

373 I support Mrs. Blackburn's amendment, and she has been
374 on this really like white on rice for some time. She stated
375 the case. I think the case is absolutely clear. I don't
376 think this is--let me use a different set of words. I don't
377 think this is the government playing favorites. I think that
378 the lobbyists did a hell of a job with the Congress to get
379 this exception in because I think that you put this out under

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

380 the sunshine, it is not a fair model at all. And while there
381 are others that are a part of broadly the entertainment
382 industry, you know, this is diminishing what these artists
383 produce. I mean, we value intellectual property; the framers
384 did. They recognized patents in the Constitution, for
385 heaven's sake. So I think that this is unfair. I think that
386 whomever created this loophole whenever it was put into place
387 that you can drive a Peterbilt truck through. I think the
388 gentlewoman is absolutely right and I look forward to a time
389 where it is going to be brought up and not withdrawn and that
390 the full committee faces this and that we bring equity across
391 the board to those that in terms of their talent, whether
392 they are writers, whether they are composers, whether they
393 are the ones that are singing or playing, they are artists.
394 They are artists. They are American artists. And I think it
395 would be a marvelous way for the entire country to say we
396 appreciate you. And you know what? Let us face it. You can
397 say that to anyone, but unless you are paid, you are not
398 appreciated. I was a volunteer for many years, so I know
399 that.

400 To Mrs. Blackburn, thank you for bringing this up over
401 and over again, and I look forward to the day when the
402 amendment will not have to be withdrawn and the full

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

403 committee act on it.

404 I don't know if I have any time left. I do. Anyone
405 want to take the remainder of time? No?

406 Mr. {Shimkus.} Will the gentlelady yield?

407 Ms. {Eshoo.} I would be glad to.

408 Mr. {Shimkus.} Just to pose the contrary debate--

409 Ms. {Eshoo.} I am going to take the time back. No, I
410 am teasing you.

411 Mr. {Shimkus.} I mean, technology has changed a lot,
412 and when radio started, they provided a great service to the
413 songwriters by airing their music free of charge, and many
414 stars were born because of local radio, and that is true.
415 Now there is technology, now you have got a lot of these
416 local stations now over the Internet and maybe there needs to
417 be a debate about how the world has transformed but no one
418 can sit here and tell me that local small-town radio did not
419 launch the careers of a lot of very successful musicians, and
420 that historical aspect has to be part of this debate.

421 So I represent 33 counties. I have some of the poorest
422 communities in Illinois, and they still have local radio and
423 their serve their customers, and when you go into these
424 studies, they are not palatial. They are operated by one or
425 two people. They are doing the high school basketball games.

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

426 They are doing the emergency broadcasts. And so I think some
427 appreciation for local small-town broadcasters is important
428 here in this debate, and I want to thank my colleague, and I
429 yield back.

430 Mr. {Walden.} The gentleman yields back. The
431 gentlelady yields back.

432 Does the gentlelady wish to withdraw her amendment at
433 this moment?

434 Mrs. {Blackburn.} Mr. Chairman, I will withdraw the
435 amendment and look forward to addressing this and finding a
436 resolution to it at some point in the near future.

437 Mr. {Walden.} I thank the gentlelady. Without
438 objection, the amendment is withdrawn.

439 Are there other members seeking to offer the amendments?
440 The gentleman from New Mexico, Mr. Lujan.

441 Mr. {Lujan.} Mr. Chairman, thank you very much. I have
442 an amendment at the desk.

443 Mr. {Walden.} The clerk will report the amendment.

444 The {Clerk.} Which number is the gentleman's amendment?

445 Mr. {Lujan.} 121.

446 The {Clerk.} Amendment to discussion draft offered by
447 Mr. Ben Ray Lujan of New Mexico.

448 [The amendment of Mr. Lujan follows:]

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

449 ***** INSERT 3 *****

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

|
450 Mr. {Walden.} Without objection, the reading of the
451 amendment is dispensed with and the gentleman is recognized
452 for 5 minutes in support of his amendment.

