

STAFF DISCUSSION DRAFT

JUNE 9, 2006

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Communications, Con-
3 sumers’ Choice, and Broadband Deployment Act of
4 2006”.

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

6 Except as otherwise expressly provided, whenever in
7 this title an amendment or repeal is expressed in terms
8 of an amendment to, or repeal of, a section or other provi-
9 sion, the reference shall be considered to be made to a
10 section or other provision of the Communications Act of
11 1934 (47 U.S.C. 151 et seq.).

12 **SEC. 3. TABLE OF CONTENTS.**

13 The table of contents for this Act is as follows:

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1 **TITLE I—WAR ON TERRORISM**

2 **Subtitle A—Call Home**

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

5 (a) IN GENERAL.—The Federal Communications
6 Commission shall take such action as may be necessary
7 to reduce the cost of calling home for Armed Forces per-
8 sonnel who are stationed outside the United States under
9 official military orders or deployed outside the United

1 States in support of military operations, training exer-
2 cises, or other purposes as approved by the Secretary of
3 Defense, including the reduction of such costs through the
4 waiver of government fees, assessments, or other charges
5 for such calls. The Commission may not regulate rates in
6 order to carry out this section.

7 (b) FACTORS TO CONSIDER.—In taking the action
8 described in subsection (a), the Commission, in coordina-
9 tion with the Department of Defense and the Department
10 of State, shall—

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

14 (2) evaluate methods of reducing the rates im-
15 posed on such calls, including deployment of new
16 technology such as voice over Internet protocol or
17 other Internet protocol technology;

18 (3) encourage telecommunications carriers (as
19 defined in section 3(44) of the Communications Act
20 of 1934 (47 U.S.C. 153(44))) to adopt flexible bill-
21 ing procedures and policies for Armed Forces per-
22 sonnel and their dependents for telephone calls to
23 and from such Armed Forces personnel; and

1 (4) seek agreements with foreign governments
2 to reduce international surcharges on such telephone
3 calls.

4 (c) DEFINITIONS.—In this section:

5 (1) ARMED FORCES.—The term “Armed
6 Forces” has the meaning given that term by section
7 2101(2) of title 5, United States Code.

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

12 **SEC. 102. REPEAL OF EXISTING AUTHORIZATION.**

13 Section 213 of the Telecommunications Authorization
14 Act of 1992 (47 U.S.C. 201 note) is repealed.

15 **Subtitle B—Interoperability**

16 **SEC. 151. INTEROPERABLE EMERGENCY COMMUNICA-**
17 **TIONS.**

18 (a) IN GENERAL.—Section 3006 of Public Law 109–
19 171 (47 U.S.C. 309 note) is amended by redesignating
20 subsection (d) as subsection (i) and by inserting after sub-
21 section (c) the following:

22 “(d) INTEROPERABLE COMMUNICATIONS SYSTEM
23 EQUIPMENT DEPLOYMENT.—

24 “(1) IN GENERAL.—The Assistant Secretary
25 shall allocate at least 25 percent of the funds made

1 available to carry out this section to make interoper-
2 able communications system equipment grants for
3 equipment that can utilize, or enable interoperability
4 with systems or networks that can utilize, reallo-
5 cated public safety spectrum.

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

8 “(A) a majority of the amounts allocated
9 under paragraph (1) for distribution to public
10 safety agencies based on the threat and risk
11 factors used by the Secretary of Homeland Se-
12 curity for the purposes of allocating discre-
13 tionary grants under the heading “OFFICE FOR
14 DOMESTIC PREPAREDNESS, STATE AND LOCAL
15 PROGRAMS” in the Department of Homeland
16 Security Appropriations Act, 2006; and

17 “(B) the remainder equally to each State
18 for allocation by the States to public safety
19 agencies.

20 “(3) ELIGIBILITY.—A State may not receive
21 funds allocated to it under paragraph (2) unless it
22 has established a statewide interoperable commu-
23 nications plan approved by the Secretary of Home-
24 land Security.

1 “(4) USE OF FUNDS.—A public safety agency
2 shall use any funds received under this subsection
3 for the purchase of interoperable communications
4 system equipment and infrastructure that is con-
5 sistent with SAFECOM guidance, including any
6 standards that may be referenced by SAFECOM
7 guidance and interoperable communications system
8 equipment and infrastructure that improves inter-
9 operability that uses IP protocol or any similar suc-
10 cessor protocol.

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

13 “(1) IN GENERAL.—The Assistant Secretary, in
14 consultation with the Secretary of Homeland Secu-
15 rity, shall allocate at least 25 percent of the funds
16 made available to carry out this section for inter-
17 operable emergency communications coordination,
18 planning, and training grants. The grants shall sup-
19 plement, and be in addition to, any Federal funds
20 otherwise made available by grant or otherwise to
21 the States for emergency coordination, planning, or
22 training.

23 “(2) ALLOCATION.—The Secretary shall allo-
24 cate—

1 “(A) a majority of the amounts allocated
2 under paragraph (1) for distribution to the
3 States based on the threat and risk factors used
4 by the Secretary of Homeland Security for the
5 purposes of allocating discretionary grants
6 under the heading “OFFICE FOR DOMESTIC
7 PREPAREDNESS, STATE AND LOCAL PRO-
8 GRAMS” in the Department of Homeland Secu-
9 rity Appropriations Act, 2006; and

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

12 “(3) COORDINATION, PLANNING, AND TRAINING
13 GUIDELINES.—Except as provided in paragraph (4),
14 a State shall use its emergency communication co-
15 ordination, planning, and training grant to establish
16 a statewide plan consistent with the State commu-
17 nications interoperability planning methodology de-
18 veloped by the SAFECOM program within the De-
19 partment of Homeland Security or a regional plan
20 established pursuant to a regional planning agency
21 consistent with this section and to establish training
22 programs designed to ensure effective implementa-
23 tion of coordination and interoperability plans. In es-
24 tablishing the statewide plan, the Governor or the
25 Governor’s designee shall consult with the Secretary

1 of Homeland Security or the Secretary of Homeland
2 Security's designee. A State shall submit its state-
3 wide plan to the Federal Communications Commis-
4 sion and the Secretary of Homeland Security.

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

7 “(A) there are effective 2-way communica-
8 tions and information sharing between medical
9 services and other emergency response entities,
10 including communications among key strategic
11 emergency responders, emergency medical care
12 facilities, and Federal, State, and local authori-
13 ties in the event of a national, regional, or other
14 large-scale emergency, and redundancy in the
15 event of a failure of the primary communica-
16 tions systems; and

17 “(B) medical emergency responses are in-
18 tegrated into all planning and decision-making
19 practices for emergency response.

20 “(5) STATE-SPECIFIC COORDINATION, PLAN-
21 NING, AND TRAINING.—Grants under this section
22 shall be available for emergencies and disasters, such
23 as hurricanes, forest fires, and mining accidents.

24 “(f) STRATEGIC TECHNOLOGY RESERVES INITIA-
25 TIVE.—

1 “(1) IN GENERAL.—The Assistant Secretary, in
2 consultation with the Secretary of Homeland Secu-
3 rity, shall allocate up to 25 percent of the funds
4 made available to carry out this section to establish
5 and implement a strategic technology reserve to pre-
6 position or secure interoperable communications sys-
7 tems in advance for immediate deployment in an
8 emergency or major disaster (as defined in section
9 102(2) of Public Law 93–288 (42 U.S.C. 5122)).

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

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

16 “(B) include appropriate current, widely-
17 used equipment, such as Land Mobile Radio
18 Systems, cellular telephones and satellite equip-
19 ment, Cells-On-Wheels, Cells-On-Light-Trucks,
20 or other self-contained mobile cell sites that can
21 be towed, backup batteries, generators, fuel,
22 and computers;

23 “(C) include equipment on hand for the
24 Governor of each State and key emergency re-
25 sponse officials; and

1 “(D) include contracts for rapid delivery of
2 the most current technology available from
3 commercial sources.

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

7 “(4) CONSULTATION.—In developing the re-
8 serve, the Assistant Secretary shall seek advice from
9 the Secretary of Defense and the Secretary of
10 Homeland Security, as well as national public safety
11 organizations, emergency managers, State, local, and
12 tribal governments, and commercial providers of
13 such systems and equipment.

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

16 “(A) a portion of the reserve’s funds for
17 block grants to States to enable each State to
18 establish a strategic technology reserve within
19 its borders in a secure location to allow imme-
20 diate deployment; and

21 “(B) a portion of the reserve’s funds for
22 regional Federal strategic technology reserves
23 to facilitate any Federal response when nec-
24 essary, to be held in secure locations around the
25 country for immediate deployment to every re-

1 gion of the country including remote areas and
2 noncontiguous States.

3 “(g) CONSENSUS STANDARDS; APPLICATIONS.—

4 “(1) CONSENSUS STANDARDS.—In carrying out
5 this section, the Secretary, in cooperation with the
6 Secretary of Homeland Security shall identify, and
7 if necessary encourage the development and imple-
8 mentation of, consensus standards for interoperable
9 communications systems to the greatest extent prac-
10 ticable.

11 “(2) APPLICATIONS.—To be eligible for assist-
12 ance under the programs established in this section,
13 each State shall submit an application, at such time,
14 in such form, and containing such information as
15 the Assistant Secretary may require, including—

16 “(A) a detailed explanation of how assist-
17 ance received under the program would be used
18 to improve local communications interoper-
19 ability and ensure interoperability with other
20 appropriate public safety agencies in an emer-
21 gency or a major disaster; and

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

24 “(i) be compatible with the commu-
25 nications architecture developed under sec-

1 tion 7303(a)(1)(E) of the Intelligence Re-
2 form and Terrorism Prevention Act of
3 2004 (6 U.S.C. 194(a)(1)(E));

4 “(ii) meet any voluntary consensus
5 standards developed under section
6 7303(a)(1)(D) of that Act (6 U.S.C.
7 194(a)(1)(D); and

8 “(iii) be consistent with the common
9 grant guidance established under section
10 7303(a)(1)(H) of that Act (6 U.S.C.
11 194(a)(1)(H)).

12 “(h) DEADLINE FOR IMPLEMENTATION REGULA-
13 TIONS.—Within 90 days after the date of enactment of
14 the Communications, Consumers’ Choice, and Broadband
15 Deployment Act of 2006, the Assistant Secretary, in con-
16 sultation with the Secretary of Homeland Security and the
17 Federal Communications Commission, shall promulgate
18 regulations for the implementation of subsections (d)
19 through (f) of this section.”.

20 (b) SEAMLESS MOBILITY.—Within 180 days after
21 the date of enactment of this Act, the Federal Commu-
22 nications Commission shall streamline its process for certi-
23 fying multi-mode devices that permit communication
24 across multiple platforms, facilities, or networks notwith-
25 standing any other provision of law.

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

3 (1) IN GENERAL.—Not later than 1 year after
4 the date of enactment of this Act, the Federal Com-
5 munications Commission, in coordination with the
6 Secretary of Homeland Security, shall evaluate the
7 technical feasibility of creating a back-up emergency
8 communications system that complements existing
9 communications resources and takes into account
10 next generation and advanced telecommunications
11 technologies. The overriding objective for the evalua-
12 tion shall be providing a framework for the develop-
13 ment of a resilient interoperable communications
14 system for emergency responders in an emergency.
15 The Commission shall evaluate all reasonable op-
16 tions, including satellites, wireless, and terrestrial-
17 based communications systems and other alternative
18 transport mechanisms that can be used in tandem
19 with existing technologies.

20 (2) FACTORS TO BE EVALUATED.—The evalua-
21 tion under subsection (a) shall include—

22 (A) a survey of all Federal agencies that
23 use terrestrial or satellite technology for com-
24 munications security and an evaluation of the
25 feasibility of using existing systems for the pur-

1 pose of creating such an emergency back-up
2 public safety communications system;

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

6 (C) the technical options, cost, and deploy-
7 ment methods of software, equipment, handsets
8 or desktop communications devices for public
9 safety entities in major urban areas, and na-
10 tionwide; and

11 (D) the feasibility and cost of necessary
12 changes to the network operations center of ter-
13 restrial-based or satellite systems to enable the
14 centers to serve as emergency back-up commu-
15 nications systems.

16 (3) REPORT.—Upon the completion of the eval-
17 uation under subsection (a), the Commission shall
18 submit a report to Congress that details the findings
19 of the evaluation, including a full inventory of exist-
20 ing public and private resources most efficiently ca-
21 pable of providing emergency communications.

1 **TITLE II—UNIVERSAL SERVICE**
2 **REFORM; INTERCONNECTION**

3 **SEC. 201. SHORT TITLE.**

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

6 **Subtitle A—Contributions to**
7 **Universal Service**

8 **SEC. 211. STABILIZATION OF UNIVERSAL SERVICE FUND-**
9 **ING.**

10 (a) ENSURING AN EQUITABLE CONTRIBUTION BASE
11 FOR UNIVERSAL SERVICE.—

12 (1) IN GENERAL.—Section 254(d) (47 U.S.C.
13 254(d)) is amended to read as follows:

14 “(d) UNIVERSAL SERVICE SUPPORT CONTRIBU-
15 TIONS.—

16 “(1) CONTRIBUTION MECHANISM.—

17 “(A) IN GENERAL.—Each communications
18 service provider shall contribute as provided in
19 this subsection to support universal service.

20 “(B) REQUIREMENTS.—The Commission
21 shall ensure that the contributions required by
22 this subsection are—

23 “(i) applied in a manner that is as
24 competitively and technologically neutral as
25 possible;

1 “(ii) specific, predictable, and suffi-
2 cient to sustain the funding of networks
3 used to preserve and advance universal
4 service; and

5 “(iii) applied in a such a manner that
6 no methodology results in a communica-
7 tions services provider being required to
8 contribute more than once for the same
9 transaction, activity, or service.

10 “(C) ADJUSTMENTS.—The Commission
11 shall adjust the contribution for providers for
12 their low call volume residential customers.

13 “(2) EXEMPTIONS.—The Commission may ex-
14 empt a communications service provider or any class
15 of communications service providers from the re-
16 quirements of this subsection in the following cir-
17 cumstances:

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

21 “(B) The communications service is pro-
22 vided pursuant to the Commission’s Lifeline As-
23 sistance Program.

1 “(C) The communications service is pro-
2 vided only to in-vehicle emergency communica-
3 tions customers.

4 “(3) CONTRIBUTION ASSESSMENT FLEXI-
5 BILITY.—

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

9 “(i) revenue from communications
10 service;

11 “(ii) working phone numbers or any
12 other identifier protocol or connection to
13 the networks; or

14 “(iii) network capacity.

15 “(B) USE OF MORE THAN 1 METHOD-
16 ODOLOGY.—If no single methodology employed
17 under subparagraph (A) achieves the principles
18 described in this subsection, the Commission
19 may employ a combination of any such meth-
20 odologies.

21 “(C) REMOVAL OF INTERSTATE/INTRA-
22 STATE DISTINCTION.—Notwithstanding section
23 2(b) of this Act, the Commission may assess
24 the interstate, intrastate, and international por-

1 tions of communications service for the purpose
2 of universal service contributions.

3 “(D) GROUP PLAN DISCOUNT.—If the
4 Commission utilizes a methodology under sub-
5 paragraph (A) based in whole or in part on
6 working phone numbers, it may provide a dis-
7 count for additional numbers provided under a
8 group or family pricing plan for residential cus-
9 tomers provided in 1 bill.

10 “(4) NON-DISCRIMINATORY ELIGIBILITY RE-
11 QUIREMENT.—A communications service provider is
12 not exempted from the requirements of this sub-
13 section solely on the basis that such provider is not
14 eligible to receive support under this section.

15 “(5) BILLING.—

16 “(A) IN GENERAL.—A communications
17 service provider that contributes to universal
18 service under this section may place on any cus-
19 tomer bill a separate line item charge that does
20 not exceed the amount for the customer that
21 the provider is required to contribute under this
22 subsection that shall be identified as the ‘Fed-
23 eral Universal Service Fee’.

24 “(B) LIMITATION.—A communications
25 service provider may not separately bill cus-

1 tomers for administrative costs associated with
2 its collection and remission of universal service
3 fees under this subsection.

4 “(6) DEFINITIONS.—In this subsection:

5 “(A) BROADBAND SERVICE.—The term
6 ‘broadband service’ means any service (whether
7 part of a bundle of services or offered sepa-
8 rately) used for transmission of information of
9 a user’s choosing with a transmission speed of
10 at least 200 kilobits per second in at least 1 di-
11 rection, regardless of the transmission medium
12 or technology employed, that connects to the
13 public Internet directly—

14 “(i) to the public; or

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

17 “(B) COMMUNICATIONS SERVICE.—The
18 term ‘communications service’ means tele-
19 communications service, broadband service, or
20 IP-enabled voice service (whether part of a bun-
21 dle of services or offered separately).

22 “(C) CONNECTION.—The term ‘connection’
23 means the facilities that provide customers with
24 access to a public or private network, regardless
25 of whether the connection is circuit-switched,

1 packet-switched, wireline or wireless, or leased
2 line.

3 “(D) IP-ENABLED VOICE SERVICE.—The
4 term ‘IP-enabled voice service’ means the provi-
5 sion of real-time 2-way voice communications
6 offered to the public, or such classes of users as
7 to be effectively available to the public, trans-
8 mitted through customer premises equipment
9 using IP protocol, or a successor protocol, for
10 a fee (whether part of a bundle of services or
11 offered separately) with 2-way interconnection
12 capability such that the service can originate
13 traffic to, and terminate traffic from, the public
14 switched telephone network.

15 “(E) WORKING PHONE NUMBERS.—The
16 term ‘working phone number’ means an as-
17 signed number (as defined in section 52.15 of
18 the Commission’s regulations (47 C.F.R.
19 52.15)) or an intermediate number (as defined
20 in that section).”.

21 (2) CONFORMING AMENDMENT.—Section
22 254(b)(4) (47 U.S.C. 254(b)(4)) is amended by
23 striking “telecommunications services” and inserting
24 “communications services (as defined in subsection
25 (d)(6)(B))”.

