AN ACT

To promote the deployment of broadband networks and services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Communications Opportunity, Promotion, and Enhancement Act of 2006".

(b) Table of Contents.—

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL CABLE FRANCHISING

Sec. 102. Definitions.
Sec. 103. Monitoring and reporting.
TITLE I—NATIONAL CABLE FRANCHISING

SEC. 101. NATIONAL CABLE FRANCHISING.

(a) Amendment.—Part III of title VI of the Communications Act of 1934 (47 U.S.C. 541 et seq.) is amended by adding at the end the following new section:

"SEC. 630. NATIONAL CABLE FRANCHISING.

"(a) National Franchises.—

"(1) Election.—A person or group that is eligible under subsection (d) may elect to obtain a national franchise under this section as authority to provide cable service in a franchise area in lieu of any other authority under Federal, State, or local law to provide cable service in such franchise area. A person or group may not provide cable service under the authority of this section in a franchise
area unless such person or group has a franchise under this section that is effective with respect to such franchise area. A franchising authority may not require any person or group that has a national franchise under this section in effect with respect to a franchise area to obtain a franchise under section 624 or any other law to provide cable service in such franchise area.

"(2) CERTIFICATION.—To obtain a national franchise under this section as authority to provide cable service in a franchise area, a person or group shall—

"(A) file with the Commission a certification for a national franchise containing the information required by paragraph (3) with respect to such franchise area, if such person or group has not previously obtained a national franchise; or

"(B) file with the Commission a subsequent certification for additional franchise areas containing the information required by paragraph (3) with respect to such additional franchise areas, if such person or group has previously obtained a national franchise.
"(2) CONTENTS OF CERTIFICATION.—Such certification shall be in such form as the Commission shall require by regulation and shall contain—

"(A) the name under which such person or group is offering or intends to offer cable service;

"(B) the names and business addresses of the directors and principal executive officers, or the persons performing similar functions, of such person or group;

"(C) the location of such person or group's principal business office;

"(D) the name, business address, electronic mail address, and telephone and fax number of such person or group's local agent;

"(E) a declaration by such person or group that such person or group is eligible under subsection (d) to obtain a national franchise under this section;

"(F) an identification of each franchise area in which such person or group seeks authority to offer cable service pursuant to such certification, which franchise area shall be—

"(i) the entirety of a franchise area in which a cable operator is, on the date of
the filing of such certification, authorized to provide cable service under section 621 or any other law (including this section); or

"(ii) a geographic area that covers the entirety of the jurisdiction of a unit of general local government, except that—

"(I) if the geographic area overlaps with a franchise area in which a cable operator is, on such date, authorized to provide cable service under section 621 or any other law, the geographic area identified in the certification under this clause as a franchise area shall not include the overlapping area; and

"(II) if such geographic area includes areas that are, respectively, within the jurisdiction of different franchising authorities, the certification shall specify each such area as a separate franchise area;

"(G) a declaration that such person or group transmitted, or will transmit on the day of filing such declaration, a copy of such certifi-
cation to the franchising authority for each franchise area for which such person or group is filing a certification for authority to offer cable service under this section;

"(H) a declaration by the person or group that the person or group will comply with the rights-of-way requirements of the franchising authority in accordance with subsection (f); and

"(I) a declaration by the person or group that—

"(i) the person or group will comply with all Commission consumer protection and customer service rules under section 632(b) (including the rules adopted under section 632(b) pursuant to subsection (g) of this section); and

"(ii) the person or group agrees that such standards may be enforced by the Commission or by the franchising authority in accordance with subsection (g) of this section.

"(4) LOCAL NOTIFICATION; PRESERVATION OF OPPORTUNITY TO NEGOTIATE.—

"(A) Copy to franchising authority.—On the day of filing any certification
under paragraph (2)(A) or (B) for a franchise area, the person or group shall transmit a copy of such certification to the franchising authority for such area.

"(B) Negotiated Franchise Agreements Permitted.—Nothing in this section shall prevent a person or group from negotiating a franchise agreement or any other authority to provide cable service in a franchise area under section 621 or any other law. Upon entry into any such negotiated franchise agreement, such negotiated franchise agreement shall apply in lieu of any national franchise held by that person or group under this section for such franchise area.

"(5) Updating of Certifications.—A person or group with a certification under this section shall update any information contained in such certification that is no longer accurate and correct.

"(6) Public Availability of Certifications.—The Commission shall provide for the public availability on the Commission’s Internet website or other electronic facility of all current certifications filed under this section.

"(b) Effectiveness; Duration.—
(1) **EFFECTIVENESS.**—A national franchise under this section shall be effective with respect to any franchise area 30 days after the date of the filing of a completed certification under subsection (a)(2)(A) or (B) that applies to such franchise area.

(2) **DURATION.**—

(A) **IN GENERAL.**—A franchise under this section that applies to a franchise area shall be effective for that franchise area for a term of 10 years.

(B) **RENEWAL.**—A franchise under this section for a franchise area shall be renewed automatically upon expiration of the 10-year period described in subparagraph (A).

(C) **PUBLIC HEARING.**—At the request of a franchising authority in a franchise area, a cable operator authorized under this section to provide cable service in such franchise area shall, within the last year of the 10-year period applicable under subparagraph (A) to the cable operator's franchise for such franchise area, participate in a public hearing on the cable operator's performance in the franchise area, including the cable operator's compliance with the requirements of this title. The hearing shall af-
ford the public the opportunity to participate for the purpose of identifying cable-related community needs and interests and assessing the operator's performance. The cable operator shall provide notice to its subscribers of the hearing at least 30 days prior to the hearing. The Commission shall by rule specify the methods by which a franchising authority shall notify a cable operator of the hearing for which its participation is required under this subparagraph:

"(D) Revocation.—A franchise under this section for a franchise area may be revoked by the Commission—

"(i) for willful or repeated violation of any Federal or State law, or any Commission regulation, relating to the provision of cable service in such franchise area;

"(ii) for false statements or material omissions knowingly made in any filing with the Commission relating to the provision of cable service in such franchise area;

"(iii) for willful or repeated violation of the rights-of-way management laws or regulations of any franchising authority in
such franchise area relating to the provision of cable service in such franchise area; or

“(iv) for willful or repeated violation of the antidiscrimination requirement of subsection (h) with respect to such franchise area.

“(E) NOTICE.—The Commission shall send a notice of such revocation to each franchising authority with jurisdiction over the franchise areas for which the cable operator’s franchise was revoked.

“(F) REINSTATEMENT.—After a revocation under subparagraph (D) of a franchise for a franchise area of any person or group, the Commission may refuse to accept for filing a new certification for authority of such person or group to provide cable service under this section in such franchise area until the Commission determines that the basis of such revocation has been remedied.

“(G) RETURN TO LOCAL FRANCHISING IF CABLE COMPETITION CEASES.—

“(i) If only one cable operator is providing cable service in a franchise area,
and that cable operator obtained a national franchise for such franchise area under subsection (d)(2); the franchising authority for such franchise area may file a petition with the Commission requesting that the Commission terminate such national franchise for such franchise area.

“(ii) The Commission shall provide public notice and opportunity to comment on such petition. If it finds that the requirements of clause (i) are satisfied, the Commission shall issue an order granting such petition. Such order shall take effect one year from the date of such grant, if no other cable operator offers cable service in such area during that one year. If another cable operator does offer cable service in such franchise area during that one year, the Commission shall rescind such order and dismiss such petition.

“(iii) A cable operator whose national franchise is terminated for such franchise area under this subparagraph may obtain new authority to provide cable service in such franchise area under this section, see-
tion 621, or any other law, if and when eligible.

"(c) Requirements of National Franchise.—A national franchise shall contain the following requirements:

"(1) Franchise Fee.—A cable operator authorized under this section to provide cable service in a franchise area shall pay to the franchising authority in such franchise area a franchise fee of up to 5 percent (as determined by the franchising authority) of such cable operator’s gross revenues from the provision of cable service under this section in such franchise area. Such payment shall be assessed and collected in a manner consistent with section 622 and the definitions of gross revenues and franchise fee in this section.

"(2) PEG/I-NET Requirements.—A cable operator authorized under this section to provide cable service in a franchise area shall comply with the requirements of subsection (e).

"(3) Rights-of-Way.—A cable operator authorized under this section to provide cable service in a franchise area shall comply with the rights-of-way requirements of the franchising authority under subsection (f).
“(4) Consumer protection and customer service standards.—A cable operator authorized under this section to provide cable service in a franchise area shall comply with the consumer protection and customer service standards established by the Commission under section 632(b).

“(5) Child pornography.—A cable operator authorized under this section to provide cable service in a franchise area shall comply with the regulations on child pornography promulgated pursuant to subsection (i).

“(d) Eligibility for national franchises.—The following persons or groups are eligible to obtain a national franchise under this section:

“(1) Commencement of service after enactment.—A person or group that is not providing cable service in a franchise area on the date of enactment of this section under section 621 or any other law may obtain a national franchise under this section to provide cable service in such franchise area.

“(2) Existing providers of cable service.—A person or group that is providing cable service in a franchise area on the date of enactment of this section under section 621 or any other law
may obtain a franchise under this section to provide cable service in such franchise area if, on the date that the national franchise becomes effective, another person or group is providing cable service under this section, section 621, or any other law in such franchise area.

"(e) Public, Educational, and Governmental Use.—

"(1) IN GENERAL.—Subject to paragraph (3), a cable operator with a national franchise for a franchise area under this section shall provide channel capacity for public, educational, and governmental use that is not less than the channel capacity required of the cable operator with the most subscribers in such franchise area on the effective date of such national franchise. If there is no other cable operator in such franchise area on the effective date of such national franchise, or there is no other cable operator in such franchise area on such date that is required to provide channel capacity for public, educational, and governmental use, the cable operator shall provide the amount of channel capacity for such use as determined by Commission rule.

"(2) PEG and I-NET FINANCIAL SUPPORT.—A cable operator with a national franchise under this
section for a franchise area shall pay an amount equal to 1 percent of the cable operator’s gross revenues (as such term is defined in this section) in the franchise area to the franchising authority for the support of public, educational, and governmental use and institutional networks (as such term is defined in section 611(f)). Such payment shall be assessed and collected in a manner consistent with section 622, including the authority of the cable operator to designate that portion of a subscriber’s bill attributable to such payment. A cable operator that provided cable service in a franchise area on the date of enactment of this section and that obtains a national franchise under this section shall continue to provide any institutional network that it was required to provide on the day before its national franchise became effective in such franchise area under section 621 or any other law. Notwithstanding section 621(b)(3)(D), a franchising authority may not require a cable operator franchised under this section to construct a new institutional network.

**“(3) Adjustment.—** Every 10 years after the commencement of a franchise under this section for a franchise area, a franchising authority may require a cable operator authorized under such franchise to
increase the channel capacity designated for public, educational, or governmental use, and the channel capacity designated for such use on any institutional networks required under paragraph (2). Such increase shall not exceed the higher of—

"(A) one channel; or

"(B) 10 percent of the public, educational, or governmental channel capacity required of that operator prior to the increase.

"(4) Transmission and Production of Programming:—

"(A) A cable operator franchised under this section shall ensure that any public, educational, or governmental programming carried by the cable operator under this section within a franchise area is available to all of its subscribers in such franchise area.

"(B) The production of any programming provided under this subsection shall be the responsibility of the franchising authority.

"(C) A cable operator franchised under this section shall be responsible for the transmission from the signal origination point (or points) of the programming; or from the point of interconnection with another cable operator
under subparagraph (D), to the cable operator’s
subscribers, of any public, educational, or gov-
ernmental programming produced by or for the
franchising authority and carried by the cable
operator pursuant to this section.

‘‘(D) Unless two cable operators otherwise
agree to the terms for interconnection and cost
sharing, such cable operators shall, if at least
one of the operators is providing cable service
in the franchise area pursuant to a franchise
under this section, comply with regulations pre-
scribed by the Commission providing for—

‘‘(i) the interconnection between two
cable operators in a franchise area for
transmission of public, educational, or gov-
ernmental programming, without material
deterioration in signal quality or
functionality; and

‘‘(ii) the reasonable allocation of the
costs of such interconnection between such
cable operators.

‘‘(E) A cable operator shall display the
program information for public, educational, or
governmental programming carried under this
subsection in any print or electronic program
guide in the same manner in which it displays program information for other video programming in the franchise area. The cable operator shall not omit such public, educational, or governmental programming from any navigational device, guide, or menu containing other video programming that is available to subscribers in the franchise area.

"(f) Rights-of-Way.—

"(1) Authority to use.—Any franchise under this section for a franchise area shall be construed to authorize the construction of a cable system over public rights-of-way, and through easements, which is within the area to be served by the cable system and which have been dedicated for compatible uses, except that in using such easements the cable operator shall ensure that—

"(A) the safety, functioning, and appearance of the property and the convenience and safety of other persons not be adversely affected by the installation or construction of facilities necessary for a cable system;

"(B) the cost of the installation, construction, operation, or removal of such facilities be
borne by the cable operator or subscriber, or a combination of both; and

(C) the owner of the property be justly compensated by the cable operator for any damages caused by the installation, construction, operation, or removal of such facilities by the cable operator.

(2) MANAGEMENT OF PUBLIC RIGHTS-OF-WAY.—Nothing in this section affects the authority of a State or local government (including a franchising authority) over a person or group in their capacity as a cable operator with a franchise under this section to manage, on a reasonable, competitively neutral, and non-discriminatory basis, the public rights-of-way, and easements that have been dedicated for compatible uses. A State or local government (including a franchising authority) may, on a reasonable, competitively neutral, and non-discriminatory basis—

(A) impose charges for such management;

and

(B) require compliance with such management, such charges, and paragraphs (1)(A), (B), and (C).
(g) Consumer Protection and Customer Service.—

(1) National Standards.—Notwithstanding section 632(d), no State or local law (including any regulation) shall impose on a cable operator franchised under this section any consumer protection or customer service requirements other than consumer protection or customer service requirements of general applicability.

(2) Proceeding.—Within 120 days after the date of enactment of this section, the Commission shall issue a report and order that updates for cable operators franchised under this section the national consumer protection and customer service rules under section 632(b), taking into consideration the national nature of a franchise under this section and the role of State and local governments in enforcing, but not creating, consumer protection and customer service standards for cable operators franchised under this section.

(3) Requirements of New Rules.—

(A) Such rules shall, in addition to the requirements of section 632(b), address, with specificity, no less than the following consumer protection and customer service issues:
“(i) Billing, billing disputes, and discontinuation of service, including when and how any late fees may be assessed (but not the amount of such fees).

“(ii) Loss of service or service quality.

“(iii) Changes in channel lineups or other cable services and features.

“(iv) Availability of parental control options.

“(B) The Commission's revised consumer protection rules shall provide for forfeiture penalties, or customer rebates, refunds or credits, or both, and shall establish forfeiture, rebate, refund, and credit guidelines with respect to violations of such rules. Such guidelines shall—

“(i) provide for increased forfeiture penalties for repeated violations of the standards in such rules; and

“(ii) establish procedures by which any forfeiture penalty assessed by the Commission under this subsection shall be paid by the cable operator directly to the franchising authority affected by the violation.

“(4) COMPLAINTS.—
"(A) In general.—Any person may file a complaint with respect to an alleged violation of the Commission's revised consumer protection rules in a franchise area by a cable operator franchised under this section—

"(i) with the franchising authority in such area; or

"(ii) with the Commission.

"(B) Local franchising authority procedure.—On its own motion or at the request of any person, a franchising authority for a franchise area may—

"(i) initiate its own complaint proceeding with respect to such an alleged violation; or

"(ii) file a complaint with the Commission regarding such an alleged violation.

"(C) Timing.—The Commission or the franchising authority conducting a proceeding under this paragraph shall render a decision on any complaint filed under this paragraph within 90 days of its filing.

"(5) Local franchising orders.—
"(A) Requiring compliance.—In a proceeding commenced by a franchising authority, a franchising authority may issue an order requiring compliance with the Commission’s revised consumer protection rules, but a franchising authority may not create any new standard or regulation, or expand upon or modify the Commission’s revised consumer protection rules.

"(B) Access to records.—In such a proceeding, the franchising authority may issue an order requiring the filing of any data, documents, or records (including any contract, agreement, or arrangement between the subscriber and the cable operator) that are directly related to the alleged violation.

"(C) Cost of franchising authority orders.—A franchising authority may charge a cable operator franchised under this section a nominal fee to cover the costs of issuing orders under this paragraph.

"(6) Commission remedies; appeals.—

"(A) Remedies.—An order of a franchising authority under this subsection shall be enforced by the Commission under this Act if—
"(i) the order is not appealed to the Commission;

"(ii) the Commission does not agree to grant review during the 30-day period described in subparagraph (B); or

"(iii) the order is sustained on appeal by the Commission.

"(B) APPEALS.—Any party may file a notice of appeal of an order of a franchising authority under this subsection with the Commission, and shall transmit a copy of such notice to the other parties to the franchising authority proceeding. Such appeal shall be deemed denied at the end of the 30-day period beginning on the date of the filing unless the Commission agrees within such period to grant review of the appeal.

"(C) TIMING.—After the filing of a notice of appeal under subparagraph (B), if such notice is not denied by operation of such subparagraph, the Commission shall render a decision within 90 days of such filing.

"(7) ANNUAL REPORT.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, and
annually thereafter, the Commission shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the implementation of this subsection, including the following:

"(i) The number of complaints filed with franchising authorities under clause (4)(A)(i):

"(ii) Any trends concerning complaints, such as increases in the number of particular types of complaints or in new types of complaints:

"(iii) The timeliness of the response of such franchising authorities and the results of the complaints filed with such franchising authorities, if not appealed to the Commission:

"(iv) The number of complaints filed with the Commission under clause (4)(A)(ii):

"(v) The number of appeals filed with the Commission under paragraph (6)(B)
and the number of such appeals which the
Commission agreed to hear.

``(vi) The timeliness of the Commission’s responses to such complaints and
appeals.

``(vii) The results of such complaints
and appeals filed with the Commission.

``(B) Submission of information by
franchising authorities.—The Commission
may request franchising authorities to submit
information about the complaints filed with the
franchising authorities under subparagraph
(4)(A)(i), including the number of such com-
plaints and the timeliness of the response and
the results of such complaints.

``(8) Definition.—For purposes of this sub-
section, the term ‘Commission’s revised consumer
protection rules’ means the national consumer pro-
tection and customer service rules under section
632(b) as revised by the Commission pursuant to
paragraph (2) of this subsection.

``(h) Antidiscrimination.—

``(1) Prohibition.—A cable operator with a
national franchise under this section to provide cable
service in a franchise area shall not deny access to
its cable service to any group of potential residential

cable service subscribers in such franchise area be-
cause of the income of that group.

(2) ENFORCEMENT.—

(A) COMPLAINT.—If a franchising au-
thority in a franchise area has reasonable cause
to believe that a cable operator is in violation
of this subsection with respect to such franchise
area, the franchising authority may, after com-
plying with subparagraph (B), file a complaint
with the Commission alleging such violation.

(B) NOTICE BY FRANCHISING AUTHOR-
ITY.—Before filing a complaint with the Com-
mission under subparagraph (A), a franchising
authority—

(i) shall give notice of each alleged

violation to the cable operator;

(ii) shall provide a period of not less

than 30 days for the cable operator to re-

spond to such allegations; and

(iii) during such period, may require

the cable operator to submit a written re-

sponse stating the reasons why the oper-

ator has not violated this subsection.
``(C) BIENNIAL REPORT.—A cable operator with a national franchise under this section for a franchise area, not later than 180 days after the effective date of such national franchise, and biannually thereafter, shall submit a report to the Commission and the franchising authority in the franchise area—

``(i) identifying the geographic areas in the franchise area where the cable operator offers cable service; and

``(ii) describing the cable operator's progress in extending cable service to other areas in the franchise area.

``(D) NOTICE BY COMMISSION.—Upon receipt of a complaint under this paragraph alleging a violation of this subsection by a cable operator, the Commission shall give notice of the complaint to the cable operator.

``(E) INVESTIGATION.—In investigating a complaint under this paragraph, the Commission may require a cable operator to disclose to the Commission such information and documents as the Commission deems necessary to determine whether the cable operator is in compliance with this subsection. The Commission
shall maintain the confidentiality of any information or document collected under this subparagraph.

"(F) Deadline for resolution of complaints.—Not more than 60 days after the Commission receives a complaint under this paragraph, the Commission shall issue a determination with respect to each violation alleged in the complaint.

"(G) Determination.—If the Commission determines (in response to a complaint under this paragraph or on its own initiative) that a cable operator with a franchise under this section to provide cable service in a franchise area has denied access to its cable service to a group of potential residential cable service subscribers in such franchise area because of the income of that group, the Commission shall ensure that the cable operator extends access to that group within a reasonable period of time.

"(H) Remedies.—

"(i) In general.—This subsection shall be enforced by the Commission under titles IV and V.
“(ii) Maximum forfeiture penalty. — For purposes of section 503, the maximum forfeiture penalty applicable to a violation of this subsection shall be $750,000 for each day of the violation.

“(iii) Payment of penalties to franchising authority. — The Commission shall order any cable operator subject to a forfeiture penalty under this subsection to pay the penalty directly to the franchising authority involved.

“(i) Child pornography. — Not later than 180 days after the date of enactment of this section, the Commission shall promulgate regulations to require a cable operator with a national franchise under this section to prevent the distribution of child pornography (as such term is defined in section 254(h)(7)(F)) over its network.

“(j) Leased Access. — The provisions of section 612(i) regarding the carriage of programming from a qualified minority programming source or from any qualified educational programming source shall apply to a cable operator franchised under this section to provide cable service in a franchise area.

“(k) Applicability of Other Provisions. — The provisions of this title that apply to a cable operator shall
apply in a franchise area to a person or group with a national franchise under this section to provide cable service in such franchise area, except that the following sections shall not apply in a franchise area to a person or group franchised under this section in such franchise area, or confer any authority to regulate or impose obligations on such person or group in such franchise area: Sections 611(a), 611(b), 611(c), 613(a), 617, 621 (other than subsections (b)(3)(A), (b)(3)(B), (b)(3)(C), and (e)), 624(b), 624(c), 624(h), 625, 626, 627, and 632(a).

"(l) Emergency Alerts.—Nothing in this section shall be construed to prohibit a State or local government from accessing the emergency alert system of a cable operator with a franchise under this section in the area served by the State or local government to transmit local or regional emergency alerts.

"(m) Reporting, Records, and Audits.—

"(1) Reporting.—A cable operator with a franchise under this section to provide cable service in a franchise area shall make such periodic reports to the Commission and the franchising authority for such franchise area as the Commission may require to verify compliance with the fee obligations of subsections (c)(1) and (c)(2):
(2) AVAILABILITY OF BOOKS AND RECORDS.—

Upon request under paragraph (3) by a franchising authority for a franchise area, and upon request by the Commission, a cable operator with a national franchise for such franchise area shall make available its books and records to periodic audit by such franchising authority or the Commission, respectively.

(3) FRANCHISING AUTHORITY AUDIT PROCEDURE.—A franchising authority may, upon reasonable written request, but no more than once in any 12-month period, review the business records of such cable operator to the extent reasonably necessary to ensure payment of the fees required by subsections (c)(1) and (e)(2). Such review may include the methodology used by such cable operator to assign portions of the revenue from cable service that may be bundled or functionally integrated with other services, capabilities, or applications. Such review shall be conducted in accordance with procedures established by the Commission.

(4) COST RECOVERY.—

(A) To the extent that the review under paragraph (3) identifies an underpayment of an amount meeting the minimum percentage speci-
fied in subparagraph (B) of the fee required under subsection (e)(1) or (e)(2) for the period of review, the cable operator shall reimburse the franchising authority the reasonable costs of any such review conducted by an independent third party, as determined by the Commission, with respect to such fee. The costs of any contingency fee arrangement between the franchising authority and the independent reviewer shall not be subject to reimbursement.

“(B) The Commission shall determine by rule the minimum percentage underpayment that requires cost reimbursement under subparagraph (A).

“(5) LIMITATION.—Any fee that is not reviewed by a franchising authority within 3 years after it is paid or remitted shall not be subject to later review by the franchising authority under this subsection and shall be deemed accepted in full payment by the franchising authority.

“(6) FEE DISPUTE RESOLUTION.—

“(A) COMPLAINT.—A franchising authority or a cable operator may file a complaint at the Commission to resolve a dispute between such authority and operator with respect to the
amount of any fee required under subsection (e)(1) or (e)(2) if—

(i) the franchising authority or the cable operator provides the other entity written notice of such dispute; and

(ii) the franchising authority and the cable operator have not resolved the dispute within 90 calendar days after receipt of such notice.

(B) MEETINGS.—Within 30 calendar days after receipt of notice of a dispute provided pursuant to subparagraph (A)(i), representatives of the franchising authority and the cable operator, with authority to resolve the dispute, shall meet to attempt to resolve the dispute.

(C) LIMITATION.—A complaint under subparagraph (A) shall be filed not later than 3 years after the end of the period to which the disputed amount relates, unless such time is extended by written agreement between the franchising authority and cable operator.

(D) RESOLUTION.—The Commission shall issue an order resolving any complaint
filed under subparagraph (A) within 90 days of filing.

"(a) Access to Programming for Shared Facilities.—

"(1) Prohibition.—A cable programming vendor in which a cable operator has an attributable interest shall not deny a cable operator with a national franchise under this section access to video programming solely because such cable operator with a national franchise uses a headend for its cable system that is also used, under a shared ownership or leasing agreement, as the headend for another cable system.

"(2) Definition.—The term ‘cable programming vendor’ means a person engaged in the production, creation, or wholesale distribution for sale of video programming which is primarily intended for the direct receipt by cable operators for their retransmission to cable subscribers.

"(o) Gross Revenues.—As used in this section:

"(1) In General.—Subject to paragraphs (2) and (3), the term ‘gross revenues’ means all consideration of any kind or nature, including cash, credits, property, and in-kind contributions (services or
goods) received by the cable operator from the provision of cable service within the franchise area.

"(2) Included Items.—Subject to paragraph (3), the term ‘gross revenues’ shall include the following:

"(A) all charges and fees paid by subscribers for the provision of cable service, including fees attributable to cable service when sold individually or as part of a package or bundle, or functionally integrated, with services other than cable service;

"(B) any franchise fee imposed on the cable operator that is passed on to subscribers;

"(C) compensation received by the cable operator for promotion or exhibition of any products or services over the cable service, such as on ‘home shopping’ or similar programming;

"(D) revenue received by the cable operator as compensation for carriage of video programming or other programming service on that operator’s cable service;

"(E) all revenue derived from the cable operator’s cable service pursuant to compensation arrangements for advertising; and
(F) any advertising commissions paid to an affiliated third party for cable services advertising.

(3) EXCLUDED ITEMS.—The term ‘gross revenues’ shall not include the following:

(A) any revenue not actually received, even if billed, such as bad debt net of any recoveries of bad debt;

(B) refunds, rebates, credits, or discounts to subscribers or a municipality to the extent not already offset by subparagraph (A) and to the extent such refund, rebate, credit, or discount is attributable to the cable service;

(C) subject to paragraph (4), any revenues received by the cable operator or its affiliates from the provision of services or capabilities other than cable service, including telecommunications services, Internet access services, and services, capabilities, and applications that may be sold as part of a package or bundle, or functionally integrated, with cable service;

(D) any revenues received by the cable operator or its affiliates for the provision of directory or Internet advertising, including yellow
pages, white pages, banner advertisement, and electronic publishing;

"(E) any amounts attributable to the provision of cable service to customers at no charge, including the provision of such service to public institutions without charge;

"(F) any tax, fee, or assessment of general applicability imposed on the customer or the transaction by a Federal, State, or local government or any other governmental entity, collected by the provider, and required to be remitted to the taxing entity, including sales and use taxes and utility user taxes;

"(G) any forgone revenue from the provision of cable service at no charge to any person, except that any forgone revenue exchanged for trades, barter, services, or other items of value shall be included in gross revenue;

"(H) sales of capital assets or surplus equipment;

"(I) reimbursement by programmers of marketing costs actually incurred by the cable operator for the introduction of new programming; and
(J) the sale of cable services for resale to
the extent the purchaser certifies in writing
that it will resell the service and pay a franchise
fee with respect thereto.

(4) Functionally Integrated Services.—
In the case of a cable service that is bundled or inte-
grated functionally with other services, capabilities,
or applications, the portion of the cable operator’s
revenue attributable to such other services, capabili-
ties, or applications shall be included in gross rev-

(5) Affiliate Revenue.—Revenue of an af-
iliate shall be included in the calculation of gross
revenues to the extent the treatment of such revenue
as revenue of the affiliate has the effect (whether in-
tentional or unintentional) of evading the payment
of franchise fees which would otherwise be paid for
cable service.

(6) Affect on Other Law.—Nothing in this
section is intended to limit a franchising authority’s
rights pursuant to section 622(h).
"(p) ADDITIONAL DEFINITIONS.—For purposes of this section:

"(1) CABLE OPERATOR.—The term ‘cable operator’ has the meaning provided in section 602(5) except that such term also includes a person or group with a national franchise under this section.

"(2) FRANCHISE FEE.—

"(A) The term ‘franchise fee’ includes any fee or assessment of any kind imposed by a franchising authority or other governmental entity on a person or group providing cable service in a franchise area under this section, or on a subscriber of such person or group, or both, solely because of their status as such.

"(B) The term ‘franchise fee’ does not include—

"(i) any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and a person or group providing cable service in a franchise area under this section (or the services of such person or group) but not including a fee or assessment which is unduly discriminatory
against such person or group or the subscribers of such person or group);

(ii) any fee assessed under subsection (e)(2) for support of public, educational, and governmental use and institutional networks (as such term is defined in section 611(f));

(iii) requirements or charges under subsection (f)(2) for the management of public rights-of-way, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or

(iv) any fee imposed under title 17, United States Code.

INTERNET ACCESS SERVICE.—The term ‘Internet access service’ means a service that enables users to access content, information, electronic mail, or other services offered over the Internet.

UNIT OF GENERAL LOCAL GOVERNMENT.—The term ‘unit of general local government’ means—

(A) a county, township, city, or political subdivision of a county, township, or city;

(B) the District of Columbia; or
(C) the recognized governing body of an
Indian tribe or Alaskan Native village that car-
ries out substantial governmental duties and
powers.".

(b) IMPLEMENTING REGULATIONS.—The Federal
Communications Commission shall prescribe regulations
to implement the amendment made by subsection (a) with-
in 120 days after the date of enactment of this Act.