453 Mr. {Lujan.} Mr. Chairman, across the Nation,
454 television viewers have been divided into designated market
455 areas, or DMAs, by the Nielsen Company. These lines reflect
456 what Nielsen believes make up a local television market but
457 they don't always reflect obvious borders like State
458 boundaries.

459 The problem exists across the country, and in my
460 district, a number of counties in eastern New Mexico have
461 been drawn into the Amarillo, Texas, media market, making it
462 impossible for them to receive local broadcasts for New
463 Mexico news, politics, sports or culture.

464 For many years, Members of Congress from both parties
465 have worked to bring so-called orphan counties back into
466 their home State's television market with piecemeal
467 legislation. Even the current president of the National
468 Association of Broadcasters, former Senator Gordon Smith,
469 worked to provide a legislative fix so that his constituents
470 in Oregon could watch in-state programming.

471 My amendment would work to fix this problem by allowing

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

472 counties adjacent to an in-state media market to import
473 television signals from the home State, and Mr. Chairman, I
474 believe it is time that we seek a solution to this problem.
475 I know that there has been lots of discussion, and many rural
476 members on the committee share some of the concerns with what
477 is happening back in their respective districts, and this is
478 something, Mr. Chairman, that as we have this conversation
479 continue whether it is today or towards final markup that I
480 hope that we can work together on to address some of these
481 issues across the country.

482 Mr. {Walden.} Does the gentleman yield?

483 Mr. {Lujan.} Yes.

484 Mr. {Walden.} I appreciate the gentleman's comments,
485 and obviously a lot of us face these similar issues, which is
486 why it makes for a great topic moving forward with our Comm
487 Act update is the appropriate place for this, I believe,
488 because it is pretty intricate when you get into it in terms
489 of how markets are defined, as you well know, based on the
490 Nielsen market divisions, and actually I have issues in my
491 district that are affected as well, or viewers that are
492 affected, in several locations, and so it is one I know a
493 number of members on the committee are concerned about but I
494 think it needs to be dealt with in the broader context of the

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

495 Comm Act when we look at all of these issues.

496 Mr. {Lujan.} Mr. Chairman, reclaiming my time. With
497 that being said, I still think that maybe there is an
498 opportunity if we could work with the majority as well as
499 with our ranking member leading up to markup, if maybe we can
500 have some conversations, whether it is the tool with updates
501 to the Telecom Act or as we approach what would be a final
502 markup in the full committee on STELA as well, if that would
503 be something that we might be able to do, and if there is
504 agreement there, then I would be willing to withdraw the
505 amendment today.

506 Mr. {Walden.} Well, I am happy to have discussions with
507 you on this or any other issues to see where it might yield.

508 Ms. {Eshoo.} Would the gentleman yield?

509 Mr. {Lujan.} I would.

510 Ms. {Eshoo.} I want to thank Mr. Lujan for not only the
511 time and effort he has put into this but really his
512 passionate advocacy on this issue, and he takes something
513 that is complex and really rather dry and sounds so
514 uninteresting on the surface and he puts a human face on it
515 because there are so many people that he represents that are
516 really being screwed by this, in plain English, and there are
517 18 members of the full Energy and Commerce Committee that

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

518 represent rural areas in our country, and I think, Mr.
519 Chairman, that the first thing I would recommend is that they
520 all come together first. See what you can come up with and
521 bring it to the leadership of the committee. But 18 members
522 representing rural areas, you have commonality on something.
523 That is a lot of power, that is a lot of votes.

524 So I salute you for what you have been doing. I support
525 you, but I will just throw in a little recommendation here
526 that you have a lot of power going for you in terms of the
527 number of members on this committee, and I would say, use it.

528 And with that, thank you for yielding to me.

529 Mr. {Lujan.} And Mr. Chairman, with that, I would
530 withdraw the amendment.

531 Mr. {Walden.} Without objection, the gentleman
532 withdraws his amendment.

533 Are there other amendments that members have to offer?
534 I will alternate back and forth if we can. Mr. Scalise is
535 recognized.

