

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—113th Cong., 2d Sess.

S. 2799

To extend the authority of satellite carriers to retransmit certain television broadcast station signals, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the Satellite Television Ac-
5 cess and Viewer Rights Act.

6 **SEC. 2. REFERENCES TO COMMUNICATIONS ACT OF 1934.**

7 Except as otherwise expressly provided, wherever in
8 this Act an amendment or repeal is expressed in terms
9 of an amendment to, or repeal of, a section or other provi-
10 sion, the reference shall be considered to be made to a

1 section or other provision of the Communications Act of
2 1934 (47 U.S.C. 151 et seq.).

3 **TITLE I—SATELLITE**
4 **TELEVISION**

5 **SEC. 101. EXTENSION OF AUTHORITY.**

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

7 (1) in paragraph (2)(C), by striking “December
8 31, 2014” and inserting “December 31, 2019”; and

9 (2) in paragraph (3)(C), by striking “January
10 1, 2015” each place it appears and inserting “Janu-
11 ary 1, 2020”.

12 **SEC. 102. MODIFICATION OF TELEVISION MARKETS TO**
13 **FURTHER CONSUMER ACCESS TO RELEVANT**
14 **TELEVISION PROGRAMMING.**

15 (a) IN GENERAL.—Section 338 (47 U.S.C. 338) is
16 amended—

17 (1) in subsection (k)—

18 (A) by redesignating paragraphs (1)
19 through (10) as paragraphs (2) through (11),
20 respectively;

21 (B) by inserting before paragraph (2), as
22 redesignated, the following:

23 “(1) DESIGNATED MARKET AREA.—The term
24 ‘designated market area’ means a designated market

1 area as determined by Nielsen Media Research.”;
2 and

3 (C) by amending paragraph (5), as reded-
4 igned, to read as follows:

5 “(5) LOCAL MARKET.—The term ‘local market’,
6 in the case of both commercial and noncommercial
7 television broadcast stations, means the designated
8 market area in which a television broadcast station
9 is located, including with respect to a commercial
10 television broadcast station any modifications to
11 such market pursuant to subsection (1).”; and

12 (2) by adding at the end the following:

13 “(1) MARKET DETERMINATIONS.—

14 “(1) IN GENERAL.—Following a written re-
15 quest, the Commission may, with respect to a par-
16 ticular commercial television broadcast station, in-
17 clude additional communities within its local market
18 or exclude communities from such station’s local
19 market to better effectuate the purposes of this sec-
20 tion.

21 “(2) CONSIDERATIONS.—In considering re-
22 quests filed under paragraph (1), the Commission—

23 “(A) may determine that particular com-
24 munities are part of more than one local mar-
25 ket;

1 “(B) shall afford particular attention to
2 the value of localism by taking into account
3 such factors as—

4 “(i) whether the station, or other sta-
5 tions located in the same area—

6 “(I) have been historically carried
7 on the cable system or systems within
8 such community; or

9 “(II) have been historically car-
10 ried on the satellite carrier or carriers
11 serving such community;

12 “(ii) whether the television station
13 provides coverage or other local service to
14 such community;

15 “(iii) whether modifying the local
16 market of the television station would pro-
17 mote consumers’ access to television broad-
18 cast station signals that originate in their
19 State of residence;

20 “(iv) whether any other television sta-
21 tion that is eligible to be carried by a sat-
22 ellite carrier in such community in fulfill-
23 ment of the requirements of this section
24 provides news coverage of issues of concern
25 to such community or provides carriage or

1 coverage of sporting and other events of
2 interest to the community; and

3 “(v) evidence of viewing patterns in
4 households that subscribe and do not sub-
5 scribe to the services offered by multi-
6 channel video programming distributors
7 within the areas served by such multi-
8 channel video programming distributors in
9 such community.

10 “(3) CARRIAGE OF SIGNALS.—

11 “(A) CARRIAGE OBLIGATION.—A market
12 determination under this subsection shall not
13 create additional carriage obligations for a sat-
14 ellite carrier if it is not technically and economi-
15 cally feasible for such carrier to accomplish
16 such carriage by means of its satellites in oper-
17 ation at the time of the determination.

18 “(B) DELETION OF SIGNALS.—A satellite
19 carrier shall not delete from carriage the signal
20 of a commercial television broadcast station
21 during the pendency of any proceeding under
22 this subsection.

23 “(4) DETERMINATIONS.—Not later than 120
24 days after the date that a written request is filed

1 under paragraph (1), the Commission shall grant or
2 deny the request.

3 “(5) NO EFFECT ON ELIGIBILITY TO RECEIVE
4 DISTANT SIGNALS.—No modification of a commer-
5 cial broadcast television station’s local market pursu-
6 ant to this subsection shall have any effect on the
7 eligibility of households in the community affected
8 by such modification to receive distant signals pur-
9 suant to section 339 of this Act.”.