SEC. 102. DEFINITIONS.

Section 602 of the Communications Act of 1934 (47
U.S.C. 522) is amended—

(1) in paragraph (4), by inserting before the
semicolon at the end the following: "; or its equiva-
ient as determined by the Commission";

(2) in paragraph (5)(A), by inserting "(regard-
less of whether such person or group provides such
service separately or combined with a telecommuni-
cations service or information service)" after "over
a cable system";

(3) by striking paragraph (6) and inserting the
following:

"(6) the term ‘cable service’ means—

"(A)(i) the one-way transmission to sub-
scribers of (I) video programming, or (II) other
programming service; and
"(ii) subscriber interaction, if any, which is
required for the selection or use of such video
programming or other programming service; or

"(B) the transmission to subscribers of
video programming or other programming serv-

ice provided through wireline facilities located
at least in part in the public rights-of-way,
without regard to delivery technology, including
Internet protocol technology, except to the ex-
tent that such video programming or other pro-
gramming service is provided as part of—

"(i) a commercial mobile service (as
such term is defined in section 332(d)); or

"(ii) an Internet access service (as
such term is defined in section 630(p));"

(4) in paragraph (7)(D), by inserting after
"section 653 of this title" the following: "except in
a franchise area in which such system is used to
provide cable service under a national franchise pur-
suant to section 630";

(5) in paragraph (9)—

(A) by inserting "(A)" after "means"; and
(B) by inserting before the semicolon at
the end the following: "; and (B) a national
franchise that is effective under section 630 on
the basis of a certification with the Commission"; and

(6) in paragraph (10); by inserting before the
semicolon at the end the following: "; but does not
include the Commission with respect to a national
franchise under section 630".

SEC. 103. MONITORING AND REPORTING.

(a) REPORT ON CABLE SERVICE DEPLOYMENT.—
The Federal Communications Commission shall, com-
mencing not later than one year after the date of enact-
ment of this Act, issue a report annually on the deploy-
ment of cable service pursuant to the amendments made
by this title. In its report, the Commission shall describe
in detail—

(1) with respect to deployment by new cable op-
erators—

(A) the progress of deployment of such
service within the telephone service area of
cable operators, if the operator is also an in-
cumbent local exchange carrier, including a
comparison with the progress of deployment of
broadband services not defined as cable services
within such telephone service area;

(B) the number of franchise areas in which
such service is being deployed and offered;
(C) where such service is not being deployed and offered; and

(D) the number and locations of franchise areas in which the cable operator is serving only a portion of the franchise area, and the extent of such service within the franchise area;

(2) the number and locations of franchise areas in which a cable operator with a franchise under section 621 of the Communications Act of 1934 (47 U.S.C. 541) on the date of enactment of this Act withdraws service from any portion of the franchise area for which it previously offered service, and the extent of such withdrawal of service within the franchise area;

(3) the rates generally charged for cable service;

(4) the rates charged by overlapping, competing multichannel video programming distributors and by competing cable operators for comparable service or cable service;

(5) the average household income of those franchise areas or portions of franchise areas where cable services is being offered, and the average household income of those franchise areas, or portions of franchise areas, where cable service is not being offered;
(6) the proportion of rural households to urban households, as defined by the Bureau of the Census, in those franchise areas or portions of franchise areas where cable service is being offered, and the proportion of rural households to urban households in those franchise areas or portions of franchise areas where cable service is not being offered, including a State-by-State breakdown of such data and a comparison with the overall ratio of rural and urban households in each State; and

(7) a comparison of the services and rates in areas served by national franchisees under section 630 of the Communications Act of 1934 (as added by section 101 of this Act) and the services and rates in other areas.

(b) CABLE OPERATOR REPORTS.—The Federal Communications Commission is authorized—

(1) to require cable operators to report to the Commission all of the information that the Commission needs to compile the report required by this section; and

(2) to require cable operators to file the same information with the relevant franchising authorities and State commissions.
SEC. 104. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall affect the application or interpretation of section 224 of the Communications Act of 1934 (47 U.S.C. 224).

TITLE II—ENFORCEMENT OF BROADBAND POLICY STATEMENT

SEC. 201. ENFORCEMENT OF BROADBAND POLICY STATEMENT.

Title VII of the Communications Act of 1934 (47 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

"SEC. 715. ENFORCEMENT OF BROADBAND POLICY STATEMENT.

(a) Authority.—The Commission shall have the authority to enforce the Commission's broadband policy statement and the principles incorporated therein.

(b) Enforcement.—

"(1) In general.—This section shall be enforced by the Commission under titles IV and V. A violation of the Commission's broadband policy statement or the principles incorporated therein shall be treated as a violation of this Act.

"(2) Maximum forfeiture penalty.—For purposes of section 503, the maximum forfeiture penalty applicable to a violation described in para-
graph (1) of this subsection shall be $500,000 for each violation.

(2) ADJUDICATORY AUTHORITY.—The Commission shall have exclusive authority to adjudicate any complaint alleging a violation of the broadband policy statement and the principles incorporated therein. The Commission shall complete an adjudicatory proceeding under this subsection not later than 90 days after receipt of the complaint. If, upon completion of an adjudicatory proceeding pursuant to this section, the Commission determines that such a violation has occurred, the Commission shall have authority to adopt an order to require the entity subject to the complaint to comply with the broadband policy statement and the principles incorporated therein. Such authority shall be in addition to the authority specified in paragraph (1) to enforce this section under titles IV and V. In addition, the Commission shall have authority to adopt procedures for the adjudication of complaints alleging a violation of the broadband policy statement or principles incorporated therein.

(4) LIMITATION.—Notwithstanding paragraph (1), the Commission’s authority to enforce the broadband policy statement and the principles incor-
porated therein does not include authorization for the Commission to adopt or implement rules or regulations regarding enforcement of the broadband policy statement and the principles incorporated therein, with the sole exception of the authority to adopt procedures for the adjudication of complaints, as provided in paragraph (3).

"(c) STUDY.—Within 180 days after the date of enactment of this section, the Commission shall conduct, and submit to the House Committee on Energy and Commerce and the Senate Committee on Commerce, Science, and Transportation, a study regarding whether the objectives of the broadband policy statement and the principles incorporated therein are being achieved.

"(d)(1) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to modify, impair, or supersede the applicability of the antitrust laws or the jurisdiction of the district courts of the United States to hear claims arising under the antitrust laws.

"(2) DEFINITION OF ANTITRUST LAWS.—The term 'antitrust laws' has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.
(e) DEFINITION.—For purposes of this section, the term ‘Commission’s broadband policy statement’ means the policy statement adopted on August 5, 2005, and issued on September 23, 2005, In the Matters of Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, and other Matters (FCC 05–151; CC Docket No. 02–33; CC Docket No. 01–337; CC Docket Nos. 95–20, 98–10; GN Docket No. 00–185; CS Docket No. 02–52).’’.

TITLE III—VOIP/911

SEC. 301. EMERGENCY SERVICES; INTERCONNECTION.

Title VII of the Communications Act of 1934 (47 U.S.C. 601 et seq.) is further amended by adding after section 715 (as added by section 201 of this Act) the following new sections:

SEC. 716. EMERGENCY SERVICES.

“(a) 911 and E–911 Services.—

“(1) In General.—Each VOIP service provider has a duty to ensure that 911 and E–911 services are provided to subscribers of VOIP services.

“(2) Use of Existing Regulations.—A VOIP service provider that complies with the Commission’s regulations requiring providers of VOIP service to supply 911 and E911 capabilities to their customers (Report and Order in WC Docket Nos.
and that are in effect on the date of enactment of this section shall be considered to be in compliance with the requirements of this section, other than subsection (e), until such regulations are modified or superseded by subsequent regulations.

"(b) Non-Discriminatory Access to Capabilities.—

"(1) Access.—Each incumbent local exchange carrier (as such term is defined in section 251(h)) or government entity with ownership or control of the necessary E–911 infrastructure shall provide any requesting VOIP service provider with nondiscriminatory access to such infrastructure. Such carrier or entity shall provide access to the infrastructure at just and reasonable, nondiscriminatory rates, terms, and conditions. Such access shall be consistent with industry standards established by the National Emergency Number Association or other applicable industry standards organizations.

"(2) Enforcement.—The Commission or a State commission may enforce the requirements of this subsection and the Commission’s regulations thereunder. A VOIP service provider may obtain ac-
cess to such infrastructure pursuant to section 717
by asserting the rights described in such section.

``(c) New Customers.—A VOIP service provider
shall make 911 service available to new customers within
a reasonable time in accordance with the following require-
ments:

``(1) Connection to selective router.—
For all new customers not within the geographic
areas where a VOIP service provider can imme-
diately provide 911 service to the geographically ap-
propriate PSAP, a VOIP service provider, or its
third party vendor, shall have no more than 30 days
from the date the VOIP provider has acquired a cus-
tomer to order service providing connectivity to the
selective router so that 911 service, or E911 service
where the PSAP is capable of receiving and proc-
essing such information, can be provided through
the selective router.

``(2) Interim service.—For all new customers
not within the geographic areas where the VOIP
service provider can immediately provide 911 service
to the geographically appropriate PSAP, a VOIP
service provider shall provide 911 service through—
''(A) an arrangement mutually agreed to by the VOIP service provider and the PSAP or PSAP governing authority; or

''(B) an emergency response center with national call routing capabilities.

Such service shall be provided 24 hours a day from the date a VOIP service provider has acquired a customer until the VOIP service provider can provide 911 service to the geographically appropriate PSAP.

''(3) Notice.—Before providing service to any new customer not within the geographic areas where the VOIP service provider can immediately provide 911 service to the geographically appropriate PSAP, a VOIP service provider shall provide such customer with clear notice that 911 service will be available only as described in paragraph (2).

''(4) Restriction on Acquisition of New Customers.—A VOIP service provider may not acquire new customers within a geographic area served by a selective router if, within 180 days of first acquiring a new customer in the area served by the selective router, the VOIP service provider does not provide 911 service, or E911 service where the PSAP is capable of receiving and processing such information, to the geographically appropriate PSAP.
for all existing customers served by the selective router.

**(5) Enforcement: no first warnings.—** Paragraph (5) of section 503(b) shall not apply to the assessment of forfeiture penalties for violations of this subsection or the regulations thereunder.

**(d) State Authority.—** Nothing in this Act or any Commission regulation or order shall prevent the imposition on or collection from a VOIP service provider, of any fee or charge specifically designated or presented as dedicated by a State, political subdivision thereof, or Indian tribe on an equitable, and non-discriminatory basis for the support of 911 and E–911 services if no portion of the revenue derived from such fee or charge is obligated or expended for any purpose other than support of 911 and E–911 services or enhancements of such services.

**(e) Feasibility.—** In establishing requirements or obligations under subsections (a) and (b), the Commission shall ensure that such standards impose requirements or obligations on VOIP service providers and entities with ownership or control of necessary E–911 infrastructure that the Commission determines are technologically and operationally feasible. In determining the requirements and obligations that are technologically and operationally
feasible, the Commission shall take into consideration available industry technological and operational standards.

(f) Progress Reports.—To the extent that the Commission concludes that it is not technologically or operationally feasible for VOIP service providers to comply with E–911 requirements or obligations, then the Commission shall submit reports to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the progress in attaining and deploying E–911 service. Such reports shall be submitted semiannually until the Commission concludes that it is technologically and operationally feasible for all VOIP service providers to comply with E–911 requirements and obligations. Such reports may include any recommendations the Commission considers appropriate to encourage the migration of emergency services to TCP/IP protocol or other advanced services.

(g) Access to Information.—The Commission shall have the authority to compile a list of PSAP contact information; testing procedures; and classes and types of services supported by PSAPs, or other information concerning the necessary E–911 infrastructure, for the purpose of assisting providers in complying with the requirements of this section.
“(h) Emergency Routing Number Administrator.—Within 30 days after the date of enactment of this section, the Federal Communications Commission shall establish an emergency routing number administrator to enable VOIP service providers to acquire nondialable pseudo-automatic number identification numbers for 9–1–1 routing purposes on a national scale. The Commission may adopt such rules and practices as are necessary to guide such administrator in the fair and expeditious assignment of these numbers.

“(i) Emergency Response Systems.—

“(1) Notice prior to installation or number activation of VOIP service.—Prior to installation or number activation of VOIP service for a customer, a VOIP service provider shall provide clear and conspicuous notice to the customer that—

“(A) such customer should arrange with his or her emergency response system provider, if any, to test such system after installation;

“(B) such customer should notify his or her emergency response system provider after VOIP service is installed; and

“(C) a battery backup is required for customer premises equipment installed in connection with the VOIP service in order for the sig-
naling of such system to function in the event of a power outage.

(2) DEFINITION.—In this subsection:

(A) The term ‘emergency response system’ means an alarm or security system, or personal security or medical monitoring system, that is connected to an emergency response center by means of a telecommunications carrier or VOIP service provider.

(B) The term ‘emergency response center’ means an entity that monitors transmissions from an emergency response system.

(j) MIGRATION TO IP-ENABLED EMERGENCY NETWORK—

(1) NATIONAL REPORT.—No more than 18 months after the date of the enactment of this section, the National 911 Implementation and Coordination Office shall develop a report to Congress on migrating to a national IP-enabled emergency network capable of receiving and responding to all citizen activated emergency communications.

(2) CONTENTS OF REPORT.—The report required by paragraph (1) shall—

(A) outline the potential benefits of such a migration;
(B) identify barriers that must be overcome and funding mechanisms to address those barriers;

(C) include a proposed timetable, an outline of costs and potential savings;

(D) provide recommendations on specific legislative language;

(E) provide recommendations on any legislative changes, including updating definitions, to facilitate a national IP-enabled emergency network; and

(F) assess, collect, and analyze the experiences of the PSAPs and related public safety authorities who are conducting trial deployments of IP-enabled emergency networks as of the date of enactment of this section.

(3) CONSULTATION.—In developing the report required by paragraph (1), the Office shall consult with representatives of the public safety community, technology and telecommunications providers, and others it deems appropriate.

(k) IMPLEMENTATION.—

(1) DEADLINE.—The Commission shall prescribe regulations to implement this section within 120 days after the date of enactment of this section.
(2) LIMITATION.—Nothing in this section shall be construed to permit the Commission to issue regulations that require or impose a specific technology or technological standard.

(4) DEFINITIONS.—For purposes of this section:

(1) VOIP SERVICE.—The term ‘VOIP service’ means a service that—

(A) provides real-time 2-way voice communications transmitted through customer premises equipment using TCP/IP protocol, or a successor protocol (including when the voice communication is converted to or from TCP/IP protocol by the VOIP service provider and transmitted to the subscriber without use of circuit switching), for a fee or without a fee;

(B) is offered to the public, or such classes of users as to be effectively available to the public (whether part of a bundle of services or separately); and

(C) has the capability so that the service can originate traffic to, and terminate traffic from, the public switched telephone network.

(2) VOIP SERVICE PROVIDER.—The term ‘VOIP service provider’ means any person who provides or offers to provide a VOIP service.
(3) Necessary E–911 infrastructure—

The term ‘necessary E–911 infrastructure’ means the originating trucks to the selective routers, selective routers, databases (including automatic location information databases and master street address guides), trunks, or other related facilities necessary for the delivery and completion of 911 and E–911 calls; or other 911 and E–911 equipment, facilities, databases, interfaces, and related capabilities specified by the Commission.

(4) Non-dialable pseudo-automatic number identification number—The term ‘non-dialable pseudo-automatic number identification number’ means a number, consisting of the same number of digits as numbers used for automatic number identification, that is not a North American Numbering Plan telephone directory number and that may be used in place of an automatic number identification number to convey special meaning. The special meaning assigned to the non-dialable pseudo-automatic number identification number is determined by nationally standard agreements, or by individual agreements, as necessary, between the system originating the call, intermediate systems
handling and routing the call, and the destination system.

"SEC. 717. RIGHTS AND OBLIGATIONS OF VOIP SERVICE PROVIDERS.

"(a) In General.—

"(1) Facilities-based VOIP Service Providers.—A facilities-based VOIP service provider shall have the same rights, duties, and obligations as a requesting telecommunications carrier under sections 251 and 252, if the provider elects to assert such rights.

"(2) VOIP Service Providers.—A VOIP service provider that is not a facilities-based VOIP service provider shall have only the same rights, duties, and obligations as a requesting telecommunications carrier under sections 251(b), 251(c), and 252, if the provider elects to assert such rights.

"(3) Clarifying Treatment of VOIP Service.—A telecommunications carrier may use interconnection, services, and network elements obtained pursuant to sections 251 and 252 from an incumbent local exchange carrier (as such term is defined in section 251(h)) to exchange VOIP service traffic with such incumbent local exchange carrier regardless of the provider originating such VOIP service.
traffic, including an affiliate of such telecommunications carrier.

"(b) Disabled Access.—A VOIP service provider or a manufacturer of VOIP service equipment shall have the same rights, duties, and obligations as a telecommunications carrier or telecommunications equipment manufacturer, respectively, under sections 225, 255, and 710 of the Act. Within 1 year after the date of enactment of this Act, the Commission, in consultation with the Architectural and Transportation Barriers Compliance Board, shall prescribe such regulations as are necessary to implement this section. In implementing this subsection, the Commission shall consider whether a VOIP service provider or manufacturer of VOIP service equipment primarily markets such service or equipment as a substitute for telecommunications service, telecommunications equipment, customer premises equipment, or telecommunications relay services.

"(c) Definitions.—For purposes of this section:

"(1) Facilities-based VOIP service provider.—The term ‘facilities-based VOIP service provider’ means an entity that provides VOIP service over a physical facility that terminates at the end user’s location and which such entity or an affiliate owns or over which such entity or affiliate has exclu-
sive use. An entity or affiliate shall be considered a facilities-based VOIP service provider only in those geographic areas where such terminating physical facilities are located.

“(2) VOIP service provider; VOIP service.—The terms ‘VOIP service provider’ and ‘VOIP service’ have the meanings given such terms by section 716(l).”.

SEC. 302. COMPENSATION AND CONTRIBUTION.

(a) Rule of Construction.—Nothing in this Act (including the amendments made by this Act) shall be con-

struction to exempt a VOIP service provider from requirements imposed by the Federal Communications Commission or a State commission on all VOIP service providers to—

(1) pay appropriate compensation for the transmission of a VOIP service over the facilities and equipment of another provider; or

(2) contribute on an equitable and non-discriminatory basis to the preservation and advancement of universal service.

(b) Definitions.—As used in this section—

(1) the terms “VOIP service provider” and “VOIP service” have the meanings given such terms
in section 716(h) of the Communications Act of 1934, as added by section 301 of this Act; and

(2) the term "State commission" has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

TITLE IV—MUNICIPAL
PROVISION OF SERVICES

SEC. 401. GOVERNMENT AUTHORITY TO PROVIDE SERVICES.

(a) IN GENERAL.—Neither the Communications Act of 1934 nor any State statute, regulation, or other State legal requirement may prohibit or have the effect of prohibiting any public provider of telecommunications service, information service, or cable service (as such terms are defined in sections 3 and 602 of such Act) from providing such services to any person or entity.

(b) COMPETITION NEUTRALITY.—Any State or political subdivision thereof, or any agency, authority, or instrumentality of a State or political subdivision thereof, that is, owns, controls, or is otherwise affiliated with a public provider of telecommunications service, information service, or cable service shall not grant any preference or advantage to any such provider. Such entity shall apply its ordinances, rules, and policies, including those relating to the use of public rights-of-way, permitting, performance
bonding, and reporting without discrimination in favor of any such provider as compared to other providers of such services.

(e) **COMPLIANCE WITH OTHER LAWS NOT AFFECTED.**—Nothing in this section shall exempt a public provider from any law or regulation that applies to providers of telecommunications service, information service, or cable service.

(d) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Federal Communications Commission shall submit to the Congress a report on the status of the provision of telecommunications service, information service, and cable service by States and political subdivisions thereof.

(e) **DEFINITION OF PUBLIC PROVIDER.**—For purposes of this section, the term “public provider” means a State or political subdivision thereof, or any agency, authority, or instrumentality of a State or political subdivision thereof, that provides telecommunications service, information service, or cable service, or any entity that is owned, controlled, or is otherwise affiliated with such State or political subdivision thereof, or agency, authority, or instrumentality of a State or political subdivision thereof.
TITLE V—BROADBAND SERVICE

SEC. 501. STAND-ALONE BROADBAND SERVICE.

Title VII of the Communications Act of 1934 (47 U.S.C. 601 et seq.) is further amended by adding after section 717 (as added by section 301 of this Act) the following new section:

"SEC. 718. STAND-ALONE BROADBAND SERVICE.

"(a) PROHIBITION.—A broadband service provider shall not require a subscriber, as a condition on the purchase of any broadband service the provider offers, to purchase any cable service, telecommunications service, or VOIP service offered by the provider.

"(b) DEFINITIONS.—In this section:

"(1) The term 'broadband service' means a two-way transmission service that connects to the Internet and transmits information at an average rate of at least 200 kilobits per second in at least one direction.

"(2) The term 'broadband service provider' means a person or entity that controls, operates, or resells and controls any facility used to provide broadband service to the public, by whatever technology and whether provided for a fee, in exchange for an explicit benefit, or for free.
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"(3) The term ‘VOIP service’ has the meaning given such term by section 716(l)."

SEC. 502. STUDY OF INTERFERENCE POTENTIAL OF BROADBAND OVER POWER LINE SYSTEMS.

Within 90 days after the date of enactment of this Act, the Federal Communications Commission shall conduct, and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a study of the interference potential of broadband over power line systems.

TITLE VI—SEAMLESS MOBILITY

SEC. 601. DEVELOPMENT OF SEAMLESS MOBILITY.

(a) STREAMLINED REVIEW.—

(1) The Commission shall further the development of seamless mobility.

(2) Within 120 days after the date of enactment of this Act, the Commission shall implement a process for streamlined review and authorization of multi-mode devices that permit communication across multiple Internet protocol-enabled broadband platforms, facilities, and networks.

(b) STUDY.—The Commission shall undertake an inquiry to identify barriers to the achievement of seamless mobility. Within 180 days after the date of enactment of
this Act, the Commission shall report to the Congress on its findings and its recommendations for steps to eliminate those barriers:

(e) DEFINITIONS.—For purposes of this section, the term “seamless mobility” means the ability of a communications device to select between and utilize multiple Internet protocol-enabled technology platforms, facilities, and networks in a real-time manner to provide a unified service.
SECTION 1. SHORT TITLE.

This Act may be cited as the “Advanced Telecommunications and Opportunities Reform Act” or the “Communications Act of 2006”.

SEC. 2. AMENDMENT OF COMMUNICATIONS ACT OF 1934.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Amendment of Communications Act of 1934.
Sec. 3. Table of contents.

TITLE I—WAR ON TERRORISM

SUBTITLE A—CALL HOME

Sec. 101. Telephone rates for members of armed forces deployed abroad.
Sec. 102. Repeal of existing authorization.

SUBTITLE B—INTEROPERABILITY

Sec. 151. Interoperable emergency communications.
Sec. 152. Transfer of Public Safety Grant Program to the Department of Homeland Security.
Sec. 153. Public safety interoperable communications grants.
Sec. 154. Eligibility of IP-enabled services.

TITLE II—UNIVERSAL SERVICE REFORM; INTERCONNECTION

Sec. 201. Short title.

SUBTITLE A—CONTRIBUTIONS TO UNIVERSAL SERVICE

Sec. 211. Stabilization of universal service funding.
Sec. 212. Modification of rural video service exemption.
Sec. 213. Interconnection.
Sec. 214. Treatment of substitute services under section 254(g).
SUBTITLE B—DISTRIBUTIONS FROM UNIVERSAL SERVICE

Sec. 251. Encouraging broadband deployment.
Sec. 252. Establishment of broadband program.
Sec. 253. Competitive neutrality principle.
Sec. 254. Transition rules for modifications adversely affecting carriers.
Sec. 255. Eligibility guidelines.
Sec. 256. Primary line.
Sec. 257. Phantom traffic.
Sec. 258. Random audits.
Sec. 259. Integrity and accountability.
Sec. 260. Improving effectiveness of rural health care support mechanism.
Sec. 261. Communications services for libraries.
Sec. 262. USF support for insular areas.

TITLE III—STREAMLINING THE FRANCHISING PROCESS

Sec. 301. Short title.

SUBTITLE A—UPDATING THE 1934 ACT AND LEVELING THE REGULATORY PLAYING FIELD

Sec. 311. Application of title VI to video services and video service providers.
Sec. 312. Franchise applications; scope.
Sec. 313. Standard franchise application form.
Sec. 314. Definitions.
Sec. 315. Family tier study.
Sec. 316. Notice of inquiry on violent programming.

SUBTITLE B—STREAMLINING THE PROVISION OF VIDEO SERVICES

Sec. 331. Franchise requirements and related provisions.
Sec. 332. Renewal; revocation.
Sec. 333. PEG and institutional network obligations.
Sec. 334. Services, facilities, and equipment.
Sec. 335. Shared facilities.
Sec. 336. Consumer protection and customer service.
Sec. 337. Redlining.
Sec. 338. Application of section 503(h).
Sec. 339. Application of title VII cable provisions to video services.
Sec. 340. Children’s Television Act amendment.

SUBTITLE C—MISCELLANEOUS AND CONFORMING AMENDMENTS

Sec. 351. Miscellaneous amendments.

SUBTITLE D—EFFECTIVE DATES AND TRANSITION RULES

Sec. 381. Effective dates; phase-in.

TITLE IV—VIDEO CONTENT

SUBTITLE A—NATIONAL SATELLITE

Sec. 401. Availability of certain licensed services in noncontiguous States.

SUBTITLE B—VIDEO AND AUDIO FLAG

Sec. 452. Protection of digital broadcast video content.
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TITLE V—MUNICIPAL BROADBAND

Sec. 501. Short title.
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TITLE VI—WIRELESS INNOVATION NETWORKS

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Sec. 602. Eligible television spectrum made available for wireless use.

TITLE VII—DIGITAL TELEVISION

Sec. 701. Analog and digital television sets and converter boxes; consumer education and requirements to reduce the government cost of the converter box program.
Sec. 702. Digital stream requirement for the blind.
Sec. 703. Status of international coordination.
Sec. 704. Certain border stations.

TITLE VIII—PROTECTING CHILDREN

Sec. 801. Video transmission of child pornography.
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TITLE IX—INTERNET CONSUMER BILL OF RIGHTS ACT

Sec. 901. Short title.
Sec. 902. Findings.
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Sec. 907. Enforcement.
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TITLE X—MISCELLANEOUS

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Sec. 1009. FCC to issue a further notice of proposed rulemaking before changing broadcast media ownership rules.

Sec. 1010. Diversity in media ownership.

Sec. 1011. Broadband reporting requirements.

Sec. 1012. Application of one-year restrictions to certain positions.

Sec. 1013. Internet Tax Freedom Act Amendment.

Sec. 1014. Status of E–911 Implementation and Coordination Office.

Sec. 1015. Federal Communications Commission telemedicine report.

Sec. 1016. Federal information and communications technology research.

Sec. 1017. Forbearance.

Sec. 1018. Deadline for certain Commission proceedings.

TITLE XI—LOCAL COMMUNITY RADIO ACT

Sec. 1101. Short title.

Sec. 1102. Repeal of prior law.

Sec. 1103. Minimum distance separation requirements.

Sec. 1104. Protection of radio reading services.

Sec. 1105. Ensuring availability of spectrum for LPFM stations.

Sec. 1106. Federal Communications Commission rules.

TITLE XII—CELL PHONE TAX MORATORIUM

Sec. 1201. Short title.

Sec. 1202. Moratorium.

TITLE XIII—TRUTH IN CALLER ID

Sec. 1301. Short title.

Sec. 1302. Prohibition regarding manipulation of caller identification information.

TITLE XIV—RURAL WIRELESS AND BROADBAND SERVICE

Sec. 1401. Short title.

Sec. 1402. Small geographic licensing areas.

Sec. 1403. Report on the impact of secondary market transactions.

Sec. 1404. Radio spectrum review.

Sec. 1405. 700 MHz license areas.

Sec. 1406. No interference with DTV transition.

Sec. 1407. Effective date.

1 TITLE I—WAR ON TERRORISM

Subtitle A—Call Home

SEC. 101. TELEPHONE RATES FOR MEMBERS OF ARMED FORCES DEPLOYED ABROAD.

(a) IN GENERAL.—The Federal Communications Commission shall take such action as may be necessary to reduce the cost of calling home for Armed Forces personnel who
are stationed outside the United States under official military orders or deployed outside the United States in support of military operations, training exercises, or other purposes as approved by the Secretary of Defense, including the reduction of such costs through the waiver of government fees, assessments, or other charges for such calls. The Commission may not regulate rates in order to carry out this section.

(b) FACTORS TO CONSIDER.—In taking the action described in subsection (a), the Commission, in coordination with the Department of Defense and the Department of State, shall—

(1) evaluate and analyze the costs to Armed Forces personnel of such telephone calls to and from military bases abroad;

(2) evaluate methods of reducing the rates imposed on such calls, including deployment of new technology such as voice over Internet protocol or successor protocol technology;

(3) encourage providers of telecommunications to adopt flexible billing procedures and policies for Armed Forces personnel and their dependents for telephone calls to and from such Armed Forces personnel; and
(4) seek agreements with foreign governments to reduce international surcharges on such telephone calls.

(c) DEFINITIONS.—In this section:

(1) ARMED FORCES.—The term “Armed Forces” has the meaning given that term by section 2101(2) of title 5, United States Code.

(2) MILITARY BASE.—The term “military base” includes official duty stations, including vessels, whether such vessels are in port or underway outside of the United States.

SEC. 102. REPEAL OF EXISTING AUTHORIZATION.


Subtitle B—Interoperability

SEC. 151. INTEROPERABLE EMERGENCY COMMUNICATIONS.

(a) IN GENERAL.—Section 3006 of Public Law 109–171 (47 U.S.C. 309 note) is amended by redesignating subsection (d) as subsection (i) and by inserting after subsection (c) the following:

“(d) INTEROPERABLE COMMUNICATIONS SYSTEM EQUIPMENT DEPLOYMENT.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall allocate at least 25 percent of the funds made available to carry out this section to make
interoperable communications system equipment
grants for equipment that can utilize, or enable inter-
operability with systems or networks that can utilize, 
reallocated public safety spectrum.