536 Mr. {Scalise.} Thank you, Mr. Chairman, and I
537 appreciate the time for the markup, and wanted to present an
538 amendment that really addresses--

539 Mr. {Walden.} Before you speak to the amendment, can
540 you offer it, and then the clerk--

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

541 Mr. {Scalise.} I would be happy to offer the amendment.

542 The {Clerk.} Amendment to discussion draft offered by

543 Mr. Scalise of Louisiana.

544 [The amendment of Mr. Scalise follows:]

545 ***** INSERT 4 *****

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

|
546 Mr. {Walden.} Without objection, the reading of the
547 amendment is dispensed with and now would recognize the
548 gentleman from Louisiana for 5 minutes to talk about his
549 amendment.

550 Mr. {Scalise.} Great. This amendment is directed
551 towards giving consumers more choice, and I think as we go
552 through this conversation about our outdated communications
553 law and there is talk of having a broader conversation on
554 communications law, the STELA bill is addressing some of
555 these, in fact, with sweeps week. There has always been
556 historically other provisions included in a STELA law and I
557 know as myself, Ms. Eshoo and others have talked about the
558 broader conversation that we need to have, this amendment
559 deals specifically with three components that are in the law
560 right now that really are part of that outdated system of
561 laws that deny consumers choice in fact.

562 One of the provisions in STELA that has been in there
563 for some time now is a good-faith negotiation requirement.
564 The government actually has to require that both parties, the
565 broadcasters and the video producers, the content providers,
566 have to negotiate in good faith. Now, you would say if there
567 was a free market you would not need a requirement that there

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

568 is a good-faith negotiation, but in fact, because we don't
569 have a free market, and I think it underscores the fact that
570 we don't currently have a free market because there are all
571 these mandates that are put in law that impede that free-
572 market negotiation. Congress over time has put in place a
573 law that requires the two parties to negotiate in good faith.

574 So the first part of the amendment actually removes the
575 expiration. If we are going to have this requirement of good
576 faith, let us not have an expiration on it. Let us have that
577 go forward in time. But then ultimately let us get to a free
578 market so that you don't have to mandate good faith. There
579 would be just in essence forced good-faith negotiations
580 because there would be a free market where the parties would
581 have to decide that.

582 That gets to the next two parts of this amendment. One
583 would remove the basic service-tier mandate that dictates by
584 the Federal Government which stations have to be on the basic
585 tier. Again, this is part of what should be a free-market
586 negotiation. The basic tier is the most valuable piece of
587 real estate when you are talking about cable providers, with
588 fiber providers, negotiate when they are putting together
589 packages, and right now under current law, if a station opts
590 to go through the retransmission consent component of the

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

591 law, then they are guaranteed a place on the basic-service
592 tier that a video provider would offer to their consumers.
593 And look, ultimately whatever that basic tier is, that should
594 be a negotiation again between two parties. It shouldn't be
595 a mandate by the Federal Government that tells you what has
596 to be on that basic piece of real estate that is so valuable,
597 and so let the two parties negotiate what that basic tier
598 would look like. Don't have the Federal Government telling
599 people what it should be.

600 And the final provision of this amendment would repeal
601 the buy-through mandate. Again, right now the Federal
602 Government through a lot of these heavy-handed laws is
603 dictating the terms of a negotiation so that the consumers
604 don't have that choice. The Federal Government is taking
605 that choice away from consumers. If a consumer in my
606 district or your district or anyone else's wants to just go
607 by a sports package, you know, maybe they don't want to have
608 to buy a product that they can actually get for free using a
609 \$10 rabbit eat, if they say I want to get the product for
610 free without buying the product that I could get for free, I
611 just want to go buy a sports package, they can't do that
612 right now. The Federal Government actually mandates that
613 they first have to buy the basic-service tier and then go and

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

614 buy the sports package if that is the choice that they want
615 to make. So they don't really get the ability just to buy
616 what they want. They have to first go through the basic-
617 service tier. That is a federal mandate. Let that be a
618 negotiation not only between the two parties that are
619 negotiating how the video content is going to be provided but
620 also let that be a consumer choice.