10 (b) CONFORMING AMENDMENTS.—Section
11 614(h)(1)(C) (47 U.S.C. 534(h)(1)(C)) is amended—

12 (1) in subclause (ii)—

13 (A) in subclause (II), by striking “commu-
14 nity” and inserting “community or on the sat-
15 ellite carrier or carriers serving such commu-
16 nity”;

17 (B) by redesignating subclauses (III) and
18 (IV) as subclauses (IV) and (V), respectively;

19 (C) by inserting after subclause (II) the
20 following:

21 “(III) whether modifying the
22 local market of the television station
23 would promote consumers’ access to
24 television broadcast station signals

1 that originate in their State of resi-
2 dence;” and

3 (D) by amending subclause (V), as redesign-
4 nated, to read as follows:

5 “(V) evidence of viewing patterns
6 in households that subscribe and do
7 not subscribe to the services offered
8 by multichannel video programming
9 distributors within the areas served by
10 such multichannel video programming
11 distributors in such community.”; and

12 (2) by moving the margin of clause (iv) 4 ems
13 to the left.

14 (c) IMPLEMENTATION.—As part of the rulemaking to
15 implement the amendments made by this section, the Fed-
16 eral Communications Commission shall ensure that proce-
17 dures for the filing and consideration of a written request
18 under sections 338(l) and 614(h)(1)(C) of the Commu-
19 nications Act of 1934 (47 U.S.C. 338, 534) fully effec-
20 tuate the purposes of the amendments made by this sec-
21 tion. As part of that process, the Federal Communications
22 Commission shall update what it considers to be a commu-
23 nity for purposes of a modification of a market under sec-
24 tion 338(l) or 614(h)(1)(C) of the Communications Act
25 of 1934 (47 U.S.C. 338, 534).

1 **TITLE II—VIDEO POLICY**
2 **REFORMS**

3 **SEC. 201. CONSUMER PROTECTIONS IN RETRANSMISSION**
4 **CONSENT.**

5 (a) **JOINT RETRANSMISSION CONSENT NEGOTIA-**
6 **TIONS.**—Section 325(b)(3)(C) (47 U.S.C. 325(b)(3)(C)) is
7 amended—

8 (1) in clause (ii), by striking “; and” at the
9 end;

10 (2) in clause (iii), by striking the period at the
11 end and inserting a semicolon; and

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

13 “(iv) prohibit a television broadcast
14 station from coordinating negotiations or
15 negotiating on a joint basis with another
16 television broadcast station in the same
17 local market (as defined in section 338 of
18 this Act) to grant retransmission consent
19 under this section to a multichannel video
20 programming distributor, unless such sta-
21 tions are directly or indirectly under com-
22 mon de jure control permitted under the
23 regulations of the Federal Communications
24 Commission; and”.

1 (b) PROTECTIONS FOR SIGNIFICANTLY VIEWED AND
2 OTHER TELEVISION SIGNALS.—Section 325(b)(3)(C) (47
3 U.S.C. 325(b)(3)(C)), as amended, is further amended by
4 adding at the end the following:

5 “(v) prohibit a television broadcast
6 station from limiting the ability of a multi-
7 channel video programming distributor to
8 carry a television signal that has been
9 deemed significantly viewed, within the
10 meaning of section 76.54 of title 47, Code
11 of Federal Regulations, or any successor
12 regulation, or any other television broad-
13 cast signal such distributor is authorized
14 to carry under section 338, 339, 340, or
15 614 of this Act, into the local market of
16 such station, unless such stations are di-
17 rectly or indirectly under common de jure
18 control permitted by the Commission.”.

19 (c) GOOD FAITH.—Section 325(b)(3) (47 U.S.C.
20 325(b)(3)) is amended by adding at the end the following:

21 “(D) UPDATE TO GOOD FAITH RULES.—
22 The Commission shall commence a rulemaking
23 to review and update its totality of the cir-
24 cumstances test for good faith negotiations. As
25 part of that rulemaking, the Commission shall

1 ensure that such test encourages parties to a
2 retransmission consent negotiation to present
3 bona fide proposals on the material terms of a
4 retransmission consent agreement during nego-
5 tiations and engage in timely negotiations to
6 reach an agreement.”.

7 (d) MARGIN CORRECTIONS.—

8 (1) Section 325(b)(3)(C) (47 U.S.C.
9 325(b)(3)(C)) is further amended by moving the
10 margin of clause (iii) 4 ems to the left.

11 (2) Section 325(b) (47 U.S.C. 325(b)) is
12 amended by moving the margin of paragraph (7), 4
13 ems to the left.