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

3 “(f) STATE AUTHORITY.—

4 “(1) IN GENERAL.—A State may adopt regula-
5 tions not inconsistent with the Commission’s rules to
6 preserve and advance universal service. In adopting
7 those rules, a State may require telecommunications
8 service providers and IP-enabled voice service pro-
9 viders to contribute to universal service on the basis
10 of—

11 “(A) revenue;

12 “(B) working phone numbers or any other
13 identifier protocol or connection to the net-
14 works;

15 “(C) network capacity; or

16 “(D) any combination of such factors.

17 “(2) INTERSTATE COMPONENT DISREGARD.—A
18 State may require telecommunications service pro-
19 viders and IP-enabled voice service providers to con-
20 tribute under paragraph (1) regardless of whether
21 the service contains an interstate component.

22 “(3) GUIDELINES.—Regulations adopted by a
23 State under this subsection shall result in a specific,
24 predictable, and sufficient mechanism to support
25 universal service and shall be competitively and tech-

1 nologically neutral, equitable, and nondiscrim-
2 inatory.”.

3 (b) PROPER ACCOUNTING OF UNIVERSAL SERVICE
4 CONTRIBUTIONS.—

5 (1) FROM ALL BUDGETS.—Notwithstanding any
6 other provision of law, the receipts and disburse-
7 ments of universal service under section 254 of the
8 Communications Act of 1934 (47 U.S.C. 254) shall
9 not be counted as new budget authority, outlays, re-
10 ceipts, or deficit or surplus for purposes of—

11 (A) the budget of the United States Gov-
12 ernment as submitted by the President;

13 (B) the Congressional budget;

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

16 (D) any other statute requiring budget se-
17 questers.

18 (2) ADDITIONAL EXEMPTIONS.—Section 1341,
19 subchapter II of chapter 15, and sections 3302,
20 3321, 3322, and 3325 of title 31, United States
21 Code, shall not apply to—

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

1 (B) disbursements or other obligations au-
2 thorized by the Federal Communications Com-
3 mission under section 254 of the Communica-
4 tions Act of 1934 (47 U.S.C. 254).

5 (c) FINANCIAL MANAGEMENT.—The Federal Com-
6 munications Commission and the Administrator of the
7 Universal Service Fund—

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

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

14 (3) may invest unexpended balances only in
15 Federal securities (as defined in section 113(b)(5) of
16 Office of Management and Budget circular OMB A-
17 11 or any revision of that circular).

18 (d) RULEMAKING.—Not later than 180 days after the
19 date of enactment of this Act, the Federal Communica-
20 tions Commission shall issue a rule to implement section
21 254(d) of the Communications Act of 1934 (47 U.S.C.
22 254(d)) as amended by this section.

1 **SEC. 212. MODIFICATION OF RURAL VIDEO SERVICE EX-**
2 **EMPTION.**

3 (a) RURAL TELEPHONE COMPANIES.—Section
4 251(f)(1) (47 U.S.C. 251(f)(1)) is amended—

5 (1) by striking “Subsection” in subparagraph
6 (A) and inserting “Except as provided in subpara-
7 graph (B), subsection”;

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

11 (3) by striking “(under subparagraph (B))” in
12 subparagraph (A) and inserting “(under subpara-
13 graph (C))”;

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

16 (5) by inserting after subparagraph (A) the fol-
17 lowing:

18 “(B) INTERCONNECTION.—Notwithstand-
19 ing subparagraphs (A) and (C), paragraphs (1)
20 and (2) of subsection (c) of this section shall
21 not apply to a rural telephone company until
22 such company has received a bona fide request
23 for interconnection.”;

24 (6) by striking “exemption under subparagraph
25 (A).” in subparagraph (C), as redesignated, and in-
26 serting “exemption.”; and

1 (7) by striking subparagraph (D) as redesignig-
2 nated.

3 (b) OTHER RURAL CARRIERS.—Section 251(f)(2)
4 (47 U.S.C. 251(f)(2)) is amended by inserting “(other
5 than subsection (e)(2))” after “subsection (b) or (c)”.

6 (c) EFFECTIVE DATE.—Notwithstanding any other
7 provision of this Act, the amendments made by this sec-
8 tion shall take effect on the date of enactment of this Act.

9 **SEC. 213. INTERCONNECTION.**

10 Title VII (47 U.S.C. 601 et seq.) is amended by add-
11 ing after section 714 the following new section:

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

14 “(a) IN GENERAL.—A facilities-based (as determined
15 by the Commission) IP-enabled voice service provider shall
16 have the same rights, duties, and obligations as a request-
17 ing telecommunications carrier under sections 251 and
18 252, if the provider elects to assert such rights. A tele-
19 communications carrier may not refuse to transport or ter-
20 minate IP-enabled voice traffic solely on the basis that it
21 is IP-enabled. A provider originating, transmitting, or ter-
22 minating IP-enabled voice traffic shall not be exempted
23 from paying compensation owed to another provider or
24 carrier solely on the basis that such traffic is IP-enabled.

1 “(b) DISABLED ACCESS.—An IP-enabled voice serv-
2 ice provider or a manufacturer of IP-enabled voice service
3 equipment shall have the same rights, duties, and obliga-
4 tions as a telecommunications carrier or telecommuni-
5 cations equipment manufacturer, respectively, under sec-
6 tions 225, 255, and 710 of the Act. Within 1 year after
7 the date of enactment of Internet and Universal Service
8 Act of 2006, the Commission, in consultation with the Ar-
9 chitectural and Transportation Barriers Compliance
10 Board, shall prescribe such regulations as are necessary
11 to implement this section.

12 “(c) IP-ENABLED EMERGENCY RESPONSE SYS-
13 TEMS.—Prior to installation or activation of an IP-enabled
14 voice service for a customer, an IP-enabled voice service
15 provider shall provide clear and conspicuous notice to the
16 customer that—

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

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

23 “(3) a battery backup is required for customer
24 premises equipment installed in connection with the
25 IP-enabled voice service in order for the signaling of

1 such system to function in the event of a power out-
2 age.

3 “(d) DEFINITIONS.—In this section:

4 “(1) EMERGENCY RESPONSE SYSTEM.—The
5 term ‘emergency response system’ means an alarm
6 or security system, or personal security or medical
7 monitoring system, that is connected to an emer-
8 gency response center by means of a telecommuni-
9 cations carrier or IP-enabled voice service provider.

10 “(2) EMERGENCY RESPONSE CENTER.—The
11 term ‘emergency response center’ means an entity
12 that monitors transmissions from an emergency re-
13 sponse system.

14 “(3) IP-ENABLED VOICE SERVICE.—The term
15 ‘IP-enabled voice service’ means the provision of
16 real-time 2-way voice communications offered to the
17 public, or such classes of users as to be effectively
18 available to the public, transmitted through cus-
19 tomer premises equipment using IP protocol, or a
20 successor protocol, for a fee (whether part of a bun-
21 dle of services or offered separately) with inter-
22 connection capability such that the service can origi-
23 nate traffic to, and terminate traffic from, the public
24 switched telephone network.”.

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

3 Section 254(g) of the Communications Act of 1934
4 (47 U.S.C. 254(g) is amended by inserting “This section
5 shall also apply to any services within the jurisdiction of
6 the Commission that can be used as effective substitutes
7 for interexchange telecommunications services, including
8 any such substitute classified as an information service
9 that uses telecommunications.” after “State.”.

10 **Subtitle B—Distributions From**
11 **Universal Service**

12 **SEC. 251. ENCOURAGING BROADBAND DEPLOYMENT.**

13 (a) IN GENERAL.—Beginning 2 years after the date
14 of enactment of this Act, and biennially thereafter, an eli-
15 gible communications carrier shall submit a report to the
16 Commission and to the State commission in each State
17 in which it provides communications service that sets forth
18 the following:

19 (1) The percentage of households to which it of-
20 fers broadband service in each of its service areas.

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

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

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

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

6 (b) INFORMATION TREATED AS CONFIDENTIAL.—
7 The Commission and State commissions shall treat infor-
8 mation received pursuant to subsection (a) as confidential
9 and proprietary, and protect sensitive business informa-
10 tion from disclosure in any reports made public.

11 (c) COMMISSION REPORT.—The Commission shall in-
12 corporate the data from reports it receives under sub-
13 section (a) into its advanced telecommunications capability
14 reports under section 706 of the Telecommunications Act
15 of 1996.

16 **SEC. 252. ESTABLISHMENT OF BROADBAND ACCOUNT.**

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

19 **“SEC. 254A. BROADBAND FOR UNSERVED AREAS ACCOUNT.**

20 “(a) ACCOUNT ESTABLISHED.—

21 “(1) IN GENERAL.—The Commission shall es-
22 tablish a separate account to be known as the
23 ‘Broadband for Unserved Areas Account’.

24 “(2) PURPOSE.—The purpose of the Account is
25 to provide financial assistance for the deployment of

1 broadband equipment and infrastructure necessary
2 for the deployment of broadband service (including
3 installation costs) to unserved areas throughout the
4 United States.

5 “(3) FUNDING.—The Account shall be funded
6 by amounts collected under section 254(d).

7 “(b) IMPLEMENTATION.—

8 “(1) IN GENERAL.—Within 180 days after the
9 date of enactment of the Internet and Universal
10 Service Act of 2006, the Commission shall issue
11 rules establishing—

12 “(A) guidelines for determining which
13 areas may be considered to be unserved areas
14 for purposes of this section, which may be por-
15 tions of service areas or study areas;

16 “(B) criteria for determining which facili-
17 ties-based providers of broadband service, and
18 which projects, are eligible for support from the
19 Account;

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

23 “(D) guidelines for application procedures,
24 accounting and reporting requirements, and
25 other appropriate fiscal controls for assistance

1 made available from the Account, including ran-
2 dom audits with respect to the receipt and use
3 of funds under this section;

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

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

10 “(2) FACILITIES-BASED PROVIDER ELIGI-
11 BILITY.—For purposes of this section, satellite
12 broadband service providers, terrestrial wireless
13 broadband providers, and wireline broadband service
14 providers shall be considered to be facilities-based
15 providers eligible for support from the Account. The
16 deployment of satellite broadband customer premises
17 equipment shall be considered to be a project eligible
18 for support from the Account.

19 “(3) DE MINIMIS SUBSCRIBERSHIP EXCEP-
20 TION.—The availability of broadband service by sat-
21 ellite in an area shall not preclude the designation
22 of that area as an unserved area if the Commission
23 determines that subscribership to broadband satellite
24 service in the area is de minimis.

1 “(4) MULTIPLE AREAS WITHIN STATE.—There
2 may be more than 1 unserved area within a State.

3 “(c) LIMITATIONS.—

4 “(1) ANNUAL AMOUNT.—Amounts obligated or
5 expended under subsection (b) for any fiscal year
6 may not exceed \$500,000,000.

7 “(2) UNOBLIGATED BALANCES.—To the extent
8 that the full amount in the account is not obligated
9 for financial assistance under this section within a
10 fiscal year, any unobligated funds shall be used to
11 support universal service under section 254.

12 “(3) SUPPORT LIMITED TO SINGLE FACILITIES-
13 BASED PROVIDER PER UNSERVED AREA.—Assistance
14 under this section may be provided only to—

15 “(A) facilities-based providers of
16 broadband service; and

17 “(B) 1 facilities-based provider of
18 broadband service in each unserved area.

19 “(d) APPLICATION WITH SECTION 410.—Section
20 410 shall not apply to the Broadband for Unserved Areas
21 Account.

22 “(e) BROADBAND SERVICE DEFINED.—

23 “(1) IN GENERAL.—In this section, except to
24 the extent revised by the Commission under para-
25 graph (2), the term ‘broadband service’ means any

1 service used for transmission of information of a
2 user's choosing at a transmission speed of at least
3 400 kilobits per second in at least 1 direction, re-
4 gardless of the transmission medium or technology
5 employed, that connects to the public Internet di-
6 rectly—

7 “(A) to the public; or

8 “(B) to such classes of users as to be ef-
9 fectively available directly to the public.

10 “(2) ANNUAL REVIEW OF TRANSMISSION
11 SPEED.—The Commission shall review the trans-
12 mission speed component of the definition in sub-
13 paragraph (A) biannually and revise that component
14 as appropriate.

15 “(f) REPORT.—The Commission shall transmit an
16 annual report to the Senate Committee on Commerce,
17 Science, and Transportation and the House of Represent-
18 atives Committee on Energy and Commerce making rec-
19 ommendations for an increase or decrease, if necessary,
20 in the amounts credited to the account under this sec-
21 tion.”.

22 **SEC. 253. COMPETITIVE NEUTRALITY PRINCIPLE.**

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

1 “(7) COMPETITIVE NEUTRALITY.—Universal
2 service support mechanisms and rules should be
3 competitively neutral. In this context, competitively
4 neutral means that universal service support mecha-
5 nisms and rules neither unfairly advantage nor dis-
6 advantage one provider over another, and neither
7 unfairly favor nor disfavor one technology over an-
8 other.”.

9 **SEC. 254. TRANSITION RULES FOR MODIFICATIONS AD-**
10 **VERSELY AFFECTING CARRIERS.**

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

18 **SEC. 255. ELIGIBILITY GUIDELINES.**

19 Section 214(e) (47 U.S.C. 214(e)), as amended by
20 section 251 of this Act, is amended by adding at the end
21 the following:

22 “(8) ELIGIBILITY GUIDELINES.—

23 “(A) IN GENERAL.—A common carrier
24 may not be designated as a new eligible commu-
25 nications carrier unless it—

1 “(i) is committed to providing service
2 throughout its proposed designated service
3 area, using its own facilities or a combina-
4 tion of facilities and resale of another car-
5 rier’s facilities, to all customers making a
6 reasonable request for service;

7 “(ii) has certified to the State com-
8 mission or the Commission that it will pro-
9 vide service on a timely basis to requesting
10 customers within its service area, if service
11 can be provided at reasonable cost;

12 “(iii) has submitted a plan to the
13 State commission or the Commission that
14 describes with specificity proposed im-
15 provements or upgrades to its network that
16 will be accomplished with high-cost support
17 over the first 2 years following its designa-
18 tion as an eligible communications carrier;

19 “(iv) has demonstrated to the State
20 commission or the Commission its ability
21 to remain functional in emergency situa-
22 tions, including a demonstration that it
23 has a reasonable amount of back-up power
24 to ensure functionality without an external
25 power source;

1 “(v) is committed to following applica-
2 ble consumer protection and service quality
3 standards; and

4 “(vi) has complied with annual report-
5 ing requirements established by the Com-
6 mission or by State Commissions for all
7 carriers receiving universal service support
8 to ensure that such support is used for the
9 provision, maintenance, and upgrading of
10 the facilities for which support is intended.

11 “(B) APPLICATION LIMITED TO POST
12 DATE-OF-ENACTMENT DESIGNATIONS.—Sub-
13 paragraph (A) applies only to an entity des-
14 ignated as an eligible communications carrier
15 after the date of enactment of the Internet and
16 Universal Service Act of 2006.

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

1 “(D) ELIGIBLE COMMUNICATIONS CAR-
2 RIER.—In this paragraph, the term ‘eligible
3 communications carrier’ means an entity des-
4 ignated under paragraph (2), (3), or (6) of this
5 subsection. Any reference to eligible tele-
6 communications carrier in this section or in sec-
7 tion 254 refers also to an eligible communica-
8 tions carrier.”.

9 **SEC. 256. PRIMARY LINE.**

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

13 “(8) PRIMARY LINE.—In implementing the re-
14 quirements of this Act with respect to the distribu-
15 tion and use of Federal universal service support the
16 Commission shall not limit such distribution and use
17 to a single connection or primary line, and all resi-
18 dential and business lines served by an eligible com-
19 munications carrier shall be eligible for Federal uni-
20 versal service support.”.

21 **SEC. 257. PHANTOM TRAFFIC.**

22 Section 254 (47 U.S.C. 254) is amended by adding
23 at the end the following:

24 “(m) NETWORK TRAFFIC IDENTIFICATION AC-
25 COUNTABILITY STANDARDS.—

1 “(1) NETWORK TRAFFIC IDENTIFICATION
2 STANDARDS.—A provider of voice communications
3 services shall ensure that all traffic that originates
4 on its network contains sufficient information to
5 allow for traffic identification by other voice commu-
6 nications service providers that transport, transit, or
7 terminate such traffic, including information on the
8 identity of the originating provider, the calling and
9 called parties, and such other information as the
10 Commission deems appropriate. Except as otherwise
11 permitted by the Commission due to network limita-
12 tions, a provider that transports or transits traffic
13 between communications service providers shall sig-
14 nal-forward without alternation call signaling infor-
15 mation it receives from another provider.

16 “(2) NETWORK TRAFFIC IDENTIFICATION
17 RULEMAKING.—The Commission, in consultation
18 with the States, shall initiate a single rulemaking no
19 later than 180 days after the date of enactment of
20 the Internet and Universal Service Act of 2006 to
21 establish rules and enforcement provisions for traffic
22 identification.

23 “(3) NETWORK TRAFFIC IDENTIFICATION EN-
24 FORCEMENT.—The Commission shall adopt and en-

1 force clear penalties, fines, and sanctions under this
2 section.

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

7 **SEC. 258. RANDOM AUDITS.**

8 Section 254 (47 U.S.C. 214), as amended by section
9 255 of this Act, is amended by adding at the end the fol-
10 lowing:

11 “(n) AUDITS.—The Commission shall provide for
12 random periodic audits of each recipient of funds collected
13 pursuant to section 254(d) with respect to its receipt and
14 use of such support to be administered by the Universal
15 Service Administrative Company. With respect to an eligi-
16 ble communications carrier, the audit shall include a re-
17 view of its relative cost to provide service compared to
18 other, similarly situated, universal service recipients based
19 on their respective service areas (as defined in section
20 214(e)(5)). The Commission may take such remedial ac-
21 tion as it deems necessary if any audit under this sub-
22 section reveals improper use of universal service support,
23 including the imposition of fines or other appropriate rem-
24 edies.”.