“(2) ALLOCATION OF FUNDS.—The Secretary shall allocate—

“(A) a majority of the amounts allocated 
under paragraph (1) for distribution to public 
safety agencies based on the threat and risk fac-
tors used by the Secretary for the purposes of al-
locating discretionary grants under the heading 
“OFFICE FOR DOMESTIC PREPAREDNESS, STATE 
AND LOCAL PROGRAMS” in the Department of 
Homeland Security Appropriations Act, 2006; and

“(B) the remainder equally to each State for 
distribution by the States to public safety agen-
cies.

“(3) ELIGIBILITY.—A State may not receive 
funds allocated to it under paragraph (2) unless it 
has established a statewide interoperable communica-
tions plan approved by the Secretary.

“(4) USE OF FUNDS.—A public safety agency shall use any funds received under this subsection for 
the purchase of interoperable communications system
equipment and infrastructure that is consistent with SAFECOM guidance, including any standards that may be referenced by SAFECOM guidance, and interoperable communications system equipment and infrastructure that improves interoperability that uses Internet protocol or any successor protocol.

“(e) COORDINATION, PLANNING, AND TRAINING GRANT INITIATIVE.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall allocate at least 25 percent of the funds made available to carry out this section for interoperable emergency communications coordination, planning, and training grants. The grants shall supplement, and be in addition to, any Federal funds otherwise made available by grant or otherwise to the States for emergency coordination, planning, or training.

“(2) ALLOCATION.—The Secretary shall allocate—

“(A) a majority of the amounts allocated under paragraph (1) for distribution to the States based on the threat and risk factors used by the Secretary for the purposes of allocating discretionary grants under the heading “OFFICE FOR DOMESTIC PREPAREDNESS, STATE AND
LOCAL PROGRAMS” in the Department of Homeland Security Appropriations Act, 2006; and

“(B) the remainder equally to each State for distribution to public safety agencies.

“(3) COORDINATION, PLANNING, AND TRAINING GUIDELINES.—A State shall use its emergency communication coordination, planning, and training grant to establish a statewide plan consistent with the State communications interoperability planning methodology developed by the SAFCOM program within the Department of Homeland Security or a regional plan established by a regional planning agency consistent with this section and to establish training programs designed to ensure effective implementation of coordination and interoperability plans. In establishing the statewide plan, the Governor or the Governor’s designee shall consult with the Secretary of Homeland Security or the Secretary of Homeland Security’s designee. A State shall submit its statewide plan to the Federal Communications Commission and the Secretary of Homeland Security.

“(4) MEDICAL SERVICES.—As part of its statewide plan, a State shall ensure that—

“(A) there are effective 2-way communications and information sharing between medical
services and other emergency response entities, including communications among key strategic emergency responders, emergency medical care facilities, and Federal, State, and local authorities in the event of a national, regional, or other large-scale emergency, and redundancy in the event of a failure of the primary communications systems; and

“(B) medical emergency responses are integrated into all planning and decision-making practices for emergency response.

“(5) State-specific coordination, planning, and training.—Grants under this section shall be available for emergencies and disasters, such as hurricanes, forest fires, and mining accidents.

“(f) Strategic Technology Reserve Initiative.—

“(1) In general.—The Secretary of Homeland Security shall allocate up to 25 percent of the funds made available to carry out this section to establish and implement a strategic technology reserve to pre-position or secure interoperable communications systems in advance for immediate deployment in an emergency or major disaster (as defined in section 102(2) of Public Law 93–288 (42 U.S.C. 5122)). In
carrying out this paragraph, the Secretary shall take
into consideration the continuing technological evo-
lution of communications technologies and devices,
with its implicit risk of obsolescence, and ensure that,
to the maximum extent feasible, a substantial part of
the reserve involves prenegotiated contracts and other
arrangements for rapid deployment of equipment,
supplies, and systems rather than the warehousing or
storage of equipment and supplies currently available
at the time the reserve is established.

“(2) REQUIREMENTS AND CHARACTERISTICS.—A
reserve established under paragraph (1) shall—

“(A) be capable of re-establishing commu-
ications when existing infrastructure is dam-
aged or destroyed in an emergency or a major
disaster;

“(B) include appropriate current, widely-
used equipment, such as Land Mobile Radio Sys-
tems, cellular telephones, satellite equipment,
Cells-On-Wheels, Cells-On-Light-Trucks, or other
self-contained mobile cell sites that can be towed,
backup batteries, generators, fuel, and computers;

“(C) include equipment on hand for the
Governor of each State, key emergency response
officials, and appropriate State or local personnel;

“(D) include contracts (including prenegotiated contracts) for rapid delivery of the most current technology available from commercial sources; and

“(E) include arrangements for training to ensure that personnel are familiar with the operation of the equipment and devices to be delivered pursuant to such contracts.

“(3) ADDITIONAL CHARACTERISTICS.—Portions of the reserve may be virtual and may include items donated on an in-kind contribution basis.

“(4) CONSULTATION.—In developing the reserve, the Secretary shall seek advice from the Secretary of Defense, as well as national public safety organizations, emergency managers, State, local, and tribal governments, and commercial providers of such systems and equipment.

“(5) ALLOCATION AND USE OF FUNDS.—The Secretary shall allocate—

“(A) a portion of the reserve’s funds for block grants to States to enable each State to establish a strategic technology reserve within its
borders in a secure location to allow immediate deployment; and

“(B) a portion of the reserve’s funds for regional Federal strategic technology reserves to facilitate any Federal response when necessary, to be held in each of the Federal Emergency Management Agency’s regional offices, including Boston, Massachusetts (Region 1), New York, New York (Region 2), Philadelphia, Pennsylvania (Region 3), Atlanta, Georgia (Region 4), Chicago, Illinois (Region 5), Denton, Texas (Region 6), Kansas City, Missouri (Region 7), Denver, Colorado (Region 8), Oakland, California (Region 9), Bothell, Washington (Region 10), and each of the noncontiguous States for immediate deployment.

“(g) CONSENSUS STANDARDS; APPLICATIONS.—

“(1) CONSENSUS STANDARDS.—In carrying out this section, the Secretary of Homeland Security shall identify, and if necessary encourage the development and implementation of, consensus standards for interoperable communications systems to the greatest extent practicable.

“(2) APPLICATIONS.—To be eligible for assistance under the programs established in this section,
each State shall submit an application, at such time, in such form, and containing such information as the Secretary may require, including—

“(A) a detailed explanation of how assistance received under the program would be used to improve local communications interoperability and ensure interoperability with other appropriate public safety agencies in an emergency or a major disaster; and

“(B) assurance that the equipment and system would—

“(i) be compatible with the communications architecture developed under section 7303(a)(1)(E) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(a)(1)(E));

“(ii) meet any voluntary consensus standards developed under section 7303(a)(1)(D) of that Act (6 U.S.C. 194(a)(1)(D)); and

“(iii) be compatible with the common grant guidance established under section 7303(a)(1)(H) of that Act (6 U.S.C. 194(a)(1)(H)).
“(h) DEADLINE FOR IMPLEMENTATION REGULATIONS.—Within 90 days after the date of enactment of the Advanced Telecommunications and Opportunities Reform Act, the Secretary, in consultation with the Federal Communications Commission, shall promulgate regulations for the implementation of subsections (d) through (f) of this section.”.

(b) SEAMLESS MOBILITY.—Within 180 days after the date of enactment of this Act, the Federal Communications Commission shall streamline its process for certifying multi-mode devices that permit communication across multiple platforms, facilities, or networks in a manner consistent with the public interest.

(c) FCC REPORT ON EMERGENCY COMMUNICATIONS BACK-UP SYSTEM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Federal Communications Commission, in coordination with the Secretary of Homeland Security, shall evaluate the technical feasibility of creating a back-up emergency communications system that complements existing communications resources and takes into account next generation and advanced telecommunications technologies. The overriding objective for the evaluation shall be providing a framework for the development of
a resilient interoperable communications system for emergency responders in an emergency. The Commission shall evaluate all reasonable options, including satellites, wireless, and terrestrial-based communications systems and other alternative transport mechanisms that can be used in tandem with existing technologies.

(2) FACTORS TO BE EVALUATED.—The evaluation under paragraph (1) shall include—

(A) a survey of all Federal agencies that use terrestrial or satellite technology for communications security and an evaluation of the feasibility of using existing systems for the purpose of creating such an emergency back-up public safety communications system;

(B) the feasibility of using private satellite, wireless, or terrestrial networks for emergency communications;

(C) the technical options, cost, and deployment methods of software, equipment, handsets, or desktop communications devices for public safety entities in major urban areas, and nationwide; and

(D) the feasibility and cost of necessary changes to the network operations center of ter-
restrial-based or satellite systems to enable the centers to serve as emergency back-up communications systems.

(3) REPORT.—Upon the completion of the evaluation under paragraph (1), the Commission shall submit a report to Congress that details the findings of the evaluation, including a full inventory of existing public and private resources most efficiently capable of providing emergency communications.

(d) INTEROPERABLE COMMUNICATIONS AND E–911 SERVICES.—The Secretary of Homeland Security shall take into consideration the role of public safety answering points and E-911 systems, and shall reserve a portion of the funds made available to carry out section 3006 of Public Law 109–171 (47 U.S.C. 309 note) to provide interoperable communication system grants for projects to public safety answering points that enable interoperability and that advance E-911 deployment.

SEC. 152. TRANSFER OF PUBLIC SAFETY GRANT PROGRAM TO THE DEPARTMENT OF HOMELAND SECURITY.

(a) IN GENERAL.—Section 3006 of Public Law 109–171 (47 U.S.C. 309 note) is amended—
(1) by striking “The Assistant Secretary, in consultation with the” in subsection (a) and inserting “The”; and

(2) by striking “Assistant Secretary” each place it appears in subsection (b) and inserting “Secretary of Homeland Security”.

(b) USE OF FUNDS.—In carrying out section 3006(a) of Public Law 109–171 (47 U.S.C. 309 note), as amended by subsection (a), the Secretary of Homeland Security may not use funds under that section for any purpose other than those provided in section 3006 of that Act.

SEC. 153. PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS GRANTS.

Pursuant to section 3006 of Public Law 109–171 (47 U.S.C. 309 note), the Secretary of Homeland Security, in coordination with the Secretary of Commerce, shall award no less than $1,000,000,000 for public safety interoperable communications grants no later than September 30, 2006.

SEC. 154. ELIGIBILITY OF IP-ENABLED SERVICES.

Section 158(b)(1)(A) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942(b)(1)(A)) is amended by striking “services;” and inserting “services and services related to the migration to an IP-enabled emergency network that provides E–911 services;”.

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August 4, 2006 (3:44 p.m.)
TITLE II—UNIVERSAL SERVICE REFORM; INTERCONNECTION

SEC. 201. SHORT TITLE.

This title may be cited as the “Internet and Universal Service Act of 2006”.

Subtitle A—Contributions to Universal Service

SEC. 211. STABILIZATION OF UNIVERSAL SERVICE FUNDING.

(a) Ensuring an Equitable Contribution Base for Universal Service.—

(1) In general.—Section 254(d) (47 U.S.C. 254(d)) is amended to read as follows:

“(d) Universal Service Support Contributions.—

“(1) Contribution mechanism.—

“(A) In general.—Each communications service provider shall contribute as provided in this subsection to support universal service.

“(B) Requirements.—The Commission shall ensure that the contributions required by this subsection are—

“(i) applied in a manner that is as competitively and technologically neutral as possible;
“(ii) specific, predictable, and sufficient to sustain the funding of networks used to preserve and advance universal service; and

“(iii) applied in such a manner that no methodology results in a communications services provider being required to contribute more than once to support Federal universal service for the same transaction, activity, or service.

“(C) ADJUSTMENTS.—The Commission shall adjust the contribution for communication service providers for their low-call volume, non-business customers.

“(2) EXEMPTIONS.—The Commission may exempt a communications service provider or any class of communications service providers from the requirements of this subsection in the following circumstances:

“(A) The services of such a provider are limited to such an extent that the level of its contributions would be de minimis.

“(B) The communications service is provided pursuant to the Commission’s Lifeline Assistance Program.
“(C) The communications service is provided only to in-vehicle emergency communications customers.

“(D) The communications service is provided by a not-for-profit communications service provider that is neither an affiliate of a for-profit organization nor has a for-profit affiliate and which provides voice mailboxes to low income consumers and the homeless.

“(3) CONTRIBUTION ASSESSMENT FLEXIBILITY.—

“(A) METHODOLOGY.—To achieve the principles in this section, the Commission may base universal service contributions upon—

“(i) revenue from communications service;

“(ii) in-use working phone numbers or any other identifier protocol or connection to the networks; or

“(iii) network capacity.

“(B) USE OF MORE THAN 1 METHODOLOGY.—If no single methodology employed under subparagraph (A) achieves the principles described in this subsection, the Commission may employ a combination of any such methodologies.
“(C) Removal of Interstate/Intrastate Distinction.—Notwithstanding section 2(b) of this Act, the Commission may assess the interstate, intrastate, and international portions of communications service for the purpose of universal service contributions.

“(D) Group Plan Discount.—If the Commission utilizes a methodology under subparagraph (A) based in whole or in part on in-use working phone numbers, it may provide a discount for additional numbers provided under a group or family pricing plan for residential customers provided in 1 bill.

“(4) Non-Discriminatory Eligibility Requirement.—A communications service provider is not exempted from the requirements of this subsection solely on the basis that such provider is not eligible to receive support under this section.

“(5) Billing.—

“(A) In General.—A communications service provider that contributes to universal service under this section may place on any customer bill a separate line item charge that does not exceed the amount for the customer that the provider is required to contribute under this sub-
section that shall be identified as the ‘Federal Universal Service Fee’.

“(B) LIMITATION.—A communications service provider may not separately bill customers for administrative costs associated with its collection and remission of universal service fees under this subsection.

“(6) DEFINITIONS.—In this subsection:

“(A) BROADBAND SERVICE.—The term ‘broadband service’ means any service (whether part of a bundle of services or offered separately) used for transmission of information of a user’s choosing with a transmission speed of at least 200 kilobits per second in at least 1 direction, regardless of the transmission medium or technology employed, that connects to the public Internet directly—

“(i) to the public; or

“(ii) to such classes of users as to be effectively available directly to the public.

“(B) COMMUNICATIONS SERVICE.—The term ‘communications service’ means telecommunications service, broadband service, or IP-enabled voice service (whether part of a bundle of services or offered separately).
“(C) CONNECTION.—The term ‘connection’ means the facilities that provide customers with access to a public or private network, regardless of whether the connection is circuit-switched, packet-switched, wireline or wireless, or leased line.

“(D) IN-VEHICLE EMERGENCY COMMUNICATIONS.—The term ‘in-vehicle emergency communications’ means services and technology, including automatic crash notification, roadside assistance, SOS distress calls, remote diagnostics, navigation or location-based services, and other driver assistance services, which are integrated into passenger automobiles to facilitate communications from the automobile to emergency response professionals.

“(E) IP-ENABLED VOICE SERVICE.—The term ‘IP-enabled voice service’ means the provision of real-time 2-way voice communications offered to the public, or such classes of users as to be effectively available to the public, transmitted through customer premises equipment using Internet protocol, or a successor protocol, for a fee (whether part of a bundle of services or offered separately) with 2-way interconnection ca-
pability such that the service can originate traffic to, and terminate traffic from, the public switched telephone network.

“(F) WORKING PHONE NUMBERS.—The term ‘working phone number’ means an assigned number (as defined in section 52.15 of the Commission’s regulations (47 C.F.R. 52.15)) or an intermediate number (as defined in that section).”.

(2) CONFORMING AMENDMENT.—Section 254(b)(4) (47 U.S.C. 254(b)(4)) is amended by striking “telecommunications services” and inserting “communications services (as defined in subsection (d)(6)(B))”.

(3) STATE AUTHORITY.—Section 254(f) (47 U.S.C. 254(f)) is amended to read as follows:

“(f) STATE AUTHORITY.—

“(1) IN GENERAL.—A State may adopt regulations not inconsistent with the Commission’s rules to preserve and advance universal service. In adopting those rules, a State may require telecommunications service providers and IP-enabled voice service (as defined in subsection (d)(6)(E)) providers to contribute to universal service on the basis of—

“(A) revenue;
“(B) in-use working phone numbers or any
other identifier protocol or connection to the net-
works;

“(C) network capacity; or

“(D) any combination of such methodolo-
gies.

“(2) Disregard of Interstate Component.—
A State may require telecommunications service pro-
viders and IP-enabled voice service providers to con-
tribute under paragraph (1) regardless of whether the
service contains an interstate component.

“(3) Bundling.—If a telecommunications serv-
ice or IP-enabled voice service is offered as part of a
bundle of services, the Commission shall determine a
fair allocation of revenue between the telecommuni-
cations service or IP-enabled voice service and other
bundled services if the primary place of use of such
bundled services is within the State.

“(4) Guidelines.—Regulations adopted by a
State under this subsection shall result in a specific,
predictable, and sufficient mechanism to support uni-
versal service and shall be competitively and techno-
logically neutral, equitable, and nondiscriminatory.”.

(b) Proper Accounting of Universal Service
Contributions.—
(1) From all budgets.—Notwithstanding any other provision of law, the receipts and disbursements of universal service under section 254 of the Communications Act of 1934 (47 U.S.C. 254) shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

   (A) the budget of the United States Government as submitted by the President;

   (B) the Congressional budget;

   (C) the Balanced Budget and Emergency Deficit Control Act of 1985; or

   (D) any other law requiring budget sequestrers.

(2) Additional exemptions.—Section 1341, subchapter II of chapter 15, and sections 3302, 3321, 3322, and 3325 of title 31, United States Code, shall not apply to—

   (A) the collection and receipt of universal service contributions, including the interest earned on such contributions; or

   (B) disbursements or other obligations authorized by the Federal Communications Commission under section 254 and 254A of the Communications Act of 1934 (47 U.S.C. 254 and 254A).
(c) **FINANCIAL MANAGEMENT.**—The Federal Communications Commission and the Administrator of the Universal Service Fund—

(1) shall account for the financial transactions of the Fund in accordance with generally accepted accounting principles for Federal agencies;

(2) shall maintain the accounts of the Fund in accordance with the United States Government Standard General Ledger; and

(3) may invest unexpended balances only in Federal securities (as defined in section 113(b)(5) of Office of Management and Budget circular OMB A–11 or any revision of that circular).

(d) **RULEMAKING.**—Not later than 180 days after the date of enactment of this Act, the Federal Communications Commission shall issue a rule to implement section 254(d) of the Communications Act of 1934 (47 U.S.C. 254(d)) as amended by this section.

(e) **CONGRESSIONAL REVIEW.**—Any rule issued under subsection (d) shall—

(1) be submitted to Congress, along with any data and information relied upon to establish such rule; and

(2) not take effect until the date that is 90 days after the date of such submission.
SEC. 212. MODIFICATION OF RURAL VIDEO SERVICE EXEMPTION.

(a) RURAL TELEPHONE COMPANIES.—Section 251(f)(1) (47 U.S.C. 251(f)(1)) is amended—

(1) by striking “Subsection” in subparagraph (A) and inserting “Except as provided in subparagraph (B), subsection”;

(2) by striking “interconnection, services, or network elements,” in subparagraphs (A) and (B) and inserting “services or network elements,”;

(3) by striking “(under subparagraph (B))” in subparagraph (A) and inserting “(under subparagraph (C))”;

(4) by redesignating subparagraphs (B) and (C) as subparagraphs (D) and (E);

(5) by inserting after subparagraph (A) the following:

“(B) CERTAIN CARRIERS.—Subsection (c) (other than paragraphs (1) and (2) thereof) of this section shall not apply to a rural telephone company in Alaska with fewer than 10 access lines per square mile installed in the aggregate in its service area (as defined in section 214(e)(5)).

“(C) INTERCONNECTION.—Notwithstanding subparagraphs (A) and (D), paragraphs (1) and
(2) of subsection (c) of this section shall not apply to a rural telephone company until such company has received a bona fide request for interconnection.”; and

(6) by striking subparagraph (E), as redesignated.

(b) Other Rural Carriers.—Section 251(f)(2) (47 U.S.C. 251(f)(2)) is amended by inserting “(other than paragraphs (1) and (2) of subsection (c))” after “subsection (b) or (c)” in the first sentence.

(c) Effective Date.—Notwithstanding any other provision of this Act, the amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 213. INTERCONNECTION.

Title VII (47 U.S.C. 601 et seq.) is amended by adding after section 714 the following new section:

“SEC. 715. RIGHTS AND OBLIGATIONS OF IP-ENABLED VOICE SERVICE PROVIDERS.

“(a) In General.—A facilities-based IP-enabled voice service provider shall have the same rights, duties, and obligations, including any obligation imposed under section 276, as a requesting telecommunications carrier under sections 251 and 252, if the provider elects to assert such rights. A telecommunications carrier may not refuse to transport or terminate IP-enabled voice traffic solely on the
basis that it is IP-enabled. A provider originating, transmitting, or terminating IP-enabled voice traffic shall not be exempted from paying compensation for interstate traffic owed to another provider or carrier solely on the basis that such traffic is IP-enabled, and any obligations to pay compensation with respect to traffic that originates or terminates on the public switched telephone network shall be reciprocal, including any payment to an IP-enabled voice service provider that receives traffic from, or sends traffic to, the public switched telephone network.

“(b) DISABLED ACCESS.—An IP-enabled voice service provider or a manufacturer of IP-enabled voice service equipment shall have the same rights, duties, and obligations as a telecommunications carrier or telecommunications equipment manufacturer, respectively, under sections 225, 255, and 710 of the Act. Within 1 year after the date of enactment of the Internet and Universal Service Act of 2006, the Commission, in consultation with the Architectural and Transportation Barriers Compliance Board, shall prescribe such regulations as are necessary to implement this section. In prescribing the regulations, the Commission shall take into account the differences between IP-enabled voice service and circuit-switched communications, and the functionalities required by the disabled community. Every 2 years after the date of enactment of the
Internet and Universal Service Act of 2006, the Commission shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that assesses the level of compliance with this section and evaluates the extent to which any accessibility barriers still exist with respect to new technologies and hearing aid compatibility.

“(c) IP-ENABLED EMERGENCY RESPONSE SYSTEMS.—

Prior to installation or activation of an IP-enabled voice service for a customer, an IP-enabled voice service provider shall provide clear and conspicuous notice to the customer that—

“(1) such customer should arrange with his or her emergency response system provider, if any, to test such system after installation;

“(2) such customer should notify his or her emergency response system provider as soon as the IP-enabled voice service is installed; and

“(3) a battery backup may be required for customer premises equipment installed in connection with the IP-enabled voice service in order for the signaling of such system to function in the event of a power outage.
“(e) **NO EFFECT ON TAX LAWS.**—Nothing in this section shall be construed to modify, impair, supersed, or authorize the modification, impairment, or supersession of, any State or local tax law.

“(f) **DEFINITIONS.**—In this section:

“(1) **EMERGENCY RESPONSE SYSTEM.**—The term ‘emergency response system’ means an alarm or security system, or personal security or medical monitoring system, that is connected to an emergency response center by means of a telecommunications carrier or IP-enabled voice service provider.

“(2) **EMERGENCY RESPONSE CENTER.**—The term ‘emergency response center’ means an entity that monitors transmissions from an emergency response system.

“(3) **FACILITIES-BASED.**—The term ‘facilities-based’ includes an IP-enabled voice service provider with control and operation within a local access transport area of—

“(A) communications switching and routing equipment;

“(B) long-haul trunks; or

“(C) local transmission facilities.

“(4) **IP-ENABLED VOICE SERVICE.**—The term ‘IP-enabled voice service’ means the provision of real-
time 2-way voice communications offered to the public, or such classes of users as to be effectively available to the public, transmitted through customer premises equipment using Internet protocol, or a successor protocol, for a fee (whether part of a bundle of services or offered separately) with interconnection capability such that the service can originate traffic to, and terminate traffic from, the public switched telephone network.”.

SEC. 214. TREATMENT OF SUBSTITUTE SERVICES UNDER SECTION 254(g).

Section 254(g) (47 U.S.C. 254(g)) is amended by inserting after “State.” the following: “This section shall also apply to any services within the jurisdiction of the Commission that can be used as effective substitutes for interexchange telecommunications services, including any such substitute classified as an information service that uses telecommunications.”.

Subtitle B—Distributions From Universal Service

SEC. 251. ENCOURAGING BROADBAND DEPLOYMENT.

(a) In General.—Beginning 2 years after the date of enactment of this Act, and biennially thereafter, an eligible communications carrier shall submit a report to the Commission and to the State commission in each State in
which it provides communications service that sets forth the following:

(1) The percentage of households to which it offers broadband service in each of its service areas.

(2) The percentage of households that subscribe to broadband service in each of its service areas.

(3) The service plans and speeds at which broadband service is offered in each of its service areas.

(4) The types of technologies used in offering broadband service in each of its service areas.

(5) Any planned upgrade or deployment of broadband service in the next 2 years in each of its service areas.

(b) INFORMATION TREATED AS CONFIDENTIAL.—The Commission and State commissions shall treat information received pursuant to subsection (a) as confidential and proprietary, and shall protect sensitive business information from disclosure in any reports made public.

(c) COMMISSION REPORT.—The Commission shall incorporate the data from reports it receives under subsection (a) into its advanced telecommunications capability reports under section 706 of the Telecommunications Act of 1996.
SEC. 252. ESTABLISHMENT OF BROADBAND PROGRAM.

Part I of title II (47 U.S.C. 201 et seq.) is amended by inserting after section 254 the following:

SEC. 254A. BROADBAND FOR UNSERVED AREAS PROGRAM.

“(a) Program Established.—

“(1) In General.—The Commission shall establish a new separate program to be known as the ‘Broadband for Unserved Areas Program’.

“(2) Purpose.—The purpose of the Program is to provide financial assistance for the deployment of broadband equipment and infrastructure necessary for the deployment of broadband service (including installation costs) to unserved areas throughout the United States.

“(3) Funding.—The Program shall be funded by amounts collected under section 254(d).

“(b) Implementation.—

“(1) In General.—Within 180 days after the date of enactment of the Internet and Universal Service Act of 2006, the Commission shall issue rules establishing—

“(A) guidelines for determining which areas may be considered to be unserved areas for purposes of this section, which may be portions of service areas or study areas;
“(B) criteria for determining which facilities-based providers of broadband service and which projects are eligible for support from the Program;

“(C) procedural guidelines for awarding assistance from the Program on a merit-based and competitive basis;

“(D) guidelines for application procedures, accounting and reporting requirements, and other appropriate fiscal controls for assistance made available from the Program, including random audits with respect to the receipt and use of funds under this section;

“(E) a procedure for making funds in the Program available among the several States on an equitable basis; and

“(F) the Universal Service Administrative Company as the administrator of the Program, subject to Commission rules and oversight.

“(2) FACILITIES-BASED PROVIDER ELIGIBILITY.—For purposes of this section, satellite broadband service providers, terrestrial wireless broadband service providers, and wireline broadband service providers shall be considered to be facilities-based providers eligible for support from the Program.
The deployment of satellite broadband service customer premises equipment shall be considered to be a project eligible for support from the Program.

“(3) De minimis subscribership exception.—The availability of satellite broadband service in an area shall not preclude the designation of that area as an unserved area if the Commission determines that subscribership to broadband satellite service in the area is de minimis.

“(4) Multiple areas within state.—There may be more than 1 unserved area within a State.

“(c) Limitations.—

“(1) Annual amount.—Amounts obligated or expended under subsection (b) for any fiscal year may not exceed $500,000,000.

“(2) Unobligated balances.—To the extent that the full amount in the program is not obligated for financial assistance under this section within a fiscal year, any unobligated balance shall be used to support universal service under section 254.

“(3) Support limited to single facilities-based provider per unserved area.—Assistance under this section may be provided only to 1 facilities-based provider of broadband service in each unserved area.
“(d) APPLICATION WITH SECTION 410.—Section 410 shall not apply to the Broadband for Unserved Areas Program.

“(e) BROADBAND SERVICE DEFINED.—

“(1) IN GENERAL.—In this section, except to the extent revised by the Commission under paragraph (2), the term ‘broadband service’ means any service used for transmission of information of a user’s choosing at a transmission speed of at least 400 kilobits per second in at least 1 direction, regardless of the transmission medium or technology employed, that connects to the public Internet directly—

“(A) to the public; or

“(B) to such classes of users as to be effectively available directly to the public.

“(2) ANNUAL REVIEW OF TRANSMISSION SPEED.—The Commission shall review the transmission speed component of the definition in paragraph (1) biannually and revise that component as appropriate.

“(f) REPORT.—The Commission shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce making recommendations
for an increase or decrease, if necessary, in the amounts
credited to the program under this section.”.

SEC. 253. COMPETITIVE NEUTRALITY PRINCIPLE.

Section 254(b) (47 U.S.C. 254(b)) is amended by re-designating paragraph (7) as paragraph (8), and inserting after paragraph (6) the following:

“(7) COMPETITIVE NEUTRALITY.—Universal service support mechanisms and rules should be competitively neutral. In this context, competitively neutral means that universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another.”.

SEC. 254. TRANSITION RULES FOR MODIFICATIONS ADVERSELY AFFECTING CARRIERS.

If the Federal Communications Commission modifies the high-cost distribution rules under section 254 of the Communications Act of 1934 (47 U.S.C. 254), it shall adopt transition mechanisms of not less than 5 years in duration designed to alleviate any harmful affect of those modifications on existing eligible communications carriers and their customers.

SEC. 255. ELIGIBILITY GUIDELINES.

Section 214(e) (47 U.S.C. 214(e)) is amended by adding at the end the following:
“(7) Eligibility Guidelines.—

“(A) In General.—A common carrier may not be designated as a new eligible communications carrier unless it—

“(i) is committed to providing service throughout its proposed designated service area, using its own facilities or a combination of facilities and resale of another carrier’s facilities, to all customers making a reasonable request for service;

“(ii) has certified to the State commission or the Commission that it will provide service on a timely basis to requesting customers within its service area, if service can be provided at reasonable cost;

“(iii) has submitted a plan to the State commission or the Commission that describes with specificity proposed improvements or upgrades to its network that will be accomplished with high-cost support over the first 2 years following its designation as an eligible communications carrier;

“(iv) has demonstrated to the State commission or the Commission its ability to remain functional in emergency situations,
including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source;

“(v) is committed to following applicable consumer protection and service quality standards; and

“(vi) has complied with annual reporting requirements established by the Commission or by State Commissions for all carriers receiving universal service support to ensure that such support is used for the provision, maintenance, and upgrading of the facilities for which support is intended.

