

111TH CONGRESS
2^D SESSION

S. 3333

AN ACT

To extend the statutory license for secondary transmissions under title 17, United States Code, 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,*

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

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Satellite Television Extension and Localism Act of
 4 2010”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for
 6 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—STATUTORY LICENSES

Sec. 101. Reference.

Sec. 102. Modifications to statutory license for satellite carriers.

Sec. 103. Modifications to statutory license for satellite carriers in local mar-
 kets.

Sec. 104. Modifications to cable system secondary transmission rights under
 section 111.

Sec. 105. Certain waivers granted to providers of local-into-local service for all
 DMAs.

Sec. 106. Copyright Office fees.

Sec. 107. Termination of license.

Sec. 108. Construction.

TITLE II—COMMUNICATIONS PROVISIONS

Sec. 201. Reference.

Sec. 202. Extension of authority.

Sec. 203. Significantly viewed stations.

Sec. 204. Digital television transition conforming amendments.

Sec. 205. Application pending completion of rulemakings.

Sec. 206. Process for issuing qualified carrier certification.

Sec. 207. Nondiscrimination in carriage of high definition digital signals of
 noncommercial educational television stations.

Sec. 208. Savings clause regarding definitions.

Sec. 209. State public affairs broadcasts.

TITLE III—REPORTS AND SAVINGS PROVISION

Sec. 301. Definition.

Sec. 302. Report on market based alternatives to statutory licensing.

Sec. 303. Report on communications implications of statutory licensing modi-
 fications.

Sec. 304. Report on in-state broadcast programming.

Sec. 305. Local network channel broadcast reports.

Sec. 306. Savings provision regarding use of negotiated licenses.

Sec. 307. Effective date; Noninfringement of copyright.

TITLE IV—SEVERABILITY

Sec. 401. Severability.

TITLE V—DETERMINATION OF BUDGETARY EFFECTS

Sec. 501. Determination of Budgetary Effects.

1 **TITLE I—STATUTORY LICENSES**

2 **SEC. 101. REFERENCE.**

3 Except as otherwise provided, whenever in this title
4 an amendment is made to a section or other provision,
5 the reference shall be considered to be made to such sec-
6 tion or provision of title 17, United States Code.

7 **SEC. 102. MODIFICATIONS TO STATUTORY LICENSE FOR**
8 **SATELLITE CARRIERS.**

9 (a) **HEADING RENAMED.—**

10 (1) **IN GENERAL.—**The heading of section 119
11 is amended by striking “**superstations and net-**
12 **work stations for private home viewing**”
13 and inserting “**distant television program-**
14 **ming by satellite**”.

15 (2) **TABLE OF CONTENTS.—**The table of con-
16 tents for chapter 1 is amended by striking the item
17 relating to section 119 and inserting the following:

“119. Limitations on exclusive rights: Secondary transmissions of distant tele-
vision programming by satellite.”.

18 (b) **UNSERVED HOUSEHOLD DEFINED.—**

19 (1) **IN GENERAL.—**Section 119(d)(10) is
20 amended—

21 (A) by striking subparagraph (A) and in-
22 serting the following:

1 “(A) cannot receive, through the use of an
2 antenna, an over-the-air signal containing the
3 primary stream, or, on or after the qualifying
4 date, the multicast stream, originating in that
5 household’s local market and affiliated with
6 that network of—

7 “(i) if the signal originates as an ana-
8 log signal, Grade B intensity as defined by
9 the Federal Communications Commission
10 in section 73.683(a) of title 47, Code of
11 Federal Regulations, as in effect on Janu-
12 ary 1, 1999; or

13 “(ii) if the signal originates as a dig-
14 ital signal, intensity defined in the values
15 for the digital television noise-limited serv-
16 ice contour, as defined in regulations
17 issued by the Federal Communications
18 Commission (section 73.622(e) of title 47,
19 Code of Federal Regulations), as such reg-
20 ulations may be amended from time to
21 time;”;

22 (B) in subparagraph (B)—

23 (i) by striking “subsection (a)(14)”
24 and inserting “subsection (a)(13),”; and

1 (ii) by striking “Satellite Home View-
2 er Extension and Reauthorization Act of
3 2004” and inserting “Satellite Television
4 Extension and Localism Act of 2010”; and
5 (C) in subparagraph (D), by striking
6 “(a)(12)” and inserting “(a)(11)”.

7 (2) QUALIFYING DATE DEFINED.—Section
8 119(d) is amended by adding at the end the fol-
9 lowing:

10 “(14) QUALIFYING DATE.—The term ‘quali-
11 fying date’, for purposes of paragraph (10)(A),
12 means—

13 “(A) October 1, 2010, for multicast
14 streams that exist on March 31, 2010; and

15 “(B) January 1, 2011, for all other
16 multicast streams.”.

17 (c) FILING FEE.—Section 119(b)(1) is amended—

18 (1) in subparagraph (A), by striking “and”
19 after the semicolon at the end;

20 (2) in subparagraph (B), by striking the period
21 and inserting “; and”; and

22 (3) by adding at the end the following:

23 “(C) a filing fee, as determined by the
24 Register of Copyrights pursuant to section
25 708(a).”.

1 (d) DEPOSIT OF STATEMENTS AND FEES;
2 VERIFICATION PROCEDURES.—Section 119(b) is amend-
3 ed—

4 (1) by amending the subsection heading to read
5 as follows: “(b) DEPOSIT OF STATEMENTS AND
6 FEES; VERIFICATION PROCEDURES.—”;

7 (2) in paragraph (1), by striking subparagraph
8 (B) and inserting the following:

9 “(B) a royalty fee payable to copyright
10 owners pursuant to paragraph (4) for that 6-
11 month period, computed by multiplying the
12 total number of subscribers receiving each sec-
13 ondary transmission of a primary stream or
14 multicast stream of each non-network station or
15 network station during each calendar year
16 month by the appropriate rate in effect under
17 this subsection; and”;

18 (3) by redesignating paragraphs (2), (3), and
19 (4) as paragraphs (3), (4), and (5), respectively;

20 (4) by inserting after paragraph (1) the fol-
21 lowing:

22 “(2) VERIFICATION OF ACCOUNTS AND FEE
23 PAYMENTS.—The Register of Copyrights shall issue
24 regulations to permit interested parties to verify and
25 audit the statements of account and royalty fees

1 submitted by satellite carriers under this sub-
2 section.”;

3 (5) in paragraph (3), as redesignated, in the
4 first sentence—

5 (A) by inserting “(including the filing fee
6 specified in paragraph (1)(C))” after “shall re-
7 ceive all fees”; and

8 (B) by striking “paragraph (4)” and in-
9 serting “paragraph (5)”;

10 (6) in paragraph (4), as redesignated—

11 (A) by striking “paragraph (2)” and in-
12 serting “paragraph (3)”;

13 (B) by striking “paragraph (4)” each place
14 it appears and inserting “paragraph (5)”;

15 (7) in paragraph (5), as redesignated, by strik-
16 ing “paragraph (2)” and inserting “paragraph (3)”.

17 (e) ADJUSTMENT OF ROYALTY FEES.—Section
18 119(c) is amended as follows:

19 (1) Paragraph (1) is amended—

20 (A) in the heading for such paragraph, by
21 striking “ANALOG”;

22 (B) in subparagraph (A)—

23 (i) by striking “primary analog trans-
24 missions” and inserting “primary trans-
25 missions”; and

1 (ii) by striking “July 1, 2004” and in-
2 sserting “July 1, 2009”;

3 (C) in subparagraph (B)—

4 (i) by striking “January 2, 2005, the
5 Librarian of Congress” and inserting
6 “June 1, 2010, the Copyright Royalty
7 Judges”; and

8 (ii) by striking “primary analog trans-
9 mission” and inserting “primary trans-
10 missions”;

11 (D) in subparagraph (C), by striking “Li-
12 brarian of Congress” and inserting “Copyright
13 Royalty Judges”;

14 (E) in subparagraph (D)—

15 (i) in clause (i)—

16 (I) by striking “(i) Voluntary
17 agreements” and inserting the fol-
18 lowing:

19 “(i) VOLUNTARY AGREEMENTS; FIL-
20 ING.—Voluntary agreements”; and

21 (II) by striking “that a parties”
22 and inserting “that are parties”; and

23 (ii) in clause (ii)—

24 (I) by striking “(ii)(I) Within”
25 and inserting the following:

1 “(ii) PROCEDURE FOR ADOPTION OF
2 FEES.—

3 “(I) PUBLICATION OF NOTICE.—
4 Within”;

5 (II) in subclause (I), by striking
6 “an arbitration proceeding pursuant
7 to subparagraph (E)” and inserting
8 “a proceeding under subparagraph
9 (F)”;

10 (III) in subclause (II), by strik-
11 ing “(II) Upon receiving a request
12 under subclause (I), the Librarian of
13 Congress” and inserting the following:

14 “(II) PUBLIC NOTICE OF
15 FEES.—Upon receiving a request
16 under subclause (I), the Copyright
17 Royalty Judges”; and

18 (IV) in subclause (III)—

19 (aa) by striking “(III) The
20 Librarian” and inserting the fol-
21 lowing:

22 “(III) ADOPTION OF FEES.—The
23 Copyright Royalty Judges”;

24 (bb) by striking “an arbitra-
25 tion proceeding” and inserting

1 “the proceeding under subpara-
2 graph (F)”]; and

3 (cc) by striking “the arbitra-
4 tion proceeding” and inserting
5 “that proceeding”;

6 (F) in subparagraph (E)—

7 (i) by striking “Copyright Office” and
8 inserting “Copyright Royalty Judges”; and

9 (ii) by striking “May 31, 2010” and
10 inserting “December 31, 2014”; and

11 (G) in subparagraph (F)—

12 (i) in the heading, by striking “COM-
13 PULSORY ARBITRATION” and inserting
14 “COPYRIGHT ROYALTY JUDGES PRO-
15 CEEDING”;

16 (ii) in clause (i)—

17 (I) in the heading, by striking
18 “PROCEEDINGS” and inserting “THE
19 PROCEEDING”;

20 (II) in the matter preceding sub-
21 clause (I)—

22 (aa) by striking “May 1,
23 2005, the Librarian of Congress”
24 and inserting “September 1,

1 2010, the Copyright Royalty
2 Judges”;

3 (bb) by striking “arbitration
4 proceedings” and inserting “a
5 proceeding”;

6 (cc) by striking “fee to be
7 paid” and inserting “fees to be
8 paid”;

9 (dd) by striking “primary
10 analog transmission” and insert-
11 ing “the primary transmissions”;
12 and

13 (ee) by striking “distribu-
14 tors” and inserting “distribu-
15 tors—”;

16 (III) in subclause (II)—

17 (aa) by striking “Librarian
18 of Congress” and inserting
19 “Copyright Royalty Judges”; and

20 (bb) by striking “arbitra-
21 tion”; and

22 (IV) by amending the last sen-
23 tence to read as follows: “Such pro-
24 ceeding shall be conducted under
25 chapter 8.”;

1 (iii) in clause (ii), by amending the
2 matter preceding subclause (I) to read as
3 follows:

4 “(ii) ESTABLISHMENT OF ROYALTY
5 FEES.—In determining royalty fees under
6 this subparagraph, the Copyright Royalty
7 Judges shall establish fees for the sec-
8 ondary transmissions of the primary trans-
9 missions of network stations and non-net-
10 work stations that most clearly represent
11 the fair market value of secondary trans-
12 missions, except that the Copyright Roy-
13 alty Judges shall adjust royalty fees to ac-
14 count for the obligations of the parties
15 under any applicable voluntary agreement
16 filed with the Copyright Royalty Judges in
17 accordance with subparagraph (D). In de-
18 termining the fair market value, the
19 Judges shall base their decision on eco-
20 nomic, competitive, and programming in-
21 formation presented by the parties, includ-
22 ing—”;

23 (iv) by amending clause (iii) to read
24 as follows:

1 “(iii) EFFECTIVE DATE FOR DECISION
 2 OF COPYRIGHT ROYALTY JUDGES.—The
 3 obligation to pay the royalty fees estab-
 4 lished under a determination that is made
 5 by the Copyright Royalty Judges in a pro-
 6 ceeding under this paragraph shall be ef-
 7 fective as of January 1, 2010.”; and

8 (v) in clause (iv)—

9 (I) in the heading, by striking
 10 “FEE” and inserting “FEES”; and

11 (II) by striking “fee referred to
 12 in (iii)” and inserting “fees referred
 13 to in clause (iii)”.

14 (2) Paragraph (2) is amended to read as fol-
 15 lows:

16 “(2) ANNUAL ROYALTY FEE ADJUSTMENT.—
 17 Effective January 1 of each year, the royalty fee
 18 payable under subsection (b)(1)(B) for the sec-
 19 ondary transmission of the primary transmissions of
 20 network stations and non-network stations shall be
 21 adjusted by the Copyright Royalty Judges to reflect
 22 any changes occurring in the cost of living as deter-
 23 mined by the most recent Consumer Price Index (for
 24 all consumers and for all items) published by the
 25 Secretary of Labor before December 1 of the pre-

1 ceding year. Notification of the adjusted fees shall
2 be published in the Federal Register at least 25 days
3 before January 1.”.

4 (f) DEFINITIONS.—

5 (1) SUBSCRIBER.—Section 119(d)(8) is amend-
6 ed to read as follows:

7 “(8) SUBSCRIBER; SUBSCRIBE.—

8 “(A) SUBSCRIBER.—The term ‘subscriber’
9 means a person or entity that receives a sec-
10 ondary transmission service from a satellite car-
11 rier and pays a fee for the service, directly or
12 indirectly, to the satellite carrier or to a dis-
13 tributor.

14 “(B) SUBSCRIBE.—The term ‘subscribe’
15 means to elect to become a subscriber.”.

16 (2) LOCAL MARKET.—Section 119(d)(11) is
17 amended to read as follows:

18 “(11) LOCAL MARKET.—The term ‘local mar-
19 ket’ has the meaning given such term under section
20 122(j).”.

21 (3) LOW POWER TELEVISION STATION.—Sec-
22 tion 119(d) is amended by striking paragraph (12)
23 and redesignating paragraphs (13) and (14) as
24 paragraphs (12) and (13), respectively.