1 **SEC. 259. INTEGRITY AND ACCOUNTABILITY.**

2 The Federal Communications Commission, in con-
3 sultation with the Administrator of the Universal Service
4 Administrative Company, shall—

5 (1) ensure the integrity and accountability of all
6 programs established under sections 254 and 254A
7 of the Communications Act of 1934 (47 U.S.C. 254
8 and 254A); and

9 (2) not later than 180 days after the date of
10 enactment of this Act, establish rules—

11 (A) identifying appropriate fiscal controls
12 and accountability standards that shall be ap-
13 plied to programs under sections 254 and
14 254A;

15 (B) establishing a memorandum of under-
16 standing, or contractual relationships, as the
17 Commission determines appropriate, defining
18 the administrative structure and processes by
19 which the Universal Service Administrative
20 Company administers programs under sections
21 254 and 254A;

22 (C) creating performance goals and meas-
23 ures for programs under sections 254 and
24 254A, that shall be used by the Commission to
25 determine—

1 (i) how efficiently and cost-effectively
2 the Universal Service Administrative Com-
3 pany spends funds pursuant to its oper-
4 ation of all universal service programs; and

5 (ii) areas for improving operations;

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

9 (i) determine each beneficiary's
10 progress toward achieving individual
11 connectivity goals, including the speed of
12 connectivity; and

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

15 (E) establishing appropriate enforcement
16 actions, including imposition of sanctions on ap-
17 plicants and vendors who repeatedly and know-
18 ingly violate program rules set forth in section
19 254(h) or adopted by the Commission, such as
20 debarment from the program for individuals
21 convicted of crimes or held civilly liable for ac-
22 tions taken in connection with the Schools and
23 Libraries Program.

1 **SEC. 260. IMPROVING EFFECTIVENESS OF RURAL HEALTH**
2 **CARE SUPPORT MECHANISM.**

3 (a) IN GENERAL.—Section 254(h) (47 U.S.C.
4 254(h)), as amended by section 259 of this Act, is further
5 amended—

6 (1) by resetting so much of paragraph (1)(A) as
7 follows “AREAS.—” as an indented paragraph 6 ems
8 from the left margin and inserting “(i) IN GEN-
9 ERAL.—” before “A telecommunications”;

10 (2) by inserting “deployment of reasonable in-
11 frastructure and” after “including” in the first sen-
12 tence of paragraph (1)(A)(i), as designated by para-
13 graph (1) of this subsection;

14 (3) by striking “service.” in paragraph
15 (1)(A)(i), as designated by paragraph (1) of this
16 subsection, and inserting “service, and to receive re-
17 imbursement promptly of any amount in excess of
18 such obligations to participate in universal service
19 mechanisms.”;

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

22 “(ii) LIMITATION.—The discount re-
23 quired under clause (i) shall be available
24 only to a public or nonprofit health care
25 provider located in a rural area.

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

4 “(I) any incorporated or unincor-
5 porated area in the United States, or
6 in the territories or insular possession
7 of the United States that has not
8 more than 20,000 inhabitants based
9 on the most recent available popu-
10 lation statistics published in the most
11 recent decennial census issued by the
12 Census Bureau;

13 “(II) any area located outside the
14 boundaries of any incorporated or un-
15 incorporated city, county, or borough
16 that has more than 20,000 inhab-
17 itants based on the most recent avail-
18 able population statistics published in
19 the most recent decennial census
20 issued by the Census Bureau; or

21 “(III) any area that qualified as
22 a rural area under the rules of the
23 Commission in effect on December 1,
24 2004.”;

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

2 and

3 (6) by striking paragraph (7)(B)(vii) and in-
4 serting the following:

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

7 “(viii) critical access hospitals;

8 “(ix) emergency medical services fa-
9 cilities;

10 “(x) hospice providers;

11 “(xi) rural dialysis facilities;

12 “(xii) tribal health clinics;

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

14 “(xiv) school health clinics;

15 “(xv) residential treatment facilities;

16 “(xvi) consortia of health care pro-
17 viders consisting of 1 or more entities de-
18 scribed in clauses (i) through (xv); and

19 “(xvii) any other entity the Commis-
20 sion determines—

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

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

1 (b) SCHOOLS, LIBRARIES, RURAL HEALTH CARE,
2 LIFE-LINE, LINK-UP, AND TOLL LIMITATION HOLD
3 HARMLESS.—Except as provided in subsections (h)(1)(A),
4 (h)(7)(B), and (h)(7)(J) of section 254 of the Communica-
5 tions Act of 1934 (47 U.S.C. 254), as amended by sub-
6 section (a)—

7 (1) nothing in this Act (or the amendments
8 made by this Act) shall be construed as limiting,
9 changing, modifying, or altering the amount of sup-
10 port or means of distribution for the schools, librar-
11 ies, rural health care, life-line, link-up, and toll limi-
12 tation programs; and

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

18 (c) AMERICAN COMMUNITY SURVEY RESIDENTIAL
19 INTERNET ACCESS QUESTION.—The Secretary of Com-
20 merce, in consultation with the Federal Communications
21 Commission, shall expand the American Community Sur-
22 vey conducted by the Bureau of the Census to elicit infor-
23 mation for residential households, including those located
24 on Indian land (as defined in section 4(9) of the American
25 Indian Agricultural Resource Management Act (25 U.S.C.

1 3703(9))), as to what technology such households use to
2 access the Internet from home.

3 **SEC. 261. COMMUNICATIONS SERVICES FOR LIBRARIES.**

4 Section 254(h)(4) of the Communications Act of
5 1934 (47 U.S.C. 254(h)(4)) is amended to read as follows:

6 “(4) CERTAIN USERS NOT ELIGIBLE.—Notwith-
7 standing any other provision of this subsection, the
8 following entities are not entitled to preferential
9 rates or treatment as required by this subsection:

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

12 “(B) A school described in paragraph
13 (7)(A) with an endowment of more than
14 \$50,000,000.

15 “(C) A library or library consortium not el-
16 igible for assistance under the Library Services
17 and Technology Act (20 U.S.C. 9101 et seq.)
18 from a State library administrative agency.

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

1 **TITLE III—STREAMLINING**
2 **FRANCHISING PROCESS**
3 **Subtitle A—Updating the 1934 Act**
4 **and Leveling the Regulatory**
5 **Playing Field**

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

8 (a) **TERMINOLOGY.**—Title VI (47 U.S.C. 521 et
9 seq.), except for section 602 (47 U.S.C. 522), is amend-
10 ed—

11 (1) by striking “cable operator” and “cable op-
12 erators” each place they appear and inserting “video
13 service provider” or “video service providers”, re-
14 spectively;

15 (2) by striking “cable service” and “cable serv-
16 ices” each place they appear and inserting “video
17 service” or “video services”, respectively;

18 (3) by striking “cable” each place it appears,
19 except the second place it appears in section 624(i),
20 and inserting “video service”;

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

24 (5) by striking “cassette” each place it appears;
25 and

1 (6) by striking “tape” each place it appears and
2 inserting “copy”.

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

5 (1) by striking the heading for title VI and in-
6 serting “**TITLE VI—VIDEO SERVICES**”;

7 (2) by striking the heading for part II and in-
8 serting “**PART II—USE OF VIDEO SERV-**
9 **ICES; RESTRICTIONS**”;

10 (3) by striking the heading for part III and in-
11 serting “**PART III—FRANCHISING**”; and

12 (4) striking “**CABLE**” in the heading for sec-
13 tions 633 and 640 and inserting “**VIDEO SERV-**
14 **ICE**”.

15 (c) REGULATIONS.—

16 (1) NEW REGULATIONS.—Within 120 days
17 after the date of enactment of this Act, the Commis-
18 sion shall issue regulations to implement sections
19 603, 611, 612, 621, and 622 of the Communications
20 Act of 1934, as amended by this Act.

21 (2) UPDATING EXISTING REGULATIONS.—With-
22 in 120 days after the date of enactment of this Act,
23 the Commission shall issue, as necessary, updated
24 regulations needed under title VI or other provisions

1 of the Communications Act of 1934 to reflect the
2 amendments made by this Act.

3 **SEC. 312. PURPOSE; FRANCHISE APPLICATIONS; SCOPE.**

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

6 **“SEC. 601. PURPOSE.**

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

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

13 **“SEC. 603. FRANCHISE APPLICATIONS.**

14 “(a) IN GENERAL.—

15 “(1) EXPEDITED PROCESS.—Except as other-
16 wise provided in this subsection, a franchising au-
17 thority shall grant a franchise to provide video serv-
18 ice within its franchise area to a video service pro-
19 vider within 90 calendar days after receiving a fran-
20 chise application that is complete from the video
21 service provider except for—

22 “(A) the franchise fee percentage, as pro-
23 vided by section 622(b)(1);

1 “(B) the number of public, educational, or
2 governmental use channels required by section
3 611;

4 “(C) any fee percentage that may be as-
5 sessed under section 622(b)(4); and

6 “(D) the point of contact for the fran-
7 chising authority.

8 “(2) STANDARDIZED APPLICATION FORM.—A
9 video service provider shall use the standard fran-
10 chise application form promulgated by the Commis-
11 sion under section 612.

12 “(3) RESPONSIBILITIES OF FRANCHISE AU-
13 THORITY.—After receiving a franchise application
14 under paragraph (1), a franchising authority shall—

15 “(A) publish public notice of the applica-
16 tion within 15 days after receiving a complete
17 application from a video service provider if pub-
18 lic notice is required by State or local law; and

19 “(B) complete and return the application
20 form by providing the information described in
21 subparagraphs (A), (B), (C), and (D) of para-
22 graph (1) in a manner that is consistent with
23 the requirements of this title within 75 calendar
24 days after the date on which it was received.

1 “(4) ACCEPTANCE OF TERMS.—A franchising
2 agreement shall take effect 15 calendar days after
3 the date that the completed franchise application is
4 received by the applicant under paragraph (3)(B)
5 unless the applicant notifies the franchising author-
6 ity within that 15-day period that the terms offered
7 are not accepted.

8 “(5) EXCEPTION.—This subsection does not re-
9 quire a franchise authority to approve or complete
10 an application from a video service provider if a
11 franchise held by that provider has been revoked
12 under section 625(b) by the franchise authority.

13 “(b) DEEMED APPROVAL.—Except as provided in
14 subsection (a)(5), if a franchising authority fails to act
15 on a franchise application that meets the requirements of
16 this title within the 75-day period described in subsection
17 (a)(3)(B), the franchise application shall be deemed grant-
18 ed—

19 “(1) effective on the 76th day after the fran-
20 chising authority received the application;

21 “(2) for a term of 15 years;

22 “(3) with—

23 “(A) the same percentage of gross revenue
24 paid by the cable operator with the most sub-

1 scribers offering cable service in the franchise
2 area; or

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

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

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

13 “(d) OPEN VIDEO SYSTEMS.—In this section, the
14 term ‘video service provider’ includes a local exchange car-
15 rier that provides video services to video service sub-
16 scribers in its telephone service area through an open
17 video system that complies with the requirements of sec-
18 tion 653.

19 **“SEC. 604. NO EFFECT ON STATE LAWS OF GENERAL APPLI-**
20 **CABILITY.**

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

1 **“SEC. 605. DIRECT BROADCAST SATELLITE SERVICE.**

2 “No State or local government may regulate direct
3 broadcast satellite services (as that term is used in section
4 335 of this Act).”.

5 **SEC. 313. STANDARD FRANCHISE APPLICATION FORM.**

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

8 **“SEC. 612. STANDARD FRANCHISE APPLICATION FORM.**

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

14 “(b) COMPLIANCE COMMITMENTS.—The franchise
15 application form shall include a statement, to be signed
16 by the video service provider, that it—

17 “(1) agrees to comply with all applicable Fed-
18 eral and State statutes and regulations that are con-
19 sistent with this title; and

20 “(2) agrees to comply with all applicable munic-
21 ipal regulations regarding the use and occupation of
22 public rights-of-way in the delivery of video service,
23 including the police powers of the municipalities in
24 which the service is delivered that are consistent
25 with this title.

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

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

6 “(2) The name and business address of each di-
7 rector and principal executive officers.

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

10 “(4) A point of contact for the franchising au-
11 thority.

12 “(5) The franchise fee percentage under section
13 622(b)(1).

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

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

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

20 “(9) The physical location of the headend.

21 “(10) A description of the video service to be
22 provided.”.

23 **SEC. 314. DEFINITIONS.**

24 (a) IN GENERAL.—Section 602 (47 U.S.C. 522) is
25 amended—

1 (1) by striking “cable system” in paragraphs
2 (1) and (9) and inserting “video service system”;

3 (2) by striking “regulation);” in paragraph (4)
4 and inserting “regulation) or its equivalent (as de-
5 termined by the Commission).”;

6 (3) by inserting after paragraph (11) the fol-
7 lowing:

8 “(11A) ‘headend’ means the headend of a cable
9 system or its equivalent as determined by the Com-
10 mission.”;

11 (4) by inserting after paragraph (12) the fol-
12 lowing:

13 “(12A) ‘institutional network’ means a commu-
14 nication network constructed by a cable operator
15 that is generally available only to subscribers who
16 are not residential subscribers.”;

17 (5) by striking “cable operator” in paragraph
18 (14) and inserting “video service provider”;

19 (6) by inserting after paragraph (16) the fol-
20 lowing:

21 “(16A) ‘satellite carrier’ means an entity that
22 uses the facilities of a satellite or satellite service li-
23 censed by the Commission and operates in the
24 Fixed-Satellite Service under part 25 of title 47,
25 Code of Federal Regulations, or the Direct Broad-

1 cast Satellite Service under part 100 of title 47,
2 Code of Federal Regulations, to establish and oper-
3 ate a channel of communications for point-to-
4 multipoint distribution of television station signals,
5 and that owns or leases capacity or service on a sat-
6 ellite in order to provide such point-to-multipoint
7 distribution, except to the extent that such entity
8 provides such distribution pursuant to tariff under
9 this Act, for purposes other than for private home
10 viewing.”;

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

13 (8) by striking “cable operator” each place it
14 appears in paragraph (17) and inserting “video serv-
15 ice provider”; and

16 (9) by inserting after paragraph (20) the fol-
17 lowing:

18 “(24) VIDEO SERVICE.—The term ‘video serv-
19 ice’ means—

20 “(A) the one-way transmission to sub-
21 sscribers of—

22 “(i) video programming;

23 “(ii) interactive on-demand service; or

24 “(iii) other programming service; and

1 “(B) subscriber interaction, if any, re-
2 quired for the selection or use of such video
3 programming, interactive on-demand service, or
4 other programming service regardless of the
5 transmission technology used and regardless of
6 how the subscriber interacts with the service.

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

9 “(A) means a facilities-based (as deter-
10 mined by the Commission) provider of video
11 service that utilizes a public right-of-way in the
12 provision of such service, including a cable oper-
13 ator, regardless of the transmission technology
14 used and regardless of how the subscriber inter-
15 acts with the service; but

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

18 “(i) satellite service;

19 “(ii) video programming using radio
20 communication directly to the recipient’s
21 premises; or

22 “(iii) service via commercial mobile
23 service (as defined in section 332(d)).”.

24 (b) STYLISTIC CONSISTENCY.—Section 602 (47
25 U.S.C. 622), as amended by subsection (a), is amended—

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

2 (2) by redesignating paragraphs (1) through

3 (20) as paragraphs (1) through (23);

4 (3) by striking the semicolon at the end of each
5 such paragraph and inserting a period; and

6 (4) by inserting after the designation of each
7 such paragraph—

8 (A) a heading, in a form consistent with
9 the form of the heading of paragraphs (24) and
10 (25), as added by subsection (a) of this section
11 consisting of the term defined by such para-
12 graph, or the first term so defined if the para-
13 graph defines more than 1 term; and

14 (B) the words “The term”.

15 **Subtitle B—Streamlining the**
16 **Provision of Video Services**

17 **SEC. 331. FRANCHISE REQUIREMENTS AND RELATED PRO-**
18 **VISIONS.**

19 (a) GENERAL FRANCHISE REQUIREMENTS.—Section
20 621 (47 U.S.C. 541) is amended—

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

23 “(a) IN GENERAL.—

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

1 “(A) grant an exclusive franchise; or

2 “(B) grant a franchise for a term shorter
3 than 5 years or longer than 15 years as pro-
4 vided in section 603.

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

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

12 “(B) HOLD HARMLESS.—A State or local
13 government shall apply its laws or regulations
14 in a manner that is reasonable, competitively
15 neutral, nondiscriminatory, and consistent with
16 State statutory police powers, including permit-
17 ting, payments for bonds, security funds, letters
18 of credit, insurance, indemnification, penalties,
19 or liquidated damages to ensure compliance
20 with such laws and regulations. Any permitting
21 fees imposed by a State or local government
22 shall be for the purpose of compensating that
23 government for the costs incurred in managing
24 the public rights-of-way.

1 “(C) PROPERTY OWNERS.—Nothing in this
2 title precludes a State or local government from
3 requiring that a property owner be justly com-
4 pensated by a video service provider for damage
5 caused by the installation, construction, oper-
6 ation, or removal of facilities by the video serv-
7 ice provider.”; and

8 “(D) DISPUTE RESOLUTION.—If a dispute
9 arises concerning the application of subpara-
10 graph (A), (B), or (C), the sole recourse of any
11 party to the dispute shall be to file an action
12 in a court of competent jurisdiction.

13 (2) by striking paragraph (1) of subsection (b)
14 and inserting “(1) Except to the extent provided in
15 subsection (f), a video service provider may not pro-
16 vide video service without a franchise.”.

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

19 (1) by striking subsections (a) and (b) and in-
20 serting the following:

21 “(a) IN GENERAL.—A franchising authority may im-
22 pose and collect a franchise fee from a video service pro-
23 vider that provides video services within the local franchise
24 area of that authority. A franchising authority may not

1 discriminate among video service providers in imposing or
2 collecting any fee assessed under this section.

3 “(b) AMOUNT.—

4 “(1) IN GENERAL.—The franchise fee imposed
5 by a franchising authority under subsection (a) for
6 any 12-month period may not exceed 5 percent of
7 the video service provider’s gross revenue derived in
8 such period. For purposes of this section, the 12-
9 month period shall be the 12-month period applica-
10 ble under the franchise for accounting purposes.