“(B) APPLICATION LIMITED TO POST DATE-OF-ENACTMENT DESIGNATIONS.—Subparagraph (A) applies only to an entity designated as an eligible communications carrier after the date of enactment of the Internet and Universal Service Act of 2006.

“(C) 6-MONTH DESIGNATION DEADLINE.—Beginning 6 months after the date of enactment of the Internet and Universal Service Act of 2006, a State commission or the Commission shall grant or deny an application for designa-
tion as an eligible communications carrier within 6 months after the date on which it receives a complete application.

“(D) ELIGIBLE COMMUNICATIONS CARRIER.—In this paragraph, the term ‘eligible communications carrier’ means an entity designated under paragraph (2), (3), or (6) of this subsection. Any reference to eligible telecommunications carrier in this section or in section 254 refers also to an eligible communications carrier.”.

SEC. 256. PRIMARY LINE.

Section 214(e) (47 U.S.C. 214(e)), as amended by section 255 of this Act, is amended by adding at the end the following:

“(8) PRIMARY LINE.—In implementing the requirements of this Act with respect to the distribution and use of Federal universal service support, the Commission shall not limit such distribution and use to a single connection or primary line, and all residential and business lines served by an eligible communications carrier shall be eligible for Federal universal service support.”.
SEC. 257. PHANTOM TRAFFIC.

(a) In General.—Section 254 (47 U.S.C. 254) is amended by adding at the end the following:

“(m) Network Traffic Identification Accountability Standards.—

“(1) Network traffic identification accountability standards.—A provider of voice communications services shall ensure, to the degree technically possible, that all traffic that originates on its network contains, or, in the case of nonoriginated traffic, preserves, sufficient information to allow for traffic identification by other voice communications service providers that transport or terminate such traffic, including information on the identity of the originating provider, the class of service of the originating line as required under Commission orders in effect on the date of enactment of the Internet and Universal Service Act of 2006, the calling and called parties, and such other information as the Commission deems appropriate. Except as otherwise permitted by the Commission, a provider that transports traffic between communications service providers shall signal-forward without altering call signaling information it receives from another provider.

“(2) Network traffic identification rule-making.—The Commission, in consultation with the
State commissions, shall initiate a single rulemaking no later than 180 days after the date of enactment of the Internet and Universal Service Act of 2006 to establish rules and enforcement provisions for traffic identification.

“(3) NETWORK TRAFFIC IDENTIFICATION ENFORCEMENT.—The Commission shall adopt and enforce clear penalties, fines, and sanctions under this section.

“(4) VOICE COMMUNICATIONS SERVICE DEFINED.—In this subsection, the term ‘voice communications service’ means telecommunications service or IP-enabled voice service (as defined in section 254(d)(6)(E)).”.

(b) CONFORMING AMENDMENT.—Section 276(d) (47 U.S.C. 276(d)) is amended—

(1) by striking “DEFINITION.—” and inserting “DEFINITIONS.—”; and

(2) by striking “services.” and inserting “services, and the term ‘call’ includes any communication coming within the definition of ‘communications service’ (as defined in section 254(d)) when it originated from a payphone.”.
SEC. 258. RANDOM AUDITS.

Section 254 (47 U.S.C. 254), as amended by section 257 of this Act, is amended by adding at the end the following:

“(n) AUDITS.—The Commission shall provide for random periodic audits, to be administered by the Universal Service Administrative Company, of each recipient of funds collected pursuant to subsection (d) with respect to its receipt and use of such support. With respect to an eligible communications carrier, the audit shall include a review of its relative cost to provide service compared to other, similarly situated, universal service recipients based on their respective service areas (as defined in section 214(e)(5)). The Commission shall take such remedial action as it deems necessary if any audit under this subsection reveals improper use of universal service support, including the imposition of fines or other appropriate remedies.”.

SEC. 259. INTEGRITY AND ACCOUNTABILITY.

(a) IN GENERAL.—The Federal Communications Commission, in consultation with the Administrator of the Universal Service Administrative Company, shall—

(1) ensure the integrity and accountability of all programs established under sections 254 and 254A of the Communications Act of 1934 (47 U.S.C. 254 and 254A); and
(2) not later than 180 days after the date of enactment of this Act, establish rules—

(A) identifying appropriate fiscal controls and accountability standards that shall be applied to programs under sections 254 and 254A;

(B) establishing a memorandum of understanding, or contractual relationships, as the Commission determines appropriate, defining the administrative structure and processes by which the Universal Service Administrative Company administers programs under sections 254 and 254A;

(C) creating performance goals and measures for programs under sections 254 and 254A, that shall be used by the Commission to determine—

(i) how efficiently and cost-effectively the Universal Service Administrative Company spends funds pursuant to its operation of all universal service programs; and

(ii) areas for improving operations;

(D) creating performance goals and measurements for the Schools and Libraries Program under section 254(h) that—
(i) determine the progress of schools and libraries toward achieving advances in connectivity goals; and

(ii) reflect the evolving level of advanced services; and

(E) establishing appropriate enforcement actions, including the imposition of sanctions on applicants and vendors who repeatedly and knowingly violate program rules set forth in section 254(h) or adopted by the Commission, such as debarment from the program for individuals convicted of crimes or held civilly liable for actions taken in connection with the Schools and Libraries Program.

(b) PERMANENT BAN OF VENDORS CONVICTED OF CRIMINAL FRAUD.—A vendor that has been convicted of a criminal fraud violation in connection with the provision of goods or services under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) is not eligible to provide goods or services to any school, library, or other entity under the program authorized by that section.

SEC. 260. IMPROVING EFFECTIVENESS OF RURAL HEALTH CARE SUPPORT MECHANISM.

(a) In General.—Section 254(h) (47 U.S.C. 254(h)) is amended—
(1) by resetting so much of paragraph (1)(A) as follows “AREAS.—” as an indented paragraph 6 ems from the left margin and inserting “(i) IN GENERAL.—” before “A telecommunications”;

(2) by inserting “deployment of reasonable infrastructure and” after “including” in the first sentence of paragraph (1)(A)(i), as designated by paragraph (1) of this subsection;

(3) by striking “service.” in paragraph (1)(A)(i), as designated by paragraph (1) of this subsection, and inserting “service, and to receive reimbursement promptly of any amount in excess of such obligations to participate in universal service mechanisms.”;

(4) by adding at the end of paragraph (1)(A) the following:

“(ii) LIMITATION.—The discount required under clause (i) shall be available only to a public or nonprofit health care provider located in a rural area.

“(iii) DEFINITION.—For purposes of this subparagraph, the term ‘rural area’ means—

“(I) any incorporated or unincorporated area in the United States, or in the territories or insular possessions
of the United States that has not more than 20,000 inhabitants based on the most recent available population statistics published in the most recent decennial census issued by the Census Bureau;

“(II) any area located outside the boundaries of any incorporated or unincorporated city, county, or borough that has more than 20,000 inhabitants based on the most recent available population statistics published in the most recent decennial census issued by the Census Bureau; or

“(III) any area that qualified as a rural area under the rules of the Commission in effect on December 1, 2004.”;

(5) by striking “and” in paragraph (7)(B)(vi); and

(6) by striking paragraph (7)(B)(vii) and inserting the following:

“(vii) not-for-profit nursing homes or skilled nursing facilities;

“(viii) critical access hospitals;
“(ix) emergency medical services facilities;

“(x) hospice providers;

“(xi) rural dialysis facilities;

“(xii) tribal health clinics;

“(xiii) not-for-profit dental offices;

“(xiv) school health clinics;

“(xv) residential treatment facilities;

“(xvi) rural pharmacies;

“(xvii) consortia of health care providers consisting of 1 or more entities described in clauses (i) through (xv); and

“(xviii) any other entity the Commission determines—

“(I) eligible to receive discounted telecommunications service under paragraph (1)(A); and

“(II) essential to the public health.”.

(b) SCHOOLS, LIBRARIES, RURAL HEALTH CARE, LIFE-LINE, LINK-UP, AND TOLL LIMITATION HOLD HARMLESS.—Except as provided in subsections (h)(1)(A), (h)(7)(B), and (h)(7)(J) of section 254 of the Communications Act of 1934 (47 U.S.C. 254), as amended by subsection (a)—
(1) nothing in this Act (or the amendments made by this Act) shall be construed as limiting, changing, modifying, or altering the amount of support or means of distribution for the schools, libraries, rural health care, life-line, link-up, and toll limitation programs; and

(2) the Federal Communications Commission shall ensure that such amendments do not result in a decrease of such support to a level below the level for the fiscal year preceding the fiscal year in which this Act is enacted.

(c) American Community Survey Residential Internet Access Question.—The Secretary of Commerce, in consultation with the Federal Communications Commission, shall expand the American Community Survey conducted by the Bureau of the Census to elicit information for residential households, including those located on Indian land (as defined in section 4(9) of the American Indian Agricultural Resource Management Act (25 U.S.C. 3703(9))), as to what technology such households use to access the Internet from home.

Sec. 261. Communications Services for Libraries.

Section 254(h)(4) of the Communications Act of 1934 (47 U.S.C. 254(h)(4)) is amended to read as follows:
“(4) Certain Users Not Eligible.—Notwithstanding any other provision of this subsection, the following entities are not entitled to preferential rates or treatment as required by this subsection:

“(A) An entity operated as a for-profit business.

“(B) A school described in paragraph (7)(A) with an endowment of more than $50,000,000.

“(C) A library or library consortium not eligible for assistance under the Library Services and Technology Act (20 U.S.C. 9101 et seq.) from a State library administrative agency.

“(D) A library or library consortium not eligible for assistance funded by a grant under section 261 of the Library Services and Technology Act (20 U.S.C. 9161) from an Indian tribe or other organization.”.

SEC. 262. USF SUPPORT FOR INSULAR AREAS.

Within 180 days after the date of enactment of this Act, the Federal Communications Commission shall issue an order in FCC Docket 96–45 establishing a predictable and sufficient support mechanism for eligible carriers in insular areas, including any insular area that is a State comprised entirely of islands, that includes assistance for
high-cost communications transport services used by carriers whose service territory includes multiple noncontiguous service areas.

**TITLE III—STREAMLINING THE FRANCHISING PROCESS**

**SEC. 301. SHORT TITLE.**

This title may be cited as the “Video Competition and Savings for Consumers Act of 2006”.

**Subtitle A—Updating the 1934 Act and Leveling the Regulatory Playing Field**

**SEC. 311. APPLICATION OF TITLE VI TO VIDEO SERVICES AND VIDEO SERVICE PROVIDERS.**

(a) Terminology.—Title VI (47 U.S.C. 521 et seq.), except for section 602 (47 U.S.C. 522), is amended—

(1) by striking “cable operator”, “cable operator’s”, and “cable operators” each place they appear and inserting “video service provider”, “video service provider’s”, or “video service providers”, respectively;

(2) by striking “cable service” and “cable services” each place they appear and inserting “video service” or “video services”, respectively;

(3) by striking “cable” each place it appears, except the second place it appears in section 624(i), and inserting “video service”;
(4) by striking “noncable” in section 614(h)(1)(C)(ii)(IV) and inserting “non-video service”;

(5) by striking “operator” and “operators” each place they appear and inserting “provider” or “providers”, respectively;

(6) by striking “cassette” each place it appears;

and

(7) by striking “tape” each place it appears and inserting “copy”.

(b) HEADINGS.—Title VI (47 U.S.C. 521 et seq.) is amended—

(1) by striking the heading for title VI and inserting “TITLE VI—VIDEO SERVICES”;

(2) by striking the heading for part II and inserting “PART II—USE OF VIDEO SERVICES; RESTRICTIONS”;

(3) by striking the heading for part III and inserting “PART III—FRANCHISING”; and

(4) striking “CABLE” in the heading for sections 633 and 640 and inserting “VIDEO SERVICE”.

(c) REGULATIONS.—Notwithstanding section 381(a) of this Act:
(1) NEW REGULATIONS.—Within 120 days after the date of enactment of this Act, the Commission shall issue regulations to implement sections 603, 611, 612, 621, and 622 of the Communications Act of 1934, as amended by this Act.

(2) UPDATING EXISTING REGULATIONS.—Within 120 days after the date of enactment of this Act, the Commission shall issue, as necessary, updated regulations needed under title VI or other provisions of the Communications Act of 1934 to reflect the amendments made by this Act.

SEC. 312. FRANCHISE APPLICATIONS; SCOPE.

Part I of title VI (47 U.S.C. 521 et seq.) is amended by adding at the end the following:

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SEC. 603. FRANCHISE APPLICATIONS.

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(a) In general.—

(1) EXPEDITED PROCESS.—Except as otherwise provided in this subsection, a franchising authority shall grant a franchise to provide video service within its franchise area to a video service provider within 90 calendar days after receiving a franchise application that is complete from the video service provider except for—

(A) the franchise fee percentage, as provided by section 622(b)(1);
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“(B) the number of public, educational, or governmental use channels required by section 611;

“(C) any fee percentage that may be assessed under section 622(b)(4); and

“(D) the point of contact for the franchising authority.

“(2) STANDARDIZED APPLICATION FORM.—A video service provider shall use the standard franchise application form promulgated by the Commission under section 612.

“(3) RESPONSIBILITIES OF FRANCHISING AUTHORITY—After receiving a franchise application under paragraph (1), a franchising authority shall—

“(A) publish public notice of the application within 15 days after receiving a complete application from a video service provider if public notice is required by State or local law; and

“(B) complete and return the application form by providing the information described in subparagraphs (A), (B), (C), and (D) of paragraph (1) in a manner that is consistent with the requirements of this title within 90 calendar days after the date on which it was received.
“(4) Acceptance of terms.—A franchising agreement shall take effect 15 calendar days after the date that the completed franchise application is received by the applicant under paragraph (3)(B) unless the applicant notifies the franchising authority within that 15-day period that the terms offered are not accepted.

“(5) Exception.—This subsection does not require a franchising authority to approve or complete an application from a video service provider if a franchise held by that provider has been revoked under section 625(b) by the franchising authority.

“(b) Deemed approval.—Except as provided in subsection (a)(5), if a franchising authority fails to act on a franchise application that meets the requirements of this title within the 90-day period described in subsection (a)(3)(B), the franchise application shall be deemed granted—

“(1) effective on the 91st day after the franchising authority received the application;

“(2) for a term of 15 years;

“(3) with—

“(A) the same percentage of gross revenue paid by the cable operator with the most sub-
scribers offering cable service in the franchise area; or

“(B) if there is no cable operator offering cable service in the franchise area, 5 percent of gross revenue; and

“(4) with an obligation to provide the number of public, educational, or governmental use channels required by section 611.

“(c) Procedure.—If an application is not granted within the 90-day period described in subsection (a)(3)(B) because of subsection (a)(5), the applicant may avail itself of the procedures in section 635 of this Act.

“SEC. 604. NO EFFECT ON STATE LAWS OF GENERAL APPLICABILITY.

“Nothing in this title is intended to affect State or local laws of general applicability, except to the extent that such laws are inconsistent with this title.

“SEC. 605. DIRECT BROADCAST SATELLITE SERVICE.

“No State or local government may regulate direct broadcast satellite services (as that term is used in section 335 of this Act). This section shall not be construed to prevent taxation of a provider of direct-to-home satellite service by a State, to the extent otherwise permissible, and shall not preempt State or local laws of general applicability.”.
SEC. 313. STANDARD FRANCHISE APPLICATION FORM.

Section 612 (47 U.S.C. 532) is amended to read as follows:

“SEC. 612. STANDARD FRANCHISE APPLICATION FORM.

“(a) In General.—Within 30 days after the date of enactment of the Video Competition and Savings for Consumers Act of 2006, the Commission shall promulgate a standard franchise application form, the use of which by franchising authorities shall be mandatory.

“(b) Compliance Commitments.—The franchise application form shall include a statement, to be signed by the video service provider—

“(1) that it agrees to comply with all applicable Federal and State statutes and regulations that are consistent with this title;

“(2) that it agrees to comply with all applicable municipal regulations regarding the use and occupation of public rights-of-way in the delivery of video service, including the police powers of the municipalities in which the service is delivered that are consistent with this title;

“(3) geographically identifying the franchise area in which the provider intends to offer cable service pursuant to the standard franchise; and

“(4) certifying that the information contained in the notice is accurate and correct and that the pro-
vider will immediately notify the franchise authority of any material changes in that information during the franchise term.

“(c) PROVISIONS TO BE SUPPLIED.—The franchise application form shall include only the following blank spaces to be filled in by the video service provider and the franchising authority, as appropriate:

“(1) The name of the video service provider.

“(2) The name and business address of each director and principal executive officer.

“(3) A point of contact for the video service provider.

“(4) A point of contact for the franchising authority.

“(5) The franchise fee percentage under section 622(b)(1).

“(6) Any fee percentage that may be assessed under section 622(b)(4).

“(7) The period during which the franchising agreement shall be in effect.

“(8) The public, educational, or governmental capacity to be provided.

“(9) The physical location of the headend.

“(10) A description of the video service to be provided.
“(11) Signatures.
“(12) Dates for each signature.”.

SEC. 314. DEFINITIONS.

(a) In General.—Section 602 (47 U.S.C. 522) is amended—

(1) by striking “cable system” in paragraphs (1) and (9) and inserting “video service system”;  
(2) by striking “regulation);” in paragraph (4) and inserting “regulation) or its equivalent (as determined by the Commission).”;
(3) by inserting after paragraph (11) the following:

“(11A) ‘headend’ means the headend of a cable system or its equivalent as determined by the Commission.”;
(4) by inserting after paragraph (12) the following:

“(12A) ‘institutional network’ means a communication network constructed by a cable operator that is generally available only to subscribers who are not residential subscribers.”;
(5) by striking “cable operator” in paragraph (14) and inserting “video service provider”;
(6) by inserting after paragraph (16) the following:
“(16A) ‘satellite carrier’ means an entity that uses the facilities of a satellite or satellite service licensed by the Commission and operates in the Fixed-Satellite Service under part 25 of title 47, Code of Federal Regulations, or the Direct Broadcast Satellite Service under part 100 of title 47, Code of Federal Regulations, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases capacity or service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under this Act, for purposes other than for private home viewing.”;

(7) by striking “cable service” in paragraph (17) and inserting “video service”;

(8) by striking “cable operator” each place it appears in paragraph (17) and inserting “video service provider”; and

(9) by inserting after paragraph (20) the following:

“(24) VIDEO SERVICE.—The term ‘video service’ means—

“(A) the transmission to subscribers of—

“(i) video programming;
“(ii) interactive on-demand service; or

“(iii) other programming service; and

“(B) subscriber interaction, if any, required for the selection or use of such video programming, interactive on-demand service, or other programming service regardless of the transmission technology used and regardless of how the subscriber interacts with the service.

“(25) VIDEO SERVICE PROVIDER.—The term ‘video service provider’—

“(A) means a facilities-based (as determined by the Commission) provider of video service that utilizes a public right-of-way in the provision of such service (including cable operators and providers offering open video systems under section 653), regardless of the transmission technology used and regardless of how the subscriber interacts with the service; but

“(B) does not include any person to the extent that the person is providing—

“(i) satellite service, including if such service is bundled with, or offered in conjunction with, an Internet access service or other broadband capability;
“(ii) video programming using radio communication directly to the recipient’s premises; or
“(iii) service via commercial mobile service (as defined in section 332(d)).”.

(b) STYLISTIC CONSISTENCY.—Section 602 (47 U.S.C. 522), as amended by subsection (a), is amended—
(1) by striking “title—” and inserting “title:”; (2) by redesignating paragraphs (1) through (20) as paragraphs (1) through (23); (3) by striking the semicolon at the end of each such paragraph and inserting a period; and (4) by inserting after the designation of each such paragraph—
(A) a heading, in a form consistent with the form of the heading of paragraphs (24) and (25), as added by subsection (a) of this section consisting of the term defined by such paragraph, or the first term so defined if the paragraph defines more than 1 term; and (B) the words “The term”.

SEC. 315. FAMILY TIER STUDY.
(a) In General.—The Congress endorses and commends cable operators, satellite providers, and other multi-channel video programming distributors for their voluntary
efforts to offer family program tiers that seek to meet consumer demand for programming packages free of indecent and obscene programming suitable for family audiences.

(b) DATA COLLECTION.—Every multichannel video programming distributor shall submit an annual report to the Federal Communications Commission on family tiers that includes whether it offers a family tier, the retail price of such tier, a description of the channels included in such tier, a description of the distributor’s efforts to market such tier, and the subscribership level for every tier and package offered by such distributor. The Commission shall keep confidential any data that is not available in the public domain on the date of submission.

(c) REPORT TO CONGRESS.—Within 1 year after the date of enactment of this Act, and every year thereafter for 5 years, the Commission shall submit a report to Congress aggregating the data it receives pursuant to subsection (b).

SEC. 316. NOTICE OF INQUIRY ON VIOLENT PROGRAMMING.

Not later than 180 days after the date of enactment of this Act, the Federal Communications Commission shall complete its Notice of Inquiry and issue its finding in the matter of Violent Television Programming and Its Impact on Children, MB Docket No. 04–261.
Subtitle B—Streamlining the Provision of Video Services

SEC. 331. FRANCHISE REQUIREMENTS AND RELATED PROVISIONS.

(a) GENERAL FRANCHISE REQUIREMENTS.—Section 621 (47 U.S.C. 541) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—

“(1) AWARD OF FRANCHISE.—A franchising authority may not—

“(A) grant an exclusive franchise; or

“(B) grant a franchise for a term shorter than 5 years or longer than 15 years as provided in section 603.

“(2) PRESERVATION OF LOCAL GOVERNMENT AUTHORITY TO MANAGE PUBLIC RIGHTS-OF-WAY; EASEMENTS.—

“(A) IN GENERAL.—Except as provided in this title, no State or local law may prohibit, or have the effect of prohibiting, a video service provider from offering video service.

“(B) HOLD HARMLESS.—A State or local government shall apply its laws or regulations in a manner that is reasonable, competitively
neutral, nondiscriminatory, and consistent with
State police powers, including permitting, pay-
ments for bonds, security funds, letters of credit, 
insurance, indemnification, penalties, or liq-
uidated damages to ensure compliance with such 
laws and regulations. Any permitting fees im-
posed by a State or local government shall be for 
the purpose of compensating that government for 
the costs incurred in managing public rights-of-
way. Any law or regulation that meets the re-
quirements of this subparagraph shall not be 
held to violate subparagraph (A).

“(C) PROPERTY OWNERS.—Nothing in this 
title precludes a State or local government from 
requiring that a property owner be justly com-
pensated by a video service provider for damage 
caused by the installation, construction, oper-
ation, or removal of facilities by the video service 
provider.

“(D) DISPUTE RESOLUTION.—If a dispute 
arises concerning the application of subpara-
graph (A), (B), or (C), the sole recourse of any 
party to the dispute shall be to file an action in 
a court of competent jurisdiction.
“(3) USE OF PUBLIC RIGHTS-OF-WAY.—Any franchise shall be construed to authorize the construction of a video service system over public rights-of-way, and through easements, which is within the area to be served by the video service system and which have been dedicated for compatible uses, except that in using such easements the video service provider shall ensure—

“(A) that the safety and functioning of the property and the safety of other persons not be adversely affected by the installation or construction of facilities necessary for a video service system; and

“(B) that the cost of the installation, construction, operation, or removal of such facilities be borne by the video service provider or subscriber, or a combination of both.”; and

(2) by striking paragraph (1) of subsection (b) and inserting “(1) Except to the extent provided in subsection (f), a video service provider may not provide video service without a franchise.”.

(b) FRANCHISE FEE.—Section 622 (47 U.S.C. 542) is amended—

(1) by striking subsections (a) and (b) and inserting the following:
“(a) In General.—A franchising authority may impose and collect a franchise fee from a video service provider that provides video services within the local franchise area of that authority. A franchising authority may not discriminate among video service providers in imposing or collecting any fee assessed under this section.

“(b) Amount.—

“(1) In General.—The franchise fee imposed by a franchising authority under subsection (a) for any 12-month period may not exceed 5 percent of the video service provider’s gross revenue derived in such period. For purposes of this section, the 12-month period shall be the 12-month period applicable under the franchise for accounting purposes.

“(2) Prepaid or Deferred Payment Arrangements.—Nothing in this subsection prohibits a franchising authority and a video service provider from agreeing that franchise fees which lawfully could be collected for any such 12-month period shall be paid on a prepaid or deferred basis, except that the sum of the fees paid during the term of the franchise may not exceed the amount, including the time value of money, which would have lawfully been collected if such fees had been paid per annum.
“(3) Franchising authority and video service provider agreements.—Nothing in this section precludes a State or local government and a video service provider from entering into a voluntary commercial agreement, whereby in consideration for a mutually agreed upon reduction in the franchise fee under paragraph (1), the video service provider makes available to the local unit of government services, equipment, capabilities, or other valuable consideration.

“(4) PEG and institutional network financial support.—

“(A) In general.—Except as provided in subparagraph (D), a video service provider may be required to pay a fee equal to—

“(i) not more than 1 percent of the video service provider’s gross revenue in the franchise area to the franchising authority for the support of public, educational, and governmental access facilities and institutional networks; or

“(ii) the value, on a per subscriber basis, of all monetary grants or in-kind services or facilities for public, educational, or governmental access facilities provided
by the cable operator in the franchise area
with the most cable service subscribers in
the calendar year preceding the date of en-
actment of the Video Competition and Sav-
ings for Consumers Act of 2006, pursuant to
that cable operator’s existing franchise in
effect on the date of enactment of that Act.

“(B) **CALCULATION DATA.**—A franchising
authority may require a cable operator to pro-
vide information sufficient to calculate the per-
subscriber equivalent fee allowed by subpara-
graph (A)(ii). The information shall be treated
as confidential and proprietary business infor-
mation. The payments made by a video service
provider pursuant to subparagraph (A) shall be
assessed and collected in a manner consistent
with this section.

“(C) **EXISTING INSTITUTIONAL NET-
WORKS.**—

“(i) **CONTINUED SERVICE.**—Except as
provided in subparagraph (D), a fran-
chising authority may require a cable oper-
ator or video service provider with a fran-
chise in effect on the date of enactment of
the Video Competition and Savings for Con-
sumers Act of 2006 to continue to provide any institutional network it was required to provide on the date of enactment of that Act notwithstanding the expiration or termination of that franchise pursuant to section 381(b) of the Video Competition and Savings for Consumers Act of 2006.

“(ii) NEW NETWORK NOT REQUIRED.—A franchising authority may not require a video service provider to construct a new institutional network.

“(D) SPECIAL RULE.—In Hawaii—

“(i) subparagraph (A)(ii) shall be applied by inserting ‘and institutional networks’ after ‘governmental access facilities’; and

“(ii) subparagraph (C)(i) shall be applied by inserting ‘or had committed to provide’ after ‘required to provide’.”; and

(2) by striking subsections (d) through (h), redesignating subsection (i) as subsection (h), and inserting the following after subsection (c):

“(d) OTHER TAXES, FEES, AND ASSESSMENTS NOT AFFECTED.—Except as otherwise provided in this section, nothing in this section shall be construed to modify, impair,
supersede, or authorize the modification, impairment, or
supersession of, any State or local law pertaining to tax-
ation.

“(e) ANNUAL REVIEW.—

“(1) FRANCHISING AUTHORITY AUDIT PROCEDURE.—A franchising authority may, upon reason-
able written request, but no more than once in any
12-month period, review the business records of a
video service provider to the extent reasonably nec-
essary to ensure payment of the fees required by this
section. The review may include the methodology used
by the video service provider to assign portions of the
revenue from video service that may be bundled or
functionally integrated with other services, capabili-
ties, or applications. The review shall be conducted in
accordance with procedures established by the Com-
mission.

“(2) AVAILABILITY OF BOOKS AND RECORDS.—
Upon request under paragraph (1), a video service
provider shall make available its books and records
for periodic audit by a franchising authority. The
franchising authority shall treat information obtained
in the course of such an audit as confidential and
proprietary and protect sensitive information from
public disclosure.
“(3) Cost Recovery.—To the extent that the review under paragraph (1) identifies an under-payment of more than 5 percent of any fee required by this section for the period of review, the video service provider shall reimburse the franchising authority the reasonable costs of any such review conducted by an independent third party with respect to such fee. The costs of any contingency fee arrangement between the franchising authority and the independent reviewer shall not be subject to reimbursement.

“(4) Limitation.—Any fee that is not reviewed by a franchising authority within 3 years after it is paid or remitted shall not be subject to later review by the franchising authority under this subsection and shall be deemed accepted in full payment by the franchising authority.

“(f) GAAP Standards.—For purposes of this section, all financial determinations and computations shall be made in accordance with generally accepted accounting principles except as otherwise provided.

“(g) Definitions.—In this section:

“(1) Franchise Fee.—The term ‘franchise fee’—

“(A) includes any tax, fee, or assessment of any kind imposed by a franchising authority or
a State or local governmental entity on a video
service provider or subscriber, or both, solely be-
cause of their status as such; but

“(B) does not include—

“(i) any tax, fee, or assessment of gen-
eral applicability (including any such tax,
fee, or assessment imposed on both utilities
and video service providers or their services
but not including a tax, fee, or assessment
which is unduly discriminatory against
video service providers or subscribers);

“(ii) any fee that is required by the
franchise under subsection (b)(4);

“(iii) requirements or charges inci-
dental to the use of public rights-of-way, in-
cluding payments for bonds, security funds,
letters of credit, insurance, indemnification,
penalties, or liquidated damages;

“(iv) costs of fines, penalties, or
recoupment; or

“(v) any fee imposed under title 17,
United States Code.

“(2) GROSS REVENUE.—

“(A) IN GENERAL.—The term ‘gross rev-
enue’ means all consideration of any kind or na-
ture including cash, credits, property, and in-kind contributions (services or goods) received by a video service provider from the provision of video service within a franchise area including—

“(i) all charges and fees paid by subscribers for the provision of video service, including fees attributable to video service when that service is sold individually or as part of a package or bundle, or is functionally integrated with services other than video service;

“(ii) revenue received by a video service provider as compensation for carriage of video programming on the provider’s system;

“(iii) compensation received by a video service provider as compensation for promotion or exhibition of any product or service on the provider’s video service, such as a home shopping or similar channel, subject to subparagraph (D)(vi); and

“(iv) a pro rata portion of all revenue derived by a video service provider or an affiliate thereof pursuant to a compensation
arrangement for advertising derived from
the operation of the provider’s video service
or the video service within a franchise area
subject to subparagraph (D)(ii).