14 **SEC. 202. UPDATE TO CABLE RATES REPORT.**

15 Section 623(k) (47 U.S.C. 543(k)) is amended to
16 read as follows:

17 “(k) REPORTS ON AVERAGE PRICES.—

18 “(1) IN GENERAL.—The Commission shall an-
19 nually publish statistical reports on the average
20 rates for basic cable service and other cable pro-
21 gramming, and for converter boxes, remote control
22 units, and other equipment of cable systems that the
23 Commission has found are subject to effective com-
24 petition under subsection (a)(2) compared with cable

1 systems that the Commission has found are not sub-
2 ject to such effective competition.

3 “(2) INCLUSION IN ANNUAL REPORT.—

4 “(A) IN GENERAL.—The Commission shall
5 include in its report under paragraph (1), the
6 aggregate average total amount paid by cable
7 systems in compensation under section 325.

8 “(B) FORM.—The Commission shall pub-
9 lish information under this paragraph in a
10 manner substantially similar to the way other
11 comparable information is published in such re-
12 port.”.

13 **SEC. 203. COMPETITIVE DEVICE AVAILABILITY.**

14 (a) TERMINATION OF EFFECTIVENESS.—

15 (1) NEW NAVIGATION DEVICES.—The second
16 sentence of section 76.1204(a)(1) of title 47, Code
17 of Federal Regulations, terminates effective on the
18 date that is 2 years after the date of enactment of
19 this Act.

20 (2) REVISION OF REGULATIONS.—Not later
21 than 910 days after the date of enactment of this
22 Act, the Federal Communications Commission shall
23 revise its regulations to strike the sentence described
24 in paragraph (1) and make any necessary con-
25 forming revisions to its regulations.

1 (b) WORKING GROUP.—

2 (1) IN GENERAL.—Not later than 60 days after
3 the date of enactment of this Act, the Chairman of
4 the Federal Communications Commission shall con-
5 vene a working group of technical experts rep-
6 resenting a wide-range of stakeholders, to identify,
7 report, and recommend performance objectives, tech-
8 nical capabilities, and technical standards of a not
9 unduly burdensome, uniform, and technology- and
10 platform-neutral software-based downloadable secu-
11 rity system designed to promote the competitive
12 availability of navigation devices in furtherance of
13 section 629 of the Communications Act of 1934 (47
14 U.S.C. 549).

15 (2) REPORT.—Not later than 540 days after
16 the date of enactment of this Act, the working group
17 shall file a report with the Federal Communications
18 Commission on its work under paragraph (1).

19 (3) COMMISSION ASSISTANCE.—The Chair-
20 person of the Federal Communications Commission
21 may appoint a member of the Commission’s staff—

22 (A) to moderate and direct the work of the
23 working group under this subsection; and

24 (B) to provide technical assistance to mem-
25 bers of the working group, as appropriate.

1 (4) INITIAL MEETING.—The initial meeting of
2 the working group shall take place not later than
3 180 days after the date of the enactment of this Act.

4 **SEC. 204. ADMINISTRATIVE REFORMS TO EFFECTIVE COM-**
5 **PETITION PETITIONS.**

6 Section 623 (47 U.S.C. 543) is amended by adding
7 at the end the following:

8 “(o) STREAMLINED PETITION PROCESS FOR SMALL
9 CABLE OPERATORS.—

10 “(1) IN GENERAL.—Not later than 180 days
11 after the date of enactment of the Satellite Tele-
12 vision Access and Viewer Rights Act, the Commis-
13 sion shall complete a rulemaking to establish a
14 streamlined process for filing of an effective competi-
15 tion petition pursuant to this section for small cable
16 operators, particularly those who serve primarily
17 rural areas.

18 “(2) CONSTRUCTION.—Nothing in this sub-
19 section shall be construed to have any effect on the
20 duty of a small cable operator to prove the existence
21 of effective competition under this section.

22 “(3) DEFINITION OF SMALL CABLE OPER-
23 ATOR.—In this subsection, the term ‘small cable op-
24 erator’ has the meaning given the term in subsection
25 (m)(2).”.

1 **TITLE III—MISCELLANEOUS**

2 **SEC. 301. IMPLEMENTATION.**

3 Except as otherwise expressly provided, the Federal
4 Communications Commission shall prescribe regulations
5 to implement the requirements of this Act, and any
6 amendments made by this Act, not later than 270 days
7 after the date of enactment of this Act.

8 **SEC. 302. SEVERABILITY.**

9 If any provision of this Act, an amendment made by
10 this Act, or the application of such provision or amend-
11 ment to any person or circumstance is held to be unconsti-
12 tutional, the remainder of the Act, the amendments made
13 by the Act, and the application of such provision or
14 amendment to any person or circumstance shall not be af-
15 fected thereby.