



The Committee on Energy and Commerce

Memorandum

March 20, 2014

To: Members, Subcommittee on Communications and Technology

From: Majority Committee Staff

Subject: Markup of a Discussion Draft to Reauthorize the Satellite Television Extension and Localism Act of 2010

The Subcommittee on Communications and Technology has scheduled a markup beginning on Monday, March 24, 2014. The Subcommittee will consider the following:

- H.R. ____, a bill to amend the Communications Act of 1934 to extend expiring provisions relating to the retransmission of signals of television broadcast stations, and for other purposes.

On Monday, March 24, 2014, the Subcommittee will convene at 5:30 p.m. in 2123 Rayburn House Office Building for opening statements only. It will reconvene on Tuesday, March 25, 2014, at 10:30 a.m. in 2123 Rayburn House Office Building.

I. Background

Congress passed the first Satellite Home Viewer Act of 1988 (SHVA) to facilitate the growth of the fledgling satellite industry and to make network signals available to unserved households. Mindful of the evolving state of video competition, Congress determined that the distant signal provisions should be revisited every five years to re-assess whether they were still necessary. Since then, those distant signal provisions have been re-authorized five times.

Distant signals are used to serve subscribers in markets where their satellite provider does not offer local programming and in unserved parts of the country, including “short markets,” where one of the largest four national broadcast networks does not have an over-the-air affiliate. At the end of 2014, the current extension of the distant signal provisions will expire, leaving 1.5 million households without access to the broadcast content they currently enjoy unless Congress reauthorizes those provisions.

This legislation extends the provisions in the Communications Act that allow satellite providers to offer those distant signals. Specifically, the bill extends the provision that exempts providers from having to obtain retransmission consent for those signals. A complementary provision in the Copyright Act provides a compulsory copyright license that enables the satellite providers to retransmit those signals. Together, these two provisions provide access to network television signals to unserved households.

Additionally, this legislation makes targeted, pro-consumer changes to government involvement in retransmission consent discussions and includes language to relieve cable operators of the obligation to include CableCARDS in operator-deployed set-top boxes.

II. Section-by-Section

Section 1. Section 1 provides the short title of “___.”

Section 2. Section 2 extends the exemption from retransmission consent for distant signals where a satellite subscriber is outside the area served by the broadcast signal. The section also extends the prohibition on exclusive retransmission consent deals and requirement that broadcasters negotiate in good faith with multichannel video programming distributors (MVPDs).

Section 3. Section 3 prohibits multiple broadcast stations from negotiating retransmission consent jointly unless the cable or satellite operator agrees to joint negotiations or the stations are directly or indirectly under common de jure control approved by the Federal Communications Commission (FCC or Commission).

Section 4. Section 4 prohibits the Commission from issuing rules to treat stations under shared service agreements, local news service agreements, local marketing agreements, or joint sales agreements as resulting in attribution to the media ownership rules until the Commission concludes its 2010 quadrennial review of the media ownership rules as required under Section 202(h) of the Telecommunications Act of 1996.

Section 5. Section 5 eliminates the so-called “sweeps week” provision that prohibits cable operators from dropping broadcast signals during the weeks when Nielsen Media Research does its major audience measurements (so called “sweeps” weeks). Since cable providers do not have a corresponding right to demand access to programming during a retransmission dispute, and satellite providers are not subject to the rule, the change will provide regulatory parity and remove the government from this aspect of the negotiation for signal carriage.

Section 6. Section 6 eliminates the regulatory requirement that cable set-top boxes leased from cable system operators contain a separate security element (the so-called “integration ban”).

Section 629 of the Communications Act, added as part of the Telecommunications Act of 1996, requires the FCC to foster a market for third-party set-top boxes – set-top boxes that could be sold at retail and used on any MVPD’s network. In adopting rules to comply with Section 629, the Commission required that the portion of the cable box that decrypts the cable signal be physically separated from the other functions of the box (“the separable security requirement”). The consumer electronics (CE) and cable industries developed the CableCARD, a module that could be deployed in third-party electronics (televisions or retail set-top boxes) to decrypt the cable signal for viewing via a third-party set-top box.

Later, the Commission adopted additional rules to apply this regime to both third-party boxes and those leased from a cable provider. This ban on integrating the security into the cable-owned boxes was intended to motivate cable systems to work with the CE industry by forcing reliance on a common technology. Today, of the more than 42 million CableCARDS deployed in set-top

boxes, the vast majority of them are in leased boxes. TiVo, the most widely deployed retail set-top accounts for only 600,000 CableCARDs.

Section 7. Section 7 requires the Government Accountability Office to conduct a study and issue a report on necessary changes to the Code of Federal Regulations and the impact on consumers should Congress repeal the statutory compulsory copyright regime that governs broadcast content.

Section 8. Section 8 requires each satellite direct broadcast service provider to report the local signals that it provides for each market in which it broadcasts such services and also report on the potential use of its technology for the retransmission of local signals in each market.

Section 9. Section 9 defines the terms “appropriate congressional committees” and “Commission.”

If you need more information, please call David Redl or Grace Koh at 5-2927.