

117TH CONGRESS  
1ST SESSION

# S. 2220

To amend the Communications Act of 1934 to clarify the obligations of licensees under section 331 of that Act, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 24, 2021

Mr. MENENDEZ (for himself and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend the Communications Act of 1934 to clarify the obligations of licensees under section 331 of that Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Section 331 Obligation  
5 Clarification Act”.

6 **SEC. 2. LICENSEE REQUIREMENTS.**

7 (a) IN GENERAL.—Section 331 of the Communica-  
8 tions Act of 1934 (47 U.S.C. 331) is amended by striking  
9 subsection (a) and inserting the following:

1       “(a) TELEVISION STATIONS IN UNDERSERVED  
2 STATES.—

3               “(1) CHANNEL ALLOCATION.—

4                       “(A) COMMISSION POLICY.—It shall be the  
5 policy of the Commission to allocate channels  
6 for commercial television broadcasting in a  
7 manner which ensures that not less than 1 very  
8 high frequency channel and not less than 1  
9 ultra high frequency channel shall be allocated  
10 to each State, if technically feasible.

11                       “(B) REALLOCATION OF VERY HIGH FRE-  
12 QUENCY CHANNELS AND ULTRA HIGH FRE-  
13 QUENCY CHANNELS.—In any case in which a li-  
14 censee of a very high frequency commercial tele-  
15 vision broadcast station or an ultra high fre-  
16 quency commercial television broadcast station  
17 notifies the Commission to the effect that such  
18 licensee will agree to the reallocation of its  
19 channel to a community within a State in  
20 which, at the time of such notification, there is  
21 allocated no very high frequency commercial tel-  
22 evision broadcast channel or ultra high fre-  
23 quency commercial television broadcast channel,  
24 as applicable, the Commission shall, notwith-  
25 standing any other provision of law, order such

1           reallocation and issue a license to such licensee  
2           for that purpose under section 307.

3           “(2) LICENSEE REQUIREMENTS.—A licensee of  
4           a commercial television broadcast station that re-  
5           ceives a license under section 307 based on the noti-  
6           fication provided under paragraph (1)(B) (or, with  
7           respect to a license received before the date of enact-  
8           ment of the Section 331 Obligation Clarification Act,  
9           based on the notification provided under the second  
10          sentence of this subsection, as in effect before that  
11          date of enactment), or to which any such license is  
12          transferred, shall—

13                   “(A) broadcast on the channel of the li-  
14                   censee not fewer than 14 hours of common local  
15                   programming per week, not fewer than 7 hours  
16                   of which shall be broadcast between the hours  
17                   of 6:00 p.m. and midnight;

18                   “(B) include as part of the common local  
19                   programming broadcast under subparagraph  
20                   (A) a substantial amount of particularized local  
21                   content;

22                   “(C) maintain a broadcast studio in the  
23                   station’s community of license for each license  
24                   so received or transferred;

1           “(D) file with the Commission a regular  
2 disclosure of all programming broadcast under  
3 subparagraph (A) during the period covered by  
4 the disclosure, which—

5                   “(i) shall include a detailed expla-  
6 nation of how that programming satisfies  
7 the requirements of that subparagraph;  
8 and

9                   “(ii) the Commission shall make pub-  
10 licly available; and

11           “(E) when developing the programming de-  
12 scribed in subparagraph (A), including the par-  
13 ticularized local content required under sub-  
14 paragraph (B), take steps to determine the pro-  
15 gramming needs of the community to which the  
16 channel is allocated, which may include con-  
17 sulting with community leaders and members of  
18 the general public in that community.

19           “(3) EFFECT OF CHANGES TO ULTRA HIGH  
20 FREQUENCY STATION.—If the station of a licensee  
21 described in paragraph (2) changes from a very high  
22 frequency commercial television broadcast station to  
23 an ultra high frequency commercial television broad-  
24 cast station—

1           “(A) the licensee shall ensure that the  
2 change does not affect any special service obli-  
3 gation imposed on the licensee—

4           “(i)(I) with respect to a licensee that  
5 receives the license before the date of en-  
6 actment of the Section 331 Obligation  
7 Clarification Act, pursuant to the terms of  
8 that license; or

9           “(II) with respect to a licensee that  
10 receives the license on or after the date of  
11 enactment of the Section 331 Obligation  
12 Clarification Act, because of the fact that  
13 the licensee received the license pursuant  
14 to paragraph (1)(B); and

15           “(ii) without regard to whether the  
16 Commission imposed the obligation—

17           “(I) by rule or order; or

18           “(II) as part of the grant or re-  
19 newal of the license; and

20           “(B) the Commission may not directly or  
21 indirectly reduce or eliminate the special service  
22 obligation described in subparagraph (A) be-  
23 cause of that change.

24           “(4) DEFINITION.—In this subsection, the term  
25 ‘particularized local content’ means programming—

1           “(A) aired on a commercial television  
2 broadcast channel by a licensee described in  
3 paragraph (2); and

4           “(B) that—

5           “(i) has specific, articulable, and par-  
6 ticularized appeal for the community to  
7 which the channel described in subpara-  
8 graph (A) is allocated (as described in  
9 paragraph (2)) that is separate and dis-  
10 tinct from the general national or general  
11 local television market appeal;

12           “(ii) includes news or public affairs  
13 information about the State, or the region  
14 of the State, in which the community de-  
15 scribed in clause (i) is located; and

16           “(iii) is responsive to the unique con-  
17 cerns of the community described in clause  
18 (i) as part of a State that lacks a television  
19 market that is centered in that State.”.

