COMMITTEE AMENDMENT

[STAFF WORKING DRAFT]

June 16, 2006

Purpose: To substitute the text of S. 2686, as introduced, and modified to reflect comments received by the Committee for the bill as passed by the House of Representatives.

IN THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION—109TH Cong., 2ND Sess.

H.R. 5252, 109TH Congress, 2ND Session

JUNE 22, 2006

INTENDED to be proposed by Mr. STEVENS

Viz: Strike out all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.
2 This Act may be cited as the “Communications, Consumers’ Choice, and Broadband Deployment Act of 2006”.

5 SEC. 2. AMENDMENT OF COMMUNICATIONS ACT OF 1934.
6 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.

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.

TITLE III—STREAMLINING THE FRANCHISING PROCESS

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. Purpose; franchise applications; scope.
Sec. 313. Standard franchise application form.
Sec. 314. Definitions.
Sec. 315. Family tier study.

SUBTITLE B—STREAMLINING THE PROVISION OF VIDEO SERVICES

Sec. 331. Franchise requirements and related provisions.
Sec. 332. Renewal; revocation.

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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.

**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.
Sec. 453. Protection of digital audio broadcasting content.
Sec. 454. Digital Audio Review Board.

**TITLE V—MUNICIPAL BROADBAND**

Sec. 501. Short title.
Sec. 502. State regulation of municipal broadband networks.

**TITLE VI—WIRELESS INNOVATION NETWORKS**

Sec. 601. Short title.
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.

**TITLE IX—INTERNET CONSUMER BILL OF RIGHTS ACT**

Sec. 901. Short title.
Sec. 902. Findings.
Sec. 903. Consumer internet bill of rights.
Sec. 904. Application of the first amendment.
Sec. 905. Stand-alone internet service shall be offered to the public.
Sec. 906. Network security, worms, viruses, denial of service, parental controls, and blocking child pornography.
Sec. 907. Enforcement.

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Sec. 908. Commission prohibited from issuing regulations.
Sec. 909. FCC review.
Sec. 910. Exceptions.
Sec. 911. Definitions.

TITLE X—MISCELLANEOUS

Sec. 1001. Commissioner participation in forums and meetings.
Sec. 1002. Data on local competition in different product markets.
Sec. 1003. Improved enforcement options.
Sec. 1004. Challenges of Commission rulings or regulations.
Sec. 1005. Federal review.
Sec. 1006. Severability.

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 other Internet protocol technology;

(3) encourage telecommunications carriers (as defined in section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44))) 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 Assistant Secretary 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 interoperability 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 factors used by the Secretary of Homeland Security for the purposes of allocating discre-
tionary 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 allocation by the States to public safety agencies.

“(3) Eligibility.—A State may not receive funds allocated to it under paragraph (2) unless it has established a statewide interoperable communications plan approved by the Secretary of Homeland Security.

“(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 IP protocol or any similar successor protocol.

“(e) Coordination, Planning, and Training Grant Initiative.—
“(1) IN GENERAL.—The Assistant Secretary, in consultation with 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 of Homeland Security 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 com-
communication coordination, planning, and training
grant to establish a statewide plan consistent with
the State communications interoperability planning
methodology developed by the SAFECOM program
within the Department of Homeland Security or a
regional plan established pursuant to a regional
planning agency consistent with this section and to
establish training programs designed to ensure effec-
tive implementation of coordination and interopera-

ty plans. In establishing the statewide plan, the
Governor or the Governor’s designee shall consult
with the Secretary of Homeland Security or the Sec-
retary of Homeland Security’s designee. A State
shall submit its statewide plan to the Federal Com-
munications Commission and the Secretary of
Homeland Security.