1 (4) MULTICAST STREAM.—Section 119(d), as
2 amended by paragraph (3), is further amended by
3 adding at the end the following new paragraph:

4 “(14) MULTICAST STREAM.—The term
5 ‘multicast stream’ means a digital stream containing
6 programming and program-related material affili-
7 ated with a television network, other than the pri-
8 mary stream.”.

9 (5) PRIMARY STREAM.—Section 119(d), as
10 amended by paragraph (4), is further amended by
11 adding at the end the following new paragraph:

12 “(15) PRIMARY STREAM.—The term ‘primary
13 stream’ means—

14 “(A) the single digital stream of program-
15 ming as to which a television broadcast station
16 has the right to mandatory carriage with a sat-
17 ellite carrier under the rules of the Federal
18 Communications Commission in effect on July
19 1, 2009; or

20 “(B) if there is no stream described in
21 subparagraph (A), then either—

22 “(i) the single digital stream of pro-
23 gramming associated with the network last
24 transmitted by the station as an analog
25 signal; or

1 “(ii) if there is no stream described in
2 clause (i), then the single digital stream of
3 programming affiliated with the network
4 that, as of July 1, 2009, had been offered
5 by the television broadcast station for the
6 longest period of time.”.

7 (6) CLERICAL AMENDMENT.—Section 119(d) is
8 amended in paragraphs (1), (2), and (5) by striking
9 “which” each place it appears and inserting “that”.

10 (g) SUPERSTATION REDESIGNATED AS NON-NET-
11 WORK STATION.—Section 119 is amended—

12 (1) by striking “superstation” each place it ap-
13 pears in a heading and each place it appears in text
14 and inserting “non-network station”; and

15 (2) by striking “superstations” each place it ap-
16 pears in a heading and each place it appears in text
17 and inserting “non-network stations”.

18 (h) REMOVAL OF CERTAIN PROVISIONS.—

19 (1) REMOVAL OF PROVISIONS.—Section 119(a)
20 is amended—

21 (A) in paragraph (2), by striking subpara-
22 graph (C) and redesignating subparagraph (D)
23 as subparagraph (C);

1 (B) by striking paragraph (3) and redesignating paragraphs (4) through (14) as paragraphs (3) through (13), respectively; and

2
3
4 (C) by striking paragraph (15) and redesignating paragraph (16) as paragraph (14).

5
6 (2) CONFORMING AMENDMENTS.—Section 119
7 is amended—

8 (A) in subsection (a)—

9 (i) in paragraph (1), by striking “(5),
10 (6), and (8)” and inserting “(4), (5), and
11 (7)”;

12 (ii) in paragraph (2)—

13 (I) in subparagraph (A), by striking
14 “subparagraphs (B) and (C) of
15 this paragraph and paragraphs (5),
16 (6), (7), and (8)” and inserting “sub-
17 subparagraph (B) of this paragraph and
18 paragraphs (4), (5), (6), and (7)”;

19 (II) in subparagraph (B)(i), by
20 striking the second sentence; and

21 (III) in subparagraph (C) (as re-
22 designated), by striking clauses (i)
23 and (ii) and inserting the following:

24 “(i) INITIAL LISTS.—A satellite car-
25 rier that makes secondary transmissions of

1 a primary transmission made by a network
2 station pursuant to subparagraph (A)
3 shall, not later than 90 days after com-
4 mencing such secondary transmissions,
5 submit to the network that owns or is af-
6 filiated with the network station a list
7 identifying (by name and address, includ-
8 ing street or rural route number, city,
9 State, and 9-digit zip code) all subscribers
10 to which the satellite carrier makes sec-
11 ondary transmissions of that primary
12 transmission to subscribers in unserved
13 households.

14 “(ii) MONTHLY LISTS.—After the sub-
15 mission of the initial lists under clause (i),
16 the satellite carrier shall, not later than
17 the 15th of each month, submit to the net-
18 work a list, aggregated by designated mar-
19 ket area, identifying (by name and ad-
20 dress, including street or rural route num-
21 ber, city, State, and 9-digit zip code) any
22 persons who have been added or dropped
23 as subscribers under clause (i) since the
24 last submission under this subparagraph.”;
25 and

1 (iii) in subparagraph (E) of para-
2 graph (3) (as redesignated)—

3 (I) by striking “under paragraph
4 (3) or”; and

5 (II) by striking “paragraph (12)”
6 and inserting “paragraph (11)”; and

7 (B) in subsection (b)(1), by striking the
8 final sentence.

9 (i) MODIFICATIONS TO PROVISIONS FOR SECONDARY
10 TRANSMISSIONS BY SATELLITE CARRIERS.—

11 (1) PREDICTIVE MODEL.—Section
12 119(a)(2)(B)(ii) is amended by adding at the end
13 the following:

14 “(III) ACCURATE PREDICTIVE
15 MODEL WITH RESPECT TO DIGITAL
16 SIGNALS.—Notwithstanding subclause
17 (I), in determining presumptively
18 whether a person resides in an
19 unserved household under subsection
20 (d)(10)(A) with respect to digital sig-
21 nals, a court shall rely on a predictive
22 model set forth by the Federal Com-
23 munications Commission pursuant to
24 a rulemaking as provided in section
25 339(c)(3) of the Communications Act

1 of 1934 (47 U.S.C. 339(c)(3)), as
2 that model may be amended by the
3 Commission over time under such sec-
4 tion to increase the accuracy of that
5 model. Until such time as the Com-
6 mission sets forth such model, a court
7 shall rely on the predictive model as
8 recommended by the Commission with
9 respect to digital signals in its Report
10 to Congress in ET Docket No. 05-
11 182, FCC 05-199 (released December
12 9, 2005).”.

13 (2) MODIFICATIONS TO STATUTORY LICENSE
14 WHERE RETRANSMISSIONS INTO LOCAL MARKET
15 AVAILABLE.—Section 119(a)(3) (as redesignated) is
16 amended—

17 (A) by striking “analog” each place it ap-
18 pears in a heading and text;

19 (B) by striking subparagraphs (B), (C),
20 and (D), and inserting the following:

21 “(B) RULES FOR LAWFUL SUBSCRIBERS
22 AS OF DATE OF ENACTMENT OF 2010 ACT.—In
23 the case of a subscriber of a satellite carrier
24 who, on the day before the date of the enact-
25 ment of the Satellite Television Extension and

1 Localism Act of 2010, was lawfully receiving
2 the secondary transmission of the primary
3 transmission of a network station under the
4 statutory license under paragraph (2) (in this
5 subparagraph referred to as the ‘distant sig-
6 nal’), other than subscribers to whom subpara-
7 graph (A) applies, the statutory license under
8 paragraph (2) shall apply to secondary trans-
9 missions by that satellite carrier to that sub-
10 scriber of the distant signal of a station affili-
11 ated with the same television network, and the
12 subscriber’s household shall continue to be con-
13 sidered to be an unserved household with re-
14 spect to such network, until such time as the
15 subscriber elects to terminate such secondary
16 transmissions, whether or not the subscriber
17 elects to subscribe to receive the secondary
18 transmission of the primary transmission of a
19 local network station affiliated with the same
20 network pursuant to the statutory license under
21 section 122.

22 “(C) FUTURE APPLICABILITY.—

23 “(i) WHEN LOCAL SIGNAL AVAILABLE
24 AT TIME OF SUBSCRIPTION.—The statu-
25 tory license under paragraph (2) shall not

1 apply to the secondary transmission by a
2 satellite carrier of the primary trans-
3 mission of a network station to a person
4 who is not a subscriber lawfully receiving
5 such secondary transmission as of the date
6 of the enactment of the Satellite Television
7 Extension and Localism Act of 2010 and,
8 at the time such person seeks to subscribe
9 to receive such secondary transmission, re-
10 sides in a local market where the satellite
11 carrier makes available to that person the
12 secondary transmission of the primary
13 transmission of a local network station af-
14 filiated with the same network pursuant to
15 the statutory license under section 122.

16 “(ii) WHEN LOCAL SIGNAL AVAILABLE
17 AFTER SUBSCRIPTION.—In the case of a
18 subscriber who lawfully subscribes to and
19 receives the secondary transmission by a
20 satellite carrier of the primary trans-
21 mission of a network station under the
22 statutory license under paragraph (2) (in
23 this clause referred to as the ‘distant sig-
24 nal’) on or after the date of the enactment
25 of the Satellite Television Extension and

1 Localism Act of 2010, the statutory license
2 under paragraph (2) shall apply to sec-
3 ondary transmissions by that satellite car-
4 rier to that subscriber of the distant signal
5 of a station affiliated with the same tele-
6 vision network, and the subscriber’s house-
7 hold shall continue to be considered to be
8 an unserved household with respect to such
9 network, until such time as the subscriber
10 elects to terminate such secondary trans-
11 missions, but only if such subscriber sub-
12 scribes to the secondary transmission of
13 the primary transmission of a local net-
14 work station affiliated with the same net-
15 work within 60 days after the satellite car-
16 rier makes available to the subscriber such
17 secondary transmission of the primary
18 transmission of such local network sta-
19 tion.”;

20 (C) by redesignating subparagraphs (E),
21 (F), and (G) as subparagraphs (D), (E), and
22 (F), respectively;

23 (D) in subparagraph (E) (as redesignated),
24 by striking “(C) or (D)” and inserting “(B) or
25 (C)”;

1 (E) in subparagraph (F) (as redesignated),
2 by inserting “9-digit” before “zip code”.

3 (3) STATUTORY DAMAGES FOR TERRITORIAL
4 RESTRICTIONS.—Section 119(a)(6) (as redesignated)
5 is amended—

6 (A) in subparagraph (A)(ii), by striking
7 “\$5” and inserting “\$250”;

8 (B) in subparagraph (B)—

9 (i) in clause (i), by striking
10 “\$250,000 for each 6-month period” and
11 inserting “\$2,500,000 for each 3-month
12 period”; and

13 (ii) in clause (ii), by striking
14 “\$250,000” and inserting “\$2,500,000”;
15 and

16 (C) by adding at the end the following
17 flush sentences:

18 “The court shall direct one half of any statu-
19 tory damages ordered under clause (i) to be de-
20 posited with the Register of Copyrights for dis-
21 tribution to copyright owners pursuant to sub-
22 section (b). The Copyright Royalty Judges shall
23 issue regulations establishing procedures for
24 distributing such funds, on a proportional basis,
25 to copyright owners whose works were included

1 in the secondary transmissions that were the
2 subject of the statutory damages.”.

3 (4) TECHNICAL AMENDMENT.—Section
4 119(a)(4) (as redesignated) is amended by striking
5 “and 509”.

6 (5) CLERICAL AMENDMENT.—Section
7 119(a)(2)(B)(iii)(II) is amended by striking “In this
8 clause” and inserting “In this clause,”.

9 (j) MORATORIUM EXTENSION.—Section 119(e) is
10 amended by striking “May 31, 2010” and inserting “De-
11 cember 31, 2014”.

12 (k) CLERICAL AMENDMENTS.—Section 119 is
13 amended—

14 (1) by striking “of the Code of Federal Regula-
15 tions” each place it appears and inserting “, Code
16 of Federal Regulations”; and

17 (2) in subsection (d)(6), by striking “or the Di-
18 rect” and inserting “, or the Direct”.

19 **SEC. 103. MODIFICATIONS TO STATUTORY LICENSE FOR**
20 **SATELLITE CARRIERS IN LOCAL MARKETS.**

21 (a) HEADING RENAMED.—

22 (1) IN GENERAL.—The heading of section 122
23 is amended by striking “**by satellite carriers**
24 **within local markets**” and inserting “**of local**
25 **television programming by satellite**”.

1 (2) TABLE OF CONTENTS.—The table of con-
2 tents for chapter 1 is amended by striking the item
3 relating to section 122 and inserting the following:

“122. Limitations on exclusive rights: Secondary transmissions of local television
programming by satellite.”.

4 (b) STATUTORY LICENSE.—Section 122(a) is amend-
5 ed to read as follows:

6 “(a) SECONDARY TRANSMISSIONS INTO LOCAL MAR-
7 KETS.—

8 “(1) SECONDARY TRANSMISSIONS OF TELE-
9 VISION BROADCAST STATIONS WITHIN A LOCAL MAR-
10 KET.—A secondary transmission of a performance
11 or display of a work embodied in a primary trans-
12 mission of a television broadcast station into the sta-
13 tion’s local market shall be subject to statutory li-
14 censing under this section if—

15 “(A) the secondary transmission is made
16 by a satellite carrier to the public;

17 “(B) with regard to secondary trans-
18 missions, the satellite carrier is in compliance
19 with the rules, regulations, or authorizations of
20 the Federal Communications Commission gov-
21 erning the carriage of television broadcast sta-
22 tion signals; and

1 “(C) the satellite carrier makes a direct or
2 indirect charge for the secondary transmission
3 to—

4 “(i) each subscriber receiving the sec-
5 ondary transmission; or

6 “(ii) a distributor that has contracted
7 with the satellite carrier for direct or indi-
8 rect delivery of the secondary transmission
9 to the public.

10 “(2) SIGNIFICANTLY VIEWED STATIONS.—

11 “(A) IN GENERAL.—A secondary trans-
12 mission of a performance or display of a work
13 embodied in a primary transmission of a tele-
14 vision broadcast station to subscribers who re-
15 ceive secondary transmissions of primary trans-
16 missions under paragraph (1) shall be subject
17 to statutory licensing under this paragraph if
18 the secondary transmission is of the primary
19 transmission of a network station or a non-net-
20 work station to a subscriber who resides outside
21 the station’s local market but within a commu-
22 nity in which the signal has been determined by
23 the Federal Communications Commission to be
24 significantly viewed in such community, pursu-
25 ant to the rules, regulations, and authorizations

1 of the Federal Communications Commission in
2 effect on April 15, 1976, applicable to deter-
3 mining with respect to a cable system whether
4 signals are significantly viewed in a community.

5 “(B) WAIVER.—A subscriber who is denied
6 the secondary transmission of the primary
7 transmission of a network station or a non-net-
8 work station under subparagraph (A) may re-
9 quest a waiver from such denial by submitting
10 a request, through the subscriber’s satellite car-
11 rier, to the network station or non-network sta-
12 tion in the local market affiliated with the same
13 network or non-network where the subscriber is
14 located. The network station or non-network
15 station shall accept or reject the subscriber’s re-
16 quest for a waiver within 30 days after receipt
17 of the request. If the network station or non-
18 network station fails to accept or reject the sub-
19 scriber’s request for a waiver within that 30-
20 day period, that network station or non-network
21 station shall be deemed to agree to the waiver
22 request.