621 I know my friend from Vermont, Mr. Welch, talked about
622 consumer choice. This gets to the heart of what impedes the
623 ability for consumers in our districts to have the true
624 freedom of choice that they want and ultimately at the price
625 they want. Again, let them have that choice if they want to
626 buy all those different options, many do, and many still
627 would, but again, should that really be a federal mandate
628 that is in statute as it is right now that takes that choice
629 away from consumers and forces it upon not only through
630 government forces it on consumers but forces it on those
631 providers as well.

632 So again, just some basic commonsense reforms that
633 remove some of these mandates that in some cases actually
634 drive up the cost and take choices away from consumers. That
635 is what this amendment does that I am offering up, Mr.
636 Chairman, and with that, I yield back.

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

637 Mr. {Walden.} I thank the gentleman for his comments,
638 and I certainly recognize the considerable effort that he has
639 put into bringing pro-competition, pro-consumer principles
640 into this debate, and agree that the laws require updating,
641 which is of course why we are moving into the Comm Act update
642 effort, and to quote our friend from Illinois, ``Telecom
643 reform is not for sissies, '' and so we look forward to having
644 these discussions with all committee members as part of this
645 debate.

646 Is there any other comment on this amendment? If not,
647 does the gentleman wish to withdraw his amendment?

648 Mr. {Scalise.} Yes, Mr. Chairman. I know you have
649 talked about this. I know we have had conversations as well.
650 We will get into a broader Communications Act review and
651 ultimately legislation dealing with these broader issues.
652 These ought to be part of that broader discussion and
653 ultimately these are going to be tough decisions that we have
654 to grapple with, but again, you have got a law that dates
655 back to 1992 that is incredibly outdated. Technology has
656 advanced so far beyond where the law is, and that is what our
657 committee is tasked with is dealing with these tough issues,
658 and these are part of that, and I appreciate the conversation
659 we started over these last few months but ultimately will

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

660 continue with the broader discussion.

661 Mr. {Walden.} We actually have a law that dates back to
662 1934 or 1927.

663 Mr. {Scalise.} We are finally trying to get rid of the
664 telegraph requirement. The FCC has to provide a report on
665 competition in the telegraph industry, and I appreciate your
666 work with me on getting that addressed.

667 Mr. {Walden.} I know you have waited for that report.

668 Mr. {Scalise.} It would be nice if we could get the
669 Senate to address it as well, but with that, I look forward
670 to this broader debate and ultimately resolution of these
671 outdated problems, and I withdraw the amendment.

672 Mr. {Walden.} Thank you. The gentleman withdraws his
673 amendment.

674 The chair recognizes the gentlelady from California, Ms.
675 Eshoo.

676 Ms. {Eshoo.} Thank you, Mr. Chairman.

677 I want to salute Mr. Scalise for his passion on the
678 issue that he just offered in the form of an amendment, and
679 you know that we have worked together on the broader issues
680 relative to retrans, and thank you for what you have
681 contributed to it. I am sorry that we don't have a solution
682 in this effort but I can't let this go by without saying

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

683 something about it because I think it is so important,

684 Last December, I introduced, as you know, Mr. Chairman,

685 the Video Choice Act as a way--

686 Mr. {Walden.} Do you have an amendment?

687 Ms. {Eshoo.} Oh, yes, I have it at the desk. I do.

688 Mr. {Walden.} The gentlelady has an amendment at the

689 desk. The clerk will report the amendment.

690 The {Clerk.} Amendment to discussion draft offered by

691 Ms. Eshoo of California.

692 [The amendment of Ms. Eshoo follows:]

693 ***** INSERT 5 *****

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

|
694 Mr. {Walden.} Without objection, the reading of the
695 amendment is dispensed with. Now the gentlelady may proceed.