“(B) AFFILIATES.—The gross revenue of a
video service provider includes gross revenue of
an affiliate to the extent the exclusion of the af-
affiliate’s gross revenue would have the effect of
permitting the video service provider to evade the
payment of franchise fees which would otherwise
be paid by that video service provider for video
services provided within the franchise area of the
franchising authority imposing the fee.

“(C) REVENUE FROM BUNDLED OR FUNCTIONALLY INTEGRATED SERVICE.—In the case of
a video service that is packaged, bundled, or
functionally integrated with other services, capa-
bilities, or applications, gross revenue shall in-
clude only the revenue attributable to the video
service, which shall be reflected on the books and
records of the video service provider kept in the
regular course of business.

“(D) EXCLUSIONS.—Gross revenue of a
video service provider (or an affiliate to the ex-
tent otherwise included in the gross revenue of
the video service provider under subparagraph (B)) does not include—

“(i) any revenue not actually received, even if billed, such as bad debts, net of any recoveries of bad debts;

“(ii) refunds, rebates, credits, or discounts to subscribers or a municipality to the extent not already excluded under clause (i);

“(iii) subject to subparagraph (C), any revenues received by a video service provider or its affiliates from the provision of services or capabilities other than video service, including—

“(I) voice, Internet access, or other broadband-enabled applications that are not video service; and

“(II) services, capabilities, and applications that are sold or provided as part of a package or bundle of services or capabilities, or that are functionally integrated with video service;

“(iv) any revenues received by a video service provider or its affiliates for the provision of directory or Internet advertising,
including yellow pages, white pages, banner advertisement, and electronic publishing;

“(v) any costs attributable to the provision of video services to subscribers at no charge, including the provision of such services to public institutions without charge;

“(vi) any revenue paid by subscribers to a home shopping programmer directly from the sale of merchandise through any home shopping channel offered as part of the video service provider’s video services, but not excluding any commissions that are paid to the video service provider as compensation for promotion or exhibition of any product or service on the provider’s video service, such as a home shopping or similar channel;

“(vii) any revenue forgone from the provision of video service at no charge to any person other than forgone revenue exchanged for trades, barter, services, or other items of value;

“(viii) any tax, fee, or assessment of general applicability imposed on a subscriber or transaction by Federal, State, or
local government that is required to be col-
lected by the video service provider and re-
mitted to the taxing authority, including
sales taxes, use taxes, and utility user taxes;
“(ix) any revenue from the sale of cap-
ital assets or surplus equipment;
“(x) the reimbursement by program-
mers for marketing costs actually incurred
by a video service provider for the introduc-
tion of new programming; or
“(xi) any revenue from the sale of
video services for resale to the extent that
the purchaser certifies in writing that it
will—
“(I) resell the service; and
“(II) pay any applicable fran-
chise fee with respect thereto.”.

SEC. 332. RENEWAL; REVOCATION.
Part II of title VI (47 U.S.C. 541 et seq.) is amended
by striking sections 625 and 626 and inserting the fol-
lowing:

“SEC. 625. RENEWAL; REVOCATION.
“(a) RENEWAL.—A video service provider may submit
a written application for renewal of its franchise to a fran-
chising authority not more than 180 days before the fran-
chise expires. Any such application shall be made on the
standard application form promulgated by the Commission
under section 612 and shall be treated under section 603
in the same manner as any other franchise application.

“(b) Revocation.—Notwithstanding any other law of
general applicability, a franchising authority may revoke
a video service provider’s franchise if it determines, after
notice and an opportunity for a hearing, that the video
service provider has—

“(1) violated any Federal or State law, or any
Commission regulation, relating to the provision of
video services in the franchise area;

“(2) made false statements, or material omis-
sions, in any filing with the franchising authority or
the Commission relating to the provision of video
service in the franchise area;

“(3) violated the rights-of-way management laws
or regulations of any franchising authority in the
franchise area relating to the provision of video serv-
ice in the franchise area; or

“(4) violated the terms of the franchise agree-
ment (including any commercial agreement permitted
under section 622(b)(3)).
“(c) Notice; Opportunity To Cure.—A franchising authority may not revoke a franchise unless it first provides—

“(1) written notice to the video service provider of the alleged violation in which the revocation would be based; and

“(2) a reasonable opportunity to cure the violation.

“(d) Finality of Decision.—Any decision of a franchising authority to revoke a franchise under this section is final for purposes of appeal. A video service provider whose franchise is revoked by a franchising authority may avail itself of the procedures in section 635 of this Act.”.

SEC. 333. PEG AND INSTITUTIONAL NETWORK OBLIGATIONS.

Section 611 (47 U.S.C. 531) is amended to read as follows:

“SEC. 611. CHANNELS FOR PUBLIC, EDUCATIONAL, OR GOVERNMENTAL USE.

“(a) In General.—A video service provider that obtains a franchise shall provide channel capacity for public, educational, or governmental use that is not less than the channel capacity required of the cable operator or video service provider with the greatest number of public, educational, or governmental use channels in the franchise area
on the effective date of the franchise. If there is no other
video service provider in the franchise area on the effective
date of the franchise, the video service provider may be re-
quired to provide up to 3 channels.

“(b) ADJUSTMENT.—Every 15 years after the com-
 mencement of a franchise granted after April 30, 2006, a
franchising authority may require a video service provider
to increase the channel capacity designated for public, edu-
cational, or governmental use, and the channel capacity
designated for such use on any institutional networks re-
quired under subsection (a). The increase may not exceed
the greater of—

“(1) 1 channel; or
“(2) 10 percent of the public, educational, or
governmental channel capacity required of the video
service provider before the required increase.

“(c) EDITORIAL CONTROL.—Subject to section
624(d)(1), a video service provider shall not exercise any
editorial control over any public, educational, or govern-
mental use of channel capacity provided pursuant to this
section, but a video service provider may refuse to transmit
any public access program or portion of a public access pro-
gram which contains obscenity.

“(d) TRANSMISSION AND PRODUCTION OF PROGRAM-
MING.—
“(1) PEG PROGRAMMING.—A video service provider shall ensure that all subscribers receive any public, educational, or governmental programming carried by the video service provider within the subscriber’s franchise area.

“(2) PRODUCTION RESPONSIBILITY.—The production of any programming provided under this subsection shall be the responsibility of the franchising authority.

“(3) TRANSMISSION RESPONSIBILITY.—The video service provider shall be responsible for the transmission from the signal origination point (or points) of the programming, or from the point of interconnection with another video service provider already offering the public, educational, or governmental programming under paragraph (4), to the video service provider’s subscribers, or any public, educational, or governmental programming produced by or for the franchising authority and carried by the video service provider pursuant to this section.

“(4) INTERCONNECTION; COST-SHARING.—Unless 2 video service providers otherwise agree to the terms for interconnection and cost sharing, such video service providers shall comply with regulations prescribed by the Commission providing for—
“(A) the interconnection between 2 video service providers in a franchise area for transmission of public, educational, or governmental programming, without material degradation in signal quality or functionality; and

“(B) the reasonable allocation of the costs of such interconnection between such video service providers.

“(5) Display of Program Information.—The video service provider shall display the program information for public, educational, or governmental programming in any print or electronic program guide in the same manner in which it displays program information for other video programming in the franchise area. The video service provider may not omit public, educational, or governmental programming from any navigational device, guide, or menu containing other video programming that is available to subscribers in the franchise area if the franchising authority provides such programming to the video service provider at a location, in the data format, and in sufficient time normally required for the programming to be displayed on such device, guide, or menu.”.
SEC. 334. SERVICES, FACILITIES, AND EQUIPMENT.

(a) In General.—Section 624 (47 U.S.C. 544) is amended—

(1) by striking subsections (a), (b), (c), (e), and (h) and redesignating subsections (d), (f), (g), and (i) as subsections (a) through (d), respectively; and

(2) by inserting “or wire” after “any cable” in subsection (d), as redesignated.

(b) Conforming Amendment.—Section 611(c) (47 U.S.C. 531(c)), as amended by section 333 of this Act, is amended by striking “624(d)(1)” and inserting “624(a)(1)”.

SEC. 335. SHARED FACILITIES.

Part III of title VI (47 U.S.C. 541 et seq.) is amended—

(1) by striking section 627 and redesignating sections 628 and 629 as sections 626 and 627, respectively; and

(2) by adding at the end the following:

“SEC. 628. ACCESS TO PROGRAMMING FOR SHARED FACILITIES.

“(a) In General.—A video service programming vendor in which a video service provider has an attributable interest may not deny a video service provider with a franchise under this title access to video programming solely because that video service provider uses a headend for its
video service system that is also used, under a shared ownership or leasing agreement, as the headend for another video service system.

“(b) VIDEO SERVICE PROGRAMMING VENDOR DEFINED.—The term ‘video service programming vendor’ means a person engaged in the production, creation, or wholesale distribution for sale of video programming that is primarily intended for receipt by video service providers for retransmission to their video service subscribers.”.

SEC. 336. CONSUMER PROTECTION AND CUSTOMER SERVICE.

Section 632 (47 U.S.C. 552) is amended to read as follows:

“SEC. 632. CONSUMER PROTECTION AND CUSTOMER SERVICE.

“(a) REGULATIONS.—

“(1) IN GENERAL.—Not later than 120 days after the date of enactment of the Video Competition and Savings for Consumers Act of 2006, the Commission, after receiving comments from interested parties, including national associations representing franchising authorities or consumers, shall promulgate regulations, which shall include penalties to be paid to subscribers with respect to customer service and
consumer protection requirements for video service providers.

“(2) Effective date of regulations.—The regulations required by subsection (a) shall take effect 60 days after the date on which a final rule is promulgated by the Commission.

“(b) Maximum penalty for early termination of subscription.—It is unlawful for a video service provider to charge a subscriber an amount in excess of 1 month’s subscription fee as a penalty or service charge for terminating a subscription to the video service provider’s service before the date on which the subscription term ends.

“(c) Enforcement.—The regulations promulgated by the Commission under subsection (a) and the provisions of subsection (b) shall be enforced by franchising authorities. A franchising authority may refer a matter for enforcement to the State attorney general or the State consumer protection agency on a case-by-case basis.

“(d) Review by Commission.—A video service provider may appeal any enforcement action taken against that provider by a franchising authority to the Commission.”.

SEC. 337. REDLINING.

Part IV of title VI (47 U.S.C. 551 et seq.) is amended by adding at the end the following:
“SEC. 642. REDLINING.

“(a) In General.—A video service provider may not deny access to its video service to any group of potential residential video service subscribers because of the income, race, or religion of that group.

“(b) Enforcement.—

“(1) State attorney general enforcement.—This section may be enforced by the State attorney general through a complaint-initiated adjudication process under which a complaint may be filed by a resident of the franchising area who is aggrieved by a violation of subsection (a) or by a franchising authority on behalf of residents of its franchise area. Within 180 days after receiving the resident’s or franchising authority’s complaint, a State attorney general shall act on such a complaint either by filing a complaint with a court of competent jurisdiction or notifying the resident or franchising authority that the State attorney general will not file such a complaint.

“(2) Evaluation of complaint.—The totality of the video service provider’s deployments in its service areas shall be considered in any adjudication pursuant to an enforcement action under this subsection.

“(c) Remedies.—If a court determines that a video service provider has violated subsection (a) it—
“(1) shall ensure that the video service provider remedies any violation of subsection (a); and

“(2) may assess a civil penalty in such amount as may be authorized under State law for the franchising area in which the violation occurred for violation of that State’s antidiscrimination laws.

“(d) LIMITATIONS.—

“(1) NATURAL AND TECHNOLOGICAL BARRIERS.—It is not a violation of subsection (a) if video service is denied because technical feasibility, commercial feasibility, operational limitations, or physical barriers preclude the effective provision of video service.

“(2) QUOTAS, GOALS, OR TIMETABLES.—Nothing in this section authorizes the use of quotas, goals, or timetables as a remedy.

“(e) REPORTS.—

“(1) ANNUAL REPORTS TO COMMISSION.—Beginning 3 years after the date of enactment of the Video Competition and Savings for Consumers Act of 2006, each franchising authority shall report to the Commission on video service provider deployment in its franchise area. The Commission shall develop and make available to franchising authorities a standardized, electronic data-based, report form to be used in
complying with the requirements of this paragraph. A
video service provider shall provide such information
to the franchising authority as is needed to complete
the report.

“(2) COMMISSION REPORT TO CONGRESS.—Be-
ginning 4 years after the date of enactment of the
Video Competition and Savings for Consumers Act of
2006, and every 4 years thereafter, the Commission
shall report to the Senate Committee on Commerce,
Science, and Transportation and the House of Rep-
resentatives Committee on Energy and Commerce on
the buildout of video service.”

SEC. 338. APPLICATION OF SECTION 503(b).
Section 503(b) (47 U.S.C. 503(b)) is amended by add-
ing at the end the following:

“(6) APPLICATION TO VIDEO SERVICE PROVIDERS.—
In this section the terms ‘cable television operator’ and
‘cable television system operator’ include a video service
provider (as defined in section 602 of this Act).”.

SEC. 339. APPLICATION OF TITLE VII CABLE PROVISIONS
TO VIDEO SERVICES.
Title VII (47 U.S.C. 601 et seq.) is amended—

(1) by striking “cable operators for their retrans-
mission to cable subscribers;” in section 705(d)(1)
and inserting “cable operators or video service pro-
videos (as defined in section 602 of this Act) for their retransmission to subscribers;”;

(2) by striking “and cable television;” in section 712(a)(1) and inserting “cable television, and video service (as defined in section 602 of this Act);”; and

(3) by inserting “video service,” in section 714(k)(3) after “cable,”.

SEC. 340. CHILDREN’S TELEVISION ACT AMENDMENT.

Section 102(d) of the Children’s Television Act of 1990 (47 U.S.C. 303a(d)) is amended by striking “a cable operator,” and inserting “cable operators and video service providers,”.

Subtitle C—Miscellaneous and Conforming Amendments

SEC. 351. MISCELLANEOUS AMENDMENTS.

(a) MUNICIPAL OPERATORS.—Section 621(f) (47 U.S.C. 541(f)) is amended to read as follows:

“(f) MUNICIPAL OPERATORS.—No provision of this title shall be construed to prohibit a local or municipal authority that is also, or is affiliated with, a franchising authority from operating as a multichannel video programming distributor in the franchise area, notwithstanding the granting of one or more franchises by the franchising authority.”.
(b) *Sunset.*—Section 626(c)(5), as redesignated by section 335 of this Act, is amended—

(1) by striking “10 years after the date of enactment of this section,” and inserting “on October 5, 2012,”; and

(2) by striking “last year of such 10-year period,” and inserting “12-month period ending on that date,”.

(c) *Updating.*—Section 613 (47 U.S.C. 533) is amended—

(1) by striking “July 1, 1984,” in subsection (g) and inserting “the date of enactment of the Video Competition and Savings for Consumers Act of 2006”; and

(2) by striking subsection (a) and redesignating subsections (c) through (h) as subsections (a) through (f), respectively.

(d) *Repeal.*—Section 617 (47 U.S.C. 537) is repealed.

(e) *Restructuring Part IV.*—Part IV of title VI (47 U.S.C. 551 et seq.) is amended—

(1) by striking sections 636 and 637; and

(2) by redesignating sections 635A, 638, 639, 640, 641, and 642 (as added by section 339 of this Act) as sections 636, 637, 638, 639, 640, and 641, respectively.
(f) Federal Regulation of IP-Enabled Video Service.—Title VI (47 U.S.C. 521 et seq.), as amended by subsection (f), is amended by adding at the end the following:

“SEC. 642. IP-ENABLED VIDEO SERVICE.

“(a) In General.—Notwithstanding any other provision of law, IP-enabled video service is an interstate service and is subject only to Federal regulations.

“(b) IP-Enabled Video Service Defined.—In this section, the term ‘IP-enabled video service’ means a video service provided over the public Internet utilizing Internet protocol, or any successor protocol that is not offered by, or not offered as part of a package of video services offered by, a video service provider or its affiliate.

“(c) Commission Authority.—The commission may not impose any rule on, apply any regulation to, or otherwise regulate the offering or provision of IP-enabled video service.

“(d) Law Enforcement.—Nothing in this section shall be construed to interfere with any lawful activity of a law enforcement agency or to limit the application of any law the violation of which is punishable by a fine, imprisonment, or both.

“(e) No Effect on Tax Laws.—Nothing in this section shall be construed to modify, impair, supersede, or au-
authorize the modification, impairment, or supersession of, any State or local tax law.”.

(g) **CONFORMING AMENDMENTS FOR RETRANSMISSION.**—

(1) Section 325(b) (47 U.S.C. 325(b)) is amended—

(A) by striking “cable system” in paragraph (1) and inserting “video service provider”;

and

(B) by inserting “The term ‘video service provider’ has the meaning given it in section 602(25) of this Act.” after “title.” in the matter following subparagraph (E) of paragraph (2).

(2) Section 336(b) (47 U.S.C. 336(b)) is amended by striking “section 614 or 615 or be deemed a multichannel video programming distributor for purposes of section 628;” and inserting “section 614 or 615;”.

**Subtitle D—Effective Dates and Transition Rules**

**SEC. 381. EFFECTIVE DATES; PHASE-IN.**

(a) **IN GENERAL.**—

(1) **6-MONTH DELAY.**—Except as provided in paragraph (2), the amendments made by the Video Competition and Savings for Consumers Act of 2006
shall take effect 180 days after the date of enactment of that Act.

(2) INITIATION OF CERTAIN PROCEEDINGS.—Notwithstanding paragraph (1), the Federal Communications Commission shall initiate any proceeding required by title VI of the Communications Act of 1934, as amended by this Act, or made necessary by such amendment as soon as practicable after the date of enactment of this Act.

(b) APPLICATION TO EXISTING FRANCHISE AGREEMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the provisions of title VI of the Communications Act of 1934, as amended by this Act, shall not apply to a cable operator with a franchise agreement in effect on the date of enactment of this Act between a franchising authority and a cable operator before the expiration date of the agreement, as determined without regard to any renewal or extension of the agreement. The provisions of title VI of the Communications Act of 1934 (47 U.S.C. 521 et seq.), as in effect on the day before the date of enactment of this Act, shall continue to apply to any such franchise agreement and the cable operator as provided by subsection (c) until the earlier of—
(A) the expiration date of the agreement; or

(B) the date on which a new franchise agreement that replaces the existing franchise agreement takes effect.

(2) COMPETITION TRIGGER.—

(A) NOTIFICATION OF EXISTING FRANCHISEE REQUIRED.—If a franchising authority authorizes a video service provider to provide video service in an area in which cable service is already being provided under an existing franchise agreement, the franchising authority shall—

(i) require the video service provider to notify the franchising authority when the video service provider commences video service in that area; and

(ii) immediately notify any cable operator providing cable service in that area upon receipt of the notice required under clause (i).

(B) NEW FRANCHISE AGREEMENT SUPERSEDES EXISTING AGREEMENT.—Upon receipt of notice under subparagraph (A)(ii), a cable operator with an existing franchise to provide cable service in that area may submit an application
for a franchise under section 603 of the Communications Act of 1934, as amended by this Act.

When the franchise is granted—

(i) the terms and conditions of the new franchise agreement supersede the existing franchise agreement; and

(ii) the provisions of title VI of the Communications Act of 1934, as amended by this Act, shall apply.

(c) LIMITED APPLICATION OF PRIOR LAW.—

(1) IN GENERAL.—Except as provided in subsection (b) or otherwise explicitly provided in new title VI, the provisions of old title VI (and all regulations, rulings, waivers, orders, and franchise agreements under old title VI) shall continue in effect after the date of enactment of this Act with respect to any cable operator to which they applied before that date until the earlier of—

(A) the expiration date of the franchise agreement under which the cable operator was operating on the date of enactment of this Act; or

(B) that date on which a new franchise agreement takes effect that replaces a cable oper-
ator’s franchise agreement described in subpara-
graph (A).

(2) **Preservation of Basic Tier Regulation.**—Notwithstanding any other provision of this subsection, section 623 of old title VI shall continue to apply in any franchise area until a franchising authority receives a notice under subsection (b)(2)(A)(i).

(d) **Definitions.**—In this section:

(1) **Cable Operator.**—The term “cable operator” includes a local exchange carrier that provides video services to video service subscribers in its telephone service area through an open video system that complies with the requirements of section 653 of the Communications Act of 1934 (47 U.S.C. 573).

(2) **New Title VI.**—The term “new title VI” means title VI of the Communications Act of 1934 (47 U.S.C. 521 et seq.) as amended by this Act.

(3) **Old Title VI.**—The term “old title VI” means title VI of the Communications Act of 1934 (47 U.S.C. 521 et seq.) as in effect on the day before the date of enactment of this Act.
TITLE IV—VIDEO CONTENT
Subtitle A—National Satellite

SEC. 401. AVAILABILITY OF CERTAIN LICENSED SERVICES IN NONCONTIGUOUS STATES.

(a) In General.—Section 335 (47 U.S.C. 335) is amended by adding at the end thereof the following:

“(c) Alaska and Hawaii Obligations.—

“(1) In General.—Each satellite carrier shall, to the extent technically feasible given the carrier’s satellite constellation in use, provide a comparable consumer product to subscribers in Alaska and Hawaii at prices and terms comparable to those made available to subscribers in the contiguous United States.

“(2) Conditions on New Licenses.—

“(A) In General.—Before the Commission grants a license for a new satellite used for service in the contiguous United States to a satellite carrier, it shall ensure that, to the extent technically feasible, the following minimum conditions are met:

“(i) If the satellite is used for direct-to-home video services, the satellite shall be—

“(I) capable of providing services to consumers in the cities of Anchor-
age, Fairbanks, and Juneau, Alaska,

using signal power levels of at least 45
dBW effective isotropic radiated power;

and

“(II) capable of providing services
to consumers in the islands of Oahu,
Maui, Kauai, Molokai, and Hawaii,
Hawaii, using signal power levels of at
least 46 dBW effective isotropic radiated power.

“(ii) If the satellite is used for any
other direct-to-consumer service—

“(I) with respect to services of-
fered on beams covering substantially
the entire contiguous United States, the
carrier must make best efforts to ensure
that the effective isotropic radiated
power of the satellite on the downlink
and, where applicable, the efficiency of
the satellite receive antenna (G/T) can
allow the use of a commercially avail-
able antenna in Alaska and Hawaii
with a gain that is no more than 4 dB
greater than that used to provide the
service in the contiguous United States; and

“(II) with respect to services offered over spot beams covering portions of the contiguous United States, the carrier must make best efforts to ensure that the effective isotropic radiated power of the satellite on the downlink and, where applicable, the efficiency of the satellite receive antenna (G/T) shall allow the use of the same antenna in Alaska and Hawaii as provided in the contiguous United States for the service.

“(B) TECHNICAL FEASIBILITY.—It is deemed not technically feasible for a satellite with a look angle to any area of less than 8.25 degrees to provide service to such area at the signal power levels described in subparagraph (A).

“(3) SATELLITE CARRIER DEFINED.—In this subsection, the term ‘satellite carrier’ means an entity that uses the facilities of a satellite in the Fixed-Satellite Service, the Direct Broadcast Satellite service, the Broadcast Satellite Service, the Mobile-Satellite Service, or the Digital Audio Radio Service that is li-
censed by the Commission under part 25 of title 47, Code of Federal Regulations, or is licensed or authorized by a foreign government.”.

(b) Effective Date.—Section 335(c) of the Communications Act of 1934, as added by subsection (a), shall take effect 36 months after the date of enactment of this Act.

(c) Exception.—Nothing in this section, nor any amendment made by this section, shall require any satellite carrier to take any action that the Commission determines will materially impact the signal quality or availability of programming available to subscribers of such carrier in the continental United States.

(d) Implementation by Commission.—

(1) In general.—The Federal Communications Commission shall adopt such rules and policies as are necessary to implement and enforce section 335(c) of the Communications Act of 1934 (47 U.S.C. 335(c)).

(2) Amendment of rules.—Within 30 days after the date of enactment of this Act, the Commission shall amend section 1.4000(a)(1)(i)(B) of its rules (47 C.F.R. 1.4000(a)(1)(i)(B)) to insert “and Hawaii” after “Alaska”.
Subtitle B—Video and Audio Flag

SEC. 451. SHORT TITLE.

This subtitle may be cited as the “Digital Content Protection Act of 2006”.

SEC. 452. PROTECTION OF DIGITAL BROADCAST VIDEO CONTENT.

(a) IN GENERAL.—Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end the following:

“(z) Have authority with respect to digital television receivers to adopt such regulations and certifications as are necessary to implement the Report and Order in the matter of Digital Broadcast Content Protection, FCC 03–273, as ratified by the Congress in section 102(b) of the Consumer Competition and Broadband Promotion Act, with the exclusive purpose of limiting the indiscriminate redistribution of digital television content over the Internet or similar distribution platforms, including the authority to reconsider, amend, repeal, supplement, and otherwise modify any such regulations and certifications, in whole or in part, only for that purpose.”.

(b) RATIFICATION OF FCC REPORT AND ORDERS.— The Report and Order in the matter of Digital Broadcast Content Protection, FCC 03–273, and the Order in the matter of Digital Output Protection Technology and Recording
Method Certifications, FCC 04–193, are ratified, subject to the limitations set forth in subsection (d), and shall become effective 12 months after the date of enactment of this Act.

(c) Expedited Proceeding for Certifying Technologies for Use in Distance Education.—Within 30 days after the date of enactment of this Act, the Federal Communications Commission shall initiate a further proceeding for the approval of digital output protection technologies and recording methods for use in the course of distance learning activities. The proceeding shall be conducted in accordance with the expedited procedures established for the Interim Approval of Authorized Digital Output Protection Technologies and Authorized Recording Methods in the Report and Order described in subsection (b). The proceeding shall have no effect on certifications made pursuant to the Order in the matter of Digital Output Protection Technology and Recording Method Certifications described in subsection (b), as ratified in that subsection.

(d) Limitations.—

(1) In general.—Nothing in this Act or section 303(z) of the Communications Act of 1934 (47 U.S.C. 303(z)), or in regulations of the Commission adopted pursuant thereto, shall—

(A) limit the Commission’s authority to approve digital output protection technologies and
recording methods that allow for the redistribution of digital broadcast content within the home or similar environment, or the use of the Internet to transmit digital broadcast content, where such technologies and recording methods adequately protect such content from indiscriminate redistribution; or

(B) be construed to affect rights, remedies, limitations, or defenses to copyright infringement, including fair use, under title 17, United States Code.

(2) USE OF REDISTRIBUTION CONTROL DESCRIPTOR.—Licensees of television broadcast stations may not utilize the Redistribution Control Descriptor, as adopted by the Report and Order described in subparagraph (b), to limit the redistribution of news and public affairs programming the primary commercial value of which depends on timeliness. The Federal Communications Commission shall allow each broadcaster or broadcasting network to determine whether the primary commercial value of a particular news program depends on timeliness. The Commission may review any such determination by a broadcaster or broadcasting network if it receives bona fide complaints alleging, or otherwise has reason
to believe, that particular broadcast digital television
content has violated this subsection.

(3) PROPERTY RIGHTS.—The Commission shall
require that any authorized redistribution control
technology and any authorized recording method tech-
nology approved by the Commission under this sec-
tion that is publicly offered for adoption by licensees,
be licensed on reasonable and nondiscriminatory
terms and conditions, including terms preserving a li-
censee’s ability to assert any patent rights necessary
for implementation of the licensed technology.

SEC. 453. PROTECTION OF DIGITAL AUDIO BROADCASTING
CONTENT.

Part I of title III (47 U.S.C. 301 et seq.) is amended
by adding at the end the following:

“SEC. 342. PROTECTION OF DIGITAL AUDIO BROADCASTING
CONTENT.

“(a) IN GENERAL.—Subject to section 454(d)(2) of the
Digital Content Protection Act of 2006, the Commission
may promulgate regulations governing the distribution of
audio content with respect to—

“(1) digital radio broadcasts;
“(2) satellite digital radio transmissions; and
“(3) digital radios.

“(b) MONITORING ORGANIZATIONS.—
“(1) IN GENERAL.—The Commission shall ensure that a performing rights society or a mechanical rights organization, or any entity acting on behalf of such a society or organization, is granted a license for free or for a de minimis fee to cover only the reasonable costs to the licensor of providing the license, and on reasonable, nondiscriminatory terms and conditions, to access and retransmit as necessary any content contained in such transmissions protected by content protection or similar technologies, if—

“(A) the license is used to carry out the activities of such society, organization, or entity in monitoring the public performance or other uses of copyrighted works; and

“(B) such society, organization, or entity employs reasonable methods to protect any such content accessed from further distribution.

“(2) PROTECTED ACTIVITIES.—Nothing shall preclude or prevent a performing rights organization, a mechanical rights organization, a monitoring service, a measuring service, or any entity owned in whole or in part by, or acting on behalf of, such an organization or service, from monitoring or measuring public performances or other uses of copyrighted works, advertisements, or announcements con-
tain in performances or other uses, or other infor-
mation concerning the content or audience of such
performances or other uses.

“(3) ALTERNATIVE LICENSING LANGUAGE.—The
Commission may require that any such organization,
service, or entity be given a license on either a gratu-
itous basis or for a de minimis fee to cover only the
reasonable costs to the licensor of providing the li-
cense, and on reasonable, nondiscriminatory terms, to
access, record, and retransmit as necessary any con-
tent contained in any such performance or use pro-
tected by content protection or similar technology,
if—

“(A) the license is used for carrying out the
activities of such organizations, services, or enti-
ties in monitoring or measuring the public per-
formance or other use of copyrighted works, ad-
vertisements, or announcements, or other infor-
mation concerning the content or audience of
such performances or uses; and

“(B) the organizations, services, or entities
employ reasonable methods to protect any such
content accessed from further distribution.”.
SEC. 454. DIGITAL AUDIO REVIEW BOARD.

(a) Establishment.—The Federal Communications Commission shall establish an advisory committee, to be known as the Digital Audio Review Board.

(b) Membership.—Members of the Board shall be appointed by the chairman of the Commission and shall include representatives nominated by—

(1) the information technology industry;
(2) the software industry;
(3) the consumer electronics industry;
(4) the radio broadcasting industry;
(5) the satellite radio broadcasting industry;
(6) the cable industry;
(7) the audio recording industry;
(8) the music publishing industry;
(9) performing rights societies, including—

(A) the American Society of Composers, Authors and Publishers;
(B) Broadcast Music, Inc.; and
(C) SESAC, Inc.;
(10) public interest organizations;
(11) organizations representing recording artists, performers and musicians;
(12) organizations representing songwriters; and
(13) any other group that the Commission determines will be directly affected by adoption of broadcast flag technology regulations.