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

“(A) there are effective 2-way communica-
tions 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 authori-
ties 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 Reserves Initiative.—

“(1) In General.—The Assistant Secretary, in consultation with 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 Assistant Secretary shall take into consideration the continuing technological evolution of communications technologies and devices, with its implicit risk of obsolescence, and
ensure that, to the maximum extent feasible, a sub-
stantial part of the reserve involves prenegotiated
contracts and other arrangements for rapid deploy-
ment 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-
nications 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
Systems, cellular telephones and satellite equip-
ment, 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 per-
sonnel;
“(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 Assistant Secretary shall seek advice from the Secretary of Defense and the Secretary of Homeland Security, 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 Assistant 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, in cooperation with 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 Assistant 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 Re-
form and Terrorism Prevention Act of

“(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 consistent 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 Communications, Consumers’ Choice, and Broadband Deployment Act of 2006, the Assistant Secretary, in consultation with the Secretary of Homeland Security and 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 notwithstanding any other provision of law.

(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 subsection (a) 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 terrestrial-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 subsection (a), 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.

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 a 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 providers for their low call volume residential customers.

“(2) EXEMPTIONS.—The Commission may exempt a communications service provider or any class of communications service providers from the re-
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.

“(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/intra-state 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 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 cus-
tomer bill a separate line item charge that does not exceed the amount for the customer that the provider is required to contribute under this subsection 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 tele-
communications 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 and 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 IP protocol, or a successor protocol, for a fee (whether part of a bundle of services or offered separately) with 2-way interconnection capability 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 de-
fined in subsection (d)(6)(E)) providers to contribute to universal service on the basis of—

“(A) revenue;

“(B) working phone numbers or any other identifier protocol or connection to the networks;

“(C) network capacity; or

“(D) any combination of such factors.

“(2) INTERSTATE COMPONENT DISREGARD.—A State may require telecommunications service providers and IP-enabled voice service providers to contribute under paragraph (1) regardless of whether the service contains an interstate component.

“(3) GUIDELINES.—Regulations adopted by a State under this subsection shall result in a specific, predictable, and sufficient mechanism to support universal service and shall be competitively and technologically neutral, equitable, and nondiscriminatory.

“(4) IP-ENABLED VOICE SERVICE DEFINED.—In this subsection the term ‘IP-enabled voice service’ has the meaning given it in subsection (d)(6)(D).”.

(b) PROPER ACCOUNTING OF UNIVERSAL SERVICE CONTRIBUTIONS.—

(1) FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disburse-
ments 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 statute requiring budget sequesters.

(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 of the Communications Act of 1934 (47 U.S.C. 254).

(e) 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.

SEC. 212. MODIFICATION OF RURAL VIDEO SERVICE EX-EMPTION.

(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 (C) and (D);

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

“(B) INTERCONNECTION.—Notwithstanding subparagraphs (A) and (C), 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.”;

(6) by striking “exemption under subparagraph (A).” in subparagraph (C), as redesignated, and inserting “exemption.”; and

(7) by striking subparagraph (D) as redesignated.

(b) OTHER RURAL CARRIERS.—Section 251(f)(2) (47 U.S.C. 251(f)(2)) is amended—

(1) by inserting “(other than paragraphs (1) and (2) of subsection (e))” after “subsection (b) or (e)” in the first sentence; and

(2) by inserting “A local exchange carrier with fewer than 10 access lines per square mile installed
in the aggregate nationwide may petition a State
commission for a suspension or modification of the
application of the requirements of subsection (b) or
(c) to telephone exchange service facilities specified
in the petition.” after “petition.”

(c) EFFECTIVE DATE.—Notwithstanding any other
provision of this Act, the amendments made by this sec-
tion 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 add-
ing after section 714 the following new section:

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

“(a) IN GENERAL.—A facilities-based (as determined
by the Commission) IP-enabled voice service provider shall
have the same rights, duties, and obligations as a request-
ing telecommunications carrier under sections 251 and
252, if the provider elects to assert such rights. A tele-
communications carrier may not refuse to transport or ter-
minate IP-enabled voice traffic solely on the basis that it
is IP-enabled. A provider originating, transmitting, or ter-
minating IP-enabled voice traffic shall not be exempted
from paying compensation owed to another provider or
carrier solely on the basis that such traffic is IP-enabled.
“(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 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.

“(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 is 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.

“(d) STATUS.—Notwithstanding any other provision of law, IP-enabled voice service is an interstate service and is subject only to Federal regulations except as provided in section 254.