696 Ms. {Eshoo.} Thank you.

697 Anyway, the Video Choice Act represents a way to
698 eliminate broadcast television blackouts and give consumers
699 greater flexibility to choose the channels they receive each
700 month from their cable, satellite or other pay-TV provider.
701 It sounds fair, doesn't it? But it gets into a real
702 hairball.

703 In my view, these retransmission consent fees are an
704 unsustainable business model. I think you know you have
705 something fair if you not only go to sell it to someone but
706 if you are willing to buy it back. If you are willing to buy
707 it back. And I think if you want to look for a racket or a
708 gun held to the head of businesses in this country, just take
709 a look at this one. That is why I say I think it is an
710 unsustainable business model. I am not against anybody
711 making money but this goes way over the top. This goes way
712 over the top, and we are going to ignore it. It is going to
713 be put off for 2 years, 4 years, 5 years, 7 years, I don't
714 know.

715 There are a growing number of blackouts, 127 of them in

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

716 2013. I don't think that is a small number. And the fees
717 which are expected to more than double, more than double,
718 from \$3.3 billion last year to \$7 billion by 2018. Maybe we
719 can get this done, the telecom rewrite, whatever, before 2018
720 so that this \$7 billion won't be extracted because you know
721 who is picking up the tab? The consumers, all of our
722 constituents.

723 So we have got to get some starch in our spines on this
724 thing, and I know it is offensive to the people that a
725 remaking a lot of money but it really is not a sustainable
726 business model and they are going to keep doing this until
727 they can't do it anymore. And while there are practices that
728 we don't like in the video marketplace, I believe that this
729 one really I wished drew the attention of the full
730 subcommittee because the blocking of the online content
731 during a retrans dispute adds insult to injury. Last August
732 during the Time Warner Cable-CBS dispute, millions of
733 Americans were prevented from accessing online video content
734 that is freely available on CBS.com, and to make matters
735 worse, the blocking of this online content didn't just impact
736 Time Warner Cable's video customers. It affected anyone who
737 used the company as their Internet provider. I don't know
738 who can stand up with a straight face and applaud this. I

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

739 mean, this to me is really egregious. And it meant that
740 subscribers of other pay-TV providers like DirectTV or DISH
741 who had nothing to do with the retrans dispute were impacted,
742 and the public outcry was strong and rightfully so. And at
743 the time, Public Knowledge described it as ``CBS crossed a
744 line from permissible hardball tactics to unfair consumer
745 abuse,'' and Consumer Action said, ``Now CBS is punishing
746 everyone who has Time Warner as an Internet provider by
747 denying them access to the same CBS online content it offers
748 free to the public.''

749 So this amendment instructs the FCC to examine whether
750 the blocking of a television broadcast station's owned or
751 affiliated online content during a retransmission consent
752 negotiation constitutes a failure to negotiate in good faith.
753 I am not only offering this, I have been told it is not on
754 the map. It is not in the cards for us to deal with. I am
755 disappointed in that. I am deeply disappointed. But as long
756 as I am around, I am going to be talking about this. So
757 there aren't too many records left but I am going to be the
758 broken record on it.

759 So Mr. Chairman, I hope that the subcommittee and the
760 FCC will really very carefully review the consumer harm of
761 blocking online content, and with that, I will withdraw my

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

762 amendment. Yield back.

763 Mr. {Walden.} The gentlelady withdraws her amendment.

764 Are there other members on the Republican side seeking
765 to offer an amendment?

766 Ms. {Matsui.} Mr. Chairman, may I speak on--

767 Mr. {Walden.} Well, she withdrew her amendment.

768 Ms. {Matsui.} I know, but I would like to make a
769 comment on it. I can strike the last word.

770 Mr. {Walden.} Yes, you can strike the last word.

771 Ms. {Matsui.} Great.

772 Mr. {Walden.} Yes. Go ahead. We will do that.

773 Ms. {Matsui.} Thank you, Mr. Chairman.

774 First of all, I want to thank you and Ranking Member
775 Eshoo for your hard work on this draft and working towards
776 improving the STELA bill. It has always been a bipartisan
777 initiative, and I am hopeful that tradition continues.