23 “(3) SECONDARY TRANSMISSION OF LOW
24 POWER PROGRAMMING.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graphs (B) and (C), a secondary transmission
3 of a performance or display of a work embodied
4 in a primary transmission of a television broad-
5 cast station to subscribers who receive sec-
6 ondary transmissions of primary transmissions
7 under paragraph (1) shall be subject to statu-
8 tory licensing under this paragraph if the sec-
9 ondary transmission is of the primary trans-
10 mission of a television broadcast station that is
11 licensed as a low power television station, to a
12 subscriber who resides within the same des-
13 ignated market area as the station that origi-
14 nates the transmission.

15 “(B) NO APPLICABILITY TO REPEATERS
16 AND TRANSLATORS.—Secondary transmissions
17 provided for in subparagraph (A) shall not
18 apply to any low power television station that
19 retransmits the programs and signals of an-
20 other television station for more than 2 hours
21 each day.

22 “(C) NO IMPACT ON OTHER SECONDARY
23 TRANSMISSIONS OBLIGATIONS.—A satellite car-
24 rier that makes secondary transmissions of a
25 primary transmission of a low power television

1 station under a statutory license provided under
2 this section is not required, by reason of such
3 secondary transmissions, to make any other sec-
4 ondary transmissions.

5 “(4) SPECIAL EXCEPTIONS.—A secondary
6 transmission of a performance or display of a work
7 embodied in a primary transmission of a television
8 broadcast station to subscribers who receive sec-
9 ondary transmissions of primary transmissions
10 under paragraph (1) shall, if the secondary trans-
11 mission is made by a satellite carrier that complies
12 with the requirements of paragraph (1), be subject
13 to statutory licensing under this paragraph as fol-
14 lows:

15 “(A) STATES WITH SINGLE FULL-POWER
16 NETWORK STATION.—In a State in which there
17 is licensed by the Federal Communications
18 Commission a single full-power station that was
19 a network station on January 1, 1995, the stat-
20 utory license provided for in this paragraph
21 shall apply to the secondary transmission by a
22 satellite carrier of the primary transmission of
23 that station to any subscriber in a community
24 that is located within that State and that is not
25 within the first 50 television markets as listed

1 in the regulations of the Commission as in ef-
2 fect on such date (47 C.F.R. 76.51).

3 “(B) STATES WITH ALL NETWORK STA-
4 TIONS AND NON-NETWORK STATIONS IN SAME
5 LOCAL MARKET.—In a State in which all net-
6 work stations and non-network stations licensed
7 by the Federal Communications Commission
8 within that State as of January 1, 1995, are
9 assigned to the same local market and that
10 local market does not encompass all counties of
11 that State, the statutory license provided under
12 this paragraph shall apply to the secondary
13 transmission by a satellite carrier of the pri-
14 mary transmissions of such station to all sub-
15 scribers in the State who reside in a local mar-
16 ket that is within the first 50 major television
17 markets as listed in the regulations of the Com-
18 mission as in effect on such date (section 76.51
19 of title 47, Code of Federal Regulations).

20 “(C) ADDITIONAL STATIONS.—In the case
21 of that State in which are located 4 counties
22 that—

23 “(i) on January 1, 2004, were in local
24 markets principally comprised of counties
25 in another State, and

1 “(ii) had a combined total of 41,340
2 television households, according to the U.S.
3 Television Household Estimates by Nielsen
4 Media Research for 2004,
5 the statutory license provided under this para-
6 graph shall apply to secondary transmissions by
7 a satellite carrier to subscribers in any such
8 county of the primary transmissions of any net-
9 work station located in that State, if the sat-
10 ellite carrier was making such secondary trans-
11 missions to any subscribers in that county on
12 January 1, 2004.

13 “(D) CERTAIN ADDITIONAL STATIONS.—If
14 2 adjacent counties in a single State are in a
15 local market comprised principally of counties
16 located in another State, the statutory license
17 provided for in this paragraph shall apply to
18 the secondary transmission by a satellite carrier
19 to subscribers in those 2 counties of the pri-
20 mary transmissions of any network station lo-
21 cated in the capital of the State in which such
22 2 counties are located, if—

23 “(i) the 2 counties are located in a
24 local market that is in the top 100 markets

1 for the year 2003 according to Nielsen
2 Media Research; and

3 “(ii) the total number of television
4 households in the 2 counties combined did
5 not exceed 10,000 for the year 2003 ac-
6 cording to Nielsen Media Research.

7 “(E) NETWORKS OF NONCOMMERCIAL
8 EDUCATIONAL BROADCAST STATIONS.—In the
9 case of a system of three or more noncommer-
10 cial educational broadcast stations licensed to a
11 single State, public agency, or political, edu-
12 cational, or special purpose subdivision of a
13 State, the statutory license provided for in this
14 paragraph shall apply to the secondary trans-
15 mission of the primary transmission of such
16 system to any subscriber in any county or coun-
17 ty equivalent within such State, if such sub-
18 scriber is located in a designated market area
19 that is not otherwise eligible to receive the sec-
20 ondary transmission of the primary trans-
21 mission of a noncommercial educational broad-
22 cast station located within the State pursuant
23 to paragraph (1).

24 “(5) APPLICABILITY OF ROYALTY RATES AND
25 PROCEDURES.—The royalty rates and procedures

1 under section 119(b) shall apply to the secondary
2 transmissions to which the statutory license under
3 paragraph (4) applies.”.

4 (c) REPORTING REQUIREMENTS.—Section 122(b) is
5 amended—

6 (1) in paragraph (1), by striking “station a
7 list” and all that follows through the end and insert-
8 ing the following: “station—

9 “(A) a list identifying (by name in alpha-
10 betical order and street address, including coun-
11 ty and 9-digit zip code) all subscribers to which
12 the satellite carrier makes secondary trans-
13 missions of that primary transmission under
14 subsection (a); and

15 “(B) a separate list, aggregated by des-
16 ignated market area (by name and address, in-
17 cluding street or rural route number, city,
18 State, and 9-digit zip code), which shall indicate
19 those subscribers being served pursuant to
20 paragraph (2) of subsection (a).”; and

21 (2) in paragraph (2), by striking “network a
22 list” and all that follows through the end and insert-
23 ing the following: “network—

24 “(A) a list identifying (by name in alpha-
25 betical order and street address, including coun-

1 ty and 9-digit zip code) any subscribers who
2 have been added or dropped as subscribers
3 since the last submission under this subsection;
4 and

5 “(B) a separate list, aggregated by des-
6 ignated market area (by name and street ad-
7 dress, including street or rural route number,
8 city, State, and 9-digit zip code), identifying
9 those subscribers whose service pursuant to
10 paragraph (2) of subsection (a) has been added
11 or dropped since the last submission under this
12 subsection.”.

13 (d) NO ROYALTY FEE FOR CERTAIN SECONDARY
14 TRANSMISSIONS.—Section 122(c) is amended—

15 (1) in the heading, by inserting “FOR CERTAIN
16 SECONDARY TRANSMISSIONS” after “REQUIRED”;
17 and

18 (2) by striking “subsection (a)” and inserting
19 “paragraphs (1), (2), and (3) of subsection (a)”.

20 (e) VIOLATIONS FOR TERRITORIAL RESTRICTIONS.—

21 (1) MODIFICATION TO STATUTORY DAMAGES.—
22 Section 122(f) is amended—

23 (A) in paragraph (1)(B), by striking “\$5”
24 and inserting “\$250”; and

1 (B) in paragraph (2), by striking
2 “\$250,000” each place it appears and inserting
3 “\$2,500,000”.

4 (2) CONFORMING AMENDMENTS FOR ADDI-
5 TIONAL STATIONS.—Section 122 is amended—

6 (A) in subsection (f), by striking “section
7 119 or” each place it appears and inserting the
8 following: “section 119, subject to statutory li-
9 censing by reason of paragraph (2)(A), (3), or
10 (4) of subsection (a), or subject to”; and

11 (B) in subsection (g), by striking “section
12 119 or” and inserting the following: “section
13 119, paragraph (2)(A), (3), or (4) of subsection
14 (a), or”.

15 (f) DEFINITIONS.—Section 122(j) is amended—

16 (1) in paragraph (1), by striking “which con-
17 tracts” and inserting “that contracts”;

18 (2) by redesignating paragraphs (4) and (5) as
19 paragraphs (6) and (7), respectively;

20 (3) in paragraph (3)—

21 (A) by redesignating such paragraph as
22 paragraph (4);

23 (B) in the heading of such paragraph, by
24 inserting “NON-NETWORK STATION;” after
25 “NETWORK STATION;”; and

1 (C) by inserting “‘non-network station,’”
2 after “‘network station,’”;

3 (4) by inserting after paragraph (2) the fol-
4 lowing:

5 “(3) LOW POWER TELEVISION STATION.—The
6 term ‘low power television station’ means a low
7 power TV station as defined in section 74.701(f) of
8 title 47, Code of Federal Regulations, as in effect on
9 June 1, 2004. For purposes of this paragraph, the
10 term ‘low power television station’ includes a low
11 power television station that has been accorded pri-
12 mary status as a Class A television licensee under
13 section 73.6001(a) of title 47, Code of Federal Reg-
14 ulations.”;

15 (5) by inserting after paragraph (4) (as redesign-
16 nated) the following:

17 “(5) NONCOMMERCIAL EDUCATIONAL BROAD-
18 CAST STATION.—The term ‘noncommercial edu-
19 cational broadcast station’ means a television broad-
20 cast station that is a noncommercial educational
21 broadcast station as defined in section 397 of the
22 Communications Act of 1934, as in effect on the
23 date of the enactment of the Satellite Television Ex-
24 tension and Localism Act of 2010.”; and

1 (6) by amending paragraph (6) (as redesignated) to read as follows:

3 “(6) SUBSCRIBER.—The term ‘subscriber’ means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.”.

8 **SEC. 104. MODIFICATIONS TO CABLE SYSTEM SECONDARY TRANSMISSION RIGHTS UNDER SECTION 111.**

9 (a) **HEADING RENAMED.**—

11 (1) **IN GENERAL.**—The heading of section 111 is amended by inserting at the end the following:
13 **“of broadcast programming by cable”.**

14 (2) **TABLE OF CONTENTS.**—The table of contents for chapter 1 is amended by striking the item relating to section 111 and inserting the following:

“111. Limitations on exclusive rights: Secondary transmissions of broadcast programming by cable.”.

17 (b) **TECHNICAL AMENDMENT.**—Section 111(a)(4) is amended by striking “; or” and inserting “or section 19 122;”.

20 (c) **STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.**—Section 111(d) is amended—
22 ed—

23 (1) in paragraph (1)—

1 (A) in the matter preceding subparagraph

2 (A)—

3 (i) by striking “A cable system whose
4 secondary” and inserting the following:
5 “STATEMENT OF ACCOUNT AND ROYALTY
6 FEES.—Subject to paragraph (5), a cable
7 system whose secondary”; and

8 (ii) by striking “by regulation—” and
9 inserting “by regulation the following:”;

10 (B) in subparagraph (A)—

11 (i) by striking “a statement of ac-
12 count” and inserting “A statement of ac-
13 count”; and

14 (ii) by striking “; and” and inserting
15 a period; and

16 (C) by striking subparagraphs (B), (C),
17 and (D) and inserting the following:

18 “(B) Except in the case of a cable system
19 whose royalty fee is specified in subparagraph
20 (E) or (F), a total royalty fee payable to copy-
21 right owners pursuant to paragraph (3) for the
22 period covered by the statement, computed on
23 the basis of specified percentages of the gross
24 receipts from subscribers to the cable service
25 during such period for the basic service of pro-

1 viding secondary transmissions of primary
2 broadcast transmitters, as follows:

3 “(i) 1.064 percent of such gross re-
4 ceipts for the privilege of further transmit-
5 ting, beyond the local service area of such
6 primary transmitter, any non-network pro-
7 gramming of a primary transmitter in
8 whole or in part, such amount to be ap-
9 plied against the fee, if any, payable pursu-
10 ant to clauses (ii) through (iv);

11 “(ii) 1.064 percent of such gross re-
12 ceipts for the first distant signal equiva-
13 lent;

14 “(iii) 0.701 percent of such gross re-
15 ceipts for each of the second, third, and
16 fourth distant signal equivalents; and

17 “(iv) 0.330 percent of such gross re-
18 ceipts for the fifth distant signal equivalent
19 and each distant signal equivalent there-
20 after.

21 “(C) In computing amounts under clauses
22 (ii) through (iv) of subparagraph (B)—

23 “(i) any fraction of a distant signal
24 equivalent shall be computed at its frac-
25 tional value;

1 “(ii) in the case of any cable system
2 located partly within and partly outside of
3 the local service area of a primary trans-
4 mitter, gross receipts shall be limited to
5 those gross receipts derived from sub-
6 scribers located outside of the local service
7 area of such primary transmitter; and

8 “(iii) if a cable system provides a sec-
9 ondary transmission of a primary trans-
10 mitter to some but not all communities
11 served by that cable system—

12 “(I) the gross receipts and the
13 distant signal equivalent values for
14 such secondary transmission shall be
15 derived solely on the basis of the sub-
16 scribers in those communities where
17 the cable system provides such sec-
18 ondary transmission; and

19 “(II) the total royalty fee for the
20 period paid by such system shall not
21 be less than the royalty fee calculated
22 under subparagraph (B)(i) multiplied
23 by the gross receipts from all sub-
24 scribers to the system.

1 “(D) A cable system that, on a statement
2 submitted before the date of the enactment of
3 the Satellite Television Extension and Localism
4 Act of 2010, computed its royalty fee consistent
5 with the methodology under subparagraph
6 (C)(iii), or that amends a statement filed before
7 such date of enactment to compute the royalty
8 fee due using such methodology, shall not be
9 subject to an action for infringement, or eligible
10 for any royalty refund or offset, arising out of
11 its use of such methodology on such statement.