“(e) 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) 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 cus-
tomer premises equipment using IP protocol, or a
successor protocol, for a fee (whether part of a bun-
dle of services or offered separately) with inter-
connection capability such that the service can origi-
niate traffic to, and terminate traffic from, the public
switched telephone network.”.

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

Section 254(g) of the Communications Act of 1934
(47 U.S.C. 254(g) is amended by inserting “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.” after “State.”).

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 eli-
gible 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 rollout 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 protect sensitive business information from disclosure in any reports made public.

(e) 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 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 customer premises equipment shall be considered to be a project eligible for support from the Program.

“(3) De minimis subscribership exception.—The availability of broadband service by satellite 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 account is not obligated for financial assistance under this section within a fiscal year, any unobligated funds 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—

“(A) facilities-based providers of broadband service; and
“(B) 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 subparagraph (A) 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 Represent-
atives Committee on Energy and Commerce making rec-
ommendations for an increase or decrease, if necessary, in the amounts credited to the account under this sec-
tion.”.

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 the following:

“(7) COMPETITIVE NEUTRALITY.—Universal service support mechanisms and rules should be competively neutral. In this context, competitively neutral means that universal service support mecha-

nisms and rules neither unfairly advantage nor dis-
advantage one provider over another, and neither unfairly favor nor disfavor one technology over an-
other.”.

SEC. 254. TRANSITION RULES FOR MODIFICATIONS AD-
VERSELY 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)), as amended by section 251 of this Act, is amended by adding at the end the following:

“(8) 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 designa-
tion as an eligible communications carrier;

“(iv) has demonstrated to the State
commission or the Commission its ability
to remain functional in emergency situa-
tions, 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 applica-
ble consumer protection and service quality
standards; and

“(vi) has complied with annual report-
ing requirements established by the Com-
mission 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.—Sub-
paragraph (A) applies only to an entity des-
ignated as an eligible communications carrier
after the date of enactment of the Internet and Universal Service Act of 2006.

“(C) 6-MONTH DESIGNATION DEADLINE.—A State or the Commission shall grant or deny an application for designation as an eligible communications carrier within 6 months after the date on which it receives a complete application, but no earlier than 6 months after the date of enactment of the Internet and Universal Service Act of 2006.

“(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:

“(9) 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 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, transit, 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 per-
mitted by the Commission, a provider that trans-
ports or transits traffic between communications
service providers shall signal-forward without alter-
nation call signaling information it receives from an-
other provider.

“(2) NETWORK TRAFFIC IDENTIFICATION
RULEMAKING.—The Commission, in consultation
with the States, 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 EN-
FORCEMENT.—The Commission shall adopt and en-
force clear penalties, fines, and sanctions under this
section.

“(4) VOICE COMMUNICATIONS SERVICE DE-
FINED.—In this subsection, the term ‘voice commu-
nications service’ means telecommunications service
or IP-enabled voice service.”.

(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. 214), 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 of each recipient of funds collected pursuant to section 254(d) with respect to its receipt and use of such support to be administered by the Universal Service Administrative Company. 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.

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 Com-
pany spends funds pursuant to its oper-
ation of all universal service programs; and

(ii) areas for improving operations;

(D) creating performance goals and meas-
urements specifically of the Schools and Librar-
ies Program under section 254(h) that—

(i) determine each beneficiary’s
progress toward achieving individual
connectivity goals, including the speed of
connectivity; and

(ii) reflect the evolving level of ad-
vanced services; and

(E) establishing appropriate enforcement
actions, including imposition of sanctions on ap-
plicants and vendors who repeatedly and know-
ingly 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 ac-
tions taken in connection with the Schools and
Libraries Program.
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 possession 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) consortia of health care providers consisting of 1 or more entities described in clauses (i) through (xv); and
“(xvii) 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.”.
TITLE III—STREAMLINING THE FRANCHISING PROCESS

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” and “cable operators” each place they appear and inserting “video service provider” 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 “operator” and “operators” each place they appear and inserting “provider” or “providers”, respectively;

(5) by striking “cassette” each place it appears; and
(6) 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.—

(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. PURPOSE; FRANCHISE APPLICATIONS; SCOPE.