778 I want to speak about Ranking Member Eshoo's amendment.
779 The issue of digital rights as STELA negotiations move
780 forward is something that we must address. More and more, we
781 are learning that digital rights are the central factor in
782 meaningful retransmission negotiations. Emerging and
783 innovative technologies have begun to change the
784 retransmission discussion from traditional fights about money

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

785 to fights about access and ownership of content as it
786 migrates to the online platform.

787 We know that American innovation is transforming our
788 Nation's video marketplace. More and more consumers are now
789 watching TV and streaming videos over the Internet. We have
790 seen a race towards negotiating content deals before or as a
791 part of retransmission consent deals. Last summer, the
792 licensing of digital rights emerged as a central issue in the
793 CBS-Time Warner Cable retransmission consent dispute.

794 A few weeks ago, we saw a ground breaking content deal
795 between ABC and DISH, which is the first to raise the
796 possibility of a pay-TV provider using a media company's
797 content for new online service without requiring customers to
798 subscribe to the video portion of their cable and satellite
799 subscription.

800 As video programming migrates to the Internet, we are
801 also starting to see more disputes between content providers
802 and broadband providers. For example, a recent video
803 streaming deal between Comcast and Netflix illustrated how
804 the quality of over-the-top content could be impacted. Just
805 yesterday, reports surfaced that Comcast and Apple are in
806 talks to create a streaming television service. Content has
807 become the golden ticket.

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

808 While some of the content deals may benefit consumers,
809 some may also raise important issues of access to content for
810 consumers. I do not think we fully understand yet the impact
811 of these significant streaming and content deals on consumers
812 like Internet blocking.

813 We all know that consumers are tired of being caught in
814 the middle of traditional retransmission disputes. This bill
815 does not protect consumers from disputes on the content side
816 of the negotiations. We need to assure that all Americans
817 have access to the appropriate content they want when they
818 need it at adequate Internet speeds. We need to be mindful
819 of this moving forward.

820 I look forward to working with my colleagues to ensure
821 consumers have access to a free and open Internet, and I
822 support Representative Eshoo's work on this, and I yield back
823 the balance of my time.

824 Mr. {Walden.} I thank the gentlelady for her comments.

825 The Chair now recognizes the gentlelady from North
826 Carolina, Mrs. Ellmers.

827 Mrs. {Ellmers.} Thank you, Mr. Chairman. I move to
828 strike the last word.

829 I don't have an amendment but I do have an issue that I
830 would like to discuss. I am concerned about a situation that

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

831 is affecting my part of the country with one of the network
832 stations, Inspiration, a popular channel offering wholesome
833 family-value content. It was brought to my attention
834 recently that DirecTV, which I am actually a consumer of, is
835 no longer carrying Inspiration network, and I know that that
836 had to do with some negotiation issues, and I am not saying
837 that we should find ourselves in the middle of negotiations
838 between businesses. However, I am concerned for my
839 constituents. I believe this is an issue of choice. I
840 believe that this is an issue of fairness. And when I see
841 large cable and satellite companies decide to carry some
842 networks for free while requiring others to pay, it raises
843 the issue, and I have to ask the question why, particularly
844 when the survival of independent channels is at risk at this
845 point, and this particular station has shown that they are in
846 the top tier of most-watched channels.

847 Before we impose a remedy, I believe we need to look at
848 the problem and we need to find out and get to the core of
849 the issues. So I am asking that this committee give its
850 commitment to request that the GAO study the independent-
851 channel treatment by pay-TV platform providers so we can
852 actually take part in the solution to this issue and be able
853 to continue to provide for our constituents and families good

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

854 choices when it comes to viewing.

855 Ms. {Eshoo.} Would the gentlewoman yield?

856 Mrs. {Elmers.} Yes.

857 Ms. {Eshoo.} Thank you.

858 I want to comment the gentlewoman for continuing to
859 bring up this issue. In my view, all the different parts of
860 our country and communities have their own profile and
861 character, their likes, their dislikes, their tradition,
862 their tastes, and it is about localism and the diversity of
863 programming that they should be able to have, and I think in
864 the smaller community, the closer they are to that, and it is
865 very much a part of their day-to-day lives.

