

COMMITTEE AMENDMENT

[STAFF WORKING DRAFT]

June 16, 2006

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

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

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

JUNE 22, 2006

INTENDED to be proposed by Mr. STEVENS

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Communications, 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.).

1 SEC. 3. TABLE OF CONTENTS.

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

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

TITLE I—WAR ON TERRORISM

SUBTITLE A—CALL HOME

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

SUBTITLE B—INTEROPERABILITY

- Sec. 151. Interoperable emergency communications.

TITLE II—UNIVERSAL SERVICE REFORM; INTERCONNECTION

- Sec. 201. Short title.

SUBTITLE A—CONTRIBUTIONS TO UNIVERSAL SERVICE

- Sec. 211. Stabilization of universal service funding.
- Sec. 212. Modification of rural video service exemption.
- Sec. 213. Interconnection.
- Sec. 214. Treatment of substitute services under section 254(g).

SUBTITLE B—DISTRIBUTIONS FROM UNIVERSAL SERVICE

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

TITLE III—STREAMLINING THE FRANCHISING PROCESS

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

- Sec. 311. Application of title VI to video services and video service providers.
- Sec. 312. Purpose; franchise applications; scope.
- Sec. 313. Standard franchise application form.
- Sec. 314. Definitions.
- Sec. 315. Family tier study.

SUBTITLE B—STREAMLINING THE PROVISION OF VIDEO SERVICES

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

- Sec. 333. PEG and institutional network obligations.
- Sec. 334. Services, facilities, and equipment.
- Sec. 335. Shared facilities.
- Sec. 336. Consumer protection and customer service.
- Sec. 337. Redlining.

SUBTITLE C—MISCELLANEOUS AND CONFORMING AMENDMENTS

- Sec. 351. Miscellaneous amendments.

SUBTITLE D—EFFECTIVE DATES AND TRANSITION RULES.

- Sec. 381. Effective dates; phase-in.

TITLE IV—VIDEO CONTENT

SUBTITLE A—NATIONAL SATELLITE

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

SUBTITLE B—VIDEO AND AUDIO FLAG

- Sec. 451. Short title.
- Sec. 452. Protection of digital broadcast video content.
- Sec. 453. Protection of digital audio broadcasting content.
- Sec. 454. Digital Audio Review Board.

TITLE V—MUNICIPAL BROADBAND

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

TITLE VI—WIRELESS INNOVATION NETWORKS

- Sec. 601. Short title.
- Sec. 602. Eligible television spectrum made available for wireless use.

TITLE VII—DIGITAL TELEVISION

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

TITLE VIII—PROTECTING CHILDREN

- Sec. 801. Video transmission of child pornography.

TITLE IX—INTERNET CONSUMER BILL OF RIGHTS ACT

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

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

TITLE X—MISCELLANEOUS

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

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
10 States in support of military operations, training exer-
11 cises, or other purposes as approved by the Secretary of
12 Defense, including the reduction of such costs through the
13 waiver of government fees, assessments, or other charges
14 for such calls. The Commission may not regulate rates in
15 order to carry out this section.

16 (b) FACTORS TO CONSIDER.—In taking the action
17 described in subsection (a), the Commission, in coordina-
18 tion with the Department of Defense and the Department
19 of State, shall—

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

4 (2) evaluate methods of reducing the rates im-
5 posed on such calls, including deployment of new
6 technology such as voice over Internet protocol or
7 other Internet protocol technology;

8 (3) encourage telecommunications carriers (as
9 defined in section 3(44) of the Communications Act
10 of 1934 (47 U.S.C. 153(44))) to adopt flexible bill-
11 ing procedures and policies for Armed Forces per-
12 sonnel and their dependents for telephone calls to
13 and from such Armed Forces personnel; and

14 (4) seek agreements with foreign governments
15 to reduce international surcharges on such telephone
16 calls.

17 (c) DEFINITIONS.—In this section:

18 (1) ARMED FORCES.—The term “Armed
19 Forces” has the meaning given that term by section
20 2101(2) of title 5, United States Code.

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

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

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

4 **Subtitle B—Interoperability**

5 **SEC. 151. INTEROPERABLE EMERGENCY COMMUNICA-**
6 **TIONS.**

7 (a) IN GENERAL.—Section 3006 of Public Law 109–
8 171 (47 U.S.C. 309 note) is amended by redesignating
9 subsection (d) as subsection (i) and by inserting after sub-
10 section (c) the following:

11 “(d) INTEROPERABLE COMMUNICATIONS SYSTEM
12 EQUIPMENT DEPLOYMENT.—

13 “(1) IN GENERAL.—The Assistant Secretary
14 shall allocate at least 25 percent of the funds made
15 available to carry out this section to make interoper-
16 able communications system equipment grants for
17 equipment that can utilize, or enable interoperability
18 with systems or networks that can utilize, reallo-
19 cated public safety spectrum.