11 “(2) PREPAID OR DEFERRED PAYMENT AR-
12 RANGEMENTS.—Nothing in this subsection prohibits
13 a franchising authority and a video service provider
14 from agreeing that franchise fees which lawfully
15 could be collected for any such 12-month period
16 shall be paid on a prepaid or deferred basis, except
17 that the sum of the fees paid during the term of the
18 franchise may not exceed the amount, including the
19 time value of money, which would have lawfully been
20 collected if such fees had been paid per annum.

21 “(3) FRANCHISING AUTHORITY AND VIDEO
22 SERVICE PROVIDER AGREEMENTS.—Nothing in this
23 section precludes a State or local government and a
24 video service provider from entering into a voluntary
25 commercial agreement, whereby in consideration for

1 a mutually agreed upon reduction in the franchise
2 fee under paragraph (1), the video service provider
3 makes available to the local unit of government serv-
4 ices, equipment, capabilities, or other valuable con-
5 sideration.

6 “(4) PEG AND INSTITUTIONAL NETWORK FI-
7 NANCIAL SUPPORT.—

8 “(A) IN GENERAL.—A video service pro-
9 vider may be required to pay a fee equal to—

10 “(i) not more than 1 percent of the
11 video service provider’s gross revenue in
12 the franchise area to the franchising au-
13 thority for the support of public, edu-
14 cational, and governmental access facilities
15 and institutional networks; or

16 [“(ii) the value, on a per subscriber
17 basis, of all monetary grants or in-kind
18 services or facilities for public, educational,
19 or governmental access facilities provided
20 in the calendar year preceding the date of
21 enactment of the Video Competition and
22 Savings for Consumers Act of 2006 by the
23 cable operator in the franchise area with
24 the most cable service subscribers, pursu-
25 ant to that cable operator’s existing fran-

1 chise in effect on the date of enactment of
2 that Act, but excluding one-time or lump-
3 sum payments.】

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

14 “(C) EXISTING INSTITUTIONAL NET-
15 WORKS.—

16 “(i) CONTINUED SERVICE.—A fran-
17 chising authority may require a cable oper-
18 ator or video service provider with a fran-
19 chise in effect on the date of enactment of
20 the Video Competition and Savings for
21 Consumers Act of 2006 to continue to pro-
22 vide any institutional network it was re-
23 quired to provide on the date of enactment
24 of that Act.

1 “(ii) NEW NETWORK NOT RE-
2 QUIRED.—A franchising authority may not
3 require a video service provider to con-
4 struct a new institutional network.”; and

5 (2) by striking subsections (d) through (h) and
6 inserting the following:

7 “(d) OTHER TAXES, FEES, AND ASSESSMENTS NOT
8 AFFECTED.—Except as otherwise provided in this section,
9 nothing in this section shall be construed to modify, im-
10 pair, supersede, or authorize the modification, impair-
11 ment, or supersession of, any State or local law pertaining
12 to taxation.

13 “(e) ANNUAL REVIEW.—

14 “(1) FRANCHISING AUTHORITY AUDIT PROCE-
15 DURE.—A franchising authority may, upon reason-
16 able written request, but no more than once in any
17 12-month period, review the business records of a
18 video service provider to the extent reasonably nec-
19 essary to ensure payment of the fees required by this
20 section. The review may include the methodology
21 used by the video service provider to assign portions
22 of the revenue from video service that may be bun-
23 dled or functionally integrated with other services,
24 capabilities, or applications. The review shall be con-

1 ducted in accordance with procedures established by
2 the Commission.

3 “(2) AVAILABILITY OF BOOKS AND RECORDS.—
4 Upon request under paragraph (1), a video service
5 provider shall make available its books and records
6 for periodic audit by a franchising authority. The
7 franchising authority shall treat information ob-
8 tained in the course of such an audit as confidential
9 and proprietary and protect sensitive information
10 from public disclosure.

11 “(3) COST RECOVERY.—To the extent that the
12 review under paragraph (1) identifies an under-
13 payment of more than 5 percent of any fee required
14 by this section for the period of review, the video
15 service provider cable operator shall reimburse the
16 franchising authority the reasonable costs of any
17 such review conducted by an independent third party
18 with respect to such fee. The costs of any contin-
19 gency fee arrangement between the franchising au-
20 thority and the independent reviewer shall not be
21 subject to reimbursement.

22 “(4) LIMITATION.—Any fee that is not reviewed
23 by a franchising authority within 3 years after it is
24 paid or remitted shall not be subject to later review
25 by the franchising authority under this subsection

1 and shall be deemed accepted in full payment by the
2 franchising authority.

3 “(f) GAAP STANDARDS.—For purposes of this sec-
4 tion, all financial determinations and computations shall
5 be made in accordance with generally accepted accounting
6 principles except as otherwise provided.

7 “(g) DEFINITIONS.—In this section:

8 “(1) FRANCHISE FEE.—The term ‘franchise
9 fee’—

10 “(A) includes any tax, fee, or assessment
11 of any kind imposed by a franchising authority
12 or a State or local governmental entity on a
13 video service provider or subscriber, or both,
14 solely because of their status as such; but

15 “(B) does not include—

16 “(i) any tax, fee, or assessment of
17 general applicability (including any such
18 tax, fee, or assessment imposed on both
19 utilities and video service providers or their
20 services but not including a tax, fee, or as-
21 sessment which is unduly discriminatory
22 against video service providers or sub-
23 scribers);

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

1 “(iii) requirements or charges inci-
2 dental to the use of public rights-of-way,
3 including payments for bonds, security
4 funds, letters of credit, insurance, indem-
5 nification, penalties, or liquidated damages;

6 【“(iv) costs of fines, penalties, or
7 recoupment; or】

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

10 “(2) GROSS REVENUE.—

11 “(A) IN GENERAL.—The term ‘gross rev-
12 enue’ means all consideration of any kind or
13 nature including cash, credits, property, and in-
14 kind contributions (services or goods) received
15 by a video service provider from the provision of
16 video service within a franchise area includ-
17 ing—

18 “(i) all charges and fees paid by sub-
19 scribers for the provision of video service,
20 including fees attributable to video service
21 when that service is sold individually or as
22 part of a package or bundle, or is function-
23 ally integrated with services other than
24 video service;

1 “(ii) revenue received by a video serv-
2 ice provider as compensation for carriage
3 of video programming on the provider’s
4 system;

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

11 【“(iv) a pro rata portion of all rev-
12 enue derived by a video service provider or
13 an affiliate thereof pursuant to a com-
14 pensation arrangement for advertising de-
15 rived from the operation of the provider’s
16 video service or the video service within a
17 franchise area subject to subparagraph
18 (D)(ii).

19 “(B) AFFILIATES.—The gross revenue of a
20 video service provider includes gross revenue of
21 an affiliate to the extent the exclusion of the af-
22 filiate’s gross revenue would have the effect of
23 permitting the video service provider to evade
24 the payment of franchise fees which would oth-
25 erwise be paid by that video service provider for

1 video services provided within the franchise area
2 of the franchising authority imposing the fee.

3 “(C) REVENUE FROM BUNDLED OR FUNC-
4 TIONALLY INTEGRATED SERVICE.—In the case
5 of a video service that is packaged, bundled, or
6 functionally integrated with other services, ca-
7 pabilities, or applications, gross revenue shall
8 include only the revenue attributable to the
9 video service, which shall be reflected on the
10 books and records of the video service provider
11 kept in the regular course of business.

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

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

20 “(ii) refunds, rebates, credits, or dis-
21 counts to subscribers or a municipality to
22 the extent not already excluded under
23 clause (i);

24 “(iii) subject to subparagraph (C),
25 any revenues received by a video service

1 provider or its affiliates from the provision
2 of services or capabilities other than video
3 service, including—

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

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

13 “(iv) any revenues received by a video
14 service provider or its affiliates for the pro-
15 vision of directory or Internet advertising,
16 including yellow pages, white pages, banner
17 advertisement, and electronic publishing;

18 “(v) any costs attributable to the pro-
19 vision of video services to subscribers at no
20 charge, including the provision of such
21 services to public institutions without
22 charge;

23 [“(vi) any revenue paid by sub-
24 scribers to a home shopping programmer
25 directly from the sale of merchandise

1 through any home shopping channel of-
2 fered as part of the video service provider's
3 video services, but not excluding any com-
4 missions that are paid to the video service
5 provider as compensation for promotion or
6 exhibition of any product or service on the
7 provider's video service, such as a home
8 shopping or similar channel;】

9 “(vii) any revenue forgone from the
10 provision of video service at no charge to
11 any person other than forgone revenue ex-
12 changed for trades, barter, services, or
13 other items of value;

14 【“(viii) any tax, fee, or assessment of
15 general applicability imposed on a
16 subscriber【, subscription, or subscription-
17 related】 transaction by Federal, State, or
18 local government that is required to be col-
19 lected by the video service provider and re-
20 mitted to the taxing authority, including
21 sales taxes, use taxes, and utility user
22 taxes;】

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

1 “(x) the reimbursement by program-
2 mers for marketing costs actually incurred
3 by a video service provider for the intro-
4 duction of new programming; or

5 “(xi) any revenue from the sale of
6 video services for resale to the extent that
7 the purchaser certifies in writing that it
8 will—

9 “(I) resell the service; and

10 “(II) pay any applicable fran-
11 chise fee with respect thereto.”.

12 **SEC. 332. RENEWAL; REVOCATION.**

13 Part II of title VI (47 U.S.C. 541 et seq.) is amended
14 by striking sections 625 and 626 and inserting the fol-
15 lowing:

16 **“SEC. 625. RENEWAL; REVOCATION.**

17 “(a) RENEWAL.—A video service provider may sub-
18 mit a written application for renewal of its franchise to
19 a franchising authority not more than 180 days before the
20 franchise expires. Any such application shall be made on
21 the standard application form promulgated by the Com-
22 mission under section 612 and shall be treated under sec-
23 tion 603 in the same manner as any other franchise appli-
24 cation.

1 “(b) REVOCATION.—Notwithstanding any other law
2 of general applicability, a franchising authority may re-
3 voke a video service provider’s franchise if it determines,
4 after notice and an opportunity for a hearing, that the
5 video service provider has willfully and repeatedly—

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

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

13 “(3) violated the rights-of-way management
14 laws or regulations of any franchising authority in
15 the franchise area relating to the provision of video
16 service in the franchise area; or

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

20 “(c) NOTICE; OPPORTUNITY TO CURE.—A fran-
21 chising authority may not revoke a franchise unless it first
22 provides—

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

1 “(2) a reasonable opportunity to cure the viola-
2 tion.

3 “(d) FINALITY OF DECISION.—Any decision of a
4 franchising authority to revoke a franchise under this sec-
5 tion is final for purposes of appeal. A video service pro-
6 vider whose franchise is revoked by a franchising authority
7 may avail itself of the procedures in section 635 of this
8 Act.”.

9 **SEC. 333. PEG AND INSTITUTIONAL NETWORK OBLIGA-**
10 **TIONS.**

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

13 **“SEC. 611. CHANNELS FOR PUBLIC, EDUCATIONAL, OR GOV-**
14 **ERNMENTAL USE.**

15 “(a) IN GENERAL.—A video service provider that ob-
16 tains a franchise shall provide channel capacity for public,
17 educational, or governmental use that is not less than the
18 channel capacity required of the cable operator or video
19 service provider with the greatest number of public, edu-
20 cational, or governmental use channels in the franchise
21 area on the effective date of the franchise. If there is no
22 other video service provider in the franchise area on the
23 effective date of the franchise, the video service provider
24 may be required to provide up to 3 channels.

1 “(b) ADJUSTMENT.—Every 15 years after the com-
2 mencement of a franchise granted after April 30, 2006,
3 a franchising authority may require a video service pro-
4 vider to increase the channel capacity designated for pub-
5 lic, educational, or governmental use, and the channel ca-
6 pacity designated for such use on any institutional net-
7 works required under subsection (a). The increase may not
8 exceed the greater of—

9 “(1) 1 channel; or

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

13 “(c) EDITORIAL CONTROL.—Subject to section
14 624(d)(1), a video service provider shall not exercise any
15 editorial control over any public, educational, or govern-
16 mental use of channel capacity provided pursuant to this
17 section, but a video service provider may refuse to trans-
18 mit any public access program or portion of a public ac-
19 cess program which contains obscenity.

20 “(d) TRANSMISSION AND PRODUCTION OF PROGRAM-
21 MING.—

22 “(1) PEG PROGRAMMING.—A video service pro-
23 vider shall ensure that all subscribers receive any
24 public, educational, or governmental programming

1 carried by the video service provider within the sub-
2 scriber's franchise area.

3 “(2) PRODUCTION RESPONSIBILITY.—The pro-
4 duction of any programming provided under this
5 subsection shall be the responsibility of the fran-
6 chising authority.

7 “(3) TRANSMISSION RESPONSIBILITY.—The
8 video service provider shall be responsible for the
9 transmission from the signal origination point (or
10 points) of the programming, or from the point of
11 interconnection with another video service provider
12 already offering the public, educational, or govern-
13 mental programming under paragraph (4), to the
14 video service provider's subscribers, or any public,
15 educational, or governmental programming produced
16 by or for the franchising authority and carried by
17 the video service provider pursuant to this section.

18 “(4) INTERCONNECTION; COST-SHARING.—Un-
19 less 2 video service providers otherwise agree to the
20 terms for interconnection and cost sharing, such
21 video service providers shall comply with regulations
22 prescribed by the Commission providing for—

23 “(A) the interconnection between 2 video
24 service providers in a franchise area for trans-
25 mission of public, educational, or governmental

1 programming, without material degradation in
2 signal quality or functionality; and

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

6 “(5) DISPLAY OF PROGRAM INFORMATION.—

7 The video service provider shall display the program
8 information for public, educational, or governmental
9 programming in any print or electronic program
10 guide in the same manner in which it displays pro-
11 gram information for other video programming in
12 the franchise area. The video service provider may
13 not omit public, educational, or governmental pro-
14 gramming from any navigational device, guide, or
15 menu containing other video programming that is
16 available to subscribers in the franchise area if the
17 franchising authority provides such programming to
18 the video service provider at a location, in the data
19 format, and in sufficient time normally required for
20 the programming to be displayed on such device,
21 guide, or menu.”.

22 **SEC. 334. SERVICES, FACILITIES, AND EQUIPMENT.**

23 (a) IN GENERAL.—Section 624 of title VI is amend-
24 ed—

1 (1) by striking subsections (a), (b), (c), (e), and
2 (h) and redesignating subsections (d), (f), (g), and
3 (i) as subsections (a) through (d), respectively; and
4 (2) by inserting “or wire” after “cable” in sub-
5 section (d), as redesignated.

6 (b) CONFORMING AMENDMENT.—Section 611(c), as
7 amended by section 333 of this Act, is amended by strik-
8 ing “624(d)(1)” and inserting “624(a)(1)”.

9 **SEC. 335. SHARED FACILITIES.**

10 Part III of title VI (47 U.S.C. 541 et seq.) is amend-
11 ed—

12 (1) by striking section 627 and redesignating
13 sections 628 (after its amendment by section 402)
14 and 629 as sections 626 and 627, respectively; and

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

16 **“SEC. 628. ACCESS TO PROGRAMMING FOR SHARED FACILI-
17 TIES.**

18 “(a) IN GENERAL.—A video service programming
19 vendor in which a video service provider has an attrib-
20 utable interest may not deny a video service provider with
21 a franchise under this title access to video programming
22 solely because that video service provider uses a headend
23 for its video service system that is also used, under a
24 shared ownership or leasing agreement, as the headend
25 for another video service system.

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

7 **SEC. 336. CONSUMER PROTECTION AND CUSTOMER SERV-**
8 **ICE.**

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

11 **“SEC. 632. CONSUMER PROTECTION AND CUSTOMER SERV-**
12 **ICE.**

13 “(a) REGULATIONS.—

14 “(1) IN GENERAL.—Not later than 120 days
15 after the date of enactment of the Video Competition
16 and Savings for Consumers Act of 2006, the Com-
17 mission, after receiving comments from interested
18 parties, including national associations representing
19 franchising authorities or consumers, shall promul-
20 gate regulations, which may include penalties (to be
21 paid to the franchising authority or subscribers, as
22 appropriate), with respect to customer service and
23 consumer protection requirements for video service
24 providers.

1 “(2) EFFECTIVE DATE OF REGULATIONS.—The
2 regulations required by subsection (a) shall take ef-
3 fect 60 days after the date on which a final rule is
4 promulgated by the Commission.

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

8 “(c) REVIEW BY COMMISSION.—A video service pro-
9 vider may appeal any enforcement action taken against
10 that provider by a franchising authority to the Commis-
11 sion.”.

12 **SEC. 337. REDLINING.**

13 Part IV of title VI (47 U.S.C. 551 et seq.) is amend-
14 ed by adding at the end the following:

15 **“SEC. 642. REDLINING.**

16 “(a) IN GENERAL.—A video service provider may not
17 deny access to its video service to any group of potential
18 residential video service subscribers because of the income,
19 race, or religion of that group.

20 “(b) ENFORCEMENT.—

21 “(1) STATE COMMISSION ENFORCEMENT.—Ex-
22 cept as provided in paragraph (4), this section may
23 be enforced by the State commission through a com-
24 plaint-initiated adjudication process under which a
25 complaint may be filed by a resident of the fran-

1 chising area who is aggrieved by a violation of sub-
2 section (a) or by a franchising authority on behalf
3 of residents of its franchise area. A State commis-
4 sion shall act on a complaint within 180 days after
5 the date on which the complaint is filed.

6 “(2) STATE ATTORNEY GENERAL ENFORCE-
7 MENT.—Except as provided in paragraph (4), this
8 section may be enforced by the State attorney gen-
9 eral through a complaint-initiated adjudication proc-
10 ess under which a complaint may be filed by a resi-
11 dent of the franchising area who is aggrieved by a
12 violation of subsection (a) or by a franchising au-
13 thority on behalf of residents of its franchise area.
14 Within 180 days after receiving the resident’s or
15 franchising authority’s complaint, a State attorney
16 general shall act on such a complaint either by filing
17 a complaint with a court of competent jurisdiction or
18 notifying the resident or franchise authority that the
19 State attorney general will not file such a complaint.