866 I think the idea of a GAO report is a good one. I just
867 want to offer my support in bringing perhaps the parties
868 together because I don't think anything is going to happen
869 legislatively with this. You know, we are doing STELA. We
870 are leaving out other things that the chairman believes are
871 too complicated to be handled at this point and move it into
872 a telecom 21st century. We haven't come up with a name yet.
873 But I would be willing to work with you in helping to bring
874 the parties together and seeing if we can get them to work
875 with each other to resolve the issue.

876 Mrs. {Elmers.} Reclaiming my time, I thank the

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

877 gentlelady for offering her support on this issue, and I know
878 there are many other members of our committee who also would
879 like to see--

880 Mr. {Shimkus.} Would the gentlelady yield on that
881 point?

882 Mrs. {Ellmers.} Yes.

883 Mr. {Shimkus.} I think my colleagues' comments are
884 meritorious in that a GAO study would serve us well. More
885 information is better than less information, so I would hope
886 that you would receive a request and we could do that as a
887 committee.

888 And with that, I thank my colleague for bringing it up
889 and yield back to her.

890 Mrs. {Blackburn.} If the gentlelady would yield?

891 Mrs. {Ellmers.} Yes.

892 Mrs. {Blackburn.} I want to thank her for raising the
893 issue, and I think it is an important part of the discussion
894 whether we do it with STELA or we do it with the Telecom Act,
895 looking at the evolution of and the growth of the
896 telecommunications industry and how it affects content
897 production and distribution, and looking again at the end use
898 of this and the compensation models. All of these are issues
899 that require our committee's time. I agree with the comments

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

900 that hopefully this will get individuals to negotiate. There
901 is very little legislatively that we can do but the awareness
902 that it is an evolving marketplace and the regulations that
903 are in place by the Federal Government do not keep pace with
904 the technology and the delivery systems that are available to
905 the American public today, and I yield back to the
906 gentlelady.

907 Mrs. {Ellmers.} Thank you to the gentlelady for her
908 comments as well. And if there are no other comments, I
909 yield back the remainder of my time.

910 Mr. {Walden.} The gentlelady's time is expired. We
911 thank the gentlelady for raising this issue. It is an
912 important one that we hope the parties can reach agreement on
913 in the marketplace. It will be beneficial to the consumers.

914 Mr. {Pallone.} Mr. Chairman?

915 Mr. {Walden.} Yes. For what purpose does the gentleman
916 seek recognition?

917 Mr. {Pallone.} Strike the last word.

918 Mr. {Walden.} The gentleman is recognized for 5
919 minutes.

920 Mr. {Pallone.} Thank you. I am just going to use about
921 30 seconds, Mr. Chairman.

922 I just wanted to say that I fully support the

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

923 reauthorization of STELA, and I am encouraged that we are
924 moving the process forward, and particularly that as we move
925 forward, it seems to be more and more bipartisan as the
926 gentlewoman from Tennessee mentioned growth in the
927 telecommunications sector, and I would just say in general,
928 you know, obviously it is a huge engine for growth but
929 experience has taught us in this committee that when we move
930 in a bipartisan way, that is one of the most successful in
931 actually accomplishing great things.

932 So I just want to commend you and Ms. Eshoo as we move
933 forward that this continue to be bipartisan, and I support
934 your efforts. Thank you.

935 Mr. {Walden.} I thank the gentleman from New Jersey. I
936 would give him even another 30 seconds if he wanted to
937 continue down that line.

938 I recognize the gentleman from New Mexico. For what
939 purpose does he seek recognition?

940 Mr. {Lujan.} Mr. Chairman, I have an amendment at the
941 desk.

942 Mr. {Walden.} The clerk will report the amendment.

943 Mr. {Lujan.} 122.

944 The {Clerk.} Amendment to discussion draft offered by
945 Mr. Ben Ray Lujan of New Mexico.

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

946 [The amendment of Mr. Lujan follows:]

947 ***** INSERT 6 *****

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

|
948 Mr. {Walden.} Without objection, the reading of the
949 amendment is dispensed with and the gentleman is recognized
950 for 5 minutes in support of his amendment.