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

22 “(A) a majority of the amounts allocated
23 under paragraph (1) for distribution to public
24 safety agencies based on the threat and risk
25 factors used by the Secretary of Homeland Se-
26 curity for the purposes of allocating discre-

1 tionary grants under the heading “OFFICE FOR
2 DOMESTIC PREPAREDNESS, STATE AND LOCAL
3 PROGRAMS” in the Department of Homeland
4 Security Appropriations Act, 2006; and

5 “(B) the remainder equally to each State
6 for allocation by the States to public safety
7 agencies.

8 “(3) ELIGIBILITY.—A State may not receive
9 funds allocated to it under paragraph (2) unless it
10 has established a statewide interoperable commu-
11 nications plan approved by the Secretary of Home-
12 land Security.

13 “(4) USE OF FUNDS.—A public safety agency
14 shall use any funds received under this subsection
15 for the purchase of interoperable communications
16 system equipment and infrastructure that is con-
17 sistent with SAFECOM guidance, including any
18 standards that may be referenced by SAFECOM
19 guidance and interoperable communications system
20 equipment and infrastructure that improves inter-
21 operability that uses IP protocol or any similar suc-
22 cessor protocol.

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

1 “(1) IN GENERAL.—The Assistant Secretary, in
2 consultation with the Secretary of Homeland Secu-
3 rity, shall allocate at least 25 percent of the funds
4 made available to carry out this section for inter-
5 operable emergency communications coordination,
6 planning, and training grants. The grants shall sup-
7 plement, and be in addition to, any Federal funds
8 otherwise made available by grant or otherwise to
9 the States for emergency coordination, planning, or
10 training.

11 “(2) ALLOCATION.—The Secretary shall allo-
12 cate—

13 “(A) a majority of the amounts allocated
14 under paragraph (1) for distribution to the
15 States based on the threat and risk factors used
16 by the Secretary of Homeland Security for the
17 purposes of allocating discretionary grants
18 under the heading “OFFICE FOR DOMESTIC
19 PREPAREDNESS, STATE AND LOCAL PRO-
20 GRAMS” in the Department of Homeland Secu-
21 rity Appropriations Act, 2006; and

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

24 “(3) COORDINATION, PLANNING, AND TRAINING
25 GUIDELINES.—A State shall use its emergency com-

1 munication coordination, planning, and training
2 grant to establish a statewide plan consistent with
3 the State communications interoperability planning
4 methodology developed by the SAFECOM program
5 within the Department of Homeland Security or a
6 regional plan established pursuant to a regional
7 planning agency consistent with this section and to
8 establish training programs designed to ensure effective
9 implementation of coordination and interoperability
10 plans. In establishing the statewide plan, the
11 Governor or the Governor's designee shall consult
12 with the Secretary of Homeland Security or the Secretary
13 of Homeland Security's designee. A State
14 shall submit its statewide plan to the Federal Communications
15 Commission and the Secretary of
16 Homeland Security.

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

19 “(A) there are effective 2-way communications
20 and information sharing between medical
21 services and other emergency response entities,
22 including communications among key strategic
23 emergency responders, emergency medical care
24 facilities, and Federal, State, and local authorities
25 in the event of a national, regional, or other

1 large-scale emergency, and redundancy in the
2 event of a failure of the primary communica-
3 tions systems; and

4 “(B) medical emergency responses are in-
5 tegrated into all planning and decision-making
6 practices for emergency response.

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

11 “(f) STRATEGIC TECHNOLOGY RESERVES INITIA-
12 TIVE.—

13 “(1) IN GENERAL.—The Assistant Secretary, in
14 consultation with the Secretary of Homeland Secu-
15 rity, shall allocate up to 25 percent of the funds
16 made available to carry out this section to establish
17 and implement a strategic technology reserve to pre-
18 position or secure interoperable communications sys-
19 tems in advance for immediate deployment in an
20 emergency or major disaster (as defined in section
21 102(2) of Public Law 93–288 (42 U.S.C. 5122)). In
22 carrying out this paragraph, the Assistant Secretary
23 shall take into consideration the continuing techno-
24 logical evolution of communications technologies and
25 devices, with its implicit risk of obsolescence, and

1 ensure that, to the maximum extent feasible, a sub-
2 stantial part of the reserve involves prenegotiated
3 contracts and other arrangements for rapid deploy-
4 ment of equipment, supplies, and systems rather
5 than the warehousing or storage of equipment and
6 supplies currently available at the time the reserve
7 is established.