20 “(3) EVALUATION OF COMPLAINT.—The total-
21 ity of the video service provider’s deployments in its
22 service areas shall be considered in any adjudication
23 pursuant to an enforcement action under this sub-
24 section.

1 “(4) DUPLICATE ENFORCEMENT NOT PER-
2 MITTED.—An enforcement action may not be initi-
3 ated under paragraph (1) or (2) with respect to a
4 complaint for which an enforcement has been initi-
5 ated under the other paragraph.

6 “(c) REMEDIES.—If a State commission, after notice
7 and an opportunity for a hearing, or a court, determines
8 that a video service provider has violated subsection (a),
9 it—

10 “(1) shall ensure that the video service provider
11 remedies any violation of subsection (a); and

12 “(2) may assess a civil penalty in such amount
13 as may be authorized under State law for the fran-
14 chising area in which the violation occurred for vio-
15 lation of that State’s antidiscrimination laws.

16 “(d) LIMITATIONS.—

17 “(1) NATURAL AND TECHNOLOGICAL BAR-
18 RIERS.—It is not a violation of subsection (a) if
19 video service is denied because technical feasibility,
20 commercial feasibility, operational limitations, or
21 physical barriers preclude the effective provision of
22 video service.

23 “(2) QUOTAS, GOALS, OR TIMETABLES.—Noth-
24 ing in this section authorizes the use of quotas,
25 goals, or timetables as a remedy.

1 “(e) APPEALS.—A video service provider aggrieved by
2 a determination under subsection (c) may appeal the de-
3 termination to any court of competent jurisdiction.

4 “(f) REPORTS.—

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

17 “(2) COMMISSION REPORT TO CONGRESS.—Be-
18 ginning 4 years after the date of enactment of the
19 Video Competition and Savings for Consumers Act
20 of 2006, and every 4 years thereafter, the Commis-
21 sion shall report to the Senate Committee on Com-
22 merce, Science, and Transportation and the House
23 of Representatives Committee on Energy and Com-
24 merce on the buildout of video service.”.

1 **Subtitle C—Miscellaneous and**
2 **Conforming Amendments**

3 **SEC. 351. MISCELLANEOUS AMENDMENTS.**

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

6 “(f) MUNICIPAL OPERATORS.—No provision of this
7 title shall be construed to prohibit a local or municipal
8 authority that is also, or is affiliated with, a franchising
9 authority from operating as a multichannel video pro-
10 gramming distributor in the franchise area, notwith-
11 standing the granting of one or more franchises by the
12 franchising authority.”.

13 (b) SUNSET.—Section 626(c)(5), as redesignated by
14 section 334 of this Act, is amended—

15 (1) by striking “10 years after the date of en-
16 actment of this section,” and inserting “on October
17 5, 2012,”; and

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

21 (c) UPDATING.—Section 613 (47 U.S.C. 533) is
22 amended—

23 (1) by striking “July 1, 1984,” in subsection

24 (g) and inserting “the date of enactment of the

1 Communications, Consumers' Choice, and
2 Broadband Deployment of 2006"; and

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

6 (d) REPEAL.—Section 617 (47 U.S.C. 537) is re-
7 pealed.

8 (e) ENFORCEMENT.—Section 634(i) (47 U.S.C.
9 554(i)) is amended—

10 (1) by striking paragraph (1); and

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

13 (f) RESTRUCTURING PART IV.—Part IV of title VI
14 (47 U.S.C. 551 et seq.) is amended—

15 (1) by striking sections 636 and 637; and

16 (2) by redesignating sections 635A, 638, 639,
17 640, 641, and 642 (as added by section 339 of this
18 Act) as sections 636, 637, 638, 639, 640, and 641,
19 respectively.

20 (g) CONFORMING AMENDMENTS FOR RETRANS-
21 MISSION.—

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

1 (A) by striking “cable system” in para-
2 graph (1) and inserting “video service pro-
3 vider”; and

4 (B) by inserting “The term ‘video service
5 provider’ has the meaning given it in section
6 602(25) of this Act.” after “title.” in the mat-
7 ter following subparagraph (E) of paragraph
8 (2).

9 (2) Section 336(b) (47 U.S.C. 336(b)) is
10 amended by striking “section 614 or 615 or be
11 deemed a multichannel video programming dis-
12 tributor for purposes of section 628;” and inserting
13 “section 614 or 615;”.

14 **Subtitle D—Effective Dates and**
15 **Transition Rules.**

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

17 (a) IN GENERAL.—

18 (1) 6-MONTH DELAY.—Except as provided in
19 paragraph (2), the amendments made by this Act
20 (the Video Competition and Savings for Consumers
21 Act of 2006) shall take effect 180 days after the
22 date of enactment of this Act.

23 (2) INITIATION OF CERTAIN PROCEEDINGS.—

24 Notwithstanding paragraph (1), the Federal Com-
25 munications Commission shall initiate any pro-

1 ceeding required by title VI of the Communications
2 Act of 1934, as amended by this Act, or made nec-
3 essary by such amendment as soon as practicable
4 after the date of enactment of this Act.

5 (b) APPLICATION TO EXISTING FRANCHISE AGREE-
6 MENTS.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), the provisions of title VI of the Commu-
9 nications Act of 1934, as amended by this Act, shall
10 not apply to a cable operator with a franchise agree-
11 ment in effect on the date of enactment of this Act
12 between a franchising authority and a cable operator
13 before the expiration date of the agreement, as de-
14 termined without regard to any renewal or extension
15 of the agreement. The provisions of title VI of that
16 Act, as in effect on the day before the date of enact-
17 ment of this Act shall continue to apply to any such
18 franchise agreement as provided by subsection (c)
19 until the earlier of—

20 (A) the expiration date of the agreement;

21 or

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

25 (2) COMPETITION TRIGGER.—

1 (A) NOTIFICATION OF EXISTING
2 FRANCHISEE REQUIRED.—If a franchising au-
3 thority authorizes a video service provider to
4 provide video service in an area in which cable
5 service is already being provided under an exist-
6 ing franchise agreement, the franchising au-
7 thority shall—

8 (i) require the video service provider
9 to notify it when the video service provider
10 commences video service in that area; and

11 (ii) immediately notify any cable oper-
12 ator providing cable service in that area
13 upon receipt of the notice required under
14 clause (i).

15 (B) NEW FRANCHISE AGREEMENT SUPER-
16 SEDES EXISTING AGREEMENT.—Upon receipt of
17 notice under subparagraph (A)(ii), a cable oper-
18 ator with an existing franchise to provide cable
19 service in that area may submit an application
20 for a franchise under section 603 of the Com-
21 munications Act of 1934, as amended by this
22 Act. When the franchise is granted—

23 (i) the terms and conditions of the
24 new franchise agreement supersede the ex-
25 isting franchise agreement; and

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

4 (c) LIMITED APPLICATION OF PRIOR LAW.—

5 (1) IN GENERAL.—Except as provided in sub-
6 section (b) or otherwise explicitly provided in new
7 title VI, the provisions of old title VI (and all regula-
8 tions, rulings, waivers, orders, and franchise agree-
9 ments under old title VI) shall continue in effect
10 after the date of enactment of this Act with respect
11 to any cable operator to which they applied before
12 that date until the earlier of—

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

17 (B) that date on which a new franchise
18 agreement takes effect that replaces a cable op-
19 erator's franchise agreement described in sub-
20 paragraph (A).

21 (2) PRESERVATION OF BASIC TIER REGULA-
22 TION.—Notwithstanding any other provision of this
23 subsection, section 623 of old title VI shall continue
24 to apply in any franchise area until a franchise au-
25 thority receives a notice under paragraph (2)(A)(i).

1 (3) DEFINITIONS.—In this subsection:

2 (A) NEW TITLE VI.—The term “new title
3 VI” means title VI of the Communications Act
4 of 1934 (47 U.S.C. 521 et seq.) as amended by
5 this Act.

6 (B) OLD TITLE VI.—The term “old title
7 VI” means title VI of the Communications Act
8 of 1934 (47 U.S.C. 521 et seq.) as in effect on
9 the day before the date of enactment of this
10 Act.

11 **TITLE IV—VIDEO CONTENT**
12 **Subtitle A—Sports Freedom**

13 **SEC. 401. SHORT TITLE.**

14 This subtitle may be cited as the “Sports Freedom
15 Act of 2006”.

16 **SEC. 402. DEVELOPMENT OF COMPETITION AND DIVERSITY**
17 **IN VIDEO PROGRAMMING DISTRIBUTION.**

18 (a) IN GENERAL.—Section 628 (47 U.S.C. 548), be-
19 fore its redesignation by section 335 of this Act, is amend-
20 ed to read as follows:

21 **“SEC. 628. DEVELOPMENT OF COMPETITION AND DIVER-**
22 **SITY IN VIDEO PROGRAMMING DISTRIBU-**
23 **TION.**

24 “(a) PURPOSE.—The purpose of this section is—

1 “(1) to promote the public interest, conven-
2 ience, and necessity by increasing competition and
3 diversity in the multichannel video programming
4 market;

5 “(2) to increase the availability of MVPD pro-
6 gramming and satellite broadcast programming to
7 persons in rural and other areas not currently able
8 to receive such programming; and

9 “(3) to spur the development of communica-
10 tions technologies.

11 “(b) PROHIBITION.—It is unlawful for an
12 MVPD, an MVPD programming vendor in which an
13 MVPD has an attributable interest, or a satellite
14 broadcast programming vendor to engage in unfair
15 methods of competition or unfair or deceptive acts or
16 practices, the purpose or effect of which is to hinder
17 significantly or to prevent any MVPD from pro-
18 viding MVPD programming or satellite broadcast
19 programming to subscribers or consumers.

20 “(c) REGULATIONS REQUIRED.—

21 “(1) PROCEEDING REQUIRED.—Not later than
22 180 days after the date of enactment of the Sports
23 Freedom Act of 2006, the Commission shall pre-
24 scribe regulations to specify particular conduct that

1 is prohibited by subsection (b), in order to pro-
2 mote—

3 “(A) the public interest, convenience, and
4 necessity by increasing competition and diver-
5 sity in the multichannel video programming
6 market; and

7 “(B) the continuing development of com-
8 munications technologies.

9 “(2) MINIMUM CONTENTS OF REGULATION.—
10 The regulations required under paragraph (1)
11 shall—

12 “(A) establish effective safeguards to pre-
13 vent an MVPD which has an attributable inter-
14 est in an MVPD programming vendor or a sat-
15 ellite broadcast programming vendor from un-
16 duly or improperly influencing the decision of
17 such vendor to sell, or the prices, terms, and
18 conditions of sale of, MVPD programming or
19 satellite broadcast programming to any unaffili-
20 ated MVPD, or from engaging in temporary or
21 permanent foreclosure strategies related to the
22 sale of MVPD programming to an unaffiliated
23 MVPD;

24 “(B) prohibit discrimination by an MVPD
25 programming vendor in which an MVPD has an

1 attributable interest or by a satellite broadcast
2 programming vendor in the prices, terms, and
3 conditions of sale or delivery of MVPD pro-
4 gramming or satellite broadcast programming
5 among or between cable systems, cable opera-
6 tors, or other MVPDs, or their agents or buy-
7 ing groups, and shall include within such prohi-
8 bition terms or conditions that have the effect,
9 in their application, of discriminating against
10 an MVPD based on its technology, delivery
11 method, or capacity constraints, except that an
12 MVPD programming vendor in which an
13 MVPD has an attributable interest or such a
14 satellite broadcast programming vendor shall
15 not be prohibited from—

16 “(i) imposing reasonable requirements
17 for—

18 “(I) creditworthiness;

19 “(II) offering of service; and

20 “(III) financial stability and
21 standards regarding character and
22 technical quality;

23 “(ii) establishing different prices,
24 terms, and conditions to take into account
25 actual and reasonable differences in the

1 cost of creation, sale, delivery, or trans-
2 mission of MVPD programming or satellite
3 broadcast programming;

4 “(iii) establishing different prices,
5 terms, and conditions which are based on
6 actual and demonstrable economies of
7 scale, cost savings, or other actual, legiti-
8 mate, and demonstrable economic benefits
9 directly attributable to the number of sub-
10 scribers receiving the particular MVPD
11 programming from the distributor; or

12 “(iv) entering into an exclusive con-
13 tract that is permitted under subparagraph
14 (D);

15 “(C) prohibit practices, understandings,
16 arrangements, and activities, including exclusive
17 contracts for MVPD programming or satellite
18 broadcast programming between an MVPD and
19 an MVPD programming vendor or satellite
20 broadcast programming vendor, that prevent an
21 MVPD from obtaining such programming from
22 any MVPD programming vendor in which an
23 MVPD has an attributable interest or any sat-
24 ellite broadcast programming vendor in which
25 an MVPD has an attributable interest for dis-

1 tribution to persons in areas not served by an
2 MVPD as of the date of enactment of the
3 Sports Freedom Act of 2006; and

4 “(D) with respect to distribution to per-
5 sons in areas served by an MVPD, prohibit ex-
6 clusive contracts for MVPD programming or
7 satellite broadcast programming between an
8 MVPD and an MVPD programming vendor in
9 which an MVPD has an attributable interest or
10 a satellite broadcast programming vendor in
11 which an MVPD has an attributable interest,
12 unless the Commission determines (in accord-
13 ance with paragraph (4)) that such contract is
14 in the public interest.

15 “(3) PREEMPTION AND RESCHEDULING OF
16 CHILDREN’S PROGRAMS.—Nothing in this section
17 shall be construed in a manner that limits the dis-
18 cretion of a licensee of a local television broadcast
19 station to preempt or to reschedule programming
20 specifically designed to serve educational and infor-
21 mational needs of children in order to air timely cov-
22 erage of news or sporting events.

23 “(4) LIMITATIONS.—

24 “(A) GEOGRAPHIC LIMITATIONS.—Nothing
25 in this section shall require any person who is

1 engaged in the national or regional distribution
2 of video programming to make such program-
3 ming available in any geographic area beyond
4 which such programming has been authorized
5 or licensed for distribution.

6 “(B) APPLICABILITY TO SATELLITE RE-
7 TRANSMISSIONS.—Nothing in this section shall
8 apply—

9 “(i) to the signal of any broadcast af-
10 filiate of a national television network or
11 other television signal that is retransmitted
12 by satellite but that is not satellite broad-
13 cast programming; or

14 “(ii) to any internal satellite commu-
15 nication of any broadcast network or cable
16 network that is not satellite broadcast pro-
17 gramming.

18 “(C) EXCLUSION OF INDIVIDUAL VIDEO
19 PROGRAMS.—Nothing in this section shall apply
20 to a specific individual video program produced
21 by an MVPD for local distribution by that
22 MVPD and not made available directly or indi-
23 rectly to unaffiliated MVPDs, if all other video
24 programming carried on a programming chan-
25 nel or network on which the individual video

1 program is carried, is made available to unaf-
2 filiated MVPDs pursuant to paragraph (2)(D).

3 “(D) UNAFFILIATED REGIONAL AND
4 LOCAL MVPD SPORTS PROGRAMMING; NON-
5 DISCRIMINATION AND EXCLUSIVITY.—Any
6 MVPD aggrieved by an exclusive arrangement
7 between a regional sports programming vendor
8 in which an MVPD does not have an attrib-
9 utable interest and a dominant MVPD in an
10 area where such programming is distributed
11 may commence an adjudicatory proceeding at
12 the Commission seeking an order prohibiting
13 such exclusive arrangement. In such a pro-
14 ceeding, the commission shall determine wheth-
15 er to prohibit such exclusive arrangement based
16 on consideration of the public interest factors
17 set forth in paragraph (5) and whether the ex-
18 clusive arrangement resulted from the exercise
19 of market power by the dominant MVPD.

20 “(5) PUBLIC INTEREST DETERMINATIONS ON
21 EXCLUSIVE CONTACTS.—In determining whether an
22 exclusive contract is in the public interest for pur-
23 poses of paragraph (2)(D) or (4)(D), the Commis-
24 sion shall consider with respect to the effect of such

1 contract on the distribution of video programming in
2 areas that are served by an MVPD—

3 “(A) the effect of such exclusive contract
4 on the development of competition in local and
5 national multichannel video programming dis-
6 tribution markets;

7 “(B) the effect of such exclusive contract
8 on competition from multichannel video pro-
9 gramming distribution technologies other than
10 cable;

11 “(C) the effect of such exclusive contract
12 on the attraction of capital investment in the
13 production and distribution of new MVPD pro-
14 gramming;

15 “(D) the effect of such exclusive contract
16 on diversity of programming in the multi-
17 channel video programming distribution market;
18 and

19 “(E) the duration of the exclusive contract.

20 “(6) SUNSET PROVISION.—The prohibition re-
21 quired by paragraph (2)(D) shall cease to be effec-
22 tive 10 years after the date of enactment of the
23 Sports Freedom Act of 2006, unless the Commission
24 finds, in a proceeding conducted during the last year
25 of such 10-year period, that such prohibition con-

1 continues to be necessary to preserve and protect com-
2 petition and diversity in the distribution of video
3 programming.

4 “(d) ADJUDICATORY PROCEEDING.—

5 “(1) IN GENERAL.—An MVPD aggrieved by
6 conduct that it alleges constitutes a violation of sub-
7 section (b), or the regulations of the Commission
8 under subsection (c), may commence an adjudicatory
9 proceeding at the Commission.

10 “(2) REQUEST FOR PRODUCTION OF AGREE-
11 MENTS.—In any proceeding commenced under para-
12 graph (1), the Commission shall request from a
13 party, and the party shall produce, such agreements
14 between the party and a third party relating to the
15 distribution of such programming that are relevant
16 to the matters at issue in such adjudicatory pro-
17 ceeding.

18 “(3) CONFIDENTIALITY TO BE MAINTAINED.—
19 Any agreement produced under paragraph (2) shall
20 be deemed market sensitive and its production and
21 use in a Commission decision in the adjudicatory
22 proceeding under paragraph (1) shall be subject to
23 such provisions ensuring confidentiality as the Com-
24 mission may by regulation determine.