12 “(E) If the actual gross receipts paid by
13 subscribers to a cable system for the period cov-
14 ered by the statement for the basic service of
15 providing secondary transmissions of primary
16 broadcast transmitters are \$263,800 or less—

17 “(i) gross receipts of the cable system
18 for the purpose of this paragraph shall be
19 computed by subtracting from such actual
20 gross receipts the amount by which
21 \$263,800 exceeds such actual gross re-
22 cepts, except that in no case shall a cable
23 system’s gross receipts be reduced to less
24 than \$10,400; and

1 “(ii) the royalty fee payable under this
2 paragraph to copyright owners pursuant to
3 paragraph (3) shall be 0.5 percent, regard-
4 less of the number of distant signal equiva-
5 lents, if any.

6 “(F) If the actual gross receipts paid by
7 subscribers to a cable system for the period cov-
8 ered by the statement for the basic service of
9 providing secondary transmissions of primary
10 broadcast transmitters are more than \$263,800
11 but less than \$527,600, the royalty fee payable
12 under this paragraph to copyright owners pur-
13 suant to paragraph (3) shall be—

14 “(i) 0.5 percent of any gross receipts
15 up to \$263,800, regardless of the number
16 of distant signal equivalents, if any; and

17 “(ii) 1 percent of any gross receipts in
18 excess of \$263,800, but less than
19 \$527,600, regardless of the number of dis-
20 tant signal equivalents, if any.

21 “(G) A filing fee, as determined by the
22 Register of Copyrights pursuant to section
23 708(a).”;
24 (2) in paragraph (2), in the first sentence—

1 (A) by striking “The Register of Copy-
2 rights” and inserting the following “HANDLING
3 OF FEES.—The Register of Copyrights”; and

4 (B) by inserting “(including the filing fee
5 specified in paragraph (1)(G))” after “shall re-
6 ceive all fees”;

7 (3) in paragraph (3)—

8 (A) by striking “The royalty fees” and in-
9 serting the following: “DISTRIBUTION OF ROY-
10 ALTY FEES TO COPYRIGHT OWNERS.—The roy-
11 alty fees”;

12 (B) in subparagraph (A)—

13 (i) by striking “any such” and insert-
14 ing “Any such”; and

15 (ii) by striking “; and” and inserting
16 a period;

17 (C) in subparagraph (B)—

18 (i) by striking “any such” and insert-
19 ing “Any such”; and

20 (ii) by striking the semicolon and in-
21 serting a period; and

22 (D) in subparagraph (C), by striking “any
23 such” and inserting “Any such”;

24 (4) in paragraph (4), by striking “The royalty
25 fees” and inserting the following: “PROCEDURES

1 FOR ROYALTY FEE DISTRIBUTION.—The royalty
2 fees”;

3 (5) by adding at the end the following new
4 paragraphs:

5 “(5) 3.75 PERCENT RATE AND SYNDICATED EX-
6 CLUSIVITY SURCHARGE NOT APPLICABLE TO
7 MULTICAST STREAMS.—The royalty rates specified
8 in sections 256.2(c) and 256.2(d) of title 37, Code
9 of Federal Regulations (commonly referred to as the
10 ‘3.75 percent rate’ and the ‘syndicated exclusivity
11 surcharge’, respectively), as in effect on the date of
12 the enactment of the Satellite Television Extension
13 and Localism Act of 2010, as such rates may be ad-
14 justed, or such sections redesignated, thereafter by
15 the Copyright Royalty Judges, shall not apply to the
16 secondary transmission of a multicast stream.

17 “(6) VERIFICATION OF ACCOUNTS AND FEE
18 PAYMENTS.—The Register of Copyrights shall issue
19 regulations to provide for the confidential
20 verification by copyright owners whose works were
21 embodied in the secondary transmissions of primary
22 transmissions pursuant to this section of the infor-
23 mation reported on the semiannual statements of ac-
24 count filed under this subsection for accounting peri-
25 ods beginning on or after January 1, 2010, in order

1 that the auditor designated under subparagraph (A)
2 is able to confirm the correctness of the calculations
3 and royalty payments reported therein. The regula-
4 tions shall—

5 “(A) establish procedures for the designa-
6 tion of a qualified independent auditor—

7 “(i) with exclusive authority to re-
8 quest verification of such a statement of
9 account on behalf of all copyright owners
10 whose works were the subject of secondary
11 transmissions of primary transmissions by
12 the cable system (that deposited the state-
13 ment) during the accounting period cov-
14 ered by the statement; and

15 “(ii) who is not an officer, employee,
16 or agent of any such copyright owner for
17 any purpose other than such audit;

18 “(B) establish procedures for safeguarding
19 all non-public financial and business informa-
20 tion provided under this paragraph;

21 “(C)(i) require a consultation period for
22 the independent auditor to review its conclu-
23 sions with a designee of the cable system;

24 “(ii) establish a mechanism for the cable
25 system to remedy any errors identified in the

1 auditor's report and to cure any underpayment
2 identified; and

3 "(iii) provide an opportunity to remedy any
4 disputed facts or conclusions;

5 "(D) limit the frequency of requests for
6 verification for a particular cable system and
7 the number of audits that a multiple system op-
8 erator can be required to undergo in a single
9 year; and

10 "(E) permit requests for verification of a
11 statement of account to be made only within 3
12 years after the last day of the year in which the
13 statement of account is filed.

14 "(7) ACCEPTANCE OF ADDITIONAL DEPOSITS.—
15 Any royalty fee payments received by the Copyright
16 Office from cable systems for the secondary trans-
17 mission of primary transmissions that are in addi-
18 tion to the payments calculated and deposited in ac-
19 cordance with this subsection shall be deemed to
20 have been deposited for the particular accounting pe-
21 riod for which they are received and shall be distrib-
22 uted as specified under this subsection."

23 (d) EFFECTIVE DATE OF NEW ROYALTY FEE
24 RATES.—The royalty fee rates established in section
25 111(d)(1)(B) of title 17, United States Code, as amended

1 by subsection (c)(1)(C) of this section, shall take effect
2 commencing with the first accounting period occurring in
3 2010.

4 (e) DEFINITIONS.—Section 111(f) is amended—

5 (1) by striking the first undesignated paragraph
6 and inserting the following:

7 “(1) PRIMARY TRANSMISSION.—A ‘primary
8 transmission’ is a transmission made to the public
9 by a transmitting facility whose signals are being re-
10 ceived and further transmitted by a secondary trans-
11 mission service, regardless of where or when the per-
12 formance or display was first transmitted. In the
13 case of a television broadcast station, the primary
14 stream and any multicast streams transmitted by
15 the station constitute primary transmissions.”;

16 (2) in the second undesignated paragraph—

17 (A) by striking “A ‘secondary trans-
18 mission’ ” and inserting the following:

19 “(2) SECONDARY TRANSMISSION.—A ‘secondary
20 transmission’ ”; and

21 (B) by striking “‘cable system’ ” and in-
22 serting “cable system”;

23 (3) in the third undesignated paragraph—

24 (A) by striking “A ‘cable system’ ” and in-
25 serting the following:

1 “(3) CABLE SYSTEM.—A ‘cable system’”; and

2 (B) by striking “Territory, Trust Terri-
3 tory, or Possession” and inserting “territory,
4 trust territory, or possession of the United
5 States”;

6 (4) in the fourth undesignated paragraph, in
7 the first sentence—

8 (A) by striking “The ‘local service area of
9 a primary transmitter’, in the case of a tele-
10 vision broadcast station, comprises the area in
11 which such station is entitled to insist” and in-
12 serting the following:

13 “(4) LOCAL SERVICE AREA OF A PRIMARY
14 TRANSMITTER.—The ‘local service area of a primary
15 transmitter’, in the case of both the primary stream
16 and any multicast streams transmitted by a primary
17 transmitter that is a television broadcast station,
18 comprises the area where such primary transmitter
19 could have insisted”;

20 (B) by striking “76.59 of title 47 of the
21 Code of Federal Regulations” and inserting the
22 following: “76.59 of title 47, Code of Federal
23 Regulations, or within the noise-limited contour
24 as defined in 73.622(e)(1) of title 47, Code of
25 Federal Regulations”; and

1 (C) by striking “as defined by the rules
2 and regulations of the Federal Communications
3 Commission,”;

4 (5) by amending the fifth undesignated para-
5 graph to read as follows:

6 “(5) DISTANT SIGNAL EQUIVALENT.—

7 “(A) IN GENERAL.—Except as provided
8 under subparagraph (B), a ‘distant signal
9 equivalent’—

10 “(i) is the value assigned to the sec-
11 ondary transmission of any non-network
12 television programming carried by a cable
13 system in whole or in part beyond the local
14 service area of the primary transmitter of
15 such programming; and

16 “(ii) is computed by assigning a value
17 of one to each primary stream and to each
18 multicast stream (other than a simulcast)
19 that is an independent station, and by as-
20 signing a value of one-quarter to each pri-
21 mary stream and to each multicast stream
22 (other than a simulcast) that is a network
23 station or a noncommercial educational
24 station.

1 “(B) EXCEPTIONS.—The values for inde-
2 pendent, network, and noncommercial edu-
3 cational stations specified in subparagraph (A)
4 are subject to the following:

5 “(i) Where the rules and regulations
6 of the Federal Communications Commis-
7 sion require a cable system to omit the fur-
8 ther transmission of a particular program
9 and such rules and regulations also permit
10 the substitution of another program em-
11 bodying a performance or display of a
12 work in place of the omitted transmission,
13 or where such rules and regulations in ef-
14 fect on the date of the enactment of the
15 Copyright Act of 1976 permit a cable sys-
16 tem, at its election, to effect such omission
17 and substitution of a nonlive program or to
18 carry additional programs not transmitted
19 by primary transmitters within whose local
20 service area the cable system is located, no
21 value shall be assigned for the substituted
22 or additional program.

23 “(ii) Where the rules, regulations, or
24 authorizations of the Federal Communica-
25 tions Commission in effect on the date of

1 the enactment of the Copyright Act of
2 1976 permit a cable system, at its election,
3 to omit the further transmission of a par-
4 ticular program and such rules, regula-
5 tions, or authorizations also permit the
6 substitution of another program embodying
7 a performance or display of a work in
8 place of the omitted transmission, the
9 value assigned for the substituted or addi-
10 tional program shall be, in the case of a
11 live program, the value of one full distant
12 signal equivalent multiplied by a fraction
13 that has as its numerator the number of
14 days in the year in which such substitution
15 occurs and as its denominator the number
16 of days in the year.

17 “(iii) In the case of the secondary
18 transmission of a primary transmitter that
19 is a television broadcast station pursuant
20 to the late-night or specialty programming
21 rules of the Federal Communications Com-
22 mission, or the secondary transmission of a
23 primary transmitter that is a television
24 broadcast station on a part-time basis
25 where full-time carriage is not possible be-

1 cause the cable system lacks the activated
2 channel capacity to retransmit on a full-
3 time basis all signals that it is authorized
4 to carry, the values for independent, net-
5 work, and noncommercial educational sta-
6 tions set forth in subparagraph (A), as the
7 case may be, shall be multiplied by a frac-
8 tion that is equal to the ratio of the broad-
9 cast hours of such primary transmitter re-
10 transmitted by the cable system to the
11 total broadcast hours of the primary trans-
12 mitter.

13 “(iv) No value shall be assigned for
14 the secondary transmission of the primary
15 stream or any multicast streams of a pri-
16 mary transmitter that is a television broad-
17 cast station in any community that is with-
18 in the local service area of the primary
19 transmitter.”;

20 (6) by striking the sixth undesignated para-
21 graph and inserting the following:

22 “(6) NETWORK STATION.—

23 “(A) TREATMENT OF PRIMARY STREAM.—

24 The term ‘network station’ shall be applied to
25 a primary stream of a television broadcast sta-

1 tion that is owned or operated by, or affiliated
2 with, one or more of the television networks in
3 the United States providing nationwide trans-
4 missions, and that transmits a substantial part
5 of the programming supplied by such networks
6 for a substantial part of the primary stream’s
7 typical broadcast day.

8 “(B) TREATMENT OF MULTICAST
9 STREAMS.—The term ‘network station’ shall be
10 applied to a multicast stream on which a tele-
11 vision broadcast station transmits all or sub-
12 stantially all of the programming of an inter-
13 connected program service that—

14 “(i) is owned or operated by, or affili-
15 ated with, one or more of the television
16 networks described in subparagraph (A);
17 and

18 “(ii) offers programming on a regular
19 basis for 15 or more hours per week to at
20 least 25 of the affiliated television licensees
21 of the interconnected program service in
22 10 or more States.”;

23 (7) by striking the seventh undesignated para-
24 graph and inserting the following:

1 “(7) INDEPENDENT STATION.—The term ‘inde-
2 pendent station’ shall be applied to the primary
3 stream or a multicast stream of a television broad-
4 cast station that is not a network station or a non-
5 commercial educational station.”;

6 (8) by striking the eighth undesignated para-
7 graph and inserting the following:

8 “(8) NONCOMMERCIAL EDUCATIONAL STA-
9 TION.—The term ‘noncommercial educational sta-
10 tion’ shall be applied to the primary stream or a
11 multicast stream of a television broadcast station
12 that is a noncommercial educational broadcast sta-
13 tion as defined in section 397 of the Communica-
14 tions Act of 1934, as in effect on the date of the en-
15 actment of the Satellite Television Extension and
16 Localism Act of 2010.”; and

17 (9) by adding at the end the following:

18 “(9) PRIMARY STREAM.—A ‘primary stream’
19 is—

20 “(A) the single digital stream of program-
21 ming that, before June 12, 2009, was substan-
22 tially duplicating the programming transmitted
23 by the television broadcast station as an analog
24 signal; or

1 “(B) if there is no stream described in
2 subparagraph (A), then the single digital
3 stream of programming transmitted by the tele-
4 vision broadcast station for the longest period
5 of time.

6 “(10) PRIMARY TRANSMITTER.—A ‘primary
7 transmitter’ is a television or radio broadcast station
8 licensed by the Federal Communications Commis-
9 sion, or by an appropriate governmental authority of
10 Canada or Mexico, that makes primary trans-
11 missions to the public.

12 “(11) MULTICAST STREAM.—A ‘multicast
13 stream’ is a digital stream of programming that is
14 transmitted by a television broadcast station and is
15 not the station’s primary stream.

16 “(12) SIMULCAST.—A ‘simulcast’ is a multicast
17 stream of a television broadcast station that dupli-
18 cates the programming transmitted by the primary
19 stream or another multicast stream of such station.