(c) DUTY.—

(1) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Board shall submit to the Commission a proposed regulation under section 343 of the Communications Act of 1934 (47 U.S.C. 343) that—

(A) represents a consensus of the members of the Board; and

(B) is consistent with fair use principles.

(2) EXTENSION OF 1-YEAR PERIOD.—The Commission may extend, for good cause shown, the 1-year period described in paragraph (1) for a period of not more than 6 months, if the Commission determines that—

(A) substantial progress has been made by the Board toward the development of a proposed regulation;

(B) the members of the Board are continuing to negotiate in good faith; and

(C) there is a reasonable expectation that the Board will draft and submit a proposed reg-
ulation before the expiration of the extended period of time.

(d) **Commission Treatment of Proposed Regulation.**—

(1) **Draft Regulation.**—Within 30 days after the Commission receives a proposed regulation from the Board under this section the Commission shall initiate a rulemaking proceeding to implement the proposed regulation.

(2) **Deference; Deadline.**—If the Board submits a proposed regulation under this section the Commission, in promulgating a regulation under section 343 of the Communications Act of 1934, shall—

(A) give substantial deference to the proposed regulation submitted by the Board; and

(B) issue a final rule not later than 6 months after the date on which the proceeding was initiated.

(3) **Commission Action if No Board Action.**—If the Board does not submit a proposed regulation to the Commission within 1 year after the date of enactment of this Act, plus any extension granted by the Commission under subsection (c)—

(A) the Commission may initiate a proceeding to determine what, if any, regulations...
under section 343 of the Communications Act of 1934 regarding digital audio copy protection are necessary; and

(B) if the Commission determines that such regulations are necessary, the Commission may promulgate a rule implementing such protections as long as such regulations do not harm or delay the continued roll-out of HD radio.

(e) ADMINISTRATIVE PROVISIONS.—

(1) MEETINGS.—The Board shall meet at the call of the Chairman of the Commission.

(2) EXECUTIVE DIRECTOR.—The Chairman of the Commission may, without regard to civil service laws and regulations, appoint and terminate an Executive Director and such other additional personnel as may be necessary to enable the Board to perform its duties. The Executive Director shall be compensated at a rate not to exceed the rate of pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) TEMPORARY AND INTERMITTENT SERVICES.—In carrying out its duty, the Board may procure temporary and intermittent services of consultants and experts under section 3109(b) of title 5, United States Code, at rates for individuals which do
not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Board, the head of any Federal agency may detail any Federal Government employee to the Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) ADMINISTRATIVE SUPPORT.—Notwithstanding section 7(c) of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall provide the Board with such administrative and supportive services as are necessary to ensure that the Board can carry out its functions.

(6) TERMINATION.—The Board shall terminate on the date on which it submits a proposed regulation to the Commission or at the discretion of the Chairman of the Federal Communications Commission, but no later than 18 months after the Board’s first meeting.
TITLE V—MUNICIPAL BROADBAND

SEC. 501. SHORT TITLE.
This title may be cited as the “Community Broadband Act”.

SEC. 502. STATE REGULATION OF MUNICIPAL BROADBAND NETWORKS.
Section 706 of the Telecommunications Act of 1996 (47 U.S.C. 157 note) is amended—

(1) by redesignating subsection (c) as subsection (i);

(2) by inserting after subsection (b) the following:

“(c) LOCAL GOVERNMENT PROVISION OF ADVANCED COMMUNICATIONS CAPABILITY AND SERVICES.—No State statute, regulation, or other State legal requirement may prohibit or have the effect of prohibiting any public provider from providing, to any person or any public or private entity, advanced telecommunications capability or any service that utilizes the advanced telecommunications capability provided by such public provider.

“(d) SAFEGUARDS.—

“(1) ANTIDISCRIMINATION.—To the extent any public provider regulates competing providers of advanced telecommunications capability or any service
that utilizes the advanced telecommunications capability provided by such providers, the public provider shall apply its ordinances, rules, policies, and fees, including those relating to public rights-of-way, permitting, performance bonding, and reporting, without discrimination in favor of itself or any other advanced telecommunications capability provider that such public provider owns or is affiliated with, as compared to other providers of such capability or services.

“(2) APPLICATION OF GENERAL LAWS.—Nothing in this subsection or subsections (e) through (g) shall exempt a public provider from any Federal or State telecommunications law or regulation that applies to all providers of—

“(A) advanced telecommunications capability; or

“(B) any service that utilizes the advanced telecommunications capability provided by such public provider.

“(e) PUBLIC-PRIVATE PARTNERSHIPS ENCOURAGED.—Each public provider that intends to provide advanced telecommunications capability or any service that utilizes the advanced telecommunications capability provided by such public provider to the public shall consider
the potential benefits of a public-private partnership prior to providing such capability or services.

“(f) NOTICE AND OPPORTUNITY TO BID FOR THE PRIVATE SECTOR.—

“(1) NOTICE AND OPPORTUNITY TO BID REQUIRED.—If a public provider decides not to initiate a project to provide advanced telecommunications capability or any service that utilizes the advanced telecommunications capability provided by such public provider to the public through a public-private partnership, then, before the public provider may provide such advanced telecommunications capability or any such service that utilizes the advanced telecommunications capability provided by such public provider to the public, the public provider shall—

“(A)(i) publish notice of its intention in media generally available to the public in the area in which it intends to provide such capability or service; or

“(ii) utilize such notice procedures as such provider already had in effect as of the date of enactment of the Community Broadband Act, if such notice has the effect of making such notice generally known to the public; and
“(B) provide an opportunity for commercial enterprises to bid to provide such capability or service during the 30-day period following publication of the notice.

“(2) NOTICE REQUIREMENTS.—The public provider shall include in the notice required by paragraph (1) a description of the proposed scope of the advanced telecommunications capability or any service that utilizes the advanced telecommunications capability provided by such public provider to be provided, including—

“(A) the services to be provided (including network capabilities);

“(B) the coverage area;

“(C) service tiers and pricing; and

“(D) any proposal for providing advanced telecommunications capability or any service that utilizes the advanced telecommunications capability provided by such public provider to low-income areas, or other demographically or geographically defined areas.

“(3) PUBLIC NOTICE AND INPUT ON PROPOSED PROJECTS.—

“(A) IN GENERAL.—Each public provider shall—
“(i) publish notice of each proposal to provide advanced telecommunications capability or any service that utilizes the advanced telecommunications capability provided by such public provider to the public by a commercial enterprise under paragraph (1)(B); and

“(ii) provide local citizens in the jurisdiction of that public provider and such commercial enterprises with information on the specifics of each such project, including—

“(I) the cost to taxpayers, and the benefits of, the proposed public provider project; and

“(II) any potential alternatives to the proposed public provider project, including any public-private partnerships.

“(B) 30-DAY PERIOD.—In order to provide local citizens and commercial enterprises with an adequate opportunity to be informed, a public provider shall provide additional notice requesting that any public comments on the proposed public provider project be filed not later
than 30 days after the date of publication of the
notice required under subparagraph (A).

“(4) APPROVAL PROCESS.—If a public provider
decides to proceed with its own project to provide ad-
vanced telecommunications capability or any service
that utilizes the advanced telecommunications capa-
bility provided by such public provider to the public
despite bids by commercial enterprises received in ac-
cordance with paragraph (1)(B), such public provider
shall authorize that project by whatever process typi-
cally would be utilized by such public provider to ap-
prove projects of comparable cost in the jurisdiction
of such public provider.

“(5) APPLICATION TO EXISTING ARRANGEMENTS
AND PENDING PROPOSALS.—This subsection does not
apply to—

“(A) any contract or other arrangement
under which a public provider is providing or
upgrading advanced telecommunications capa-
bility or any service that utilizes the advanced
telecommunications capability provided by such
public provider to the public as of April 20,
2006; or

“(B) any public provider proposal to pro-
vide advanced communications capability or any
service that utilizes the advanced telecommunications capability provided by such public provider to the public that, as of April 20, 2006—

“(i) is in the request-for-proposals process;

“(ii) is in the process of being built; or

“(iii) has been approved by referendum but is the subject of a lawsuit brought before March 1, 2006.

“(g) No Receipt of Federal Funds.—If any project to provide advanced telecommunications capability or any service that utilizes the advanced telecommunications capability provided by a public provider under this section fails whether due to bankruptcy, insufficient funds, or any other reason, no Federal funds may be provided to such public provider to assist such public provider in maintaining, reviving, or renewing such project, except if such failure occurred in any jurisdiction that is subject to a declaration by the President of a major disaster, as defined under section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

“(h) Temporary Services During States of Emergency.—Nothing in subsections (c) through (g) shall preclude a public provider from—
“(1) immediately deploying a temporary advanced telecommunications capability or any service that utilizes the advanced telecommunications capability provided by such public provider to the public during a state of emergency declared by the President or the Governor of the State in which such public provider is located; and

“(2) continuing the operation of such capability or service until the emergency situation is resolved.”;

and

(3) by adding at the end of subsection (i), as redesignated, the following:

“(3) PUBLIC PROVIDER.—The term ‘public provider’ means—

“(A) a State or political subdivision thereof;

“(B) any agency, authority, or instrumentality of a State or political subdivision thereof;

“(C) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)); or

“(D) any entity that is owned, controlled, or otherwise affiliated with a State, political subdivision thereof, agency, authority, or instrumentality, or Indian tribe.”.
TITLE VI—WIRELESS INNOVATION NETWORKS

SEC. 601. SHORT TITLE.

This title may be cited as the “Wireless Innovation Act of 2006” or the “WIN Act of 2006”.

SEC. 602. ELIGIBLE TELEVISION SPECTRUM MADE AVAILABLE FOR WIRELESS USE.

Part I of title III (47 U.S.C. 301 et seq.), as amended by section 453 of this Act, is further amended by adding at the end the following:

“SEC. 343. ELIGIBLE BROADCAST TELEVISION SPECTRUM MADE AVAILABLE FOR WIRELESS USE.

“(a) In General.—Effective 270 days after the date of enactment of the WIN Act of 2006, a certified unlicensed device may use eligible broadcast television frequencies in a manner that protects licensees from harmful interference.

“(b) Commission To Facilitate Use.—Within 270 days after the date of enactment of that Act, the Commission shall adopt technical and device rules in ET Docket No. 04–186 to facilitate the efficient use of eligible broadcast television frequencies by certified unlicensed devices, which shall include rules and procedures—

“(1) to protect licensees from harmful interference from certified unlicensed devices;
(2) to require certification of unlicensed devices designed to be operated in the eligible broadcast television frequencies that includes testing, which may include testing in an independent laboratory certified by the Commission and field testing, that demonstrates—

(A) compliance with the requirements set forth pursuant to this paragraph; and

(B) that such compliance effectively protects licensees from harmful interference;

(3) to require manufacturers of such devices to include a means of disabling or modifying the device remotely if the Commission determines that certain certified unlicensed devices may cause harmful interference to licensees;

(4) to act immediately on any bona fide complaints from licensees that a certified unlicensed device causes harmful interference including verification, in the field, of actual harmful interference; and

(5) to limit the operation or use of certified unlicensed devices within any geographic area in which a public safety entity is authorized to operate as a primary licensee within the eligible broadcast television frequencies.
“(c) DEFINITIONS.—In this section:

“(1) CERTIFIED UNLICENSED DEVICE.—The term ‘certified unlicensed device’ means a device certified under subsection (b)(2).

“(2) ELIGIBLE BROADCAST TELEVISION FREQUENCIES.—The term ‘eligible broadcast television frequencies’ means the following frequencies:

“(A) All frequencies between 54 and 72 megaHertz, inclusive.

“(B) All frequencies between 76 and 88 megaHertz, inclusive.

“(C) All frequencies between 174 and 216 megaHertz, inclusive.

“(D) All frequencies between 470 and 608 megaHertz, inclusive.

“(E) All frequencies between 614 and 698 megaHertz, inclusive.

“(3) LICENSEE.—The term ‘licensee’ means a licensee, as defined in section 3(24), that is operating in a manner that is not inconsistent with its license.”.
TITLE VII—DIGITAL TELEVISION

SEC. 701. ANALOG AND DIGITAL TELEVISION SETS AND CONVERTER BOXES; CONSUMER EDUCATION AND REQUIREMENTS TO REDUCE THE GOVERNMENT COST OF THE CONVERTER BOX PROGRAM.

(a) CONSUMER EDUCATION REQUIREMENTS.—Section 330 (47 U.S.C. 330) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

“(d) CONSUMER EDUCATION REQUIREMENTS REGARDING ANALOG RECEIVERS.—

“(1) REQUIREMENTS FOR MANUFACTURERS.—

The manufacturer of any analog only television set manufactured in the United States or shipped in interstate commerce shall—

“(A) place the appropriate removable label described in paragraph (3) on the screen of such television set; and

“(B) display the label required by paragraph (3) on the outside of the retail packaging of the television set—
“(i) in a clear and conspicuous manner; and

“(ii) in a manner that cannot be removed.

“(2) REQUIREMENTS FOR RETAILERS.—

“(A) IN GENERAL.—A retailer of analog only television sets that sells such television sets via direct mail, catalog, or electronic means, shall include in all advertisements or descriptions of such television set the product and the information described in paragraph (3) within 120 days after the date of enactment of the Advanced Telecommunications and Opportunities Reform Act.

“(B) DUTY TO ADEQUATELY INFORM CONSUMERS.—Notwithstanding the requirement in subparagraph (A), it shall be a violation of this Act for any retailer of analog-only television sets—

“(i) to fail to adequately inform consumers about the availability of digital-to-analog converter boxes; or

“(ii) to provide misleading information about the availability and cost of such converter boxes.
“(3) PRODUCT AND DIGITAL TELEVISION TRANSITION INFORMATION.—

“(A) LABEL REQUIREMENT.—The following product and digital television transition information shall be displayed as a label on analog television sets, in both English and Spanish:

‘CONSUMER ALERT

This TV has only an “analog” broadcast tuner and will require a converter box after February 17, 2009 to receive over-the-air broadcasts with an antenna because of the Nation’s transition to digital broadcasting on that date as required by Federal law. It should continue to work as before with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products.’.

“(B) BLOCKING TECHNOLOGY.—All television sets, analog or digital, that have a picture screen 13 inches or greater in size (measured diagonally), shall be equipped with a feature designed to enable viewers to block display of all programs with a common rating. For additional information on such technology, visit http://www.tvguidelines.org.

“(4) COMMISSION OUTREACH.—

“(A) IN GENERAL.—Beginning within 1 month after the date of enactment of the Advanced Telecommunications and Opportunities Reform Act, the Commission shall initiate a public outreach program the purpose of which is to educate consumers about the digital television
transition. Not later than October 15, 2007, the Commission shall complete and submit a national plan to Congress on how to best carry out such public outreach program. Such plan shall include a description of how such public outreach program will carry out the purposes, recommendations, and requirements described in subparagraphs (A), (B), and (C) of section 701(b)(3) of the Advanced Telecommunications and Opportunities Reform Act.

“(B) WEBSITE.—The Commission shall maintain and publicize a website, or an easily accessible page on its website, containing such consumer information as well as any links to other websites the Commission determines to be appropriate.

“(C) TELEPHONE INFORMATION HOTLINE.—The Commission shall establish, maintain, and make public a toll-free information hotline regarding the digital television transition.

“(5) PUBLIC SERVICE ANNOUNCEMENTS.—

“(A) IN GENERAL.—Each television broadcast licensee or permittee shall broadcast at least 2 30-second public service announcements daily—
“(i) during the 3-month period beginning December 1, 2007, such date being 1 month prior to the commencement of the digital-to-analog converter box subsidy program authorized under 3005 of the Digital Television Transition and Public Safety Act of 2005 (Public Law 109–171; 120 Stat. 24); and

“(ii) during the 3-month period beginning on November 17, 2008, such date being 3 months prior to the Nation’s transition to digital broadcasting as required under section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)).

“(B) MULTILINGUAL NOTICES.—The information required to be provided to consumers under this paragraph shall be provided in English and Spanish and may be provided in such other languages as may be appropriate to the marketing segments of the public to which the information is addressed.

“(C) TIME OF BROADCAST.—The public service announcements required under subparagraph (A) shall be broadcast at such times as the Commission, in accordance with the Working
Group established under section 701(b)(3) of the Advanced Telecommunications and Opportunities Reform Act, may require in order to assure the widest possible audience.

“(D) CONTENT OF BROADCAST.—The public service announcements required under subparagraph (A) shall, at least—

“(i) notify the public of the—

“(I) date of the digital transition; and

“(II) starting date of the digital-to-analog converter box subsidy program described in subparagraph (A); and

“(ii) contain the address of the website and toll-free information hotline provided by the Commission under subparagraphs (B) and (C) of paragraph (4).

“(6) PENALTY.—In addition to any other civil or criminal penalty provided by law, the Commission shall issue civil forfeitures for violations of the requirements of this subsection in an amount equal to not more than 3 times the amount of the forfeiture penalty established by section 503(a)(2)(A).
“(7) SUNSET.—The requirements of this sub-
section, excluding the consumer alert labeling provi-
sion described in paragraph (3), shall cease to apply
to manufacturers and retailers on December 1,
2009.”.

(b) DTV WORKING GROUP ON CONSUMER EDUCATION,
OUTREACH, AND TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—Within 60 days after the date
of enactment of this Act, the Federal Communications
Commission shall establish an advisory committee, to
be known as the DTV Working Group, to consult with
State and local governments and the National Tele-
communications and Information Administration to
promote consumer outreach and to provide logistical
assistance on a market-by-market basis to consumers
with special needs, including the converter box sub-
sidy program. The Working Group shall ensure that
the digital-to-analog converter box subsidy program
authorized under section 3005 of Digital Television
Transition and Public Safety Act of 2005 (Public
Law 109-171; 120 Stat. 24) includes a means by
which to reach and assist elderly, disabled, low-in-
come, and non-English speaking households with the
delivery and installation of such converter boxes.
(2) **MEMBERSHIP.**—The Commission shall appoint to the DTV Working Group representatives of groups involved with the transition to digital television, including the Commission, the National Telecommunications and Information Administration, other Federal agencies, commercial and noncommercial television broadcasters, multichannel video programming distributors, consumer electronics manufacturers and manufacturers of peripheral devices, broadcast antenna and tuner manufacturers, retail providers of consumer electronics equipment, as well as providers of low-income assistance programs, educational institutions, community groups, consumers, and public interest groups (including the Television Ratings Oversight Monitoring Board, the American Association of Retired Persons, the American Association of People with Disabilities, and the Seniors Coalition). Members of the DTV Working Group shall serve without compensation and shall not be considered Federal employees by reason of their service on the advisory committee.

(3) **PURPOSES.**—The purposes of the DTV Working Group are—

(A) to advise the Commission through written recommendations submitted not later than
July 15, 2007, about the creation and implementation of a national plan to inform consumers about the digital television transition as required by section 330(d)(4) of the Communications Act of 1934 (47 U.S.C. 330(d)(6));

(B) to ensure that the Commission’s national plan includes—

(i) at a minimum, recommended procedures for public service announcements by broadcasters, toll-free information hotlines, and retail displays or notices, and any other media or non-media outreach methods the Commission determines necessary, including methods for reaching consumers after February 17, 2009;

(ii) a requirement that all licensed broadcasters in a designated market area submit a joint plan to the Commission and the DTV Working Group, not later 4 months after the Commission initiates its public outreach program under section 330(d) of the Communications Act of 1934 (47 U.S.C. 330(d)), that addresses the public outreach and public service announcement requirements required by this title to
inform consumers in those areas of the transition to digital television and that—

(I) includes a description of how each commercial television broadcaster will fulfill the public service announcement requirements required under section 330(d)(7) of the Communications Act of 1934 (47 U.S.C. 330(d)(7));

(II) includes market research by each commercial television broadcaster regarding projected consumer demand for converter boxes in their designated market area; and

(III) will be shared with retailers inside their designated market area so that such retailers may stock the appropriate amount of converter boxes to meet the needs of consumers within each designated market area;

(C) to work with the Commission and the National Telecommunications and Information Administration to ensure that the digital-to-analog converter box subsidy program is administered in a manner such that those consumers
with the greatest need, including analog-only
consumers, are adequately served;

(D) to monitor and advise the Commission
through 2 DTV Progress Reports regarding the
course of the outreach program during calendar
year 2008; such reports shall describe planned ef-
forts by the private sector, both nationally and
in various television broadcast markets, to in-
form consumers about the digital transition, and
shall evaluate the effectiveness of the outreach
program and the digital-to-analog converter box
subsidy program authorized under section 3005
of Digital Television Transition and Public
Safety Act of 2005 (public Law 109-171; 120
Stat. 24);

(E) to advise the Commission about modi-
fications necessary to the national plan to mini-
mize potential disruption to consumers attrib-
utable to the transition to digital broadcasting
required under section 309(j)(14) of the Commu-
nications Act of 1934 (47 U.S.C. 309(j)(14));
and

(F) to recommend to the Commission proce-
dures for contacting persons with disabilities,
which shall include—
(i) use of telecommunications relay services for persons who are deaf, hard of hearing, or with speech disabilities;

(ii) distribution of printed items available in alternative formats for persons with vision and learning disabilities; and

(iii) other alternative formats, including accessible websites for persons with disabilities.

(c) REQUIREMENTS TO PROMOTE SALE OF DIGITAL TELEVISIONS AND CONVERTER BOXES.—

(1) DIGITAL TUNER MANDATE.—Part I of title III (47 U.S.C. 301 et seq.) is amended by inserting after section 303 the following:

“SEC. 303A. REQUIREMENTS FOR DIGITAL TELEVISION SETS AND CERTAIN OTHER EQUIPMENT.

“After March 1, 2007, it is unlawful for a manufacturer or importer to import into the United States or ship in interstate commerce for sale or resale to the public, a television broadcast receiver (as defined in section 15.3(w) of the Commission’s regulations (47 C.F.R. 15.3(w))) that is not equipped with a tuner capable of receiving and decoding digital signals.”.

(2) COMMISSION NOT TO CHANGE SCHEDULE.—

The Federal Communications Commission may not
revise the digital television reception capability im-
plementation schedule under section 15.117(i) of its
regulations (47 C.F.R. 15.117(i)) except to conform
that section to the requirements of section 303A of the
Communications Act of 1934.

(3) CONVERTER BOXES.—

(A) ENERGY STANDARDS.—Within 1 year
after the date of enactment of this Act, the As-
Assistant Secretary of Commerce for Communica-
tions and Information, in consultation with the
Secretary of Energy, shall set the energy stand-
ards for digital-to-analog converter boxes (as de-
defined in section 3005(d) of the Digital Television
Transition and Public Safety Act of 2005 (47
U.S.C. 309 note)), taking into consideration the
cost of the converter box. The standards shall
meet the criteria specified in section 325(o) of
the Energy Policy and Conservation Act (42
U.S.C. 6295(o)).

(B) APPLICATION.—Notwithstanding any
other provision of law, the standards set under
subparagraph (A) shall solely govern the energy
standards for converter boxes manufactured or
imported for use in the United States on and
after the effective date established by the Assist-
secretary. This paragraph shall not apply after May 17, 2010.

(C) Conforming Amendment.—Section 3005(d) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by inserting “a clock, other incidental features, or” after “include”.

downconversion from digital signals to analog signals.—

(1) Digital-to-Analog Conversion.—Section 614(b)(4) (47 U.S.C. 534(b)(4)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (I); and

(B) by inserting after subparagraph (A) the following:

“(B) Digital Video Signal.—With respect to any television station that is transmitting broadcast programming exclusively in the digital television service in a local market, a cable operator of a cable system in that market shall carry any digital video signal requiring carriage under this section and program-related material in the digital format transmitted by that station, without material degradation, if the licensee for that station relies on this section or section 615
to obtain carriage of the digital video signal and program-related material on that cable system in that market.

“(C) MULTIPLE FORMATS PERMITTED.—A cable operator of a cable system may offer the digital video signal and program-related material of a local television station described in subparagraph (A) in any analog or digital format or formats, whether or not doing so requires conversion from the format transmitted by the local television station, so long as—

“(i) the cable operator offers the digital video signal and program-related material in the converted analog or digital format or formats without material degradation; and

“(ii) also offers the digital video signal and program-related material in the manner or manners required by this paragraph.

“(D) TRANSITIONAL CONVERSIONS.—Notwithstanding the requirement in subparagraph (B) to carry the digital video signal and program-related material in the digital format transmitted by the local television station, but subject to the prohibition on material degradation, until February 17, 2014—
“(i) a cable operator—

“(I) shall offer the digital video signal and program-related material in the format or formats necessary for such signal and material to be viewable on analog and digital televisions; and

“(II) may convert the digital video signal and program-related material to standard-definition digital format in lieu of offering it in the digital format transmitted by the local television station; and

“(ii) notwithstanding clause (i), a cable operator of a cable system with an activated capacity of 550 megahertz or less—

“(I) shall offer the digital video signal and program-related material of the local television station described in subparagraph (A), converted to an analog format; and

“(II) may, but shall not be required to, offer the digital video signal and program-related material in any digital format or formats.
“(E) LOCATION AND METHOD OF CONVERSION.—A cable operator of a cable system may perform any conversion permitted or required by this paragraph at any location, from the cable head-end to the customer premises, inclusive.

“(F) CONVERSIONS NOT TREATED AS DEGRADATION.—Any conversion permitted or required by this paragraph shall not, by itself, be treated as a material degradation.

“(G) CARRIAGE OF PROGRAM-RELATED MATERIAL.—The obligation to carry program-related material under this paragraph is effective only to the extent technically feasible.

“(H) DEFINITION OF STANDARD-DEFINITION FORMAT.—For purposes of this paragraph, a signal shall be in standard definition digital format if such signal meets the criteria for such format specified in the standard recognized by the Commission in section 73.682 of its rules (47 C.F.R. 73.682) or a successor regulation.”.

(2) TIERING.—

(A) AMENDMENT TO COMMUNICATIONS ACT.—Clause (iii) of section 623(b)(7)(A) (47 U.S.C. 543(b)(7)(A)(iii)) is amended to read as follows:
“(iii) Any analog signal and any digital video signal of any television broadcast station that is provided by the cable operator to any subscriber, except a signal which is secondarily transmitted by a satellite carrier beyond the local service area of such station.”.

(B) **EFFECTIVE DATE.**—With respect to any television broadcast station, this subsection and the amendments made by this paragraph shall take effect on the date the broadcaster ceases transmissions in the analog television service.

(3) **MATERIAL DEGRADATION.**—Section 614 (47 U.S.C. 534) is amended—

(A) by redesignating subsection (h) as subsection (i); and

(B) by inserting after subsection (g) the following:

“(h) **MATERIAL DEGRADATION.**—For purposes of this section and section 615, transmission of a digital signal over a cable system in a compressed bitstream shall not be considered material degradation as long as such compression does not materially affect the picture quality the consumer receives.”.
(e) **Satellite Downconversion.**—Section 338 (47 U.S.C. 338) is amended by adding at the end the following:

“(l) **Specific Carriage Obligations After Digital Transition.**—

“(1) **Digital Video Signal.**—With respect to any television broadcast station that is transmitting broadcast programming exclusively in the digital television service in a local market in the United States, a satellite carrier carrying the digital signal of any other television broadcast station in that local market shall carry the station’s primary video required to be carried and program-related material without material degradation, if the licensee for that station relies on this section to obtain carriage of the station’s video signal and program-related material on that satellite carrier’s system in that market.

“(2) **Formatting of Primary Video.**—A satellite carrier shall offer the primary video and program-related material of a local television station described in paragraph (1) in the digital format transmitted by the station if the satellite carrier carries the primary video of any other television broadcast station in that local market in the same digital format.

“(3) **Multiple Formats Permitted.**—A satellite carrier may offer the primary video and pro-
gram-related material of a local television broadcast station described in paragraph (1) in any analog or digital format or formats, whether or not doing so requires conversion from the format transmitted by the local television broadcast station, so long as—

“(A) the satellite carrier offers the primary video and program-related material in the converted analog or digital format or formats without material degradation; and

“(B) also offers the primary video and program-related material in the manner or manners required by this paragraph.

“(4) TRANSITIONAL CONVERSIONS.—Notwithstanding any requirement in paragraph (1) or (2) to carry the primary video and program-related material in the digital format transmitted by the local television station, but subject to the prohibition on material degradation, until February 17, 2014, a satellite carrier—

“(A) shall offer the primary video and program-related material of any local television broadcast station required to be carried under paragraph (1) in the format or formats necessary for such primary video and program-re-
lated material to be viewable on analog and dig-
ital televisions; and

“(B) may convert the primary video and
program-related material to standard-definition
digital format in lieu of offering it in the digital
format transmitted by the local television sta-
tion.

“(5) Location and Method of Conversion.—
A satellite carrier may perform any conversion per-
mitted or required by this paragraph at any location,
from the local receive facility to the customer prem-
ises, inclusive.

“(6) Conversions Not Treated as Degradation.—
Any conversion permitted or required by this
paragraph shall not, by itself, be treated as a mate-
rrial degradation.

“(7) Carriage of Program-Related Material.—The obligation to carry program-related mate-
rial under this paragraph is effective only to the ex-
tent technically feasible.

“(8) Definition of Standard-Definition For-
mat.—For purposes of this subsection, the primary
video shall be in standard definition digital format if
such primary video meets the criteria for such format
specified in the standard recognized by the Commis-
sion in section 73.682 of its rules (47 C.F.R. 73.682)
or a successor regulation.

“(9) MATERIAL DEGRADATION.—For purposes of
this subsection, transmission of a digital signal over
a satellite system in a compressed bitstream shall not
be considered material degradation as long as such
compression does not materially affect the picture
quality the consumer receives.”.

SEC. 702. DIGITAL STREAM REQUIREMENT FOR THE BLIND.

(a) RULES REINSTATED.—The video description rules
of the Federal Communications Commission contained in
the report and order identified as Implementation of Video
Description of Video Programming, Report and Order, 15
F.C.C.R. 15,230 (2000), shall, notwithstanding the decision
of the United States Court of Appeals for the District of
Columbia Circuit in Motion Picture Association of Amer-
ica, Inc., et al., v. Federal Communications Commission,
et al. (309 F. 3d 796, November 8, 2002), be considered to
be authorized and ratified by law.