1 “(4) ARBITRATION IN LIEU OF ADJUDICATORY
2 PROCEEDING FOR CERTAIN DISPUTES RELATED TO
3 REGIONAL SPORTS PROGRAMMING.—

4 “(A) IN GENERAL.—In any complaint
5 brought under paragraph (1) involving a pricing
6 dispute for regional sports programming, an ag-
7 grieved party may request binding arbitration
8 against a regional sports programming vendor
9 in which a dominant MVPD has an attributable
10 interest in lieu of an adjudicatory proceeding
11 before the Commission.

12 “(B) DISPOSITION BY COMMISSION.—
13 Within 30 days after receiving a request for ar-
14 bitration under subparagraph (A), the Commis-
15 sion shall—

16 “(i) refer the dispute to binding, last-
17 best-offer arbitration for resolution;

18 “(ii) dismiss the complaint; or

19 “(iii) adjudicate the dispute pursuant
20 to the provisions of this subsection and
21 subsection (f).

22 “(e) REMEDIES FOR VIOLATIONS.—

23 “(1) REMEDIES AUTHORIZED.—Upon comple-
24 tion of an adjudicatory proceeding under subsection
25 (d), the Commission shall have the power to order

1 appropriate remedies, including, if necessary, the
2 power to establish prices, terms, and conditions of
3 sale of programming to an aggrieved MVPD. When
4 the price of MVPD programming or regional sports
5 programming is at issue in the adjudicatory pro-
6 ceeding before the commission, the FCC shall either
7 award a market price to the aggrieved MVPD that
8 was disclosed during the adjudicatory proceeding or
9 refer the dispute to last-best-offer arbitration for
10 final remedy.

11 “(2) SAVINGS CLAUSE.—Nothing in this section
12 authorizes the Commission to establish rates, terms,
13 or conditions for access to MVPD programming or
14 regional sports programming through a rulemaking
15 proceeding.

16 “(3) ADDITIONAL REMEDIES.—The remedies
17 provided under paragraph (1) are in addition to any
18 remedy available to an MVPD under title V or any
19 other provision of this Act.

20 “(f) PROCEDURES.—

21 “(1) IN GENERAL.—The Commission shall pre-
22 scribe regulations to implement this section.

23 “(2) CONTENT OF REGULATIONS.—The regula-
24 tions required under paragraph (1) shall—

1 “(A) provide for an expedited review of
2 any complaints made pursuant to this section,
3 including the issuance of a final order termi-
4 nating such review not later than 120 days
5 after the date on which the complaint was filed,
6 unless the parties jointly agree to an extension
7 of the 120-day period;

8 “(B) establish procedures for the Commis-
9 sion to collect such data as the Commission re-
10 quires to carry out this section, including the
11 right to obtain copies of all contracts and docu-
12 ments reflecting arrangements and under-
13 standings alleged to violate this section; and

14 “(C) provide for penalties to be assessed
15 against any person filing a frivolous complaint
16 pursuant to this section, including attorney
17 fees, Commission costs, and monetary forfeiture
18 penalties.

19 “(g) REPORTS.—The Commission shall, beginning
20 not later than 18 months after promulgation of the regula-
21 tions required by subsection (c), annually report to Con-
22 gress on the status of competition in the market for the
23 delivery of video programming.

24 “(h) DEFINITIONS.—In this section:

1 “(1) DOMINANT MVPD.—**【TO BE SUP-**
2 **PLIED】**.”

3 “(2) MVPD.—The term “MVPD” means mul-
4 tichannel video programming distributor.

5 “(3) MVPD PROGRAMMING.—The term
6 “MVPD programming” includes video programming
7 primarily intended for the direct receipt by MVPDs
8 for their retransmission to MVPD subscribers (in-
9 cluding any program-related enhancements distrib-
10 uted by the MVPD programming vendor), regardless
11 of whether such programming content is provided on
12 a serial, pay- per-view, or on-demand basis or is
13 stored locally by the MVPD prior to retransmission
14 to subscribers, and without regard to the end user
15 device used to access such programming or the mode
16 of delivery of such programming content to MVPDs.

17 “(4) MVPD PROGRAMMING VENDOR.—The
18 term ‘MVPD programming vendor’—

19 “(A) means a person engaged in the pro-
20 duction, creation, or wholesale distribution for
21 sale of MVPD programming; and

22 “(B) does not include a satellite broadcast
23 programming vendor.

24 “(5) REGIONAL SPORTS PROGRAMMING.—The
25 term ‘regional sports programming’ means a non-

1 broadcast network that is intended primarily but not
2 necessarily exclusively, for local or regional distribu-
3 tion and which consists substantially of live sports
4 programming.

5 “(6) REGIONAL SPORTS PROGRAMMING VEN-
6 DOR.—The term ‘regional sports programming ven-
7 dor’ means a person engaged in the production, cre-
8 ation, or wholesale distribution for the sale of re-
9 gional sports programming.

10 “(7) SATELLITE BROADCAST PROGRAMMING.—
11 The term ‘satellite broadcast programming’ means
12 broadcast video programming when—

13 “(A) such programming is retransmitted
14 by satellite; and

15 “(B) the entity retransmitting such pro-
16 gramming is not the broadcaster or an entity
17 performing such retransmission on behalf of
18 and with the specific consent of the broad-
19 caster.

20 “(8) SATELLITE BROADCAST PROGRAMMING
21 VENDOR.—The term ‘satellite broadcast program-
22 ming vendor’ means a fixed service satellite carrier
23 that provides satellite broadcast programming.

24 “(9) SATELLITE CABLE PROGRAMMING.—The
25 term ‘satellite cable programming’ has the same

1 meaning as in section 705, except that such term
2 does not include satellite broadcast programming.

3 “(10) SATELLITE CABLE PROGRAMMING VEN-
4 DOR.—The term ‘satellite cable programming ven-
5 dor’—

6 “(A) means a person engaged in the pro-
7 duction, creation, or wholesale distribution for
8 sale of satellite cable programming; but

9 “(B) does not include a satellite broadcast
10 programming vendor.

11 “(i) COMMON CARRIERS.—

12 “(1) IN GENERAL.—Any provision that applies
13 to an MVPD under this section shall apply to a com-
14 mon carrier or its affiliate that provides video pro-
15 gramming by any means directly to subscribers.

16 “(2) ATTRIBUTABLE INTEREST.—Any provision
17 that applies to an MVPD programming vendor in
18 which an MVPD has an attributable interest shall
19 apply to any MVPD programming vendor in which
20 such common carrier has an attributable interest.

21 “(3) LIMITATION.—For the purposes of this
22 subsection, 2 or fewer common officers or directors
23 shall not by itself establish an attributable interest
24 by a common carrier in an MVPD programming
25 vendor (or its parent company).”.

1 (b) EFFECTIVE DATE.—Notwithstanding section 381
2 of this Act, the amendment made by subsection (a) shall
3 take effect on the date of enactment of this Act.

4 **SEC. 403. REGULATIONS.**

5 Not later than 120 days after the date of enactment
6 of this Act, the Commission shall prescribe such regula-
7 tions as may be necessary to implement section 628 of
8 the Communications Act of 1934 (47 U.S.C. 548) as
9 amended by section 402(a).

10 **Subtitle B—National Satellite**

11 **SEC. 431. AVAILABILITY OF CERTAIN LICENSED SERVICES**

12 **IN NONCONTIGUOUS STATES.**

13 (a) IN GENERAL.—Section 335 (47 U.S.C. 335) is
14 amended by adding at the end thereof the following:

15 “(c) ALASKA AND HAWAII OBLIGATIONS.—

16 “(1) IN GENERAL.—Each satellite carrier shall,
17 to the extent technically feasible given the carrier’s
18 satellite constellation then in use, provide a com-
19 parable consumer product to subscribers in Alaska
20 and Hawaii at prices and terms comparable to those
21 made available to subscribers in the contiguous
22 United States.

23 “(2) CONDITIONS ON NEW LICENSES.—

24 “(A) IN GENERAL.—Before the Commis-
25 sion grants a license under this for a new sat-

1 elite used for service in the contiguous United
2 States to a satellite carrier, it shall ensure that,
3 to the extent technically feasible, the following
4 minimum conditions are met:

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

8 “(I) capable of providing services
9 to consumers in the cities of Anchor-
10 age, Fairbanks, and Juneau, Alaska,
11 using signal power levels of at least
12 45 dBW effective isotropic radiated
13 power; and

14 “(II) capable of providing service
15 to consumers in the islands of Oahu,
16 Maui, Kauai, Molokai, and Hawaii
17 using signal power levels of at least
18 46 dBW effective isotropic radiated
19 power.

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

22 “(I) with respect to services of-
23 fered on beams covering substantially
24 the entire contiguous United States,
25 the carrier must make best efforts to

1 ensure that the effective isotropic ra-
2 diated power of the satellite on the
3 downlink and, where applicable, the
4 efficiency of the satellite receive an-
5 tenna (G/T) can allow the use of a
6 commercially available antenna in
7 Alaska and Hawaii with a gain that is
8 no more than 4 dB greater than that
9 used to provide the service in the con-
10 tiguous United States; and

11 “(II) with respect to services of-
12 fered over spot beams covering por-
13 tions of the contiguous United States,
14 the carrier must make best efforts to
15 ensure that the effective isotropic ra-
16 diated power of the satellite on the
17 downlink and, where applicable, the
18 efficiency of the satellite receive an-
19 tenna (G/T) shall allow the use of the
20 same antenna in Alaska and Hawaii
21 as provided in the contiguous United
22 States for the service.

23 “(B) TECHNICAL FEASIBILITY.—It is
24 deemed not technically feasible for a satellite
25 with a look angle to any area of less than 8.25

1 degrees to provide service to such area at the
2 signal power levels described in subparagraph
3 (A).

4 “(3) SATELLITE CARRIER DEFINED.—In this
5 subsection, the term ‘satellite carrier’ means an enti-
6 ty that uses the facilities of a satellite in the Fixed-
7 Satellite Service, the Direct Broadcast Satellite serv-
8 ice, the Broadcast Satellite Service, the Mobile-Sat-
9 ellite Service, or the Digital Audio Radio Service
10 that is licensed by the Commission under part 25 of
11 title 47, Code of Federal Regulations, or is licensed
12 or authorized by a foreign government.”.

13 (b) EFFECTIVE DATE.—Section 335(c) of the Com-
14 munications Act of 1934, as added by subsection (a), shall
15 take effect 36 months after the date of enactment of this
16 Act.

17 (c) IMPLEMENTATION BY COMMISSION.—

18 (1) IN GENERAL.—The Federal Communica-
19 tions Commission shall adopt such rules and policies
20 as are necessary to implement and enforce section
21 335(c) of the Communications Act of 1934 (47
22 U.S.C. 335(c)).

23 (2) AMENDMENT OF RULES.—Within 30 days
24 after the date of enactment of this Act, the Commis-
25 sion shall amend section 1.4000(a)(1)(i)(B) of its

1 rules (47 C.F.R. 1.4000(a)(1)(i)(B)) to insert “and
2 Hawaii” after “Alaska”.

3 **Subtitle B—Video and Audio Flag**

4 **SEC. 451. SHORT TITLE.**

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

7 **SEC. 452. PROTECTION OF DIGITAL BROADCAST VIDEO**
8 **CONTENT.**

9 (a) IN GENERAL.—Section 303 of the Communica-
10 tions Act of 1934 (47 U.S.C. 303) is amended by adding
11 at the end the following:

12 “(z) Have authority with respect to digital television
13 receivers to adopt such regulations and certifications as
14 are necessary to implement the Report and Order in the
15 matter of Digital Broadcast Content Protection, FCC 03–
16 273, as ratified by the Congress in section 102(b) of the
17 Consumer Competition and Broadband Promotion Act,
18 with the exclusive purpose of limiting the indiscriminate
19 redistribution of digital television content over the Inter-
20 net or similar distribution platforms, including the author-
21 ity to reconsider, amend, repeal, supplement, and other-
22 wise modify any such regulations and certifications, in
23 whole or in part, only for that purpose.”.

24 (b) RATIFICATION OF FCC REPORT AND ORDERS.—
25 The Report and Order in the matter of Digital Broadcast

1 Content Protection, FCC 03–273, and the Order in the
2 matter of Digital Output Protection Technology and Re-
3 cording Method Certifications, FCC 04–193, are ratified,
4 subject to the limitations set forth in subsection (d), and
5 shall become effective 12 months after the date of enact-
6 ment of this Act.

7 (c) EXPEDITED PROCEEDING FOR CERTIFYING
8 TECHNOLOGIES FOR USE IN DISTANCE EDUCATION.—
9 Within 30 days after the date of enactment of this Act,
10 the Federal Communications Commission shall initiate a
11 further proceeding for the approval of digital output pro-
12 tection technologies and recording methods for use in the
13 course of distance learning activities. The proceeding shall
14 be conducted in accordance with the expedited procedures
15 established for the Interim Approval of Authorized Digital
16 Output Protection Technologies and Authorized Recording
17 Methods in the Report and Order described in subsection
18 (b). The proceeding shall have no effect on certifications
19 made pursuant to the Order in the matter of Digital Out-
20 put Protection Technology and Recording Method Certifi-
21 cations described in subsection (b), as ratified in that sub-
22 section.

23 (d) LIMITATIONS.—

24 (1) IN GENERAL.—Nothing in this Act or sec-
25 tion 303(z) of the Communications Act of 1934 (47

1 U.S.C. 303(z)), or in regulations of the Commission
2 adopted pursuant thereto, shall—

3 (A) limit the Commission's authority to ap-
4 prove digital output protection technologies and
5 recording methods that allow for the redistribu-
6 tion of digital broadcast content within the
7 home or similar environment, or the use of the
8 Internet to transmit digital broadcast content,
9 where such technologies and recording methods
10 adequately protect such content from indis-
11 criminate redistribution; or

12 (B) be construed to affect rights, remedies,
13 limitations, or defenses to copyright infringe-
14 ment, including fair use, under title 17, United
15 States Code.

16 (2) USE OF REDISTRIBUTION CONTROL
17 DESCRIPTOR.—Licensees of television broadcast sta-
18 tions may not utilize the Redistribution Control
19 Descriptor, as adopted by the Report and Order de-
20 scribed in subparagraph (b), to limit the redistribu-
21 tion of news and public affairs programming the pri-
22 mary commercial value of which depends on timeli-
23 ness. The Federal Communications Commission
24 shall allow each broadcaster or broadcasting network
25 to determine whether the primary commercial value

1 of a particular news program depends on timeliness.
2 The Commission may review any such determination
3 by a broadcaster or broadcasting network if it re-
4 ceives bona fide complaints alleging, or otherwise
5 has reason to believe, that particular broadcast dig-
6 ital television content has violated this subsection.

7 (3) PROPERTY RIGHTS.—The Commission shall
8 require that any authorized redistribution control
9 technology and any authorized recording method
10 technology approved by the Commission under this
11 section that is publicly offered for adoption by li-
12 censees, be licensed on reasonable and nondiscrim-
13 inatory terms and conditions, including terms pre-
14 serving a licensee’s ability to assert any patent
15 rights necessary for implementation of the licensed
16 technology.

17 **SEC. 453. PROTECTION OF DIGITAL AUDIO BROADCASTING**

18 **CONTENT.**

19 **[TO BE SUPPLIED]**

20 **TITLE V—MUNICIPAL**
21 **BROADBAND**

22 **SEC. 501. SHORT TITLE.**

23 This title may be cited as the “Community
24 Broadband Act”.

1 **SEC. 502. STATE REGULATION OF MUNICIPAL BROADBAND**
2 **NETWORKS.**

3 Section 706 of the Telecommunications Act of 1996
4 (47 U.S.C. 157 note) is amended—

5 (1) by redesignating subsection (c) as sub-
6 section (i);

7 (2) by inserting after subsection (b) the fol-
8 lowing:

9 “(c) LOCAL GOVERNMENT PROVISION OF ADVANCED
10 COMMUNICATIONS CAPABILITY AND SERVICES.—No State
11 statute, regulation, or other State legal requirement may
12 prohibit or have the effect of prohibiting any public pro-
13 vider from providing, to any person or any public or pri-
14 vate entity, advanced telecommunications capability or any
15 service that utilizes the advanced telecommunications ca-
16 pability provided by such public provider.

17 “(d) SAFEGUARDS.—

18 “(1) ANTIDISCRIMINATION.—To the extent any
19 public provider regulates competing providers of ad-
20 vanced telecommunications capability or any service
21 that utilizes the advanced telecommunications capa-
22 bility provided by such providers, the public provider
23 shall apply its ordinances, rules, policies, and fees,
24 including those relating to the public rights-of-way,
25 permitting, performance bonding, and reporting,
26 without discrimination in favor of itself or any other

1 advanced telecommunications capability provider
2 that such public provider owns or is affiliated with,
3 as compared to other providers of such capability or
4 services.

5 “(2) APPLICATION OF GENERAL LAWS.—Noth-
6 ing in this subsection or subsections (d) through (g)
7 shall exempt a public provider from any Federal or
8 State telecommunications law or regulation that ap-
9 plies to all such public providers of—

10 “(A) advanced telecommunications capa-
11 bility; or

12 “(B) any service that utilizes the advanced
13 telecommunications capability provided by such
14 public provider.

15 “(e) PUBLIC-PRIVATE PARTNERSHIPS ENCOUR-
16 AGED.—Each public provider that intends to provide ad-
17 vanced telecommunications capability or any service that
18 utilizes the advanced telecommunications capability pro-
19 vided by such provider to the public shall consider the po-
20 tential benefits of a public-private partnership prior to
21 providing such capability or services.

22 “(f) NOTICE AND OPPORTUNITY TO BID FOR THE
23 PRIVATE SECTOR.—

24 “(1) NOTICE AND OPPORTUNITY TO BID RE-
25 QUIRED.—If a public provider decides not to initiate

1 a project to provide advanced telecommunications
2 capability or any service that utilizes the advanced
3 telecommunications capability provided by such pub-
4 lic provider to the public through a public-private
5 partnership, then, before the public provider may
6 provide such advanced telecommunications capability
7 or any such service that utilizes the advanced tele-
8 communications capability provided by such public
9 provider to the public, the public provider shall—

10 “(A)(i) publish notice of its intention in
11 media generally available to the public in the
12 area in which it intends to provide such capa-
13 bility or service; or

14 “(ii) utilize such notice procedures as such
15 provider already had in effect as of the date of
16 enactment of the Community Broadband Act, if
17 such notice has the effect of making such notice
18 generally known to the public; and

19 “(B) provide an opportunity for commer-
20 cial enterprises to bid to provide such capability
21 or service during the 30-day period following
22 publication of the notice.