20 “(13) SUBSCRIBER; SUBSCRIBE.—

21 “(A) SUBSCRIBER.—The term ‘subscriber’
22 means a person or entity that receives a sec-
23 ondary transmission service from a cable sys-
24 tem and pays a fee for the service, directly or
25 indirectly, to the cable system.

1 “(B) SUBSCRIBE.—The term ‘subscribe’
2 means to elect to become a subscriber.”.

3 (f) TIMING OF SECTION 111 PROCEEDINGS.—Section
4 804(b)(1) is amended by striking “2005” each place it ap-
5 pears and inserting “2015”.

6 (g) TECHNICAL AND CONFORMING AMENDMENTS.—

7 (1) CORRECTIONS TO FIX LEVEL DESIGNA-
8 TIONS.—Section 111 is amended—

9 (A) in subsections (a), (c), and (e), by
10 striking “clause” each place it appears and in-
11 serting “paragraph”;

12 (B) in subsection (c)(1), by striking
13 “clauses” and inserting “paragraphs”; and

14 (C) in subsection (e)(1)(F), by striking
15 “subclause” and inserting “subparagraph”.

16 (2) CONFORMING AMENDMENT TO HYPHENATE
17 NONNETWORK.—Section 111 is amended by striking
18 “nonnetwork” each place it appears and inserting
19 “non-network”.

20 (3) PREVIOUSLY UNDESIGNATED PARA-
21 GRAPH.—Section 111(e)(1) is amended by striking
22 “second paragraph of subsection (f)” and inserting
23 “subsection (f)(2)”.

24 (4) REMOVAL OF SUPERFLUOUS ANDS.—Sec-
25 tion 111(e) is amended—

1 (A) in paragraph (1)(A), by striking “and”
2 at the end;

3 (B) in paragraph (1)(B), by striking
4 “and” at the end;

5 (C) in paragraph (1)(C), by striking “and”
6 at the end;

7 (D) in paragraph (1)(D), by striking
8 “and” at the end; and

9 (E) in paragraph (2)(A), by striking “and”
10 at the end.

11 (5) REMOVAL OF VARIANT FORMS REF-
12 ERENCES.—Section 111 is amended—

13 (A) in subsection (e)(4), by striking “, and
14 each of its variant forms,”; and

15 (B) in subsection (f), by striking “and
16 their variant forms”.

17 (6) CORRECTION TO TERRITORY REFERENCE.—
18 Section 111(e)(2) is amended in the matter pre-
19 ceding subparagraph (A) by striking “three terri-
20 tories” and inserting “five entities”.

21 (h) EFFECTIVE DATE WITH RESPECT TO
22 MULTICAST STREAMS.—

23 (1) IN GENERAL.—Subject to paragraphs (2)
24 and (3), the amendments made by this section, to
25 the extent such amendments assign a distant signal

1 equivalent value to the secondary transmission of the
2 multicast stream of a primary transmitter, shall take
3 effect on the date of the enactment of this Act.

4 (2) DELAYED APPLICABILITY.—

5 (A) SECONDARY TRANSMISSIONS OF A
6 MULTICAST STREAM BEYOND THE LOCAL SERV-
7 ICE AREA OF ITS PRIMARY TRANSMITTER BE-
8 FORE 2010 ACT.—In any case in which a cable
9 system was making secondary transmissions of
10 a multicast stream beyond the local service area
11 of its primary transmitter before the date of the
12 enactment of this Act, a distant signal equiva-
13 lent value (referred to in paragraph (1)) shall
14 not be assigned to secondary transmissions of
15 such multicast stream that are made on or be-
16 fore June 30, 2010.

17 (B) MULTICAST STREAMS SUBJECT TO
18 PREEXISTING WRITTEN AGREEMENTS FOR THE
19 SECONDARY TRANSMISSION OF SUCH
20 STREAMS.—In any case in which the secondary
21 transmission of a multicast stream of a primary
22 transmitter is the subject of a written agree-
23 ment entered into on or before June 30, 2009,
24 between a cable system or an association rep-
25 resenting the cable system and a primary trans-

1 mitter or an association representing the pri-
2 mary transmitter, a distant signal equivalent
3 value (referred to in paragraph (1)) shall not be
4 assigned to secondary transmissions of such
5 multicast stream beyond the local service area
6 of its primary transmitter that are made on or
7 before the date on which such written agree-
8 ment expires.

9 (C) NO REFUNDS OR OFFSETS FOR PRIOR
10 STATEMENTS OF ACCOUNT.—A cable system
11 that has reported secondary transmissions of a
12 multicast stream beyond the local service area
13 of its primary transmitter on a statement of ac-
14 count deposited under section 111 of title 17,
15 United States Code, before the date of the en-
16 actment of this Act shall not be entitled to any
17 refund, or offset, of royalty fees paid on ac-
18 count of such secondary transmissions of such
19 multicast stream.

20 (3) DEFINITIONS.—In this subsection, the
21 terms “cable system”, “secondary transmission”,
22 “multicast stream”, and “local service area of a pri-
23 mary transmitter” have the meanings given those
24 terms in section 111(f) of title 17, United States
25 Code, as amended by this section.

1 **SEC. 105. CERTAIN WAIVERS GRANTED TO PROVIDERS OF**
2 **LOCAL-INTO-LOCAL SERVICE FOR ALL DMAS.**

3 Section 119 is amended by adding at the end the fol-
4 lowing new subsection:

5 “(g) CERTAIN WAIVERS GRANTED TO PROVIDERS OF
6 LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

7 “(1) INJUNCTION WAIVER.—A court that issued
8 an injunction pursuant to subsection (a)(7)(B) be-
9 fore the date of the enactment of this subsection
10 shall waive such injunction if the court recognizes
11 the entity against which the injunction was issued as
12 a qualified carrier.

13 “(2) LIMITED TEMPORARY WAIVER.—

14 “(A) IN GENERAL.—Upon a request made
15 by a satellite carrier, a court that issued an in-
16 junction against such carrier under subsection
17 (a)(7)(B) before the date of the enactment of
18 this subsection shall waive such injunction with
19 respect to the statutory license provided under
20 subsection (a)(2) to the extent necessary to
21 allow such carrier to make secondary trans-
22 missions of primary transmissions made by a
23 network station to unserved households located
24 in short markets in which such carrier was not
25 providing local service pursuant to the license
26 under section 122 as of December 31, 2009.

1 “(B) EXPIRATION OF TEMPORARY WAIV-
2 ER.—A temporary waiver of an injunction
3 under subparagraph (A) shall expire after the
4 end of the 120-day period beginning on the
5 date such temporary waiver is issued unless ex-
6 tended for good cause by the court making the
7 temporary waiver.

8 “(C) FAILURE TO PROVIDE LOCAL-INTO-
9 LOCAL SERVICE TO ALL DMAS.—

10 “(i) FAILURE TO ACT REASONABLY
11 AND IN GOOD FAITH.—If the court issuing
12 a temporary waiver under subparagraph
13 (A) determines that the satellite carrier
14 that made the request for such waiver has
15 failed to act reasonably or has failed to
16 make a good faith effort to provide local-
17 into-local service to all DMAs, such fail-
18 ure—

19 “(I) is actionable as an act of in-
20 fringement under section 501 and the
21 court may in its discretion impose the
22 remedies provided for in sections 502
23 through 506 and subsection (a)(6)(B)
24 of this section; and

1 “(II) shall result in the termi-
2 nation of the waiver issued under sub-
3 paragraph (A).

4 “(ii) FAILURE TO PROVIDE LOCAL-
5 INTO-LOCAL SERVICE.—If the court issuing
6 a temporary waiver under subparagraph
7 (A) determines that the satellite carrier
8 that made the request for such waiver has
9 failed to provide local-into-local service to
10 all DMAs, but determines that the carrier
11 acted reasonably and in good faith, the
12 court may in its discretion impose financial
13 penalties that reflect—

14 “(I) the degree of control the
15 carrier had over the circumstances
16 that resulted in the failure;

17 “(II) the quality of the carrier’s
18 efforts to remedy the failure; and

19 “(III) the severity and duration
20 of any service interruption.

21 “(D) SINGLE TEMPORARY WAIVER AVAIL-
22 ABLE.—An entity may only receive one tem-
23 porary waiver under this paragraph.

24 “(E) SHORT MARKET DEFINED.—For pur-
25 poses of this paragraph, the term ‘short mar-

1 ket’ means a local market in which program-
2 ming of one or more of the four most widely
3 viewed television networks nationwide as meas-
4 ured on the date of the enactment of this sub-
5 section is not offered on the primary stream
6 transmitted by any local television broadcast
7 station.

8 “(3) ESTABLISHMENT OF QUALIFIED CARRIER
9 RECOGNITION.—

10 “(A) STATEMENT OF ELIGIBILITY.—An
11 entity seeking to be recognized as a qualified
12 carrier under this subsection shall file a state-
13 ment of eligibility with the court that imposed
14 the injunction. A statement of eligibility must
15 include—

16 “(i) an affidavit that the entity is pro-
17 viding local-into-local service to all DMAs;

18 “(ii) a motion for a waiver of the in-
19 junction;

20 “(iii) a motion that the court appoint
21 a special master under Rule 53 of the Fed-
22 eral Rules of Civil Procedure;

23 “(iv) an agreement by the carrier to
24 pay all expenses incurred by the special
25 master under paragraph (4)(B)(ii); and

1 “(v) a certification issued pursuant to
2 section 342(a) of Communications Act of
3 1934.

4 “(B) GRANT OF RECOGNITION AS A QUALI-
5 FIED CARRIER.—Upon receipt of a statement of
6 eligibility, the court shall recognize the entity as
7 a qualified carrier and issue the waiver under
8 paragraph (1). Upon motion pursuant to sub-
9 paragraph (A)(iii), the court shall appoint a
10 special master to conduct the examination and
11 provide a report to the court as provided in
12 paragraph (4)(B).

13 “(C) VOLUNTARY TERMINATION.—At any
14 time, an entity recognized as a qualified carrier
15 may file a statement of voluntary termination
16 with the court certifying that it no longer wish-
17 es to be recognized as a qualified carrier. Upon
18 receipt of such statement, the court shall rein-
19 state the injunction waived under paragraph
20 (1).

21 “(D) LOSS OF RECOGNITION PREVENTS
22 FUTURE RECOGNITION.—No entity may be rec-
23 ognized as a qualified carrier if such entity had
24 previously been recognized as a qualified carrier
25 and subsequently lost such recognition or volun-

1 tarily terminated such recognition under sub-
2 paragraph (C).

3 “(4) QUALIFIED CARRIER OBLIGATIONS AND
4 COMPLIANCE.—

5 “(A) CONTINUING OBLIGATIONS.—

6 “(i) IN GENERAL.—An entity recog-
7 nized as a qualified carrier shall continue
8 to provide local-into-local service to all
9 DMAs.

10 “(ii) COOPERATION WITH COMPLI-
11 ANCE EXAMINATION.—An entity recog-
12 nized as a qualified carrier shall fully co-
13 operate with the special master appointed
14 by the court under paragraph (3)(B) in an
15 examination set forth in subparagraph (B).

16 “(B) QUALIFIED CARRIER COMPLIANCE
17 EXAMINATION.—

18 “(i) EXAMINATION AND REPORT.—A
19 special master appointed by the court
20 under paragraph (3)(B) shall conduct an
21 examination of, and file a report on, the
22 qualified carrier’s compliance with the roy-
23 alty payment and household eligibility re-
24 quirements of the license under this sec-
25 tion. The report shall address the qualified

1 carrier's conduct during the period begin-
2 ning on the date on which the qualified
3 carrier is recognized as such under para-
4 graph (3)(B) and ending on April 30,
5 2012.

6 “(ii) RECORDS OF QUALIFIED CAR-
7 RIER.—Beginning on the date that is one
8 year after the date on which the qualified
9 carrier is recognized as such under para-
10 graph (3)(B), but not later than December
11 1, 2011, the qualified carrier shall provide
12 the special master with all records that the
13 special master considers to be directly per-
14 tinent to the following requirements under
15 this section:

16 “(I) Proper calculation and pay-
17 ment of royalties under the statutory
18 license under this section.

19 “(II) Provision of service under
20 this license to eligible subscribers
21 only.

22 “(iii) SUBMISSION OF REPORT.—The
23 special master shall file the report required
24 by clause (i) not later than July 24, 2012,
25 with the court referred to in paragraph (1)

1 that issued the injunction, and the court
2 shall transmit a copy of the report to the
3 Register of Copyrights, the Committees on
4 the Judiciary and on Energy and Com-
5 merce of the House of Representatives,
6 and the Committees on the Judiciary and
7 on Commerce, Science, and Transportation
8 of the Senate.

9 “(iv) EVIDENCE OF INFRINGEMENT.—

10 The special master shall include in the re-
11 port a statement of whether the examina-
12 tion by the special master indicated that
13 there is substantial evidence that a copy-
14 right holder could bring a successful action
15 under this section against the qualified
16 carrier for infringement.

17 “(v) SUBSEQUENT EXAMINATION.—If

18 the special master’s report includes a
19 statement that its examination indicated
20 the existence of substantial evidence that a
21 copyright holder could bring a successful
22 action under this section against the quali-
23 fied carrier for infringement, the special
24 master shall, not later than 6 months after
25 the report under clause (i) is filed, initiate

1 another examination of the qualified car-
2 rier's compliance with the royalty payment
3 and household eligibility requirements of
4 the license under this section since the last
5 report was filed under clause (iii). The spe-
6 cial master shall file a report on the results
7 of the examination conducted under this
8 clause with the court referred to in para-
9 graph (1) that issued the injunction, and
10 the court shall transmit a copy to the Reg-
11 ister of Copyrights, the Committees on the
12 Judiciary and on Energy and Commerce of
13 the House of Representatives, and the
14 Committees on the Judiciary and on Com-
15 merce, Science, and Transportation of the
16 Senate. The report shall include a state-
17 ment described in clause (iv).

18 “(vi) COMPLIANCE.—Upon motion
19 filed by an aggrieved copyright owner, the
20 court recognizing an entity as a qualified
21 carrier shall terminate such designation
22 upon finding that the entity has failed to
23 cooperate with the examinations required
24 by this subparagraph.