(a) PURPOSE.—Section 601 (47 U.S.C. 521) is amended to read as follows:

“SEC. 601. PURPOSE.

“It is the purpose of this title to establish a comprehensive Federal legal framework for the franchising of video services that use public rights-of-way.”.

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

“SEC. 603. FRANCHISE APPLICATIONS.

“(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);
“(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 75 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 75-day period described in subsection (a)(3)(B), the franchise application shall be deemed granted—

(1) effective on the 76th 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.

“(e) 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).”.

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 Internet and Universal Service 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, that it—

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

(2) 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.

(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.”.

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;

“(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. 622), 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 para-
graph, or the first term so defined if the para-
graph defines more than 1 term; and

(B) the words “The term”.

SEC. 315. FAMILY TIER STUDY.

(a) IN GENERAL.—The Congress endorses and com-
mends cable operators, satellite providers, and other multi-
channel video programming distributors for their vol-
untary efforts to offer family program tiers that seek to
meet consumer demand for programming packages free of
indecent and obscene programming suitable for family au-
diences.

(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 Commis-
sion 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 Con-
gress aggregating the data it receives pursuant to sub-
section (b).

Subtitle B—Streamlining the
Provision of Video Services

SEC. 331. FRANCHISE REQUIREMENTS AND RELATED PRO-
VISIONS.

(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 pro-
vided 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 statutory police powers, including permit-
ting, payments for bonds, security funds, letters
of credit, insurance, indemnification, penalties,
or liquidated damages to ensure compliance
with such laws and regulations. Any permitting
fees imposed by a State or local government
shall be for the purpose of compensating that
government for the costs incurred in managing
the public rights-of-way.

“(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 serv-
vice provider.”; and

“(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.”; 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 pro-
vide 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 in-
serting the following:
“(a) IN GENERAL.—A franchising authority may im-
pose and collect a franchise fee from a video service pro-
vider 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 applica-
ble 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.—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 in the calendar year preceding the date of enactment of the Video Competition and Savings for Consumers Act of 2006 by the cable operator in the franchise area with the most cable service subscribers, pursuant to that cable operator’s existing franchise in effect on the date of enactment of that Act, but excluding one-time or lump-sum payments.

“(B) Calculation Data.—A franchising authority may require a cable operator to provide information sufficient to calculate the per-subscriber equivalent fee allowed by subparagraph (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 NETWORKS.—

“(i) CONTINUED SERVICE.—A franchising authority may require a cable operator or video service provider with a franchise in effect on the date of enactment of the Video Competition and Savings for Consumers 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.”; 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 taxation.

“(e) **Annual Review.**—

“(1) **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 a video service provider to the extent reasonably necessary 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, capabilities, or applications. The review shall be conducted in accordance with procedures established by the Commission.

“(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 ob-
tained 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 cable operator 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 contin-
gency fee arrangement between the franchising au-
thority 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 sec-
tion, 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 because of their status as such; but

“(B) does not include—

“(i) any tax, fee, or assessment of general 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 incidental to the use of public rights-of-way, including 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 revenue’ means all consideration of any kind or nature 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 compensa-
tion arrangement for advertising derived
from the operation of the provider’s video
service or the video service within a fran-
chise 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-
iliate’s gross revenue would have the effect of
permitting the video service provider to evade
the payment of franchise fees which would oth-
erwise 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 FUNC-
TIONALLY INTEGRATED SERVICE.—In the case
of a video service that is packaged, bundled, or
functionally integrated with other services, ca-
pabilities, or applications, gross revenue shall
include 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 extent 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, barters, services, or other items of value;

“(viii) any tax, fee, or assessment of general applicability imposed on a subscriber, subscription, or subscription-related transaction by Federal, State, or local government that is required to be collected by the video service provider and remitted to the taxing authority, including sales taxes, use taxes, and utility user taxes;

“(ix) any revenue from the sale of capital assets or surplus equipment;

“(x) the reimbursement by program- mers for marketing costs actually incurred by a video service provider for the introduction 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 franchise 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 following:

“SEC. 625. RENEWAL; REVOCATION.