(b) CONTINUING AUTHORITY OF COMMISSION.—The
Federal Communications Commission—

(1) shall, within 45 days after the date of enact-
ment of this Act, republish its video description rules
contained in the report and order Implementation of
Video Description of Video Programming, Report and Order, 15 F.C.C.R. 15,230 (2000);

(2) may amend, repeal, or otherwise modify such rules;

(3) shall initiate a proceeding within 120 days after the date of enactment of this Act, and complete that proceeding within 1 year, to consider incorporating accessible information requirements in its video description rules; and

(4) shall extend the video description rules under this section to digital broadcast programming and video programming (as defined in section 602(23) of the Communications Act of 1934), as appropriate, in the public interest.

(c) ACCESSIBLE INFORMATION DEFINED.—In this section, the term “accessible information” may include written information displayed on television screens during regular programming, hazardous warnings and other emergency information, local and national news bulletins, and any other information the Commission deems appropriate.

SEC. 703. STATUS OF INTERNATIONAL COORDINATION.

Until the date on which the international coordination with Canada and Mexico of the DTV table of allotments is complete (as determined by the Federal Communications Commission), the Federal Communications Commission
shall submit a report every 6 months on the status of that
international coordination to the Senate Committee on
Commerce, Science, and Transportation and the House of
Representatives Committee on Energy and Commerce.

SEC. 704. CERTAIN BORDER STATIONS.

Section 309(j)(14) (47 U.S.C. 309(j)(14)) is amended
by adding at the end the following:

“(D) BORDER STATIONS.—An analog
broadcast television station, whose programming
is broadcast entirely in the Spanish-language,
that prior to February 17, 2009, is licensed by
the Commission to serve communities located
within 50 miles of the common border with the
United Mexican States and can establish to the
satisfaction of the Federal Communications
Commission that its continued operation in ana-
log is in the public interest, shall be entitled to
the renewal of its television broadcast license au-
thorizing analog television service and to operate
on a channel between 2 and 51 that complies
with the following provisions through February
17, 2011:

“(i) The channel used for analog oper-
ation may not—
“(I) prevent the auction of recovered spectrum, as provided for in paragraph (15) of this subsection;

“(II) prevent the use of recovered spectrum by public safety services, as provided for by section 337(a)(1) of this Act; and

“(III) encumber nor interfere with any channels reserved for public safety use as designated in FCC ET Docket No. 97–157.

“(ii) The station shall operate on its assigned analog channel as of February 16, 2009, if that channel—

“(I) is designated between 2 and 51;

“(II) has not been assigned to the station itself or another station for digital operation after the digital transition; and

“(III) could be used by that station for analog operation after the digital transition without causing interference to previously authorized digital television stations.
“(iii) If the station does not meet the criteria of clause (ii) for operation on its assigned analog channel as of February 16, 2009, the station may request, and the Commission shall promptly act upon such request, to be assigned a new channel for its analog operation, if the requested channel—

“(I) is shall between channels 2 and 51; and

“(II) allows the station to operate on a primary basis without causing interference to other analog or digital television stations or to stations licensed to operate in other radio services that also operate on channels between 2 and 51. Where mutually exclusive applications are submitted for analog television operation on a channel under the provisions of this section, the Commission shall award the authority to use that channel through the application of the procedures of this subsection and giving due consideration to the alternative resolution pro-
cedures of paragraph (6)(E) of this subsection.

“(iv) The station shall, from February 16, 2009, through February 17, 2011, regularly broadcast Spanish-language public service announcements that serve to educate the station’s viewers to the digital transition and the need to secure digital converters or monitors so that the station’s viewers can receive the station’s digital signal after February 17, 2011.”.

**TITLE VIII—PROTECTING CHILDREN**

**SEC. 801. VIDEO TRANSMISSION OF CHILD PORNOGRAPHY.**

Section 621 (47 U.S.C. 541) is amended by adding at the end the following:

“(j) CHILD PORNOGRAPHY.—

“(1) In general.—A video service provider authorized to provide video service in a local franchise area shall comply with the regulations on child pornography promulgated pursuant to paragraph (2).

“(2) Regulations.—Not later than 180 days after the date of enactment of the Advanced Telecommunications and Opportunities Reform Act, the Commission shall promulgate regulations to require a
video service to prevent the offering of child pornography (as such term is defined in section 254(h)(7)(F)).”.

SEC. 802. ADDITIONAL CHILD PORNOGRAPHY AMENDMENTS.

(a) INCREASE IN FINE FOR FAILURE TO REPORT.—

Section 227(b)(4) of the Crime Control Act of 1990 (42 U.S.C. 13032(b)(4)) is amended—

(1) by striking “$50,000;” in subparagraph (A) and inserting “$150,000;”; and

(2) by striking “$100,000.” in subparagraph (B) and inserting “$300,000.”.

(b) WARNING LABELS FOR WEBSITES DEPICTING SEXUALLY EXPPLICIT MATERIAL.—

(1) IN GENERAL.—

(A) NOTICE REQUIREMENT.—It is unlawful for the operator of a website that is primarily operated for commercial purposes knowingly, and with knowledge of the character of the material, to place sexually explicit material on the website unless—

(i) the first page of the website viewable on the Internet does not include any sexually explicit material; and
(ii) each page or screen of the website that does contain sexually explicit material also displays the matter prescribed by the Federal Trade Commission under paragraph (2).

(B) EXCEPTION FOR RESTRICTED ACCESS WEBSITES.—Subparagraph (A)(ii) does not apply to any website access to which is restricted to a specific set of individuals through a password or other access restriction mechanism.

(2) MARKS OR NOTICES.—Within 90 days after the date of enactment of this Act, the Federal Trade Commission shall, in consultation with the Attorney General, promulgate regulations establishing clearly identifiable marks or notices to be included in the code, if technologically feasible, or on the pages or screens of a website that contains sexually explicit material to inform any person who accesses that website of the nature of the material and to facilitate the filtering of such pages or screens.

(3) INAPPLICABILITY TO CARRIERS AND OTHER SERVICE PROVIDERS.—Subsection (a) does not apply to a person to the extent that the person is—
(A) a telecommunications carrier (as defined in section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44));

(B) engaged in the business of providing an Internet access service; or

(C) engaged in the transmission, storage, retrieval, hosting, formatting, or translation of a communication made by another person, without selection or alteration of the content (other than by translation or by lawful selection or deletion of matter).

(4) DEFINITIONS.—In this subsection:

(A) WEBSITE.—The term “website” means any collection of material placed in a computer server-based file archive so that it is publicly accessible over the Internet using hypertext transfer protocol, or any successor protocol.

(B) SEXUALLY EXPLICIT MATERIAL.—The term “sexually explicit material” means material that depicts sexually explicit conduct (as defined in section 2256(2)(A) of section 2256 of title 18, United States Code), unless that depiction constitutes a small and insignificant part of the whole, the remainder of which is not primarily devoted to sexual matters.
(C) INTERNET.—The term “Internet” means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Internet protocol or any successor protocol to transmit information.

(D) INTERNET ACCESS SERVICE.—The term “Internet access service” means a service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of services offered to the public other than telecommunications service (as defined in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46))).

(5) PENALTY.—Violation of this subsection is punishable by a fine under title 18, United States Code, or imprisonment for not more than 5 years, or both.

(c) PROHIBITION ON DECEPTIVE WEBSITE DEVICES TO TRICK INDIVIDUALS INTO ACCESSING MATTER THAT IS OBSCENE OR HARMFUL TO CHILDREN.—
(1) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following:

§ 2252C. Misleading words or images on the Internet

“(a) IN GENERAL.—

“(1) MATTER THAT IS OBSCENE.—It is unlawful for any person knowingly to embed words, symbols, or digital images into the source code of a website with the intent to deceive another person into viewing material that is obscene.

“(2) MATTER THAT IS HARMFUL TO CHILDREN.—It is unlawful for any person knowingly to embed words, symbols, or digital images into the source code of a website with the intent to deceive a minor into viewing material that is harmful to minors.

“(3) IDENTIFIED MATTER NOT DECEPTIVE.—For purposes of this section, a word, symbol, or image that clearly indicates the sexual content of a website as sexual, pornographic, or similar terms shall not be considered to be misleading or deceptive.

“(b) DEFINITIONS.—In this section:

“(1) MATERIAL HARMFUL TO MINORS.—The term ‘material that is harmful to minors’ means a communication consisting of nudity, sex, or excretion

August 4, 2006 (3:44 p.m.)
that, taken as a whole and with reference to its content—

“(A) predominantly appeals to a prurient interest of a minor;

“(B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

“(C) lacks serious literary, artistic, political, or scientific value for minors.

“(2) SEX.—The term ‘sex’ means acts of masturbation, sexual intercourse, or physical contact with a person’s genitals, or the condition of human male or female genitals when in a state of sexual stimulation or arousal.

“(3) SOURCE CODE.—The term ‘source code’ means the combination of text and other characters comprising the content, both viewable and nonviewable, of a web page, including any website publishing language, programming language, protocol, or functional content.

“(c) PENALTIES.—

“(1) OBSCENE MATERIAL.—Violation of subsection (a)(1) is punishable by a fine under this title, or imprisonment for not more than 2 years, or both.
“(2) MATERIAL HARMFUL TO MINORS.—Violation of subsection (a)(2) is punishable by a fine under this title, or imprisonment for not more than 4 years, or both.”.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 110 of title 18, United States Code, is amended by inserting after the item relating to section 2252B the following:

“2252C. Misleading words or images on the Internet”.

(d) CIVIL REMEDIES.—

(1) IN GENERAL.—Section 2255(a) of title 18, United States Code, is amended—

(A) by striking “(a) Any minor who is” in the first sentence and inserting “(a) IN GENERAL.—Any person who, while a minor, was”;

(B) by striking “such violation” in the first sentence and inserting “such violation, regardless of whether the injury occurred while such person was a minor,”;

(C) by striking “such minor” in the first sentence and inserting “such person”;

(D) by striking “Any minor” in the second sentence and inserting “Any person”; and

(E) by striking “$50,000” in the second sentence and inserting “$150,000”.

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August 4, 2006 (3:44 p.m.)
(2) CONFORMING AMENDMENT.—Section 2255(b) of title 18, United States Code, is amended by striking “(b) Any action” and inserting “(b) STATUTE OF LIMITATIONS.—Any action”.

SEC. 803. PREVENTION OF INTERACTIVITY WITH COMMERCIAL MATTER DURING CHILDREN’S PROGRAMMING.

(a) IN GENERAL.—It shall be the duty of each cable operator, video service provider, multichannel video programming distributor, satellite carrier, or any other provider of cable or over-the-air broadcast programming to prevent interactivity with commercial matter during any children’s programming whether on, broadcast, cable, satellite television, or any other means of delivering programming to children, as well as during advertisements aired during or adjacent to such programs.

(b) RULE OF CONSTRUCTION.—For purposes of this section, the term “commercial matter” means any interactivity designed with the purpose of selling or promoting a product, service, or brand.

SEC. 804. FCC STUDY OF BUS-CASTING.

(a) IN GENERAL.—The Federal Communications Commission shall conduct a study of commercial proposals to broadcast radio or television programs for reception onboard specially equipped school buses operated by, or under
contract with, local public educational agencies. In the
study, the Commission shall examine—

(1) the nature of the material proposed to be
broadcast and whether it is age appropriate for the
passengers;

(2) the amount and nature of commercial adver-
tising to be broadcast; and

(3) whether such broadcasts for reception by pub-
lic school buses are in the public interest.

(b) REPORT.—The Commission shall report its find-
ings and recommendations to the Senate Committee on
Commerce, Science, and Transportation and the House of
Representatives Committee on Energy and Commerce with-
in 6 months after the date of enactment of this Act.

**TITLE IX—INTERNET CONSUMER BILL OF RIGHTS ACT**

**SEC. 901. SHORT TITLE.**

This title may be cited as the “Internet Consumer Bill
of Rights Act of 2006”.

**SEC. 902. FINDINGS.**

Congress finds that the Federal Communications Com-
mission should seek to—

(1) preserve the free-flow of ideas and informa-
tion on the Internet;

(2) promote public discourse on the Internet;
(3) preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services unfettered by Federal or State regulation;

(4) encourage investment and innovation in Internet networks and applications markets through a diversity of business models; and

(5) promote deployment of broadband networks nationwide.

SEC. 903. CONSUMER INTERNET BILL OF RIGHTS.

(a) In General.—Except as otherwise provided in this title, with respect to Internet services, each Internet service provider shall allow each subscriber to—

(1) access and post any lawful content of that subscriber’s choosing;

(2) access any web page of that subscriber’s choosing;

(3) access and run any voice application, software, or service of that subscriber’s choosing;

(4) access and run any video application, software, or service of that subscriber’s choosing;

(5) access and run any email application, software, or service of that subscriber’s choosing;

(6) access and run any search engine of that subscriber’s choosing;
(7) access and run any other application, software, or service of that subscriber’s choosing;

(8) connect any legal device of that subscriber’s choosing to the Internet access equipment of that subscriber, if such device does not harm the network of the Internet service provider; and

(9) receive clear and conspicuous information, in plain language, about the estimated speeds, capabilities, limitations, and pricing of any Internet service offered to the public.

(b) No interference with the Internet.—A subscriber may exercise any of the rights enumerated in subsection (a)—

(1) without interference from any Federal, State, or local government, except as specifically authorized by law;

(2) without interference from an Internet service provider, except as otherwise provided by law;

(3) for any legal purpose; and

(4) subject to the limitations of the Internet service such subscriber has purchased.

SEC. 904. APPLICATION OF THE FIRST AMENDMENT.

Consistent with the First Amendment to the United States Constitution, as applied to the States through the Fourteenth Amendment to the United States Constitution—
(1) no Federal, State, or local government may limit, restrict, ban, prohibit, or otherwise regulate content on the Internet because of the religious views, political views, or any other views expressed in such content unless specifically authorized by law; and

(2) no Internet service provider engaged in interstate commerce may limit, restrict, ban, prohibit, or otherwise regulate content on the Internet because of the religious views, political views, or any other views expressed in such content unless specifically authorized by law.

SEC. 905. STAND-ALONE INTERNET SERVICE SHALL BE OFFERED TO THE PUBLIC.

An Internet service provider shall offer to any potential subscriber any Internet service such provider offers without requiring that subscriber to purchase or use any telecommunications service, information service, IP-enabled voice service, video service, or other service offered by such Internet service provider.

SEC. 906. NETWORK SECURITY, WORMS, VIRUSES, DENIAL OF SERVICE, PARENTAL CONTROLS, AND BLOCKING CHILD PORNOGRAPHY.

An Internet service provider may—

(1) protect the security, privacy, or integrity of the network or facilities of such provider, the com-
puter of any subscriber, or any service, including
by—

(A) blocking worms or viruses; or
(B) preventing denial of service attacks;

(2) facilitate diagnostics, technical support, maintenance, network management, or repair of the network or service of such provider;

(3) prevent or detect unauthorized, fraudulent, or otherwise unlawful uses of the network or service of such provider;

(4) block access to content, applications, or services that Federal or State law expressly authorizes to be blocked, including child pornography;

(5) provide consumers Parental Control applications, devices, or services, including—

(A) blocking access to websites with obscene or adult content;

(B) blocking display of video content based on a common rating; or

(C) offering a family friendly tier of service;

and

(6) allow a subscriber to elect to have content, applications, or services blocked at the request of such subscriber.
SEC. 907. ENFORCEMENT.

(a) IN GENERAL.—The Federal Communications Commission shall, by rule, establish an adjudicatory enforcement procedure under which—

(1) any subscriber aggrieved by a violation of the requirements of section 903 may initiate an enforcement action by filing a complaint, in such form and in such manner as the Commission may prescribe; and

(2) the Commission shall make a determination, after notice and an opportunity for a hearing, with respect to any bona fide complaint not later than 120 days after the date on which such complaint is received.

(b) PENALTY FOR VIOLATIONS.—Any person who violates any provision of this title shall be subject to enforcement action by the Commission under title IV and section 503 of the Communications Act of 1934. For purposes of any forfeiture imposed pursuant to section 503 for such a violation, the maximum forfeiture for a violation of this title shall be $500,000 for each such violation.

(c) EQUITABLE RELIEF AVAILABLE.—In response to any complaint of a violation of this title, the Commission may—

(1) issue an injunction or temporary restraining order; or
(2) provide such other equitable relief as the Commission determines appropriate.

SEC. 908. COMMISSION PROHIBITED FROM ISSUING REGULATIONS.

Except as provided in section 907(a), the Commission shall not—

(1) promulgate any regulations implementing this title; nor

(2) enlarge or modify the obligations imposed on Internet service providers through the adjudicatory process under section 907.

SEC. 909. FCC REVIEW.

(a) In General.—Beginning 1 year after the date of enactment of this Act, the Federal Communications Commission shall report annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives regarding—

(1) the developments in Internet traffic processing, routing, peering, transport, and interconnection;

(2) how such developments impact the free-flow of information over the public Internet and the consumer and small business experience using the public Internet;
(3) business relationships between Internet service providers and applications and online user service providers; and

(4) the development of and services available over public and private Internet offerings.

(b) Determinations and Recommendations.—The Federal Communications Commission shall make such recommendations under subsection (a), as the Commission determines appropriate.

SEC. 910. EXCEPTIONS.

Nothing in this title shall—

(1) preclude an Internet service provider from displaying advertisements in connection with a broadband service; or

(2) apply to a service in which Internet service is not the primary service, such as a video service offered under Title VI of the Communications Act of 1934 (47 U.S.C. 521 et seq.).

SEC. 911. FCC TO REVISIT BROADBAND SPEEDS.

Within 90 days after the date of enactment of this Act and biennially thereafter, the Federal Communications Commission shall revise its definition of broadband to reflect a data rate—
(1) greater than the 200 kilobits per second standard established in its Section 706 Report (14 FCC Rec. 2406); and

(2) consistent with data rates for broadband communications services generally available to the public on the date of enactment of this Act and thereafter, upon the date of the Commission’s review.

**SEC. 912. PROTECTION OF EMERGENCY COMMUNICATIONS.**

An Internet service provider shall prioritize, to the extent technically feasible, 911 and E–911 emergency communications to ensure timely and effective emergency communications in a manner that is not inconsistent with other priority levels needed in times of Federal, State, and local emergencies and for other public safety and homeland security needs or requirements.

**SEC. 913. DEFINITIONS.**

In this title:

(1) **INTERNET SERVICE.**—The term “Internet service” means any service that provides access to the public Internet directly to the public.

(2) **SUBSCRIBER.**—The term “subscriber” means a retail end user that purchases Internet service.
TITLE X—MISCELLANEOUS

SEC. 1001. COMMISSIONER PARTICIPATION IN FORUMS AND MEETINGS.

(a) In General.—Section 5 (47 U.S.C. 155) is amended by adding at the end the following:

“(f) MEETINGS.—

“(1) ATTENDANCE REQUIRED.—Notwithstanding 552b of title 5, United States Code, and section 4(h) of this Act, the Commission may conduct a meeting that is not open to the public if the meeting is attended by—

“(A) all members of the Commission; or

“(B) at least 1 member of the political party whose members are in the minority.

“(2) VOTING PROHIBITED.—The Commission may not vote or make any final decision on any matter pending before it in a meeting that is not open to the public, unless—

“(A) otherwise authorized by section 552b(b) of title 5, United States Code; or

“(B) the Commission has moved its operations outside Washington, D.C., pursuant to a Continuity of Operations Plan.

“(3) PUBLICATION OF SUMMARY.—If the Commission conducts a meeting that is not open to the
public under this section, the Commission shall promptly publish an executive summary describing the matters discussed at that meeting after the meeting ends, except for such matters as the Commission determines may be withheld under section 552b(c) of title 5, United States Code. This paragraph does not apply to a meeting described in paragraph (4).

“(4) QUORUM UNNECESSARY FOR CERTAIN MEETINGS.—Neither section 552b of title 5, United States Code, nor paragraph (1) of this subsection applies to—

“(A) a meeting of 3 or more members of the Commission with the President, any person employed by the Office of the President, any official of a Federal, State, or local agency, a Member of Congress or his staff;

“(B) the attendance, by 3 or more members of the Commission, at a forum or conference to discuss general communications issues; or

“(C) a meeting of 3 or more members of the Commission when the Continuity of Operations Plan is in effect and the Commission is operating under the terms of that Plan.

“(5) SAVINGS CLAUSE.—Nothing in this subsection shall be construed to prohibit the Commission
from doing anything authorized by section 552b of
title 5, United States Code.”.

SEC. 1002. OFFICE OF INDIAN AFFAIRS.

(a) IN GENERAL.—There is established within the Fed-
eral Communications Commission an Office of Indian Af-
fairs.

(b) RELATIONSHIP TO TRIBAL GOVERNMENTS.—The
Office shall recognize—

(1) that the Federal government has a long-
standing policy of promoting tribal self-sufficiency
and economic development as embodied in various
Federal statutes;

(2) that the Federal government has a trust re-
ponsibility to and a government-to-government rela-

relationship with recognized tribes;

(3) its own general trust relationship with, and
responsibility to, Federally-recognized Indian Tribes;
and

(4) the rights of Tribal governments to establish
and implement their own communications priorities
and goals for the welfare of their membership.

(c) PURPOSES.—The Office shall—

(1) work with Indian Tribes on a government-
to-government basis consistent with the principles of

Tribal self-governance to ensure, through regulations
and policy initiatives, and consistent with section 1 of the Communications Act of 1934 (47 U.S.C. 151), that Indian Tribes have adequate access to communications services and to further the goals and priorities herein;

(2) consult with Tribal governments prior to implementing any regulatory action or policy that will significantly or uniquely affect Tribal governments, their members, land, and resources;

(3) advise directly the Commission, offices, and Bureaus on matters of Tribal law and sovereignty, conducting outreach to Indian Tribes, coordinating and preparing an annual report on status of telecommunications in Indian country, and such other duties as the Commission shall determine;

(4) strive to develop working relationships with Tribal governments, and endeavor to identify innovative mechanisms to facilitate Tribal consultation in agency regulatory processes that uniquely affect telecommunications compliance activities, radio spectrum policies, and other telecommunications service-related issues on Tribal lands;

(5) endeavor to streamline its administrative process and procedures to remove undue burdens that its decisions and actions place on Indian Tribes and
seek to remove those impediments to the extent authorized by law;

(6) assist Indian Tribes in complying with Federal communications statutes and regulations;

(7) seek to identify and establish procedures and mechanisms to educate Commission staff about Tribal governments and Tribal cultures, sovereignty rights, Indian law, and Tribal communications needs;

(8) work cooperatively with other Federal departments and agencies, Tribal, State, and local governments to further the goals of this policy and to address communications problems, such as low penetration rates and poor quality services on reservations, and other problems of mutual concern;

(9) welcome submission from Tribal governments and other concerned parties as to other actions the Commission might take to further the goals and principles presented herein;

(10) facilitate incorporation of these Indian policy goals into the Commission’s ongoing and long-term planning and management activities, including its policy proposals, management accountability system, and ongoing policy development processes; and
(11) perform such other tasks as are necessary to preserve and advance the trust relationship between the Federal government and Tribal governments.

SEC. 1003. OFFICE OF CONSUMER ADVOCATE.

(a) In General.—There is established within the Federal Communications Commission an Office of Consumer Advocate. The Office shall be headed by a Director, appointed by the Commission.

(b) Independence of the Office.—The Office shall be independent of the other bureaus and offices of the Commission. The Office and its staff shall be bound by the same code of conduct, personnel practices, procurement procedures, contracting procedures, and other relevant practices and procedures as the Commission.

(c) Appointment of Director; Grounds for Removal from Office.—

(1) In General.—The Director shall be appointed by the Commissioners of the Commission, in consultation with each other and with the advisory committee established under subsection (h).

(2) Initial Appointment.—The initial Director shall be appointed within 180 days after the date of enactment of this Act.

(3) Term; Removal.—The Director—

(A) shall be appointed for a term of 4 years;
(B) may be removed by the Chairman of the Commission only for cause, such as malfeasance or the failure to carry out the duties of the position; and

(C) shall be eligible for reappointment.

(4) QUALIFICATIONS.—The Director shall—

(A) be a citizen of the United States;

(B) be admitted to the practice of law;

(C) be knowledgeable about the various areas within the Commission’s jurisdiction;

(D) have experience in public interest advocacy; and

(E) be independent of, and have no substantial pecuniary interest in, any business regulated by the Commission for at least 3 years preceding appointment.

(5) COMPENSATION.—The Director shall be compensated at the rate established for GS-15 of the General Schedule under section 5104 of title 5, United States Code. The salaries paid to any members of the staff of the Office shall be consistent with and in the range applicable to salaries paid to employees of the Commission.

(d) DUTIES.—The Director of the Office shall act as an attorney for and represent all residential consumers gen-
erally, in any matters relating to matters within the juris-

\( (e) \) **AUTHORITY.**—The Director may—

(1) comment, intervene, or otherwise be a party
in any Commission proceeding or investigation con-

cerning matters within the Commission’s jurisdiction

that affect residential consumers;

(2) have the same access to Commission records

as enjoyed by other Commission officials;

(3) appeal any determination, finding, or order

of the Commission in any proceeding in which the Of-

fice has participated;

(4) appear on behalf of residential consumers be-

fore other Federal agencies and Federal courts in

cases as the Director may determine is consistent with

the Office’s goals;

(5) participate in any Commission-established

committees or other bodies that consider or review

matters that affect residential consumers of services

within the Commission’s jurisdiction; and

(6) appear and testify before Congress regarding

matters within the scope of the Office’s duties.

\( (f) \) **RESPONSIBILITIES OF DIRECTOR.**—The Director

shall be responsible for effectuating the purpose, goals, and

administration of the Office, including the provision of any
necessary technical and professional staff, equipment and
other facilities. The members of the staff of the Office shall
be subject to the same protections and privileges as other
equivalent staff of the Commission. The Director shall have
the authority to conduct or contract for studies, surveys,
research, or expert witness testimony relating to matters af-
fecting the interests of residential consumers of services
within the Commission’s jurisdiction. The Director shall
have the authority to request the assistance of personnel
from State consumer advocate offices to effectuate its re-
sponsibilities, so that Commission resources are not over-
burdened. On no less frequent than an annual basis, the
Office shall issue a written report that contains a descrip-
tion of its activities and budget allocation for the previous
fiscal year, and a proposed budget and description of prior-
ities for the following fiscal year.

(g) REPRESENTATION OF CONSUMERS.—In exercising
the discretion of whether the Office will represent or refrain
from representing residential consumers in a particular
matter, the Director shall consider the importance and ex-
tent of residential consumers’ interests and whether those
interests would be adequately represented. If the Director
determines there may be a conflict among or between classes
of residential consumers in a particular matter, the Direc-
tor may choose to represent one of the interests or none of
the interests.

(h) ADVISORY COMMITTEE.—

(1) APPOINTMENT.—There is established an Ad-
visory Committee to assist the Director in carrying
out the Director’s duties, as appropriate and reason-
able. The Advisory Committee shall be composed of—

(A) 3 members chosen by a national asso-
ciation of State utility consumer advocates; and

(B) 4 members chosen by the Chairman of
the Commission.

(2) QUALIFICATIONS.—Each member of the advi-
sory committee shall have experience in consumer in-
terests in matters within the jurisdiction of the Com-
mission.

(3) COMPENSATION AND REIMBURSEMENT FOR
EXPENSES.—Members of the advisory committee shall
serve without compensation and may not be reim-
bursed for travel or related expenses even while en-
gaged in official business of the advisory committee.

(i) FUNDING.—The annual budget of the Commission
shall include an account separate from the other bureaus
and offices of the Commission, which account shall be used
exclusively by the Office in the performance of its duties.
The budget for the Office shall be separately identified in
the Commission’s annual budget request. There are authorized to be made available to the Office for fiscal year $200,000.

(j) STANDING OF STATE OFFICIALS.—The creation of the Office shall in no way derogate the standing of any State consumer advocate or any national association of State utility consumer advocates to appear before the Commission, or appeal any Commission decision.

SEC. 1004. DATA ON LOCAL COMPETITION IN DIFFERENT PRODUCT MARKETS.

(a) INQUIRY.—Not later than 180 days after the date of enactment of this Act, and every year thereafter, the Commission shall conduct an inquiry regarding the extent to which providers of communications service have deployed their own local transmission facilities.

(b) DATA COLLECTION.—In connection with its inquiry, the Commission shall require that all providers of communications service submit annual reports to the Commission describing the extent to which they have deployed their own local transmission facilities. At a minimum, providers shall report separately on their deployment of loop facilities in each wire center used to provide service in different product markets served by communications service providers. In defining product markets for these purposes, the Commission shall utilize the methodology set forth in
the United States Department of Justice and Federal Trade Commission Horizontal Merger Guidelines and shall, at a minimum, distinguish among the products demanded by—

(1) residential customers;

(2) small and medium-sized business customers; and

(3) large business customers.

(c) REPORT TO CONGRESS.—Not later than one year after the date of enactment of this Act, and each year thereafter, the Commission shall submit a report to Congress describing the extent to which providers of telecommunications service, broadband service, and IP-enabled voice service have deployed their own local transmission facilities. Such report shall analyze separately the extent of actual facilities-based competition in each wire center in the product markets described in subsection (b).

(d) DEFINITIONS.—In this section:

(1) BROADBAND SERVICE.—The term “broadband service” means any service used for transmission of information of a user’s choosing with a transmission speed of at least 200 kilobits per second in at least 1 direction, regardless of the transmission medium or technology employed, that connects to the public Internet for a fee directly—

(A) to the public; or
(B) to such classes of users as to be effectively available directly to the public.

(2) COMMUNICATIONS SERVICE.—The term “communications service” means telecommunications service, broadband service, or IP-enabled voice service (whether offered separately or as part of a bundle of services).

(3) IP-ENABLED VOICE SERVICE.—The term “IP-enabled voice service” means the provision of real-time 2-way voice communications offered to the public, or such classes of users as to be effectively available to the public, transmitted through customer premises equipment using Internet protocol, or a successor protocol, for a fee (whether part of a bundle of services or separately) with 2-way interconnection capability such that the service can originate traffic to, and terminate traffic from, the public switched telephone network.

(4) LOCAL TRANSMISSION FACILITIES.—The term “local transmission facilities” means wireless and wireline transmission facilities used to transmit information or signals to, from or among locations within a wire center.
SEC. 1005. IMPROVED ENFORCEMENT OPTIONS.