1 “(vii) OVERSIGHT.—During the pe-
2 riod of time that the special master is con-
3 ducting an examination under this sub-
4 paragraph, the Comptroller General shall
5 monitor the degree to which the entity
6 seeking to be recognized or recognized as
7 a qualified carrier under paragraph (3) is
8 complying with the special master’s exam-
9 ination. The qualified carrier shall make
10 available to the Comptroller General all
11 records and individuals that the Comp-
12 troller General considers necessary to meet
13 the Comptroller General’s obligations
14 under this clause. The Comptroller General
15 shall report the results of the monitoring
16 required by this clause to the Committees
17 on the Judiciary and on Energy and Com-
18 merce of the House of Representatives and
19 the Committees on the Judiciary and on
20 Commerce, Science, and Transportation of
21 the Senate at intervals of not less than six
22 months during such period.

23 “(C) AFFIRMATION.—A qualified carrier
24 shall file an affidavit with the district court and
25 the Register of Copyrights 30 months after

1 such status was granted stating that, to the
2 best of the affiant's knowledge, it is in compli-
3 ance with the requirements for a qualified car-
4 rier. The qualified carrier shall attach to its af-
5 fidavit copies of all reports or orders issued by
6 the court, the special master, and the Comp-
7 troller General.

8 “(D) COMPLIANCE DETERMINATION.—
9 Upon the motion of an aggrieved television
10 broadcast station, the court recognizing an enti-
11 ty as a qualified carrier may make a determina-
12 tion of whether the entity is providing local-
13 into-local service to all DMAs.

14 “(E) PLEADING REQUIREMENT.—In any
15 motion brought under subparagraph (D), the
16 party making such motion shall specify one or
17 more designated market areas (as such term is
18 defined in section 122(j)(2)(C)) for which the
19 failure to provide service is being alleged, and,
20 for each such designated market area, shall
21 plead with particularity the circumstances of
22 the alleged failure.

23 “(F) BURDEN OF PROOF.—In any pro-
24 ceeding to make a determination under sub-
25 paragraph (D), and with respect to a des-

1 ignated market area for which failure to provide
2 service is alleged, the entity recognized as a
3 qualified carrier shall have the burden of prov-
4 ing that the entity provided local-into-local serv-
5 ice with a good quality satellite signal to at
6 least 90 percent of the households in such des-
7 ignated market area (based on the most recent
8 census data released by the United States Cen-
9 sus Bureau) at the time and place alleged.

10 “(5) FAILURE TO PROVIDE SERVICE.—

11 “(A) PENALTIES.—If the court recognizing
12 an entity as a qualified carrier finds that such
13 entity has willfully failed to provide local-into-
14 local service to all DMAs, such finding shall re-
15 sult in the loss of recognition of the entity as
16 a qualified carrier and the termination of the
17 waiver provided under paragraph (1), and the
18 court may, in its discretion—

19 “(i) treat such failure as an act of in-
20 fringement under section 501, and subject
21 such infringement to the remedies provided
22 for in sections 502 through 506 and sub-
23 section (a)(6)(B) of this section; and

24 “(ii) impose a fine of not less than
25 \$250,000 and not more than \$5,000,000.

1 “(B) EXCEPTION FOR NONWILLFUL VIOLA-
2 TION.—If the court determines that the failure
3 to provide local-into-local service to all DMAs is
4 nonwillful, the court may in its discretion im-
5 pose financial penalties for noncompliance that
6 reflect—

7 “(i) the degree of control the entity
8 had over the circumstances that resulted in
9 the failure;

10 “(ii) the quality of the entity’s efforts
11 to remedy the failure and restore service;
12 and

13 “(iii) the severity and duration of any
14 service interruption.

15 “(6) PENALTIES FOR VIOLATIONS OF LI-
16 CENSE.—A court that finds, under subsection
17 (a)(6)(A), that an entity recognized as a qualified
18 carrier has willfully made a secondary transmission
19 of a primary transmission made by a network sta-
20 tion and embodying a performance or display of a
21 work to a subscriber who is not eligible to receive
22 the transmission under this section shall reinstate
23 the injunction waived under paragraph (1), and the
24 court may order statutory damages of not more than
25 \$2,500,000.

1 “(7) LOCAL-INTO-LOCAL SERVICE TO ALL DMAS
2 DEFINED.—For purposes of this subsection:

3 “(A) IN GENERAL.—An entity provides
4 ‘local-into-local service to all DMAs’ if the enti-
5 ty provides local service in all designated mar-
6 ket areas (as such term is defined in section
7 122(j)(2)(C)) pursuant to the license under sec-
8 tion 122.

9 “(B) HOUSEHOLD COVERAGE.—For pur-
10 poses of subparagraph (A), an entity that
11 makes available local-into-local service with a
12 good quality satellite signal to at least 90 per-
13 cent of the households in a designated market
14 area based on the most recent census data re-
15 leased by the United States Census Bureau
16 shall be considered to be providing local service
17 to such designated market area.

18 “(C) GOOD QUALITY SATELLITE SIGNAL
19 DEFINED.—The term ‘good quality satellite sig-
20 nal’ has the meaning given such term under
21 section 342(e)(2) of Communications Act of
22 1934.”.

23 **SEC. 106. COPYRIGHT OFFICE FEES.**

24 Section 708(a) is amended—

1 (1) in paragraph (8), by striking “and” after
2 the semicolon;

3 (2) in paragraph (9), by striking the period and
4 inserting a semicolon;

5 (3) by inserting after paragraph (9) the fol-
6 lowing:

7 “(10) on filing a statement of account based on
8 secondary transmissions of primary transmissions
9 pursuant to section 119 or 122; and

10 “(11) on filing a statement of account based on
11 secondary transmissions of primary transmissions
12 pursuant to section 111.”; and

13 (4) by adding at the end the following new sen-
14 tence: “Fees established under paragraphs (10) and
15 (11) shall be reasonable and may not exceed one-half
16 of the cost necessary to cover reasonable expenses
17 incurred by the Copyright Office for the collection
18 and administration of the statements of account and
19 any royalty fees deposited with such statements.”.

20 **SEC. 107. TERMINATION OF LICENSE.**

21 (a) **TERMINATION.**—Section 119 of title 17, United
22 States Code, as amended by this Act, shall cease to be
23 effective on December 31, 2014.

1 (b) CONFORMING AMENDMENT.—Section
2 1003(a)(2)(A) of Public Law 111–118 (17 U.S.C. 119
3 note) is repealed.

4 **SEC. 108. CONSTRUCTION.**

5 Nothing in section 111, 119, or 122 of title 17,
6 United States Code, including the amendments made to
7 such sections by this title, shall be construed to affect the
8 meaning of any terms under the Communications Act of
9 1934, except to the extent that such sections are specifi-
10 cally cross-referenced in such Act or the regulations issued
11 thereunder.

12 **TITLE II—COMMUNICATIONS**
13 **PROVISIONS**

14 **SEC. 201. REFERENCE.**

15 Except as otherwise provided, whenever in this title
16 an amendment is made to a section or other provision,
17 the reference shall be considered to be made to such sec-
18 tion or provision of the Communications Act of 1934 (47
19 U.S.C. 151 et seq.).

20 **SEC. 202. EXTENSION OF AUTHORITY.**

21 Section 325(b) is amended—

22 (1) in paragraph (2)(C), by striking “May 31,
23 2010” and inserting “December 31, 2014”; and

1 (2) in paragraph (3)(C), by striking “June 1,
2 2010” each place it appears in clauses (ii) and (iii)
3 and inserting “January 1, 2015”.

4 **SEC. 203. SIGNIFICANTLY VIEWED STATIONS.**

5 (a) IN GENERAL.—Paragraphs (1) and (2) of section
6 340(b) are amended to read as follows:

7 “(1) SERVICE LIMITED TO SUBSCRIBERS TAK-
8 ING LOCAL-INTO-LOCAL SERVICE.—This section shall
9 apply only to retransmissions to subscribers of a sat-
10 ellite carrier who receive retransmissions of a signal
11 from that satellite carrier pursuant to section 338.

12 “(2) SERVICE LIMITATIONS.—A satellite carrier
13 may retransmit to a subscriber in high definition
14 format the signal of a station determined by the
15 Commission to be significantly viewed under sub-
16 section (a) only if such carrier also retransmits in
17 high definition format the signal of a station located
18 in the local market of such subscriber and affiliated
19 with the same network whenever such format is
20 available from such station.”.

21 (b) RULEMAKING REQUIRED.—Within 270 days after
22 the date of the enactment of this Act, the Federal Commu-
23 nications Commission shall take all actions necessary to
24 promulgate a rule to implement the amendments made by
25 subsection (a).

1 **SEC. 204. DIGITAL TELEVISION TRANSITION CONFORMING**
2 **AMENDMENTS.**

3 (a) SECTION 338.—Section 338 is amended—

4 (1) in subsection (a), by striking “(3) EFFEC-
5 TIVE DATE.—No satellite” and all that follows
6 through “until January 1, 2002.”; and

7 (2) by amending subsection (g) to read as fol-
8 lows:

9 “(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE
10 RECEPTION ANTENNA.—

11 “(1) SINGLE RECEPTION ANTENNA.—Each sat-
12 ellite carrier that retransmits the signals of local tel-
13 evision broadcast stations in a local market shall re-
14 transmit such stations in such market so that a sub-
15 scriber may receive such stations by means of a sin-
16 gle reception antenna and associated equipment.

17 “(2) ADDITIONAL RECEPTION ANTENNA.—If
18 the carrier retransmits the signals of local television
19 broadcast stations in a local market in high defini-
20 tion format, the carrier shall retransmit such signals
21 in such market so that a subscriber may receive
22 such signals by means of a single reception antenna
23 and associated equipment, but such antenna and as-
24 sociated equipment may be separate from the single
25 reception antenna and associated equipment used to
26 comply with paragraph (1).”.

1 (b) SECTION 339.—Section 339 is amended—

2 (1) in subsection (a)—

3 (A) in paragraph (1)(B), by striking “Such
4 two network stations” and all that follows
5 through “more than two network stations.”;
6 and

7 (B) in paragraph (2)—

8 (i) in the heading for subparagraph
9 (A), by striking “TO ANALOG SIGNALS”;

10 (ii) in subparagraph (A)—

11 (I) in the heading for clause (i),
12 by striking “ANALOG”;

13 (II) in clause (i)—

14 (aa) by striking “analog”
15 each place it appears; and

16 (bb) by striking “October 1,
17 2004” and inserting “October 1,
18 2009”;

19 (III) in the heading for clause
20 (ii), by striking “ANALOG”; and

21 (IV) in clause (ii)—

22 (aa) by striking “analog”
23 each place it appears; and

24 (bb) by striking “2004” and
25 inserting “2009”;

1 (iii) by amending subparagraph (B) to
2 read as follows:

3 “(B) RULES FOR OTHER SUBSCRIBERS.—

4 “(i) IN GENERAL.—In the case of a
5 subscriber of a satellite carrier who is eligi-
6 ble to receive the signal of a network sta-
7 tion under this section (in this subpara-
8 graph referred to as a ‘distant signal’),
9 other than subscribers to whom subpara-
10 graph (A) applies, the following shall
11 apply:

12 “(I) In a case in which the sat-
13 ellite carrier makes available to that
14 subscriber, on January 1, 2005, the
15 signal of a local network station affili-
16 ated with the same television network
17 pursuant to section 338, the carrier
18 may only provide the secondary trans-
19 missions of the distant signal of a sta-
20 tion affiliated with the same network
21 to that subscriber if the subscriber’s
22 satellite carrier, not later than March
23 1, 2005, submits to that television
24 network the list and statement re-
25 quired by subparagraph (F)(i).

1 “(II) In a case in which the sat-
2 ellite carrier does not make available
3 to that subscriber, on January 1,
4 2005, the signal of a local network
5 station pursuant to section 338, the
6 carrier may only provide the sec-
7 ondary transmissions of the distant
8 signal of a station affiliated with the
9 same network to that subscriber if—

10 “(aa) that subscriber seeks
11 to subscribe to such distant sig-
12 nal before the date on which such
13 carrier commences to carry pur-
14 suant to section 338 the signals
15 of stations from the local market
16 of such local network station; and

17 “(bb) the satellite carrier,
18 within 60 days after such date,
19 submits to each television net-
20 work the list and statement re-
21 quired by subparagraph (F)(ii).

22 “(ii) SPECIAL CIRCUMSTANCES.—A
23 subscriber of a satellite carrier who was
24 lawfully receiving the distant signal of a
25 network station on the day before the date

1 of enactment of the Satellite Television Ex-
2 tension and Localism Act of 2010 may re-
3 ceive both such distant signal and the local
4 signal of a network station affiliated with
5 the same network until such subscriber
6 chooses to no longer receive such distant
7 signal from such carrier, whether or not
8 such subscriber elects to subscribe to such
9 local signal.”;

10 (iv) in subparagraph (C)—

11 (I) by striking “analog”;

12 (II) in clause (i), by striking “the
13 Satellite Home Viewer Extension and
14 Reauthorization Act of 2004; and”
15 and inserting the following:

16 “the Satellite Television Extension and Lo-
17 calism Act of 2010 and, at the time such
18 person seeks to subscribe to receive such
19 secondary transmission, resides in a local
20 market where the satellite carrier makes
21 available to that person the signal of a
22 local network station affiliated with the
23 same television network pursuant to sec-
24 tion 338 (and the retransmission of such

1 signal by such carrier can reach such sub-
2 scriber); or”); and

3 (III) by amending clause (ii) to
4 read as follows:

5 “(ii) lawfully subscribes to and re-
6 ceives a distant signal on or after the date
7 of enactment of the Satellite Television Ex-
8 tension and Localism Act of 2010, and,
9 subsequent to such subscription, the sat-
10 ellite carrier makes available to that sub-
11 scriber the signal of a local network station
12 affiliated with the same network as the dis-
13 tant signal (and the retransmission of such
14 signal by such carrier can reach such sub-
15 scriber), unless such person subscribes to
16 the signal of the local network station
17 within 60 days after such signal is made
18 available.”;

19 (v) in subparagraph (D)—

20 (I) in the heading, by striking
21 “DIGITAL”;

22 (II) by striking clauses (i), (iii)
23 through (v), (vii) through (ix), and
24 (xi);

1 (III) by redesignating clause (vi)
2 as clause (i) and transferring such
3 clause to appear before clause (ii);

4 (IV) by amending such clause (i)
5 (as so redesignated) to read as fol-
6 lows:

7 “(i) ELIGIBILITY AND SIGNAL TEST-
8 ING.—A subscriber of a satellite carrier
9 shall be eligible to receive a distant signal
10 of a network station affiliated with the
11 same network under this section if, with
12 respect to a local network station, such
13 subscriber—

14 “(I) is a subscriber whose house-
15 hold is not predicted by the model
16 specified in subsection (c)(3) to re-
17 ceive the signal intensity required
18 under section 73.622(e)(1) or, in the
19 case of a low-power station or trans-
20 lator station transmitting an analog
21 signal, section 73.683(a) of title 47,
22 Code of Federal Regulations, or a suc-
23 cessor regulation;

24 “(II) is determined, based on a
25 test conducted in accordance with sec-

1 tion 73.686(d) of title 47, Code of
2 Federal Regulations, or any successor
3 regulation, not to be able to receive a
4 signal that exceeds the signal intensity
5 standard in section 73.622(e)(1) or,
6 in the case of a low-power station or
7 translator station transmitting an
8 analog signal, section 73.683(a) of
9 such title, or a successor regulation;
10 or

11 “(III) is in an unserved house-
12 hold, as determined under section
13 119(d)(10)(A) of title 17, United
14 States Code.”;

15 (V) in clause (ii)—

16 (aa) by striking “DIGITAL”
17 in the heading;

18 (bb) by striking “digital”
19 the first two places such term ap-
20 pears;

21 (cc) by striking “Satellite
22 Home Viewer Extension and Re-
23 authorization Act of 2004” and
24 inserting “Satellite Television

1 Extension and Localism Act of
2 2010”; and

3 (dd) by striking “, whether
4 or not such subscriber elects to
5 subscribe to local digital signals”;

6 (VI) by inserting after clause (ii)
7 the following new clause:

8 “(iii) TIME-SHIFTING PROHIBITED.—

9 In a case in which the satellite carrier
10 makes available to an eligible subscriber
11 under this subparagraph the signal of a
12 local network station pursuant to section
13 338, the carrier may only provide the dis-
14 tant signal of a station affiliated with the
15 same network to that subscriber if, in the
16 case of any local market in the 48 contig-
17 uous States of the United States, the dis-
18 tant signal is the secondary transmission
19 of a station whose prime time network pro-
20 gramming is generally broadcast simulta-
21 neously with, or later than, the prime time
22 network programming of the affiliate of
23 the same network in the local market.”;
24 and

1 (VII) by redesignating clause (x)
2 as clause (iv); and
3 (vi) in subparagraph (E), by striking
4 “distant analog signal or” and all that fol-
5 lows through “(B), or (D))” and inserting
6 “distant signal”;

7 (2) in subsection (c)—

8 (A) by amending paragraph (3) to read as
9 follows:

10 “(3) ESTABLISHMENT OF IMPROVED PRE-
11 DICTIVE MODEL AND ON-LOCATION TESTING RE-
12 QUIRED.—

13 “(A) PREDICTIVE MODEL.—Within 270
14 days after the date of the enactment of the Sat-
15 ellite Television Extension and Localism Act of
16 2010, the Commission shall develop and pre-
17 scribe by rule a point-to-point predictive model
18 for reliably and presumptively determining the
19 ability of individual locations, through the use
20 of an antenna, to receive signals in accordance
21 with the signal intensity standard in section
22 73.622(e)(1) of title 47, Code of Federal Regu-
23 lations, or a successor regulation, including to
24 account for the continuing operation of trans-
25 lator stations and low power television stations.

1 In prescribing such model, the Commission
2 shall rely on the Individual Location Longley-
3 Rice model set forth by the Commission in CS
4 Docket No. 98–201, as previously revised with
5 respect to analog signals, and as recommended
6 by the Commission with respect to digital sig-
7 nals in its Report to Congress in ET Docket
8 No. 05–182, FCC 05–199 (released December
9 9, 2005). The Commission shall establish proce-
10 dures for the continued refinement in the appli-
11 cation of the model by the use of additional
12 data as it becomes available.

13 “(B) ON-LOCATION TESTING.—The Com-
14 mission shall issue an order completing its rule-
15 making proceeding in ET Docket No. 06–94
16 within 270 days after the date of enactment of
17 the Satellite Television Extension and Localism
18 Act of 2010. In conducting such rulemaking,
19 the Commission shall seek ways to minimize
20 consumer burdens associated with on-location
21 testing.”;

22 (B) by amending paragraph (4)(A) to read
23 as follows:

24 “(A) IN GENERAL.—If a subscriber’s re-
25 quest for a waiver under paragraph (2) is re-

1 jected and the subscriber submits to the sub-
2 scriber’s satellite carrier a request for a test
3 verifying the subscriber’s inability to receive a
4 signal of the signal intensity referenced in
5 clause (i) of subsection (a)(2)(D), the satellite
6 carrier and the network station or stations as-
7 serting that the retransmission is prohibited
8 with respect to that subscriber shall select a
9 qualified and independent person to conduct the
10 test referenced in such clause. Such test shall
11 be conducted within 30 days after the date the
12 subscriber submits a request for the test. If the
13 written findings and conclusions of a test con-
14 ducted in accordance with such clause dem-
15 onstrate that the subscriber does not receive a
16 signal that meets or exceeds the requisite signal
17 intensity standard in such clause, the subscriber
18 shall not be denied the retransmission of a sig-
19 nal of a network station under section
20 119(d)(10)(A) of title 17, United States
21 Code.”;

22 (C) in paragraph (4)(B), by striking “the
23 signal intensity” and all that follows through
24 “United States Code” and inserting “such req-
25 uisite signal intensity standard”; and

1 (D) in paragraph (4)(E), by striking
2 “Grade B intensity”.

3 (c) SECTION 340.—Section 340(i) is amended by
4 striking paragraph (4).

5 **SEC. 205. APPLICATION PENDING COMPLETION OF**
6 **RULEMAKINGS.**

7 (a) IN GENERAL.—During the period beginning on
8 the date of the enactment of this Act and ending on the
9 date on which the Federal Communications Commission
10 adopts rules pursuant to the amendments to the Commu-
11 nications Act of 1934 made by section 203 and section
12 204 of this title, the Federal Communications Commission
13 shall follow its rules and regulations promulgated pursu-
14 ant to sections 338, 339, and 340 of the Communications
15 Act of 1934 as in effect on the day before the date of
16 the enactment of this Act.

17 (b) TRANSLATOR STATIONS AND LOW POWER TELE-
18 VISION STATIONS.—Notwithstanding subsection (a), for
19 purposes of determining whether a subscriber within the
20 local market served by a translator station or a low power
21 television station affiliated with a television network is eli-
22 gible to receive distant signals under section 339 of the
23 Communications Act of 1934, the rules and regulations
24 of the Federal Communications Commission for deter-
25 mining such subscriber’s eligibility as in effect on the day

1 before the date of the enactment of this Act shall apply
 2 until the date on which the translator station or low power
 3 television station is licensed to broadcast a digital signal.

4 (c) DEFINITIONS.—As used in this subtitle:

5 (1) LOCAL MARKET; LOW POWER TELEVISION
 6 STATION; SATELLITE CARRIER; SUBSCRIBER; TELE-
 7 VISION BROADCAST STATION.—The terms “local
 8 market”, “low power television station”, “satellite
 9 carrier”, “subscriber”, and “television broadcast sta-
 10 tion” have the meanings given such terms in section
 11 338(k) of the Communications Act of 1934.

12 (2) NETWORK STATION; TELEVISION NET-
 13 WORK.—The terms “network station” and “tele-
 14 vision network” have the meanings given such terms
 15 in section 339(d) of such Act.

16 **SEC. 206. PROCESS FOR ISSUING QUALIFIED CARRIER CER-**
 17 **TIFICATION.**

18 Part I of title III is amended by adding at the end
 19 the following new section:

20 **“SEC. 342. PROCESS FOR ISSUING QUALIFIED CARRIER**
 21 **CERTIFICATION.**

22 “(a) CERTIFICATION.—The Commission shall issue a
 23 certification for the purposes of section 119(g)(3)(A)(iii)
 24 of title 17, United States Code, if the Commission deter-
 25 mines that—

1 “(1) a satellite carrier is providing local service
2 pursuant to the statutory license under section 122
3 of such title in each designated market area; and

4 “(2) with respect to each designated market
5 area in which such satellite carrier was not providing
6 such local service as of the date of enactment of the
7 Satellite Television Extension and Localism Act of
8 2010—

9 “(A) the satellite carrier’s satellite beams
10 are designed, and predicted by the satellite
11 manufacturer’s pre-launch test data, to provide
12 a good quality satellite signal to at least 90 per-
13 cent of the households in each such designated
14 market area based on the most recent census
15 data released by the United States Census Bu-
16 reau; and

17 “(B) there is no material evidence that
18 there has been a satellite or sub-system failure
19 subsequent to the satellite’s launch that pre-
20 cludes the ability of the satellite carrier to sat-
21 isfy the requirements of subparagraph (A).

22 “(b) INFORMATION REQUIRED.—Any entity seeking
23 the certification provided for in subsection (a) shall submit
24 to the Commission the following information:

1 “(1) An affidavit stating that, to the best of the
2 affiant’s knowledge, the satellite carrier provides
3 local service in all designated market areas pursuant
4 to the statutory license provided for in section 122
5 of title 17, United States Code, and listing those
6 designated market areas in which local service was
7 provided as of the date of enactment of the Satellite
8 Television Extension and Localism Act of 2010.

9 “(2) For each designated market area not listed
10 in paragraph (1):

11 “(A) Identification of each such designated
12 market area and the location of its local receive
13 facility.

14 “(B) Data showing the number of house-
15 holds, and maps showing the geographic dis-
16 tribution thereof, in each such designated mar-
17 ket area based on the most recent census data
18 released by the United States Census Bureau.

19 “(C) Maps, with superimposed effective
20 isotropically radiated power predictions ob-
21 tained in the satellite manufacturer’s pre-
22 launch tests, showing that the contours of the
23 carrier’s satellite beams as designed and the ge-
24 ographic area that the carrier’s satellite beams
25 are designed to cover are predicted to provide

1 a good quality satellite signal to at least 90 per-
2 cent of the households in such designated mar-
3 ket area based on the most recent census data
4 released by the United States Census Bureau.

5 “(D) For any satellite relied upon for cer-
6 tification under this section, an affidavit stating
7 that, to the best of the affiant’s knowledge,
8 there have been no satellite or sub-system fail-
9 ures subsequent to the satellite’s launch that
10 would degrade the design performance to such
11 a degree that a satellite transponder used to
12 provide local service to any such designated
13 market area is precluded from delivering a good
14 quality satellite signal to at least 90 percent of
15 the households in such designated market area
16 based on the most recent census data released
17 by the United States Census Bureau.

18 “(E) Any additional engineering, des-
19 igned market area, or other information the
20 Commission considers necessary to determine
21 whether the Commission shall grant a certifi-
22 cation under this section.

23 “(c) CERTIFICATION ISSUANCE.—

1 “(1) PUBLIC COMMENT.—The Commission shall
2 provide 30 days for public comment on a request for
3 certification under this section.

4 “(2) DEADLINE FOR DECISION.—The Commis-
5 sion shall grant or deny a request for certification
6 within 90 days after the date on which such request
7 is filed.

8 “(d) SUBSEQUENT AFFIRMATION.—An entity grant-
9 ed qualified carrier status pursuant to section 119(g) of
10 title 17, United States Code, shall file an affidavit with
11 the Commission 30 months after such status was granted
12 stating that, to the best of the affiant’s knowledge, it is
13 in compliance with the requirements for a qualified car-
14 rier.

15 “(e) DEFINITIONS.—For the purposes of this section:

16 “(1) DESIGNATED MARKET AREA.—The term
17 ‘designated market area’ has the meaning given such
18 term in section 122(j)(2)(C) of title 17, United
19 States Code.

20 “(2) GOOD QUALITY SATELLITE SIGNAL.—

21 “(A) IN GENERAL.—The term “good qual-
22 ity satellite signal” means—

23 “(i) a satellite signal whose power
24 level as designed shall achieve reception
25 and demodulation of the signal at an avail-

1 ability level of at least 99.7 percent
2 using—

3 “(I) models of satellite antennas
4 normally used by the satellite carrier’s
5 subscribers; and

6 “(II) the same calculation meth-
7 odology used by the satellite carrier to
8 determine predicted signal availability
9 in the top 100 designated market
10 areas; and

11 “(ii) taking into account whether a
12 signal is in standard definition format or
13 high definition format, compression meth-
14 odology, modulation, error correction,
15 power level, and utilization of advances in
16 technology that do not circumvent the in-
17 tent of this section to provide for non-dis-
18 criminatory treatment with respect to any
19 comparable television broadcast station sig-
20 nal, a video signal transmitted by a sat-
21 ellite carrier such that—

22 “(I) the satellite carrier treats all
23 television broadcast stations’ signals
24 the same with respect to statistical
25 multiplexer prioritization; and

1 “(II) the number of video signals
2 in the relevant satellite transponder is
3 not more than the then current great-
4 est number of video signals carried on
5 any equivalent transponder serving
6 the top 100 designated market areas.

7 “(B) DETERMINATION.—For the purposes
8 of subparagraph (A), the top 100 designated
9 market areas shall be as determined by Nielsen
10 Media Research and published in the Nielsen
11 Station Index Directory and Nielsen Station
12 Index United States Television Household Esti-
13 mates or any successor publication as of the
14 date of a satellite carrier’s application for cer-
15 tification under this section.”.

16 **SEC. 207. NONDISCRIMINATION IN CARRIAGE OF HIGH DEF-**
17 **INITION DIGITAL SIGNALS OF NONCOMMER-**
18 **CIAL EDUCATIONAL TELEVISION STATIONS.**

19 (a) IN GENERAL.—Section 338(a) is amended by
20 adding at the end the following new paragraph:

21 “(5) NONDISCRIMINATION IN CARRIAGE OF
22 HIGH DEFINITION SIGNALS OF NONCOMMERCIAL
23 EDUCATIONAL TELEVISION STATIONS.—

24 “(A) EXISTING CARRIAGE OF HIGH DEF-
25 NITION SIGNALS.—If, before the date of enact-

1 ment of the Satellite Television Extension and
2 Localism Act of 2010, an eligible satellite car-
3 rier is providing, under section 122 of title 17,
4 United States Code, any secondary trans-
5 missions in high definition format to sub-
6 scribers located within the local market of a tel-
7 evision broadcast station of a primary trans-
8 mission made by that station, then such sat-
9 ellite carrier shall carry the signals in high-defi-
10 nition format of qualified noncommercial edu-
11 cational television stations located within that
12 local market in accordance with the following
13 schedule:

14 “(i) By December 31, 2010, in at
15 least 50 percent of the markets in which
16 such satellite carrier provides such sec-
17 ondary transmissions in high definition
18 format.