“(a) RENEWAL.—A video service provider may submit a written application for renewal of its franchise to a franchising authority not more than 180 days before the franchise 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 willfully and repeatedly—

“(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 omissions, 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
service in the franchise area; or

“(4) violated the terms of the franchise agree-
ment (including any commercial agreement per-
mitted under section 622(b)(3)).

“(c) NOTICE; OPPORTUNITY TO CURE.—A fran-
chising 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 viola-
tion.

“(d) FINALITY OF DECISION.—Any decision of a
franchising authority to revoke a franchise under this sec-
tion is final for purposes of appeal. A video service pro-
vider 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 required to provide up to 3 channels.

“(b) Adjustment.—Every 15 years after the commencement 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, educational, or governmental use, and the channel capacity designated for such use on any institutional networks required 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 governmental 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 program which contains obscenity.

“(d) Transmission and Production of Programming.—

“(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 pro-
gram 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 “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)”.

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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) FRANCHISING AUTHORITY ENFORCEMENT.—A franchising authority shall have the authority to enforce regulations promulgated under subsection (a).

“(c) REVIEW BY COMMISSION.—A video service provider may appeal any enforcement action taken against

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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 total-
ity of the video service provider’s deployments in its
service areas shall be considered in any adjudication
pursuant to an enforcement action under this sub-
section.

“(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 fran-
chising area in which the violation occurred for vio-
lation 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.—Noth-
ing 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.—Beginning 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 Representatives Committee on Energy and Commerce on the buildout of video service.”.

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,”.

(e) 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 Communications, Consumers’ Choice, and Broadband Deployment of 2006”; and

(2) by striking subsection (a) and redesignating subsections (e) through (h) as subsections (a) through (f), respectively.
(d) **REPEAL.**—Section 617 (47 U.S.C. 537) is repealed.

(e) **ENFORCEMENT.**—Section 634(i) (47 U.S.C. 554(i)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(f) **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.

(g) **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:

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"SEC. 642. IP-ENABLED VIDEO SERVICE.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, IP-enable 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 using the public Internet or a pri-"
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vate network utilizing Internet protocol, or any successor
protocol that is not offered by a video service provider.”.

(h) CONFORMING AMENDMENTS FOR RETRANSMISSION.—

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

(A) by striking “cable system” in para-
graph (1) and inserting “video service pro-
vider”; 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 mat-
ter 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 dis-
tributor 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 this Act
(the Video Competition and Savings for Consumers Act of 2006) shall take effect 180 days after the date of enactment of this 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 that Act, as in effect on the day before the date of enactment of this Act, shall continue to apply to any such franchise agreement as provided by subsection (c) until the earlier of—
(A) the expiration date of the agreement;

or

(B) that 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 it 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 op-
erator’s franchise agreement described in sub-
paragraph (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 au-
thority receives a notice under subsection
(b)(2)(A)(i).

(3) Definitions.—In this subsection:

(A) Cable operator.—The term “cable
operator” includes a local exchange carrier that
provides video services to video service sub-
scribers in its telephone service area through an
open video system that complies with the re-
quirements of section 653 of the Communica-

(B) 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.

(C) 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 HAWAI‘I OBLIGATIONS.—"

“(1) In General.—Each satellite carrier shall, to the extent technically feasible given the carrier’s satellite constellation then 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 under this 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 service
to consumers in the islands of Oahu,
Maui, Kauai, Molokai, and 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 ra-
diated power of the satellite on the
downlink and, where applicable, the
efficiency of the satellite receive an-
tenna (G/T) can allow the use of a
commercially available 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 serv-
ice, the Broadcast Satellite Service, the Mobile-Satellite Service, or the Digital Audio Radio Service that is licensed 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) 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”.

H.R. 5252 Amdt.