951 Mr. {Lujan.} Mr. Chairman, as I mentioned earlier, the
952 FCC delegates the role of drawing DMAs to the Nielsen
953 Company, a private for-profit marketing research company.
954 Nielsen, which claims to have never sought this power, has
955 carved up the country into DMAs based upon what it perceives
956 to be the most watched broadcasting market in each area. Of
957 course, our current law only allows for a single television
958 market to broadcast in a given area. So it appears Nielsen
959 misinterprets the local broadcaster monopoly as the
960 preference of the DMA's audience when really no such choice
961 actually exists. Instead, while only about 10 percent of
962 television viewers continue to receive their television
963 signal over the air, Nielsen's maps provide each broadcasting
964 market with all the territory touched by their antiquated
965 system of broadcast antennas.

966 My amendment would push the FCC to embrace the future of
967 broadcasting and explore the possibilities of cutting-edge
968 technologies where we have even heard from the broadcasters
969 that they are exploring. With a broadband connection,

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

970 viewers can watch an almost infinite amount of on-demand
971 video online with a smartphone, tablet or other mobile
972 device, and from what we understand, there will be more
973 broadcasters that will be moving to streaming their content
974 online as well so they can watch this content from Wi-Fi
975 hotspots or virtually anywhere with a wireless service.

976 Through the Internet, consumers can listen to radio
977 signals from around the globe. In the office, we often enjoy
978 New Mexico radio stations as well. But Nielsen's maps from
979 the 1950s keep programming from outside the DMA blocked out
980 to viewers. I would ask, Mr. Chairman, that we explore
981 modern approaches to look at these markets that are based
982 upon current technologies and new technologies instead of
983 yesterday's.

984 My amendment builds upon the study of DMAs commissioned
985 by the last STELA bill in 2010 to require the FCC to update
986 its earlier efforts and to explore how updated, modern
987 markets could be recognized if they are based upon current
988 technology capabilities instead of antenna limitation.

989 Mr. Chairman, we know that this is a complex issue but
990 nonetheless, as we have had hearings, I have certainly
991 appreciated hearing from all sides here whether it is cable
992 companies, the satellite companies, the broadcasters, content

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

993 providers as they are engaging new technologies to be able to
994 get content out, and as we have that conversation, Mr.
995 Chairman, I hope that this may be an area as well that we
996 might be able to work together to include this conversation
997 in any hearings that we may be having or in any rewrites of
998 any legislation.

999 And with that, I would yield to the chairman.

1000 Mr. {Walden.} I appreciate that, and it is certainly a
1001 discussion we need to have, and the GAO can provide us some
1002 excellent guidance so as we work moving forward, we may be
1003 able to figure out something there.

1004 Mr. {Lujan.} And with that, Mr. Chairman, I look
1005 forward to working with you and with the ranking member and
1006 the committee staff on this as well and with GAO and others.

1007 And so with that, I would withdraw the amendment.

1008 Mr. {Walden.} The gentleman withdraws his amendment.

1009 Any further comment?

1010 If not, the question now occurs on favorably reporting
1011 to the full committee the committee print as amended to amend
1012 the Communications Act of 1934 to extent expiring provisions
1013 relating to the retransmission of signals of television
1014 broadcast stations, and for other purposes as amended.

1015 All those in favor shall signify by saying aye.

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

1016 Those opposed, say no.

1017 The ayes have it, and the committee print is favorably
1018 reported.

1019 Without objection, staff is authorized to make technical
1020 and conforming changes to the committee print approved by the
1021 subcommittee today. So ordered.

1022 And without objection, the subcommittee now stands
1023 adjourned, and I thank the members for their cooperation and
1024 work on this legislation.

1025 [Whereupon, at 11:30 a.m., the Subcommittee was
1026 adjourned.]