19 “(ii) By December 31, 2011, in every
20 market in which such satellite carrier pro-
21 vides such secondary transmissions in high
22 definition format.

23 “(B) NEW INITIATION OF SERVICE.—If, on
24 or after the date of enactment of the Satellite
25 Television Extension and Localism Act of 2010,

1 an eligible satellite carrier initiates the provi-
2 sion, under section 122 of title 17, United
3 States Code, of any secondary transmissions in
4 high definition format to subscribers located
5 within the local market of a television broadcast
6 station of a primary transmission made by that
7 station, then such satellite carrier shall carry
8 the signals in high-definition format of all
9 qualified noncommercial educational television
10 stations located within that local market.”.

11 (b) DEFINITIONS.—Section 338(k) is amended—

12 (1) by redesignating paragraphs (2) through
13 (8) as paragraphs (3) through (9), respectively;

14 (2) by inserting after paragraph (1) the fol-
15 lowing new paragraph:

16 “(2) ELIGIBLE SATELLITE CARRIER.—The term
17 ‘eligible satellite carrier’ means any satellite carrier
18 that is not a party to a carriage contract that—

19 “(A) governs carriage of at least 30 quali-
20 fied noncommercial educational television sta-
21 tions; and

22 “(B) is in force and effect within 150 days
23 after the date of enactment of the Satellite Tel-
24 evision Extension and Localism Act of 2010.”;

1 (3) by redesignating paragraphs (6) through
2 (9) (as previously redesignated) as paragraphs (7)
3 through (10), respectively; and

4 (4) by inserting after paragraph (5) (as so re-
5 designated) the following new paragraph:

6 “(6) QUALIFIED NONCOMMERCIAL EDU-
7 CATIONAL TELEVISION STATION.—The term ‘quali-
8 fied noncommercial educational television station’
9 means any full-power television broadcast station
10 that—

11 “(A) under the rules and regulations of the
12 Commission in effect on March 29, 1990, is li-
13 censed by the Commission as a noncommercial
14 educational broadcast station and is owned and
15 operated by a public agency, nonprofit founda-
16 tion, nonprofit corporation, or nonprofit asso-
17 ciation; and

18 “(B) has as its licensee an entity that is el-
19 igible to receive a community service grant, or
20 any successor grant thereto, from the Corpora-
21 tion for Public Broadcasting, or any successor
22 organization thereto, on the basis of the for-
23 mula set forth in section 396(k)(6)(B) of this
24 title.”.

1 **SEC. 208. SAVINGS CLAUSE REGARDING DEFINITIONS.**

2 Nothing in this title or the amendments made by this
3 title shall be construed to affect—

4 (1) the meaning of the terms “program re-
5 lated” and “primary video” under the Communica-
6 tions Act of 1934; or

7 (2) the meaning of the term “multicast” in any
8 regulations issued by the Federal Communications
9 Commission.

10 **SEC. 209. STATE PUBLIC AFFAIRS BROADCASTS.**

11 Section 335(b) is amended—

12 (1) by inserting “**STATE PUBLIC AFFAIRS,**”
13 after “**EDUCATIONAL,**” in the heading;

14 (2) by striking paragraph (1) and inserting the
15 following:

16 “(1) CHANNEL CAPACITY REQUIRED.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), the Commission shall re-
19 quire, as a condition of any provision, initial au-
20 thorization, or authorization renewal for a pro-
21 vider of direct broadcast satellite service pro-
22 viding video programming, that the provider of
23 such service reserve a portion of its channel ca-
24 pacity, equal to not less than 4 percent nor
25 more than 7 percent, exclusively for non-

1 commercial programming of an educational or
2 informational nature.

3 “(B) REQUIREMENT FOR QUALIFIED SAT-
4 ELLITE PROVIDER.—The Commission shall re-
5 quire, as a condition of any provision, initial au-
6 thorization, or authorization renewal for a
7 qualified satellite provider of direct broadcast
8 satellite service providing video programming,
9 that such provider reserve a portion of its chan-
10 nel capacity, equal to not less than 3.5 percent
11 nor more than 7 percent, exclusively for non-
12 commercial programming of an educational or
13 informational nature.”;

14 (3) in paragraph (5), by striking “For purposes
15 of the subsection—” and inserting “For purposes of
16 this subsection:”; and

17 (4) by adding at the end of paragraph (5) the
18 following:

19 “(C) The term ‘qualified satellite provider’
20 means any provider of direct broadcast satellite
21 service that—

22 “(i) provides the retransmission of the
23 State public affairs networks of at least 15
24 different States;

1 “(ii) offers the programming of State
2 public affairs networks upon reasonable
3 prices, terms, and conditions as determined
4 by the Commission under paragraph (4);
5 and

6 “(iii) does not delete any noncommer-
7 cial programming of an educational or in-
8 formational nature in connection with the
9 carriage of a State public affairs network.

10 “(D) The term ‘State public affairs net-
11 work’ means a non-commercial non-broadcast
12 network or a noncommercial educational tele-
13 vision station—

14 “(i) whose programming consists of
15 information about State government delib-
16 erations and public policy events; and

17 “(ii) that is operated by—

18 “(I) a State government or sub-
19 division thereof;

20 “(II) an organization described
21 in section 501(c)(3) of the Internal
22 Revenue Code of 1986 that is exempt
23 from taxation under section 501(a) of
24 such Code and that is governed by an
25 independent board of directors; or

1 “(III) a cable system.”.

2 **TITLE III—REPORTS AND**
3 **SAVINGS PROVISION**

4 **SEC. 301. DEFINITION.**

5 In this title, the term “appropriate Congressional
6 committees” means the Committees on the Judiciary and
7 on Commerce, Science, and Transportation of the Senate
8 and the Committees on the Judiciary and on Energy and
9 Commerce of the House of Representatives.

10 **SEC. 302. REPORT ON MARKET BASED ALTERNATIVES TO**
11 **STATUTORY LICENSING.**

12 Not later than 18 months after the date of the enact-
13 ment of this Act, and after consultation with the Federal
14 Communications Commission, the Register of Copyrights
15 shall submit to the appropriate Congressional committees
16 a report containing—

17 (1) proposed mechanisms, methods, and rec-
18 ommendations on how to implement a phase-out of
19 the statutory licensing requirements set forth in sec-
20 tions 111, 119, and 122 of title 17, United States
21 Code, by making such sections inapplicable to the
22 secondary transmission of a performance or display
23 of a work embodied in a primary transmission of a
24 broadcast station that is authorized to license the
25 same secondary transmission directly with respect to

1 all of the performances and displays embodied in
2 such primary transmission;

3 (2) any recommendations for alternative means
4 to implement a timely and effective phase-out of the
5 statutory licensing requirements set forth in sections
6 111, 119, and 122 of title 17, United States Code;
7 and

8 (3) any recommendations for legislative or ad-
9 ministrative actions as may be appropriate to
10 achieve such a phase-out.

11 **SEC. 303. REPORT ON COMMUNICATIONS IMPLICATIONS OF**
12 **STATUTORY LICENSING MODIFICATIONS.**

13 (a) STUDY.—The Comptroller General shall conduct
14 a study that analyzes and evaluates the changes to the
15 carriage requirements currently imposed on multichannel
16 video programming distributors under the Communica-
17 tions Act of 1934 (47 U.S.C. 151 et seq.) and the regula-
18 tions promulgated by the Federal Communications Com-
19 mission that would be required or beneficial to consumers,
20 and such other matters as the Comptroller General deems
21 appropriate, if Congress implemented a phase-out of the
22 current statutory licensing requirements set forth under
23 sections 111, 119, and 122 of title 17, United States
24 Code. Among other things, the study shall consider the
25 impact such a phase-out and related changes to carriage

1 requirements would have on consumer prices and access
2 to programming.

3 (b) REPORT.—Not later than 18 months after the
4 date of the enactment of this Act, the Comptroller General
5 shall report to the appropriate Congressional committees
6 the results of the study, including any recommendations
7 for legislative or administrative actions.

8 **SEC. 304. REPORT ON IN-STATE BROADCAST PROGRAM-**
9 **MING.**

10 Not later than 18 months after the date of the enact-
11 ment of this Act, the Federal Communications Commis-
12 sion shall submit to the appropriate Congressional com-
13 mittees a report containing an analysis of—

14 (1) the number of households in a State that
15 receive the signals of local broadcast stations as-
16 signed to a community of license that is located in
17 a different State;

18 (2) the extent to which consumers in each local
19 market have access to in-state broadcast program-
20 ming over the air or from a multichannel video pro-
21 gramming distributor; and

22 (3) whether there are alternatives to the use of
23 designated market areas, as defined in section 122
24 of title 17, United States Code, to define local mar-

1 kets that would provide more consumers with in-
2 state broadcast programming.

3 **SEC. 305. LOCAL NETWORK CHANNEL BROADCAST RE-**
4 **PORTS.**

5 (a) REQUIREMENT.—

6 (1) IN GENERAL.—On the 270th day after the
7 date of the enactment of this Act, and on each suc-
8 ceeding anniversary of such 270th day, each satellite
9 carrier shall submit an annual report to the Federal
10 Communications Commission setting forth—

11 (A) each local market in which it—

12 (i) retransmits signals of 1 or more
13 television broadcast stations with a com-
14 munity of license in that market;

15 (ii) has commenced providing such
16 signals in the preceding 1-year period; and

17 (iii) has ceased to provide such signals
18 in the preceding 1-year period; and

19 (B) detailed information regarding the use
20 and potential use of satellite capacity for the re-
21 transmission of local signals in each local mar-
22 ket.

23 (2) TERMINATION.—The requirement under
24 paragraph (1) shall cease after each satellite carrier
25 has submitted 5 reports under such paragraph.

1 (b) FCC STUDY; REPORT.—

2 (1) STUDY.—If no satellite carrier files a re-
3 quest for a certification under section 342 of the
4 Communications Act of 1934 (as added by section
5 206 of this title) within 270 days after the date of
6 the enactment of this Act, the Federal Communica-
7 tions Commission shall initiate a study of—

8 (A) incentives that would induce a satellite
9 carrier to provide the signals of 1 or more tele-
10 vision broadcast stations licensed to provide sig-
11 nals in local markets in which the satellite car-
12 rier does not provide such signals; and

13 (B) the economic and satellite capacity
14 conditions affecting delivery of local signals by
15 satellite carriers to these markets.

16 (2) REPORT.—Within 1 year after the date of
17 the initiation of the study under paragraph (1), the
18 Federal Communications Commission shall submit a
19 report to the appropriate Congressional committees
20 containing its findings, conclusions, and rec-
21 ommendations.

22 (c) DEFINITIONS.—In this section—

23 (1) the terms “local market” and “satellite car-
24 rier” have the meaning given such terms in section

1 339(d) of the Communications Act of 1934 (47
2 U.S.C. 339(d)); and

3 (2) the term “television broadcast station” has
4 the meaning given such term in section 325(b)(7) of
5 such Act (47 U.S.C. 325(b)(7)).

6 **SEC. 306. SAVINGS PROVISION REGARDING USE OF NEGO-**
7 **TIATED LICENSES.**

8 (a) IN GENERAL.—Nothing in this Act, title 17,
9 United States Code, the Communications Act of 1934,
10 regulations promulgated by the Register of Copyrights
11 under this title or title 17, United States Code, or regula-
12 tions promulgated by the Federal Communications Com-
13 mission under this Act or the Communications Act of
14 1934 shall be construed to prevent a multichannel video
15 programming distributor from retransmitting a perform-
16 ance or display of a work pursuant to an authorization
17 granted by the copyright owner or, if within the scope of
18 its authorization, its licensee.

19 (b) LIMITATION.—Nothing in subsection (a) shall be
20 construed to affect any obligation of a multichannel video
21 programming distributor under section 325(b) of the
22 Communications Act of 1934 to obtain the authority of
23 a television broadcast station before retransmitting that
24 station’s signal.

1 **SEC. 307. EFFECTIVE DATE; NONINFRINGEMENT OF COPY-**
2 **RIGHT.**

3 (a) EFFECTIVE DATE.—Unless specifically provided
4 otherwise, this Act, and the amendments made by this
5 Act, shall take effect on February 27, 2010, and with the
6 exception of the reference in subsection (b), all references
7 to the date of enactment of this Act shall be deemed to
8 refer to February 27, 2010, unless otherwise specified.

9 (b) NONINFRINGEMENT OF COPYRIGHT.—The sec-
10 ondary transmission of a performance or display of a work
11 embodied in a primary transmission is not an infringe-
12 ment of copyright if it was made by a satellite carrier on
13 or after February 27, 2010, and prior to enactment of
14 this Act, and was in compliance with the law as in exist-
15 ence on February 27, 2010.

16 **TITLE IV—SEVERABILITY**

17 **SEC. 401. SEVERABILITY.**

18 If any provision of this Act, an amendment made by
19 this Act, or the application of such provision or amend-
20 ment to any person or circumstance is held to be unconsti-
21 tutional, the remainder of this Act, the amendments made
22 by this Act, and the application of such provision or
23 amendment to any person or circumstance shall not be af-
24 fected thereby.

1 **TITLE V—DETERMINATION OF**
2 **BUDGETARY EFFECTS**

3 **SEC. 501. DETERMINATION OF BUDGETARY EFFECTS.**

4 (a) IN GENERAL.—The budgetary effects of this Act,
5 for the purpose of complying with the Statutory Pay-As-
6 You-Go-Act of 2010, shall be determined by reference to
7 the latest statement titled “Budgetary Effects of PAYGO
8 Legislation” for this Act, submitted for printing in the
9 Congressional Record by the Chairman of the Senate
10 Budget Committee, provided that such statement has been
11 submitted prior to the vote on passage.

Passed the Senate May 7, 2010.

Attest:

Secretary.

117TH CONGRESS
2^D SESSION

S. 3333

AN ACT

To extend the statutory license for secondary transmissions under title 17, United States Code, and for other purposes.