June 16, 2006 (11:06 p.m.)
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 technology approved by the Commission under this section that is publicly offered for adoption by licensees, be licensed on reasonable and nondiscriminatory terms and conditions, including terms preserving a licensee’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 copy-
righted works, advertisements, or announcements contained in performances or other uses, or other information 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 gratuitous basis or for a de minimis fee to cover only the reasonable costs to the licensor of providing the license, and on reasonable, nondiscriminatory terms, to access, record, and retransmit as necessary any content contained in any such performance or use protected by content protection or similar technology, if—

“(A) the license is used for carrying out the activities of such organizations, services, or entities in monitoring or measuring the public performance or other use of copyrighted works, advertisements, or announcements, or other information 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;
(13) any other group that the Commission de-
dtermines 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) are consistent with fair use principles.

(2) EXTENSION OF 1-YEAR PERIOD.—The Com-
mission 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 deter-
mines that—

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

(B) the members of the Board are con-
tinuing 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) COMMISION 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) DEERENCE; 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 pro-
cure 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(e) 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 the 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 (d) 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 provider to the public shall consider the po-
tentative 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
advanced telecommunications capability or any serv-
ice that utilizes the advanced telecommunications ca-
pability provided by such public provider to the pub-
lic despite bids by commercial enterprises received in
accordance with paragraph (1)(B), such public pro-
vider shall authorize that project by whatever proc-
ess typically utilized by such public provider to ap-
prove projects of comparable cost in the jurisdiction
of such public provider.

“(5) APPLICATION TO EXISTING ARRANGE-
MENTS 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 (h) 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 broad-
cast television frequencies by certified unlicensed devices,
which shall include rules and procedures—

“(1) to protect licensees from harmful inter-
ference from certified unlicensed devices;

“(2) to require certification of unlicensed de-
vices designed to be operated in the eligible broad-
cast television frequencies that includes testing,
which may include testing in an independent labora-
tory 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 pro-
tects licensees from harmful interference;

“(3) to require manufacturers of such devices
to include a means of disabling or modifying the de-
vice remotely if the Commission determines that cer-
tain certified unlicensed devices may cause harmful
interference to licensees;

“(4) to act immediately on any bona fide com-
plaints from licensees that a certified unlicensed de-
vice causes harmful interference including
verification, in the field, of actual harmful inter-
ference; 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 oper-
ating 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 GOV-
ERNMENT COST OF THE CONVERTER BOX
PROGRAM.

(a) Consumer Education Requirements.—Sec-
tion 330 (47 U.S.C. 330) is amended—

(1) by redesignating subsection (d) as sub-
section (e); and

(2) by inserting after subsection (c) the fol-
lowing new subsection:

“(d) Consumer Education Requirements Re-
garding 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 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 Communications, Consumers’ Choice, and Broadband Deployment Act of 2006.

“(3) PRODUCT AND DIGITAL TELEVISION Transition INFORMATION.—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.’.
“(4) COMMISSION OUTREACH.—

“(A) IN GENERAL.—Beginning within 1 month after the date of enactment of the Communications, Consumers’ Choice, and Broadband Deployment of 2006, the Commission shall engage in a public outreach program to educate consumers about the digital television transition, including the consumer information described in paragraph (5).

“(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.

“(5) PUBLIC SERVICE ANNOUNCEMENTS.—Each day from November 15, 2008, through February 17, 2009, each commercial television broadcast licensee or permittee shall broadcast 2 30-second public service announcements at such times as the Commission may require in order to assure the widest possible audience. The public service announcements shall notify the public of the digital transition and contain the address of the website...
provided by the Commission under paragraph (4)(B).

“(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 subsection 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, providers of low income assistance programs, educational institutions, community groups, and the National Telecommunications and Information Administration to promote consumer outreach and to provide logistical assistance to consumers with special needs, including the converter box subsidy program.
(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, consumers, and public interest groups (including the American Association of Retired Persons 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 in creating and implementing 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, at a minimum, recommended procedures for public service announcements by broadcasters, toll-free information hotlines, and retail displays or notices;

(C) to ensure that the Commission’s national plan includes a requirement that all licensed broadcasters in a designated market area submit a joint plan to the Commission addressing the public outreach and public service announcement requirements required by this title to inform consumers in those areas of the transition to digital television 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; and

(D) to provide to the Commission a DTV Progress Report that reflects ongoing and planned efforts by the private sector, both nationally and in various television broadcast markets, to inform consumers about the digital transition and to minimize potential disruption to consumers attributable to the transition to digital broadcasting.