23 “(2) NOTICE REQUIREMENTS.—The public pro-
24 vider shall include in the notice required by para-
25 graph (1) a description of the proposed scope of the

1 advanced telecommunications capability or any serv-
2 ice that utilizes the advanced telecommunications ca-
3 pability provided by such public provider to be pro-
4 vided, including—

5 “(A) the services to be provided (including
6 network capabilities);

7 “(B) the coverage area;

8 “(C) service tiers and pricing; and

9 “(D) any proposal for providing advanced
10 telecommunications capability or any service
11 that utilizes the advanced telecommunications
12 capability provided by such public provider to
13 low-income areas, or other demographically or
14 geographically defined areas.

15 “(3) PUBLIC NOTICE AND INPUT ON PROPOSED
16 PROJECTS.—

17 “(A) IN GENERAL.—Each public provider
18 shall—

19 “(i) publish notice of each proposal to
20 provide advanced telecommunications capa-
21 bility or any service that utilizes the ad-
22 vanced telecommunications capability pro-
23 vided by such public provider to the public
24 by a commercial enterprise under para-
25 graph (1)(B); and

1 “(ii) provide local citizens in the juris-
2 diction of that public provider and such
3 commercial enterprises with information on
4 the specifics of each such project, includ-
5 ing—

6 “(I) the cost to taxpayers, and
7 the benefits of, the proposed public
8 provider project; and

9 “(II) any potential alternatives to
10 the proposed public provider project,
11 including any public-private partner-
12 ships.

13 “(B) 30-DAY PERIOD.—In order to provide
14 local citizens and commercial enterprises with
15 an adequate opportunity to be informed, a pub-
16 lic provider shall provide additional notice re-
17 questing that any public comments on the pro-
18 posed public provider project be filed not later
19 than 30 days after the date of publication of
20 the notice required under subparagraph (A).

21 “(4) APPROVAL PROCESS.—If a public provider
22 decides to proceed with its own project to provide
23 advanced telecommunications capability or any serv-
24 ice that utilizes the advanced telecommunications ca-
25 pability provided by such public provider to the pub-

1 lic despite bids by commercial enterprises received in
2 accordance with paragraph (1)(B), such public pro-
3 vider shall authorize that project by whatever proc-
4 ess typically utilized by such public provider to ap-
5 prove projects of comparable cost in the jurisdiction
6 of such public provider.

7 “(5) APPLICATION TO EXISTING ARRANGE-
8 MENTS AND PENDING PROPOSALS.—This subsection
9 does not apply to—

10 “(A) any contract or other arrangement
11 under which a public provider is providing or
12 upgrading advanced telecommunications capa-
13 bility or any service that utilizes the advanced
14 telecommunications capability provided by such
15 public provider to the public as of April 20,
16 2006; or

17 “(B) any public provider proposal to pro-
18 vide advanced communications capability or any
19 service that utilizes the advanced telecommuni-
20 cations capability provided by such public pro-
21 vider to the public that, as of April 20, 2006—

22 “(i) is in the request-for-proposals
23 process;

24 “(ii) is in the process of being built;
25 or

1 “(iii) has been approved by ref-
2 erendum but is the subject of a lawsuit
3 brought before March 1, 2006.

4 “(g) NO RECEIPT OF FEDERAL FUNDS.—If any
5 project to provide advanced telecommunications capability
6 or any service that utilizes the advanced telecommuni-
7 cations capability provided by a public provider under this
8 section fails whether due to bankruptcy, insufficient funds,
9 or any other reason, no Federal funds may be provided
10 to such public provider to assist such public provider in
11 maintaining, reviving, or renewing such project, except if
12 such failure occurred in any jurisdiction that is subject
13 to a declaration by the President of a major disaster, as
14 defined under section 102 of the Robert T. Stafford Dis-
15 aster Relief and Emergency Assistance Act (42 U.S.C.
16 5122).

17 “(h) TEMPORARY SERVICES DURING STATES OF
18 EMERGENCY.—Nothing in subsections (c) through (h)
19 shall preclude a public provider from—

20 “(1) immediately deploying a temporary ad-
21 vanced telecommunications capability or any service
22 that utilizes the advanced telecommunications capa-
23 bility provided by such public provider to the public
24 during a state of emergency declared by the Presi-

1 dent or the Governor of the State in which such
2 public provider is located; and

3 “(2) continuing the operation of such capability
4 or service until the emergency situation is resolved.”;
5 and

6 (3) by adding at the end of subsection (i), as
7 redesignated, the following:

8 “(3) PUBLIC PROVIDER.—The term ‘public pro-
9 vider’ means—

10 “(A) a State or political subdivision there-
11 of;

12 “(B) any agency, authority, or instrumen-
13 tality of a State or political subdivision thereof;

14 “(C) an Indian tribe (as defined in section
15 4(e) of the Indian Self-Determination and Edu-
16 cation Assistance Act (25 U.S.C. 450b(e)); or

17 “(D) any entity that is owned, controlled,
18 or otherwise affiliated with a State, political
19 subdivision thereof, agency, authority, or instru-
20 mentality, or Indian tribe.”.

21 **TITLE VI—WIRELESS**
22 **INNOVATION NETWORKS**

23 **SEC. 601. SHORT TITLE.**

24 This title may be cited as the “Wireless Innovation
25 Act of 2006” or the “WIN Act of 2006”.

1 **SEC. 602. ELIGIBLE TELEVISION SPECTRUM MADE AVAIL-**
2 **ABLE FOR WIRELESS USE.**

3 Part I of title III (47 U.S.C. 301 et seq.), as amended
4 by section 453 of this Act, is further amended by adding
5 at the end the following:

6 **“SEC. 343. ELIGIBLE BROADCAST TELEVISION SPECTRUM**
7 **MADE AVAILABLE FOR WIRELESS USE.**

8 “(a) IN GENERAL.—Effective 270 days after the date
9 of enactment of the WIN Act of 2006, a certified unli-
10 censed device may use eligible broadcast television fre-
11 quencies in a manner that protects licensees from harmful
12 interference.

13 “(b) COMMISSION TO FACILITATE USE.—Within 270
14 days after the date of enactment of that Act, the Commis-
15 sion shall adopt minimal technical and device rules in ET
16 Docket No. 04–186 to facilitate the efficient use of eligible
17 broadcast television frequencies by certified unlicensed de-
18 vices, which shall include rules and procedures—

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

21 “(2) to require certification of unlicensed de-
22 vices designed to be operated in the eligible broad-
23 cast television frequencies which shall include testing
24 in a laboratory certified by the Commission that
25 demonstrates (A) compliance with the requirements
26 set forth pursuant to this paragraph and (B) that

1 such compliance effectively protects licensees from
2 harmful interference;

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

8 “(4) to address immediately any complaints
9 from licensees that a certified unlicensed device
10 causes harmful interference including verification, in
11 the field, of actual harmful interference; and

12 “(5) to limit the operation or use of certified
13 unlicensed devices within any geographic area in
14 which a public safety entity is authorized to operate
15 as a primary licensee within the eligible broadcast
16 television frequencies.

17 “(c) DEFINITIONS.—In this section:

18 “(1) CERTIFIED UNLICENSED DEVICE.—The
19 term ‘certified unlicensed device’ means a device cer-
20 tified under subsection (b)(2).

21 “(2) ELIGIBLE BROADCAST TELEVISION FRE-
22 QUENCIES.—The term ‘eligible broadcast television
23 frequencies’ means the following frequencies:

24 “(A) All frequencies between 54 and 72
25 megaHertz, inclusive.

1 “(B) All frequencies between 76 and 88
2 megaHertz, inclusive.

3 “(C) All frequencies between 174 and 216
4 megaHertz, inclusive.

5 “(D) All frequencies between 470 and 608
6 megaHertz, inclusive.

7 “(E) All frequencies between 616 and 698
8 megaHertz, inclusive.

9 “(3) LICENSEE.—The term ‘licensee’ means a
10 licensee, as defined in section 3(24), that holds a li-
11 cense to operate in the eligible broadcast television
12 frequencies and is operating in such frequencies in
13 a manner that is not inconsistent with its license.”.

14 **TITLE VII—DIGITAL TELEVISION**

15 **SEC. 701. ANALOG AND DIGITAL TELEVISION SETS AND**
16 **CONVERTER BOXES; CONSUMER EDUCATION**
17 **AND REQUIREMENTS TO REDUCE THE GOV-**
18 **ERNMENT COST OF THE CONVERTER BOX**
19 **PROGRAM.**

20 (a) CONSUMER EDUCATION REQUIREMENTS.—Sec-
21 tion 330 (47 U.S.C. 330) is amended—

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

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

1 “(d) CONSUMER EDUCATION REQUIREMENTS RE-
2 GARDING ANALOG RECEIVERS.—

3 “(1) REQUIREMENTS FOR MANUFACTURERS.—

4 The manufacturer of any analog only television set
5 manufactured in the United States or shipped in
6 interstate commerce shall—

7 “(A) place the appropriate removable label
8 described in paragraph (3) on the screen of
9 such television set; and

10 “(B) display the label required by para-
11 graph (3) on the outside of the retail packaging
12 of the television set—

13 “(i) in a clear and conspicuous man-
14 ner; and

15 “(ii) in a manner that cannot be re-
16 moved.

17 “(2) REQUIREMENTS FOR RETAILERS.—A re-
18 tailer of analog only television sets that sells such
19 television sets via direct mail, catalog, or electronic
20 means, shall include in all advertisements or descrip-
21 tions of such television set the product and the in-
22 formation described in paragraph (3) within 120
23 days after the date of enactment of the Communica-
24 tions, Consumers’ Choice, and Broadband Deploy-
25 ment Act of 2006.

1 “(3) PRODUCT AND DIGITAL TELEVISION TRAN-
2 SITION INFORMATION.—The following product and
3 digital television transition information shall be dis-
4 played as a label on analog television sets, in both
5 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 dig-
 ital broadcasting on that date as required by Fed-
 eral law. It should continue to work as before with
 cable and satellite TV services, gaming consoles,
 VCRs, DVD players, and similar products.’

6 “(4) COMMISSION OUTREACH.—

7 “(A) IN GENERAL.—Beginning within 1
8 month after the date of enactment of the Com-
9 munications, Consumers’ Choice, and
10 Broadband Deployment of 2006, the Commis-
11 sion shall engage in a public outreach program
12 to educate consumers about the digital tele-
13 vision transition, including the consumer infor-
14 mation described in paragraph (5).

15 “(B) WEBSITE.—The Commission shall
16 maintain and publicize a website, or an easily
17 accessible page on its website, containing such
18 consumer information as well as any links to
19 other websites the Commission determines to be
20 appropriate.

1 “(5) PUBLIC SERVICE ANNOUNCEMENTS.—
2 Each day from November 15, 2008, through Feb-
3 ruary 17, 2009, each commercial television broad-
4 cast licensee or permittee shall broadcast 2 30-sec-
5 ond public service announcements at such times as
6 the Commission may require in order to assure the
7 widest possible audience. The public service an-
8 nouncements shall notify the public of the digital
9 transition and contain the address of the website
10 provided by the Commission under paragraph
11 (4)(B).

12 “(6) PENALTY.—In addition to any other civil
13 or criminal penalty provided by law, the Commission
14 shall issue civil forfeitures for violations of the re-
15 quirements of this subsection in an amount equal to
16 not more than 3 times the amount of the forfeiture
17 penalty established by section 503(a)(2)(A).

18 “(7) SUNSET.—The requirements of this sub-
19 section shall cease to apply to manufacturers and re-
20 tailers on December 1, 2009.”.

21 (b) DTV WORKING GROUP ON CONSUMER EDU-
22 CATION, OUTREACH, AND TECHNICAL ASSISTANCE.—

23 (1) IN GENERAL.—Within 60 days after the
24 date of enactment of this Act, the Federal Commu-
25 nications Commission shall establish an advisory

1 committee, to be known as the DTV Working
2 Group, to consult with State and local governments,
3 providers of low income assistance programs, edu-
4 cational institutions, community groups, and the Na-
5 tional Telecommunications and Information Admin-
6 istration to promote consumer outreach and to pro-
7 vide logistical assistance to consumers with special
8 needs, including the converter box subsidy program.

9 (2) MEMBERSHIP.—The Commission shall ap-
10 point to the DTV Working Group representatives of
11 groups involved with the transition to digital tele-
12 vision, including the Commission, the National Tele-
13 communications and Information Administration,
14 other Federal agencies, commercial and noncommer-
15 cial television broadcasters, multichannel video pro-
16 gramming distributors, consumer electronics manu-
17 facturers and manufacturers of peripheral devices,
18 broadcast antenna and tuner manufacturers, retail
19 providers of consumer electronics equipment, con-
20 sumers, and public interest groups (including the
21 American Association of Retired Persons and the
22 Senior Coalition). Members of the DTV Working
23 Group shall serve without compensation and shall
24 not be considered Federal employees by reason of
25 their service on the advisory committee.

1 (3) PURPOSES.—The purposes of the DTV
2 Working Group are—

3 (A) to advise the Commission in creating
4 and implementing a national plan to inform
5 consumers about the digital television transition
6 as required by section 330(d)(4) of the Commu-
7 nications Act of 1934 (47 U.S.C. 330(d)(6));

8 (B) to ensure that the Commission’s na-
9 tional plan includes, at a minimum, rec-
10 ommended procedures for public service an-
11 nouncements by broadcasters, toll-free informa-
12 tion hotlines, and retail displays or notices;

13 (C) to ensure that the Commission’s na-
14 tional plan includes a requirement that all li-
15 censed broadcasters in a designated market
16 area submit a joint plan to the Commission ad-
17 dressing the public outreach and public service
18 announcement requirements required by this
19 title to inform consumers in those areas of the
20 transition to digital television that—

21 (i) includes a description of how each
22 commercial television broadcaster will ful-
23 fill the public service announcement re-
24 quirements required under section

1 330(d)(7) of the Communications Act of
2 1934 (47 U.S.C. 330(d)(7));

3 (ii) includes market research by each
4 commercial television broadcaster regard-
5 ing projected consumer demand for con-
6 verter boxes in their designated market
7 area; and

8 (iii) will be shared with retailers in-
9 side their designated market area so that
10 such retailers may stock the appropriate
11 amount of converter boxes to meet the
12 needs of consumers within each designated
13 market area; and

14 (D) to provide to the Commission a DTV
15 Progress Report that reflects ongoing and
16 planned efforts by the private sector, both na-
17 tionally and in various television broadcast mar-
18 kets, to inform consumers about the digital
19 transition and to minimize potential disruption
20 to consumers attributable to the transition to
21 digital broadcasting.

22 (c) REQUIREMENTS TO PROMOTE SALE OF DIGITAL
23 TELEVISIONS AND CONVERTER BOXES.—

1 (1) DIGITAL TUNER MANDATE.—Part I of title
2 III (47 U.S.C. 301 et seq.) is amended by inserting
3 after section 303 the following:

4 **“SEC. 303A. REQUIREMENTS FOR DIGITAL TELEVISION**
5 **SETS AND CERTAIN OTHER EQUIPMENT.**

6 “(a) IN GENERAL.—After April 30, 2007, it is unlaw-
7 ful to import into the United States or ship in interstate
8 commerce for sale or resale to the public, a television set
9 that is not equipped with a tuner capable of receiving and
10 decoding digital signals.

11 “(b) RETAIL DEFINED.—In this section, the term
12 ‘retail’ means the first sale for purposes other than re-
13 sale.”.

14 (2) COMMISSION NOT TO CHANGE SCHEDULE.—
15 The Federal Communications Commission may not
16 revise the digital television reception capability im-
17 plementation schedule under section 15.117(i) of its
18 regulations (47 C.F.R. 15.117(i)) except to conform
19 that section to the requirements of section 303A of
20 the Communications Act of 1934.

21 (3) CONVERTER BOXES.—The Assistant Sec-
22 retary of Commerce for Communications and Infor-
23 mation, in consultation with the Secretary of En-
24 ergy, shall set the energy standards for converter
25 boxes, taking into consideration the cost of the con-

1 verter box. Notwithstanding any other provision of
2 law, those standards shall govern the energy stand-
3 ards for converter boxes sold for use in the United
4 States. This paragraph shall not apply after May 17,
5 2009.

6 (d) DOWNCONVERSION FROM DIGITAL SIGNALS TO
7 ANALOG SIGNALS.—

8 (1) DIGITAL-TO-ANALOG CONVERSION.—Section
9 614(b)(4) (47 U.S.C. 534(b)(4)) is amended—

10 (A) by redesignating subparagraph (B) as
11 subparagraph (I); and

12 (B) by inserting after subparagraph (A)
13 the following:

14 “(B) DIGITAL VIDEO SIGNAL.—With re-
15 spect to any television station that is transmit-
16 ting broadcast programming exclusively in the
17 digital television service in a local market, a
18 cable operator of a cable system in that market
19 shall carry any digital video signal requiring
20 carriage under this section and program-related
21 material in the digital format transmitted by
22 that station, without material degradation, if
23 the licensee for that station relies on this sec-
24 tion or section 615 to obtain carriage of the

1 digital video signal and program-related mate-
2 rial on that cable system in that market.

3 “(C) MULTIPLE FORMATS PERMITTED.—A
4 cable operator of a cable system may offer the
5 digital video signal and program-related mate-
6 rial of a local television station described in
7 subparagraph (A) in any analog or digital for-
8 mat or formats, whether or not doing so re-
9 quires conversion from the format transmitted
10 by the local television station, so long as—

11 “(i) the cable operator offers the dig-
12 ital video signal and program-related mate-
13 rial in the converted analog or digital for-
14 mat or formats without material degrada-
15 tion; and

16 “(ii) also offers the digital video signal
17 and program-related material in the man-
18 ner or manners required by this para-
19 graph.