20 (b) RULEMAKING; GAO REPORT.—

21 (1) DEFINITIONS.—In this subsection—

22 (A) the term “Commission” means the  
23 Federal Communications Commission; and

1 (B) the term “section 331” means section  
2 331 of the Communications Act of 1934 (47  
3 U.S.C. 331), as amended by subsection (a).

4 (2) RULES.—Not later than 1 year after the  
5 date of enactment of this Act, the Commission shall  
6 issue final rules to implement the amendments made  
7 by subsection (a).

8 (3) REQUIREMENTS.—The rules required under  
9 paragraph (2) shall—

10 (A) contain specific procedures and re-  
11 quirements for how an individual who lives in a  
12 community to which a commercial television  
13 broadcast channel is reallocated in accordance  
14 with subsection (a)(1)(B) of section 331 can  
15 challenge whether the licensee with respect to  
16 that channel has satisfied the requirements of  
17 the licensee under section 331, particularly  
18 when that licensee seeks to renew the license  
19 with respect to that channel;

20 (B) include guidance regarding what type  
21 of evidence the Commission shall accept and re-  
22 view in determining whether a licensee de-  
23 scribed in subparagraph (A) is satisfying the re-  
24 quirements of the licensee under section 331;  
25 and

1 (C) ensure that the procedure by which an  
2 individual described in subparagraph (A) can  
3 participate in the review by the Commission of  
4 a licensee described in that subparagraph—

5 (i) is simple and straightforward; and

6 (ii) includes holding community fo-  
7 rums as necessary.

8 (4) GAO REPORT.—

9 (A) IN GENERAL.—Not later than 1 year  
10 after the date on which the rules issued under  
11 paragraph (2) take effect, the Comptroller Gen-  
12 eral of the United States shall submit to Con-  
13 gress a report that examines the process by  
14 which the Commission renews broadcast tele-  
15 vision licenses to determine if that process ade-  
16 quately meets the obligations of the Commission  
17 under the Communications Act of 1934 (47  
18 U.S.C. 151 et seq.), particularly how that proc-  
19 ess relates to television broadcast stations that  
20 have specific statutory or license obligations to  
21 serve the needs of the communities in which the  
22 stations are located (and the needs of individ-  
23 uals in those communities), including stations  
24 licensed under section 331.



1 (B) CONTENTS.—In performing the exam-  
2 ination required under subparagraph (A), the  
3 Comptroller General of the United States shall  
4 examine the following issues:

5 (i) The extent to which the renewal  
6 process described in that subparagraph ex-  
7 amines the needs of the community that a  
8 broadcast station is required to serve.

9 (ii) The extent to which the Commis-  
10 sion considers and weighs any evidence  
11 presented demonstrating that a broadcast  
12 station has failed to meet any applicable  
13 legal obligation.

14 (iii) Whether the Commission has  
15 clarified the types of evidence that a con-  
16 cerned local citizen is required to offer for  
17 the Commission to refuse to renew a li-  
18 cense of a broadcast station under section  
19 309(k)(1) of the Communications Act of  
20 1934 (47 U.S.C. 309(k)(1)) or section  
21 331, as applicable, based on the inability  
22 or refusal of the broadcast station to serve  
23 the local community with respect to the  
24 station consistent with the obligations of  
25 the licensee.

1 (iv) Whether the Commission has  
2 clarified the types of evidence that a broad-  
3 cast station is required to present to estab-  
4 lish that the station is meeting the obliga-  
5 tions of the station under the license  
6 granted to the station.

7 (v) Whether the Commission has  
8 clarified the circumstances under which the  
9 Commission will examine in detail the evi-  
10 dence presented by a broadcast station to  
11 confirm that the station is in compliance  
12 with section 309(k)(1) of the Communica-  
13 tions Act of 1934 (47 U.S.C. 309(k)(1))  
14 and section 331, as applicable.

15 (vi) Whether the Commission has  
16 made clear the circumstances under which  
17 the Commission will revoke the license of a  
18 station operating under special obligations  
19 under section 331.

20 (vii) What, if any, enforcement actions  
21 or other investigations the Commission has  
22 undertaken to ensure that broadcast sta-  
23 tions satisfy the requirement under section  
24 309(k)(1) of the Communications Act of

1           1934 (47 U.S.C. 309(k)(1)) to serve the  
2           public interest.

3           (viii) The impact that the elimination  
4           of what is commonly referred to as the  
5           “Main Studio Rule” could have on the spe-  
6           cial obligations under section 331.

7           (ix) Whether the Commission has in-  
8           dicated how the Commission will enforce  
9           the obligations under section 309(k)(1) of  
10          the Communications Act of 1934 (47  
11          U.S.C. 309(k)(1)) and section 331 in con-  
12          sideration of the fact that the Commission  
13          has permitted owners of television broad-  
14          cast stations to eliminate the main studio  
15          of those stations in the community of li-  
16          cense.

17          (c) SEVERABILITY.—If any provision of this section,  
18          an amendment made by this section, or the application  
19          of that provision or amendment to any person or cir-  
20          cumstance is held to be unconstitutional, the other provi-  
21          sions of this section, the amendments made by this sec-  
22          tion, and the application of those provisions or amend-  
23          ments to any other person or circumstance shall not be  
24          affected by that holding.

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