(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 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

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(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 implement 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 Assistant Secretary of Commerce for Communications and Information, in consultation with the Secretary of Energy, shall set the energy standards for digital-to-analog converter boxes (as 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 As-
sistant Secretary. This paragraph shall not
apply after May 17, 2010.

(C) CONFORMING AMENDMENT.—Section
3005(d) of the Digital Television Transition
note)) is amended by inserting “a clock, other
incidental features, or” after “include”.

(d) 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 re-
spect to any television station that is transmit-
ting 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 para-
graph, a signal shall be in standard definition
digital format if such signal meets the criteria
for such format specified in the standard recog-
nized by the Commission in section 73.682 of
its rules (47 C.F.R. 73.682) or a successor reg-
ulation.”.

(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 dig-
ital video signal of any television broadcast
station that is provided by the cable oper-
ator to any subscriber, except a signal
which is secondarily transmitted by a sat-
ellite 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 video signal 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 Video Signal.—A satellite carrier shall offer the video signal 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 video signal 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 video signal and program-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 video signal and program-related material in the converted analog or digital format or formats without material degradation; and
“(B) also offers the video signal 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 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, a satellite carrier—

“(A) shall offer the video signal 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 signal and material to be viewable on analog and digital televisions; and

“(B) may convert the 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.

“(5) LOCATION AND METHOD OF CONVERSION.—A satellite carrier may perform any conversion permitted or required by this paragraph at any
location, from the local receive facility to the cus-
tomer premises, inclusive.

“(6) CONVERSIONS NOT TREATED AS DEGRADA-
tion.—Any conversion permitted or required by this 
paragraph shall not, by itself, be treated as a mate-
rial degradation.

“(7) Carriage of program-related mate-
rial.—The obligation to carry program-related ma-
terial under this paragraph is effective only to the 
extent technically feasible.

“(8) Definition of standard-definition 
format.—For purposes of this subsection, 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 sec-
tion 73.682 of its rules (47 C.F.R. 73.682) or a suc-
sessor regulation.

“(9) Material degradation.—For purposes 
of this subsection, 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 pic-
ture 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 America, 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 enactment 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 analog is in the public interest, shall be entitled to the renewal of its television broadcast license authorizing 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 operation 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 procedures 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 edu-
cate 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 sig-
nal 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 au-
thorized to provide video service in a local franchise
area shall comply with the regulations on child porn-
ography promulgated pursuant to paragraph (2).

“(2) Regulations.—Not later than 180 days
after the date of enactment of the Communications,
Consumers’ Choice, and Broadband Deployment of
2006, 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)).”.

H.R. 5252 Amdt.

June 16, 2006 (11:06 p.m.)
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 Commission should seek to—

(1) preserve the free-flow of ideas and information 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 computer 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 a fine pursuant to section 503(b)(2)(C) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)(C)).

(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. 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 con-
duct 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. 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 tele-
communications 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 IP 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. 1003. IMPROVED ENFORCEMENT OPTIONS.

(a) INCREASED PENALTIES.—Section 503(b)(2)(B) of the Communications Act of 1934 (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) of the Communications Act of 1934 (47 U.S.C. 503(b)(6)) is amended—

(1) by striking “or” after the semicolon in sub-paragraph (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”.

SEC. 1004. CHALLENGES OF COMMISSION RULINGS OR REGULATIONS.

Notwithstanding any other provision of law, any civil action challenging a ruling or regulation of the Federal Communications Commission under this Act, or under the Communications Act of 1934 (47 U.S.C. 151 et seq.) as amended by this Act, or the application of any such ruling or regulation to any person or circumstance, shall be brought in the United States District Court for the District of Columbia.

SEC. 1005. FEDERAL REVIEW.

Subparagraph (A) of section 332(c)(3) (47 USC 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 pro-
viders 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.

SEC. 1006. 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.

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