20 “(D) TRANSITIONAL CONVERSIONS.—Not-
21 withstanding the requirement in subparagraph
22 (B) to carry the digital video signal and pro-
23 gram-related material in the digital format
24 transmitted by the local television station, but

1 subject to the prohibition on material degrada-
2 tion, until February 17, 2014—

3 “(i) a cable operator—

4 “(I) shall offer the digital video
5 signal and program-related material
6 in the format or formats necessary for
7 such stream and material to be
8 viewable on analog and digital tele-
9 visions; and

10 “(II) may convert the digital
11 video signal and program-related ma-
12 terial to standard-definition digital
13 format in lieu of offering it in the dig-
14 ital format transmitted by the local
15 television station; and

16 “(ii) notwithstanding clause (i), a
17 cable operator of a cable system with an
18 activated capacity of 550 megahertz or
19 less—

20 “(I) shall offer the digital video
21 signal and program-related material
22 of the local television station described
23 in subparagraph (A), converted to an
24 analog format; and

1 “(II) may, but shall not be re-
2 quired to, offer the digital video signal
3 and program-related material in any
4 digital format or formats.

5 “(E) LOCATION AND METHOD OF CONVER-
6 SION.—A cable operator of a cable system may
7 perform any conversion permitted or required
8 by this paragraph at any location, from the
9 cable head-end to the customer premises, inclu-
10 sive.

11 “(F) CONVERSIONS NOT TREATED AS DEG-
12 RADATION.—Any conversion permitted or re-
13 quired by this paragraph shall not, by itself, be
14 treated as a material degradation.

15 “(G) CARRIAGE OF PROGRAM-RELATED
16 MATERIAL.—The obligation to carry program-
17 related material under this paragraph is effec-
18 tive only to the extent technically feasible.

19 “(H) DEFINITION OF STANDARD-DEFINI-
20 TION FORMAT.—For purposes of this para-
21 graph, a stream shall be in standard definition
22 digital format if such stream meets the criteria
23 for such format specified in the standard recog-
24 nized by the Commission in section 73.682 of

1 its rules (47 C.F.R. 73.682) or a successor reg-
2 ulation.”.

3 (2) TIERING.—

4 (A) AMENDMENT TO COMMUNICATIONS
5 ACT.—Clause (iii) of section 623(b)(7)(A) (47
6 U.S.C. 543(b)(7)(A)(iii)) is amended to read as
7 follows:

8 “(iii) Any analog signal and any dig-
9 ital video signal of any television broadcast
10 station that is provided by the cable oper-
11 ator to any subscriber, except a signal
12 which is secondarily transmitted by a sat-
13 ellite carrier beyond the local service area
14 of such station.”.

15 (B) EFFECTIVE DATE.—With respect to
16 any television broadcast station, this subsection
17 and the amendments made by this paragraph
18 shall take effect on the date the broadcaster
19 ceases transmissions in the analog television
20 service.

21 (3) MATERIAL DEGRADATION.—Section 614
22 (47 U.S.C. 534) is amended—

23 (A) by redesignating subsection (h) as sub-
24 section (i); and

1 (B) by inserting after subsection (g) the
2 following:

3 “(h) MATERIAL DEGRADATION.—For purposes of
4 this section and section 615, transmission of a digital sig-
5 nal over a cable system in a compressed bitstream shall
6 not be considered material degradation as long as such
7 compression does not materially affect the picture quality
8 the consumer receives.”.

9 (e) SATELLITE DOWNCONVERSION.—Section 338 (47
10 U.S.C. 338) is amended by adding at the end the fol-
11 lowing:

12 “(l) SPECIFIC CARRIAGE OBLIGATIONS AFTER DIG-
13 ITAL TRANSITION.—

14 “(1) DIGITAL VIDEO SIGNAL.—With respect to
15 any television broadcast station that is transmitting
16 broadcast programming exclusively in the digital tel-
17 evision service in a local market in the United
18 States, a satellite carrier carrying the digital signal
19 of any other television broadcast station in that local
20 market shall carry the station’s video stream re-
21 quired to be carried and program-related material
22 without material degradation, if the licensee for that
23 station relies on this section to obtain carriage of the
24 station’s video signal and program-related material
25 on that satellite carrier’s system in that market.

1 “(2) FORMATTING OF VIDEO STREAM.—A sat-
2 ellite carrier shall offer the video stream and pro-
3 gram-related material of a local television station de-
4 scribed in paragraph (1) in the digital format trans-
5 mitted by the station if the satellite carrier carries
6 the video stream of any other television broadcast
7 station in that local market in the same digital for-
8 mat.

9 “(3) MULTIPLE FORMATS PERMITTED.—A sat-
10 ellite carrier may offer the video stream and pro-
11 gram-related material of a local television broadcast
12 station described in paragraph (1) in any analog or
13 digital format or formats, whether or not doing so
14 requires conversion from the format transmitted by
15 the local television broadcast station, so long as—

16 “(A) the satellite carrier offers the video
17 stream and program-related material in the
18 converted analog or digital format or formats
19 without material degradation; and

20 “(B) also offers the video stream and pro-
21 gram-related material in the manner or man-
22 ners required by this paragraph.

23 “(4) TRANSITIONAL CONVERSIONS.—Notwith-
24 standing any requirement in paragraph (1) or (2) to
25 carry the video stream and program-related material

1 in the digital format transmitted by the local tele-
2 vision station, but subject to the prohibition on ma-
3 terial degradation, until February 17, 2014, a sat-
4 ellite carrier—

5 “(A) shall offer the video stream and pro-
6 gram-related material of any local television
7 broadcast station required to be carried under
8 paragraph (1) in the format or formats nec-
9 essary for such stream and material to be
10 viewable on analog and digital televisions; and

11 “(B) may convert the video stream and
12 program-related material to standard-definition
13 digital format in lieu of offering it in the digital
14 format transmitted by the local television sta-
15 tion.

16 “(5) LOCATION AND METHOD OF CONVER-
17 SION.—A satellite carrier may perform any conver-
18 sion permitted or required by this paragraph at any
19 location, from the local receive facility to the cus-
20 tomer premises, inclusive.

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

1 “(7) CARRIAGE OF PROGRAM-RELATED MATE-
2 RIAL.—The obligation to carry program-related ma-
3 terial under this paragraph is effective only to the
4 extent technically feasible.

5 “(8) DEFINITION OF STANDARD-DEFINITION
6 FORMAT.—For purposes of this subsection, a stream
7 shall be in standard definition digital format if such
8 stream meets the criteria for such format specified
9 in the standard recognized by the Commission in
10 section 73.682 of its rules (47 CFR 73.682) or a
11 successor regulation.

12 “(9) MATERIAL DEGRADATION.—For purposes
13 of this subsection, transmission of a digital signal
14 over a cable system in a compressed bitstream shall
15 not be considered material degradation as long as
16 such compression does not materially affect the pic-
17 ture quality the consumer receives.”.

18 **SEC. 702. DIGITAL STREAM REQUIREMENT FOR THE BLIND.**

19 (a) RULES REINSTATED.—The video description
20 rules of the Federal Communications Commission con-
21 tained in the report and order identified as Implementa-
22 tion of Video Description of Video Programming, Report
23 and Order, 15 F.C.C.R. 15,230 (2000), shall, notwith-
24 standing the decision of the United States Court of Ap-
25 peals for the District of Columbia Circuit in Motion Pic-

1 ture Association of America, Inc., et al., v. Federal Com-
2 munications Commission, et al. (309 F. 3d 796, November
3 8, 2002), be considered to be authorized and ratified by
4 law.

5 (b) CONTINUING AUTHORITY OF COMMISSION.—The
6 Federal Communications Commission—

7 (1) shall, within 45 days after the date of en-
8 actment of this Act, republish its video description
9 rules contained in the report and order Implementa-
10 tion of Video Description of Video Programming,
11 Report and Order, 15 F.C.C.R. 15,230 (2000);

12 (2) may amend, repeal, or otherwise modify
13 such rules;

14 (3) shall initiate a proceeding within 120 days
15 after the date of enactment of this Act, and com-
16 plete that proceeding within 1 year, to consider in-
17 corporating accessible information requirements in
18 its video description rules; and

19 (4) shall extend the video description rules
20 under this section to digital broadcast programming
21 and video programming (as defined in section
22 602(23) of the Communications Act of 1934), as ap-
23 propriate, in the public interest.

24 (c) ACCESSIBLE INFORMATION DEFINED.—In this
25 section, the term “accessible information” may include

1 written information displayed on television screens during
2 regular programming, hazardous warnings and other
3 emergency information, local and national news bulletins,
4 and any other information the Commission deems appro-
5 priate.

6 **SEC. 703. STATUS OF INTERNATIONAL COORDINATION.**

7 Until the date on which the international coordina-
8 tion with Canada and Mexico of the DTV table of allot-
9 ments is complete (as determined by the Federal Commu-
10 nications Commission), the Federal Communications
11 Commission shall submit a report every 6 months on the
12 status of that international coordination to the Senate
13 Committee on Commerce, Science, and Transportation
14 and the House of Representatives Committee on Energy
15 and Commerce.

16 **TITLE VIII—PROTECTING**
17 **CHILDREN**

18 **SEC. 801. VIDEO TRANSMISSION OF CHILD PORNOGRAPHY.**

19 Section 621 (47 U.S.C. 541) is amended by adding
20 at the end the following:

21 “(j) CHILD PORNOGRAPHY.—

22 “(1) IN GENERAL.—A video service provider au-
23 thorized to provide video service in a local franchise
24 area shall comply with the regulations on child por-
25 nography promulgated pursuant to paragraph (2).

1 “(2) REGULATIONS.—Not later than 180 days
2 after the date of enactment of the Communications,
3 Consumers’ Choice, and Broadband Deployment of
4 2006, the Commission shall promulgate regulations
5 to require a video service to prevent the offering of
6 child pornography (as such term is defined in section
7 254(h)(7)(F)).”.

8 **TITLE IX—INTERNET**
9 **NEUTRALITY**

10 **SEC. 901. NEUTRAL NETWORKS FOR CONSUMERS.**

11 (a) IN GENERAL.—Beginning 1 year after the date
12 of enactment of this Act, the Federal Communications
13 Commission shall report annually to the Senate Com-
14 mittee on Commerce, Science, and Transportation and the
15 House of Representatives Committee on Energy and Com-
16 merce for 5 years regarding—

17 (1) the developments in Internet traffic proc-
18 essing, routing, peering, transport, and interconnec-
19 tion;

20 (2) how such developments impact the free flow
21 of information over the public Internet and the con-
22 sumer experience using the public Internet;

23 (3) business relationships between broadband
24 service providers and applications and online user
25 services; and

1 (4) the development of and services available
2 over public and private Internet offerings.

3 (b) DETERMINATIONS AND RECOMMENDATIONS.—If
4 the Commission determines that there are significant
5 problems with any of the matters described in subsection
6 (a) the Commission shall make such recommendations in
7 its next annual report under subsection (a) as it deems
8 necessary and appropriate to ensure that consumers can
9 access lawful content and run Internet applications and
10 services over the public Internet subject to the bandwidth
11 purchased and the needs of law enforcement agencies. The
12 Commission shall include recommendations for appro-
13 priate enforcement mechanisms but may not recommend
14 additional rulemaking authority for the Commission.

15 **TITLE X—MISCELLANEOUS**

16 **SEC. 1001. COMMISSIONER PARTICIPATION IN FORUMS**
17 **AND MEETINGS.**

18 (a) IN GENERAL.—Section 5 (47 U.S.C. 155) is
19 amended by adding at the end the following:

20 “(f) MEETINGS.—

21 “(1) ATTENDANCE REQUIRED.—Notwith-
22 standing 552b of title 5, United States Code, and
23 section 4(h) of this Act, the Commission may con-
24 duct a meeting that is not open to the public if the
25 meeting is attended by—

1 “(A) all members of the Commission; or

2 “(B) at least 1 member of the political
3 party whose members are in the minority.

4 “(2) VOTING PROHIBITED.—The Commission
5 may not vote or make any final decision on any mat-
6 ter pending before it in a meeting that is not open
7 to the public, unless—

8 “(A) otherwise authorized by section
9 552b(b) of title 5, United States Code; or

10 “(B) the Commission has moved its oper-
11 ations outside Washington, D.C., pursuant to a
12 Continuity of Operations Plan.

13 “(3) PUBLICATION OF SUMMARY.—If the Com-
14 mission conducts a meeting that is not open to the
15 public under this section, the Commission shall
16 promptly publish an executive summary describing
17 the matters discussed at that meeting after the
18 meeting ends, except for such matters as the Com-
19 mission determines may be withheld under section
20 552b(c) of title 5, United States Code. This para-
21 graph does not apply to a meeting described in para-
22 graph (4).

23 “(4) QUORUM UNNECESSARY FOR CERTAIN
24 MEETINGS.—Neither section 552b of title 5, United

1 States Code, nor paragraph (1) of this subsection
2 applies to—

3 “(A) a meeting of 3 or more members of
4 the Commission with the President, any person
5 employed by the Office of the President, any of-
6 ficial of a Federal, State, or local agency, a
7 Member of Congress or his staff;

8 “(B) the attendance, by 3 or more mem-
9 bers of the Commission, at a forum or con-
10 ference to discuss general communications
11 issues; or

12 “(C) a meeting of 3 or more members of
13 the Commission when the Continuity of Oper-
14 ations Plan is in effect and the Commission is
15 operating under the terms of that Plan.

16 “(5) SAVINGS CLAUSE.—Nothing in this sub-
17 section shall be construed to prohibit the Commis-
18 sion from doing anything authorized by section 552b
19 of title 5, United States Code.”.

20 **SEC. 1002. DATA ON LOCAL COMPETITION IN DIFFERENT**
21 **PRODUCT MARKETS.**

22 (a) INQUIRY.—Not later than 180 days after the date
23 of enactment of this Act, and every year thereafter, the
24 Commission shall conduct an inquiry regarding the extent

1 to which providers of communications service have de-
2 ployed their own local transmission facilities.

3 (b) DATA COLLECTION.—In connection with its in-
4 quiry, the Commission shall require that all providers of
5 communications service submit annual reports to the Com-
6 mission describing the extent to which they have deployed
7 their own local transmission facilities. At a minimum, pro-
8 viders shall report separately on their deployment of loop
9 facilities in each wire center used to provide service in dif-
10 ferent product markets served by communications service
11 providers. In defining product markets for these purposes,
12 the Commission shall utilize the methodology set forth in
13 the United States Department of Justice and Federal
14 Trade Commission Horizontal Merger Guidelines and
15 shall, at a minimum, distinguish among the products de-
16 manded by—

- 17 (1) residential customers;
18 (2) small and medium-sized business customers;
19 and
20 (3) large business customers.

21 (c) REPORT TO CONGRESS.—Not later than one year
22 after the date of enactment of this Act, and each year
23 thereafter, the Commission shall submit a report to Con-
24 gress describing the extent to which providers of tele-
25 communications service, broadband service, and IP-en-

1 abled voice service have deployed their own local trans-
2 mission facilities. Such report shall analyze separately the
3 extent of actual facilities-based competition in each wire
4 center in the product markets described in subsection (b).

5 (d) DEFINITIONS.—In this section:

6 (1) BROADBAND SERVICE.—The term
7 “broadband service” means any service used for
8 transmission of information of a user’s choosing
9 with a transmission speed of at least 200 kilobits
10 per second in at least 1 direction, regardless of the
11 transmission medium or technology employed, that
12 connects to the public Internet for a fee directly—

13 (A) to the public; or

14 (B) to such classes of users as to be effec-
15 tively available directly to the public.

16 (2) COMMUNICATIONS SERVICE.—The term
17 “communications service” means telecommunications
18 service, broadband service, or IP-enabled voice serv-
19 ice (whether offered separately or as part of a bun-
20 dle of services).

21 (3) IP-ENABLED VOICE SERVICE.—The term
22 “IP-enabled voice service” means the provision of
23 real-time 2-way voice communications offered to the
24 public, or such classes of users as to be effectively
25 available to the public, transmitted through cus-

1 tomer premises equipment using IP protocol, or a
2 successor protocol, for a fee (whether part of a bun-
3 dle of services or separately) with 2-way interconnec-
4 tion capability such that the service can originate
5 traffic to, and terminate traffic from, the public
6 switched telephone network.

7 (4) LOCAL TRANSMISSION FACILITIES.—The
8 term “local transmission facilities” means wireless
9 and wireline transmission facilities used to transmit
10 information or signals to, from or among locations
11 within a wire center.

12 **SEC. 1003. IMPROVED ENFORCEMENT OPTIONS.**

13 (a) INCREASED PENALTIES.—Section 503(b)(2)(B)
14 of the Communications Act of 1934 (47 U.S.C.
15 503(b)(2)(B)) is amended—

16 (1) by striking “\$100,000” and inserting
17 “\$1,000,000”; and

18 (2) by striking “\$1,000,000” and inserting
19 “\$10,000,000”.

20 (b) STATUTE OF LIMITATIONS.—Section 503(b)(6)
21 of the Communications Act of 1934 (47 U.S.C. 503(b)(6))
22 is amended—

23 (1) by striking “or” after the semicolon in sub-
24 paragraph (A)(ii);

1 (2) redesignating subparagraph (B) as subpara-
2 graph (C); and

3 (3) inserting after subparagraph (A) the fol-
4 lowing:

5 “(B) such person is a common carrier subject
6 to the provisions of this Act or an applicant for any
7 common carrier license, permit, certificate, or other
8 instrument of authorization issued by the Commis-
9 sion and if the violation charged occurred more than
10 3 years prior to the date of issuance of the required
11 notice or notice of apparent liability; or”.

12 **SEC. 1004. SEVERABILITY.**

13 If any provision of this Act, an amendment made by
14 this Act, or the application of such provision or amend-
15 ment to any person or circumstance is held to be unconsti-
16 tutional, the remainder of this Act, the amendments made
17 by this Act, and the application of such provisions to any
18 person or circumstance shall not be affected thereby.

○