(a) INCREASED PENALTIES.—Section 503(b)(2)(B) (47 U.S.C. 503(b)(2)(B)) is amended—

(1) by striking “$100,000” and inserting “$1,000,000”; and

(2) by striking “$1,000,000” and inserting “$10,000,000”.

(b) STATUTE OF LIMITATIONS.—Section 503(b)(6) (47 U.S.C. 503(b)(6)) is amended—

(1) by striking “or” after the semicolon in subparagraph (A)(ii);

(2) redesignating subparagraph (B) as subparagraph (C); and

(3) inserting after subparagraph (A) the following:

“(B) such person is a common carrier subject to the provisions of this Act or an applicant for any common carrier license, permit, certificate, or other instrument of authorization issued by the Commission and if the violation charged occurred more than 3 years prior to the date of issuance of the required notice or notice of apparent liability; or”.

(c) INDEPENDENT NETWORK AFFILIATES.—Section 503(b) (47 U.S.C. 503(b)) is further amended by adding at the end the following:

“(7) INDEPENDENT NETWORK AFFILIATES.—
“(A) In general.—No forfeiture penalty shall be determined or imposed under paragraph (2) of this subsection against an independent network affiliate for a violation of any section of title 18, United States Code, referred to in paragraph (1)(D) with respect to network-originated programming—

“(i) that the affiliate has not been afforded the reasonable opportunity to preview prior to its scheduled air time; or

“(ii) for which the network has failed to advise the affiliate prior to the scheduled air time that the programming contains content that could be in violation of any such section.

“(B) Independent network affiliate defined.—In this paragraph, the term ‘independent network affiliate’ means a television broadcast station licensee that is neither owned nor controlled by a television network (as defined in section 340(d)(5) of this Act.”.

SEC. 1006. MOBILE SERVICES TERMS AND CONDITIONS.

(a) In general.—Subparagraph (A) of section 332(c)(3) (47 U.S.C. 332(c)(3)) is amended—
(1) by striking the first sentence and inserting

“(i) Notwithstanding sections 2(b) and 221(b) or any other provision of law, a State or local government shall not regulate or adjudicate—

“(I) the entry of or the rates charged by any provider of commercial mobile service or private mobile service for any such mobile service or any or any other service that is primarily intended for receipt on or use with a wireless device that is utilized by a customer of such mobile service in connection with such mobile service; or

“(II) any terms and conditions of such mobile service or any other such service, except pursuant to a law or regulation generally applicable to businesses in the State other than a law or regulation that regulates or has the effect of regulating the entry or rates for any such service.”;

(2) by inserting after the first sentence, as so amended the following:

“(ii) Nothing in this section shall affect the authority of the Commission under this Act to adopt consumer protection requirements applicable to providers of commercial mobile service or private mobile services.”;
(3) by indenting the sentence beginning “Nothing in this subparagraph” and inserting “(iii)” before “Nothing”; and

(4) by redesignating clauses (i) and (ii) in the third sentence as subclauses (I) and (II), respectively.

(b) RULEMAKING.—Within 1 year after the date of enactment of this Act, the Federal Communications Commission shall adopt a final rule establishing customer service and consumer protection requirements for providers of commercial mobile service or private mobile service (as such terms are defined in section 332(d)(1) and (3), respectively, of the Communications Act of 1934 (47 U.S.C. 332(d)(1) and (3))).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 180 days after the date on which the Commission adopts the final rule described in subsection (b).

(d) TRUTH IN BILLING.—

(1) FINDINGS.—Congress finds the following:

(A) In recent years, carriers have significantly increased their use of separate, line-item fees for so-called “regulatory compliance” charges, that are generally not included in the advertised price of communications services.
(B) These line-item fees often fail to adequately inform consumers of the specific costs being recovered through such charges and as to whether such charges are required by government law or rule, or alternatively, are imposed at the discretion of the carrier.

(C) The proliferation of discretionary line item surcharges and fees can lead to consumer confusion and can impede the delivery of basic information necessary for consumers to compare the cost of communications services offered by different carriers and to make informed decisions.

(D) The proper functioning of competitive markets is predicated on consumers having access to accurate, meaningful information in a format that they can understand.

(E) The Federal Communications Commission has an obligation under the Communications Act of 1934 and that Act’s Truth-in-Billing principles to ensure that consumers receive clear, accurate, and understandable bills from providers of communications services.

(2) COMMISSION TO ISSUE TRUTH-IN-TELEPHONE-BILLING REGULATIONS.—Not later than 180
days after the date of enactment of this Act, the Federal Communications Commission shall initiate and conclude a proceeding under part I of title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) to prevent a telecommunications carrier from listing any charge or fee on the billing statement or other billing charge of a subscriber as a separately stated charge or fee other than a charge or fee—

(A) for telecommunications service or other services provided to a subscriber;

(B) for nonpayment, early termination of service, or other lawful penalty;

(C) for Federal, State, or local sales, excise, or other taxes; or

(D) expressly authorized by a Federal, State, or local statute, regulation, or rule to appear on a subscriber’s billing statement or other billing charge as a separately stated charge or fee.

(3) ENFORCEMENT.—The Commission may enforce the regulations promulgated under paragraph (2) under section 220 and other appropriate provisions of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(4) DEFINITIONS.—In this subsection:
(A) Commission.—The term “Commission” means the Federal Communications Commission.

(B) Telecommunications Carrier.—The term “telecommunications carrier” has the meaning given that term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)).

(C) Telecommunications Service.—The term “telecommunications service” has the meaning given that term by section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)).

SEC. 1007. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of such provisions to any person or circumstance shall not be affected thereby.

SEC. 1008. CLARIFICATION OF CERTAIN JURISDICTIONAL ISSUES.

(a) In General.—Notwithstanding any other provision of law, the Commission shall have authority to issue, and shall not undermine, alter, or amend decisions made in Vonage Holdings Corp. Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities

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Commission, WC Docket No. 03-211, Memorandum Opinion and Order, FCC 04-267 (November 9, 2004) or Petition for Declaratory Ruling that pulver.com’s Free World Dialup is Neither Telecommunications Nor a Telecommunications Service, WC Docket No. 03-45, Memorandum Opinion and Order, FCC 04-27 (February, 19, 2004), except to apply such decisions to other similar services that share similar basic characteristics.

(b) PENDING CHALLENGES.—Any pending challenges to the decisions described in subsection (a) shall be dismissed.

(c) CLARIFICATION.—Nothing in this section shall be construed to supersede or preempt the consumer protection laws of any State, including any privacy or anti-child pornography law of a State, except to the extent that such laws regulate the rates for entry or exit by a provider of such services.

SEC. 1009. FCC TO ISSUE A FURTHER NOTICE OF PROPOSED RULEMAKING BEFORE CHANGING BROADCAST MEDIA OWNERSHIP RULES.

(a) IN GENERAL.—Before making any changes to section 73.3555 of its regulations (47 C.F.R. 73.3555), as those regulations were in effect on June 1, 2003, the Federal Communications Commission shall issue a further Notice of Proposed Rulemaking with respect to any such changes.
(b) Clarification of Applicable Regulations.—

The cross-media limits rule adopted by the Federal Communications Commission on June 2, 2003, pursuant to its proceeding on broadcast media ownership rules, Report and Order FCC–03–127, is declared null and void, and section 73.3555 of the Commission’s regulations (47 C.F.R. 73.3555), as those regulations were in effect before the adoption of the rule, are reinstated with effect from June 2, 2003.

SEC. 1010. DIVERSITY IN MEDIA OWNERSHIP.

The Federal Communications Commission shall not promulgate rules regarding media ownership without first completing regulatory action in its proceeding DA 04–1690, entitled “Media Bureau Seeks Comment on Ways to Further Section 257 Mandate and to Build on Earlier Studies,” initiated on June 15, 2004.

SEC. 1011. BROADBAND REPORTING REQUIREMENTS.

(a) Reporting Requirements.—

(1) General Requirements.—The Commission shall revise FCC Form 477 reporting requirements within 180 days after the date of enactment of this Act to require broadband service providers to report the following information:

(A) Identification of where the provider provides broadband service to customers, identified
by zip code plus four digit location (hereinafter referred to as “service area”).

(B) Percentage of households and businesses in each service area that are offered broadband service by the provider, and the percentage of such households that subscribe to each service plan offered.

(C) The average price per megabyte of download speed and upload speed in each service area.

(D) Identification by service area of the provider’s broadband service’s—

(i) actual average throughput; and

(ii) contention ratio of the number of users sharing the same line.

(2) EXCEPTION.—The Commission shall exempt a broadband service provider from the requirements in subsection (1) if the Commission determines that a provider’s compliance with the reporting requirements is cost prohibitive, as defined by the Commission.

(b) DEMOGRAPHIC INFORMATION FOR UNSERVED AREAS.—The Commission, using available Census Bureau data, shall provide to Congress on an annual basis a report
containing the following information for each service area
that is not served by any broadband service provider—

(1) population;

(2) population density; and

(3) average per capita income.

SEC. 1012. APPLICATION OF ONE-YEAR RESTRICTIONS TO
CERTAIN POSITIONS.

For purposes of section 207 of title 18, United States
Code, an individual serving in any of the following posi-
tions, or in any successor position, at the Federal Commu-
nications Commission is deemed to be a person described
in section 207(c)(2)(A)(ii) of that title, regardless of the in-
dividual’s rate of basic pay:

(1) Chief, Office of Engineering and Technology.

(2) Director, Office of Legislative Affairs.

(3) Inspector General, Office of Inspector Gen-
eral.

(4) Managing Director, Office of Managing Di-
rector.

(5) General Counsel, Office of General Counsel.

(6) Chief, Office of Strategic Planning and Pol-
icy Analysis.

(7) Chief, Consumer and Governmental Affairs
Bureau.

(8) Chief, Enforcement Bureau.
(9) Chief, International Bureau.

(10) Chief, Media Bureau.

(11) Chief, Wireline Competition Bureau.


(13) Any position for which the individual was appointed under section 4(f)(2) of the Communications Act of 1934 (47 U.S.C. 4(f)(2)).

SEC. 1013. INTERNET TAX FREEDOM ACT AMENDMENT.

Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking “taxes during the period beginning November 1, 2003, and ending November 1, 2007:” and inserting “taxes:”.

SEC. 1014. STATUS OF E–911 IMPLEMENTATION AND COORDINATION OFFICE.

Within 90 days after the date of enactment of this Act, the Assistant Secretary of the National Telecommunications and Information Administration (NTIA) and the Administrator of the National Highway Traffic Safety Administration (NHTSA) shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on the progress of the E–911 Implementation and Coordination Office and plans of the Office to meet the requirements of the Office established in Public Law 108–494.
SEC. 1015. FEDERAL COMMUNICATIONS COMMISSION TELE-MEDICINE REPORT.

The Commission shall conduct a study and report to Congress within 180 days after the date of enactment of this Act of the following:

(1) Speed of a broadband connection necessary to run low, medium, and high capacity telemedicine applications.

(2) Precise statistics of availability of broadband connections capable of running telemedicine applications in any given service area (zip code plus four digit area).

(3) Number of providers in any given service area (zip code plus four digit area) offering broadband connections capable of running telemedicine applications.

(4) Average monthly price per megabit of download and upload speeds for broadband connections capable of running telemedicine applications in any given service area (zip code plus four digit area).

SEC. 1016. FEDERAL INFORMATION AND COMMUNICATIONS TECHNOLOGY RESEARCH.

(a) ADVANCED INFORMATION AND COMMUNICATIONS TECHNOLOGY RESEARCH.—

(1) NATIONAL SCIENCE FOUNDATION INFORMATION AND COMMUNICATIONS TECHNOLOGY RE-
SEARCH.—The Director of the National Science Foundation shall establish a program of basic research in advanced information and communications technologies focused on enhancing or facilitating the availability and affordability of advanced communications services to all Americans. In developing and carrying out the program, the Director shall consult with the Board established under paragraph (2).

(2) FEDERAL ADVANCED INFORMATION AND COMMUNICATIONS TECHNOLOGY RESEARCH BOARD.—There is established within the National Science Foundation a Federal Advanced Information and Communications Technology Board which shall advise the Director of the National Science Foundation in carrying out the program authorized by paragraph (1). The Board shall be composed of individuals with expertise in information and communications technologies, including representatives from the National Telecommunications and Information Administration, the Federal Communications Commission, the National Institute of Standards and Technology, and the Department of Defense.

(3) GRANT PROGRAM.—The Director, in consultation with the Board, shall award grants for basic research into advanced information and communications technologies.
tions technologies that will contribute to enhancing or
facilitating the availability and affordability of ad-
anced communications services to all Americans.
Areas of research to be supported through these grants
include—

(A) affordable broadband access, including
wireless technologies;

(B) network security and reliability;

(C) communications interoperability;

(D) networking protocols and architectures,
including resilience to outages or attacks;

(E) trusted software;

(F) privacy;

(G) nanoelectronics for communications ap-
lications;

(H) low-power communications electronics;

and

(I) such other related areas as the Director,
in consultation with the Board, finds appro-
priate.

(4) CENTERS.—The Director shall award
multiyear grants, subject to the availability of appro-
priations, to institutions of higher education (as de-
defined in section 101(a) of the Higher Education Act
of 1965 (20 U.S.C. 1001(a)), nonprofit research insti-
tutions, or consortia thereof to establish multidisciplinary Centers for Communications Research. The purpose of the Centers shall be to generate innovative approaches to problems in communications and information technology research, including the research areas described in paragraph (3). Institutions of higher education nonprofit research, institutions, or consortia receiving such grants may partner with 1 or more government laboratories or for-profit institutions, or other institutions of higher education or nonprofit research institutions.

(5) APPLICATIONS.—The Director, in consultation with the Board, shall establish criteria for the award of grants under paragraphs (3) and (4). Grants shall be awarded under the program on a merit-reviewed competitive basis. The Director shall give priority to grants that offer the potential for revolutionary rather than evolutionary breakthroughs.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this subsection—

(A) $40,000,000 for fiscal year 2007;

(B) $45,000,000 for fiscal year 2008;

(C) $50,000,000 for fiscal year 2009;
(D) $55,000,000 for fiscal year 2010; and

(E) $60,000,000 for fiscal year 2011.

(b) SPECTRUM-SHARING INNOVATION TESTBED.—

(1) SPECTRUM-SHARING PLAN.—Within 1 year after the date of enactment of this Act, the Federal Communications Commission and the Assistant Secretary of Commerce for Communications and Information, in coordination with other Federal agencies, shall—

(A) develop a plan to increase sharing of spectrum between Federal and non-Federal government users; and

(B) establish a pilot program for implementation of the plan.

(2) TECHNICAL SPECIFICATIONS.—The Commission and the Assistant Secretary—

(A) shall each identify a segment of spectrum of equal bandwidth within their respective jurisdiction for the pilot program that is approximately 10 megaHertz in width for assignment on a shared basis to Federal and non-Federal government use; and

(B) may take the spectrum for the pilot program from bands currently allocated on either an exclusive or shared basis.
(3) REPORT.—The Commission and the Assistant Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce 2 years after the inception of the pilot program describing the results of the program and suggesting appropriate procedures for expanding the program as appropriate.

(c) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY RESPONSIBILITIES.—The Director of the National Institute of Standards and Technology shall continue to support research and support standards development in advanced information and communications technologies focused on enhancing or facilitating the availability and affordability of advanced communications services to all Americans, in order to implement the Institute’s responsibilities under section 2(c)(12) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)(12)). The Director shall support intramural research and cooperative research with institutions of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) and industry.

SEC. 1017. FORBEARANCE.

Section 10(c) (47 U.S.C. 160(c)) is amended—
(1) by striking “deemed granted” and inserting “voted on by the Commission”; and (2) by inserting “by majority vote” after “part” in the last sentence.

SEC. 1018. DEADLINE FOR CERTAIN COMMISSION PROCEEDINGS.

The Federal Communications Commission shall complete its proceedings on special access rates (FCC Docket Nos. 05–25 and 01–321) not later than 270 days after the date of enactment of this Act.

TITLE XI—LOCAL COMMUNITY RADIO ACT

SEC. 1101. SHORT TITLE.

This title may be cited as the “Local Community Radio Act of 2006”.

SEC. 1102. REPEAL OF PRIOR LAW.

Section 632 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (Public Law 106–553; 114 Stat. 2762A–111), is repealed.

SEC. 1103. MINIMUM DISTANCE SEPARATION REQUIREMENTS.

The Federal Communications Commission shall modify its rules to eliminate third-adjacent minimum distance separation requirements between—
(1) low-power FM stations; and
(2) full-service FM stations, FM translator stations, and FM booster stations.

SEC. 1104. PROTECTION OF RADIO READING SERVICES.

The Federal Communications Commission shall retain its rules that provide third-adjacent channel protection for full-power non-commercial FM stations that broadcast radio reading services via a subcarrier frequency from potential low-power FM station interference.

SEC. 1105. ENSURING AVAILABILITY OF SPECTRUM FOR LPFM STATIONS.

The Federal Communications Commission when licensing FM translator stations shall ensure—

(1) that licenses are available to both FM translator stations and low-power FM stations; and

(2) that such decisions are made based on the needs of the local community.

SEC. 1106. FEDERAL COMMUNICATIONS COMMISSION RULES.

The Federal Communications Commission shall retain its rules that provide third-adjacent channel protection for full-power FM stations that are licensed in significantly populated States with more than 3,000,000 housing units and a population density greater than 1,000 people per square mile land area.
TITLE XII—CELL PHONE TAX
MORATORIUM

SEC. 1201. SHORT TITLE.
This title may be cited as the “Cell Phone Tax Moratorium Act of 2006”.

SEC. 1202. MORATORIUM.
(a) IN GENERAL.—No State or political subdivision thereof shall impose a new discriminatory tax on or with respect to mobile services, mobile services providers, or mobile services property, during the 3-year period beginning on the date of enactment of this Act.

(b) DEFINITIONS.—In this title:

(1) MOBILE SERVICE.—The term “mobile service” means commercial mobile radio service, as such term is defined in section 20.3 of title 47, Code of Federal Regulations, as in effect on June 22, 2006, or any other service that is primarily intended for receipt on or use with a mobile telephone.

(2) MOBILE SERVICE PROVIDER.—The term “mobile service provider” means any entity that markets, sells, or provides mobile services.

(3) MOBILE SERVICE PROPERTY.—The term “mobile services property” means any equipment used in the transmission, reception, coordination, or switching of mobile services.
(4) NEW DISCRIMINATORY TAX.—

(A) IN GENERAL.—The term “new discriminatory tax” means any tax imposed by a State or political subdivision thereof that—

(i) is imposed on or with respect to—

(I) any mobile service and is not generally imposed, or is generally imposed at a lower rate, on or with respect to other services or on or with respect to transactions involving property or goods;

(II) any mobile service provider and is not generally imposed, or is generally imposed at a lower rate, on other persons that provide services other than mobile services; or

(III) any mobile service property and is not generally imposed, or is generally imposed at a lower rate, on or with respect to other commercial or industrial property that is devoted to a commercial or industrial use and subject to a property tax levy;
(ii) was not generally imposed and ac-
tually enforced prior to the date of enact-
ment of this Act.

(B) RULE OF CONSTRUCTION.—For pur-
poses of subparagraph (A), all exemptions, de-
ductions, credits, incentives, exclusions, and
other similar factors shall be taken into account
in determining whether a tax is a “new dis-
criminatory tax”.

(5) TAX.—

(A) IN GENERAL.—The term “tax” means
any charge imposed by any governmental entity
for the purpose of generating revenues for govern-
mental purposes, and is not a fee imposed for a
specific privilege, service, or benefit conferred.

(B) EXCLUSION.—The term “tax” does not
include any fee or charge—

(i) used to preserve and advance Fed-
eral universal service or similar State pro-
grams authorized by section 254 of the
Communications Act of 1934 (47 U.S.C.
254); or

(ii) specifically dedicated by a State or
political subdivision thereof for the support
of E-911 communications systems.
TITLE XII—TRUTH IN CALLER ID

SEC. 1301. SHORT TITLE.

This title may be cited as the “Truth in Caller ID Act of 2006”.

SEC. 1302. PROHIBITION REGARDING MANIPULATION OF CALLER IDENTIFICATION INFORMATION.

Section 227 (47 U.S.C. 227) is amended—

(1) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(2) by inserting after subsection (d) the following new subsection:

“(e) Prohibition on Provision of Inaccurate Caller Identification Information.—

“(1) In General.—It shall be unlawful for any person within the United States, in connection with any telecommunications service or IP-enabled voice service, to cause any caller identification service to transmit misleading or inaccurate caller identification information, unless such transmission is exempted pursuant to paragraph (3)(B).

“(2) Protection for Blocking Caller Identification Information.—Nothing in this subsection may be construed to prevent or restrict any person from blocking the capability of any caller...
identification service to transmit caller identification information.

“(3) REGULATIONS.—

“(A) IN GENERAL.—Not later than 6 months after the enactment of the Truth in Caller ID Act of 2006, the Commission shall prescribe regulations to implement this subsection.

“(B) CONTENT OF REGULATIONS.—

“(i) IN GENERAL.—The regulations required under subparagraph (A) shall include such exemptions from the prohibition under paragraph (1) as the Commission determines appropriate.

“(ii) SPECIFIC EXEMPTION FOR LAW ENFORCEMENT AGENCIES, NATIONAL SECURITY ACTIVITIES, OR COURT ORDERS.—The regulations required under subparagraph (A) shall exempt from the prohibition under paragraph (1) transmissions in connection with—

“(I) any authorized law enforcement or national security activity of an agency of the United States, a State, or a political subdivision of a State; or
“(II) a court order that specifically authorizes the use of caller identification manipulation.

“(4) REPORT.—Not later than 6 months after the enactment of the Truth in Caller ID Act of 2006, the Commission shall report to Congress whether additional legislation is necessary to prohibit the provision of inaccurate caller identification information in technologies that are successor or replacement technologies to telecommunications service or IP-enabled voice service.

“(5) Penalties.—

“(A) Civil forfeiture.—

“(i) In general.—Any person that is determined by the Commission, in accordance with paragraphs (3) and (4) of section 503(b), to have violated this subsection shall be liable to the United States for a forfeiture penalty. A forfeiture penalty under this paragraph shall be in addition to any other penalty provided for by this Act. The amount of the forfeiture penalty determined under this paragraph shall not exceed $10,000 for each violation, or 3 times that amount for each day of a continuing viola-
tion, except that the amount assessed for any continuing violation shall not exceed a total of $1,000,000 for any single act or failure to act.

“(ii) RECOVERY.—Any forfeiture penalty determined under clause (i) shall be recoverable pursuant to section 504(a).

“(iii) PROCEDURE.—No forfeiture liability shall be determined under clause (i) against any person unless such person receives the notice required by section 503(b)(3) or section 503(b)(4).

“(iv) 2-YEAR STATUTE OF LIMITATIONS.—No forfeiture penalty shall be determined or imposed against any person under clause (i) if the violation charged occurred more than 2 years prior to the date of issuance of the required notice or notice of apparent liability.

“(B) CRIMINAL FINE.—Any person who willfully and knowingly violates this subsection shall upon conviction thereof be fined not more than $10,000 for each violation, or 3 times that amount for each day of a continuing violation, in lieu of the fine provided by section 501 for
such a violation. This subparagraph does not supercede the provisions of section 501 relating to imprisonment or the imposition of a penalty of both fine and imprisonment.

“(6) Enforcement by States.—

“(A) In general.—The chief legal officer of a State, or any other State officer authorized by law to bring actions on behalf of the residents of a State, may bring a civil action, as parens patriae, on behalf of the residents of that State in an appropriate district court of the United States to enforce this subsection or to impose the civil penalties for violation of this subsection, whenever the chief legal officer or other State officer has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a violation of this subsection or a regulation under this subsection.

“(B) Notice.—The chief legal officer or other State officer shall serve written notice on the Commission of any civil action under subparagraph (A) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, ex-
cept that if it is not feasible for the State to pro-
vide such prior notice, the State shall provide
such notice immediately upon instituting such
civil action.

“(C) AUTHORITY TO INTERVENE.—Upon re-
ceiving the notice required by subparagraph (B),
the Commission may intervene in such civil ac-
tion and upon intervening—

“(i) be heard on all matters arising in
such civil action; and

“(ii) file petitions for appeal of a deci-
sion in such civil action.

“(D) CONSTRUCTION.—For purposes of
bringing any civil action under subparagraph
(A), nothing in this paragraph shall prevent the
chief legal officer or other State officer from exer-
cising the powers conferred on that officer by the
laws of such State to conduct investigations or to
administer oaths or affirmations or to compel
the attendance of witnesses or the production of
documentary and other evidence.

“(E) VENUE; SERVICE OF PROCESS.—

“(i) VENUE.—An action brought under
subparagraph (A) shall be brought in a dis-
tric court of the United States that meets
applicable requirements relating to venue under section 1391 of title 28, United States Code.

“(ii) SERVICE OF PROCESS.—In an action brought under subparagraph (A)—

“(I) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

“(II) a person who participated in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

“(F) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Commission has instituted an enforcement action or proceeding for violation of this subsection, the chief legal officer or other State officer of the State in which the violation occurred may not bring an action under this section during the pendency of the proceeding against any person with respect to whom the Commission has instituted the proceeding.
“(7) DEFINITIONS.—For purposes of this subsection:

“(A) CALLER IDENTIFICATION INFORMATION.—The term ‘caller identification information’ means information provided by a caller identification service regarding the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or IP-enabled voice service.

“(B) CALLER IDENTIFICATION SERVICE.—The term ‘caller identification service’ means any service or device designed to provide the user of the service or device with the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or IP-enabled voice service. Such term includes automatic number identification services.

“(C) IP-ENABLED VOICE SERVICE.—The term ‘IP-enabled voice service’ means the provision of real-time 2-way voice communications offered to the public, or such classes of users as to be effectively available to the public, transmitted through customer premises equipment using Internet protocol, or a successor protocol, for a fee (whether part of a bundle of services or sepa-
rately) with interconnection capability such that
the service can originate traffic to, or terminate
traffic from, the public switched telephone net-
work.

“(8) LIMITATION.—Notwithstanding any other
provision of this section, subsection (f) shall not apply
to this subsection or to the regulations under this sub-
section.”.

**TITLE XIV—RURAL WIRELESS
AND BROADBAND SERVICE**

**SEC. 1401. SHORT TITLE.**

This title may be cited as the “Rural Wireless and
Broadband Service Act of 2006”.

**SEC. 1402. SMALL GEOGRAPHIC LICENSING AREAS.**

Section 309(j)(4)(C) (47 U.S.C. 309(j)(4)(C)) is
amended—

(1) by striking “service, prescribe” and inserting
the following: “service—

“(i) prescribe”;

(2) by striking “(i) an” and inserting “(I) an”; 

(3) by striking “(ii)” and inserting “(II)”;

(4) by striking “(iii)” and inserting “(III)”;

(5) by adding at the end the following:

“(ii) consider the use of licensing spec-
trum in smaller geographic areas in order
to encourage wireless deployment and build-out in rural and underserved areas of licensing spectrum in smaller geographic areas;”.

SEC. 1403. REPORT ON THE IMPACT OF SECONDARY MARKET TRANSACTIONS.

Section 309(j) (47 U.S.C. 309(j)) is amended by adding at the end the following:

“(17) Report on the impact of secondary market transactions.—Not later than 2 years after the date of enactment of the Rural Wireless and Broadband Service Act of 2006, and every 2 years thereafter until the database developed under paragraph (18) is available to the public, the Commission shall submit a report to Congress analyzing and evaluating the impact of the Commission’s—

“(A) spectrum leasing; and

“(B) spectrum partitioning and disaggregation rules in facilitating, through the development of secondary markets, the deployment of spectrum-based services to the public, particularly to those members of the public residing in rural and underserved areas.

“(18) Publicly accessible integrated data base.—The Commission, in coordination with the
Assistant Secretary of Commerce for Communications and Information, shall develop an integrated national database, accessible by the public, that identifies by name, address, and contact information for each licensee, the spectrum assigned to each such licensee, and the geographic area to which the spectrum is assigned or licensed. The database may not provide public access to information protected from public disclosure under chapter 5 of title 5, United States Code, or the disclosure of which would compromise national security.”.

SEC. 1404. RADIO SPECTRUM REVIEW.

Part I of title III (47 U.S.C. 301 et seq.), as amended by sections 453 and 602 of this Act, is further amended by adding at the end the following:

“SEC. 344. RADIO SPECTRUM REVIEW.

“(a) In General.—Not later than 5 years after the date of enactment of the Rural Wireless and Broadband Service Act of 2006, and every 5 years thereafter, the Federal Communications Commission and the National Telecommunications and Information Administration shall—

“(1) conduct a band-by-band analysis of the spectrum managed by each such agency; and
“(2) report to the Congress any such bands identified, in the determination of each such agency, as not being utilized in an effective or efficient manner.

“(b) AGENCY AUTHORITY.—

“(1) COLLECTION OF INFORMATION.—In conducting the analysis required under subsection (a)(1), the Federal Communications Commission and the National Telecommunications and Information Administration may require licensees and other spectrum users to provide information regarding spectrum usage.

“(2) EXEMPTION FROM PAPERWORK REDUCTION ACT.—The collection of any information required under paragraph (1) shall be exempt from the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).”.

SEC. 1405. 700 MHZ LICENSE AREAS.

The Federal Communications Commission shall, within 180 days after the date of enactment of this Act, initiate a rulemaking to reconfigure the band plans for the upper 700 megaHertz band (currently designated Auction 31) and for the unauctioned portions of the lower 700 megaHertz band (currently designated as Channel Blocks A, B, and E) so as to designate up to 6 megaHertz of recovered analog spectrum (as defined in section 309(j)(15)(C)(vi) of the
Communications Act of 1934 (47 U.S.C. 309(j)(15)(C)(vi))) for small geographic license areas, taking into consideration—

(1) the January 28, 2008, commencement date for the auction of recovered analog spectrum as required by section 3003 of Public Law 109-171 (47 U.S.C. 309 note); and

(2) the desire to promote infrastructure build-out and service to rural and insular areas and the competitive benefits, unique characteristics, and special needs of regional and smaller wireless carriers.

SEC. 1406. NO INTERFERENCE WITH DTV TRANSITION.

The Commission shall not undertake any reconfiguration of the band plans described in section 1605 if that reconfiguration is determined to be likely to delay the auction of recovered spectrum or the terminations of analog licenses required by section 3002(b) of Public Law 109-171 (47 U.S.C. 309 note) to occur by February 18, 2009.

SEC. 1407. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the expiration of the date which is 90 days after the date of enactment of this Act.