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

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

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

21 “(C) include equipment on hand for the
22 Governor of each State, key emergency response
23 officials, and appropriate State or local per-
24 sonnel;

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

5 “(E) include arrangements for training to
6 ensure that personnel are familiar with the op-
7 eration of the equipment and devices to be de-
8 livered pursuant to such contracts.

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

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

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

21 “(A) a portion of the reserve’s funds for
22 block grants to States to enable each State to
23 establish a strategic technology reserve within
24 its borders in a secure location to allow imme-
25 diate deployment; and

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

15 “(g) CONSENSUS STANDARDS; APPLICATIONS.—

16 “(1) CONSENSUS STANDARDS.—In carrying out
17 this section, the Secretary, in cooperation with the
18 Secretary of Homeland Security shall identify, and
19 if necessary encourage the development and imple-
20 mentation of, consensus standards for interoperable
21 communications systems to the greatest extent prac-
22 ticable.

23 “(2) APPLICATIONS.—To be eligible for assist-
24 ance under the programs established in this section,
25 each State shall submit an application, at such time,

1 in such form, and containing such information as
2 the Assistant Secretary may require, including—

3 “(A) a detailed explanation of how assist-
4 ance received under the program would be used
5 to improve local communications interoper-
6 ability and ensure interoperability with other
7 appropriate public safety agencies in an emer-
8 gency or a major disaster; and

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

11 “(i) be compatible with the commu-
12 nications architecture developed under sec-
13 tion 7303(a)(1)(E) of the Intelligence Re-
14 form and Terrorism Prevention Act of
15 2004 (6 U.S.C. 194(a)(1)(E));

16 “(ii) meet any voluntary consensus
17 standards developed under section
18 7303(a)(1)(D) of that Act (6 U.S.C.
19 194(a)(1)(D)); and

20 “(iii) be consistent with the common
21 grant guidance established under section
22 7303(a)(1)(H) of that Act (6 U.S.C.
23 194(a)(1)(H)).

24 “(h) DEADLINE FOR IMPLEMENTATION REGULA-
25 TIONS.—Within 90 days after the date of enactment of

1 the Communications, Consumers' Choice, and Broadband
2 Deployment Act of 2006, the Assistant Secretary, in con-
3 sultation with the Secretary of Homeland Security and the
4 Federal Communications Commission, shall promulgate
5 regulations for the implementation of subsections (d)
6 through (f) of this section.”.

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

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

15 (1) IN GENERAL.—Not later than 1 year after
16 the date of enactment of this Act, the Federal Com-
17 munications Commission, in coordination with the
18 Secretary of Homeland Security, shall evaluate the
19 technical feasibility of creating a back-up emergency
20 communications system that complements existing
21 communications resources and takes into account
22 next generation and advanced telecommunications
23 technologies. The overriding objective for the evalua-
24 tion shall be providing a framework for the develop-
25 ment of a resilient interoperable communications

1 system for emergency responders in an emergency.
2 The Commission shall evaluate all reasonable op-
3 tions, including satellites, wireless, and terrestrial-
4 based communications systems and other alternative
5 transport mechanisms that can be used in tandem
6 with existing technologies.

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

9 (A) a survey of all Federal agencies that
10 use terrestrial or satellite technology for com-
11 munications security and an evaluation of the
12 feasibility of using existing systems for the pur-
13 pose of creating such an emergency back-up
14 public safety communications system;

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

18 (C) the technical options, cost, and deploy-
19 ment methods of software, equipment, handsets
20 or desktop communications devices for public
21 safety entities in major urban areas, and na-
22 tionwide; and

23 (D) the feasibility and cost of necessary
24 changes to the network operations center of ter-
25 restrial-based or satellite systems to enable the

1 centers to serve as emergency back-up commu-
2 nications systems.

3 (3) REPORT.—Upon the completion of the eval-
4 uation under subsection (a), the Commission shall
5 submit a report to Congress that details the findings
6 of the evaluation, including a full inventory of exist-
7 ing public and private resources most efficiently ca-
8 pable of providing emergency communications.

9 **TITLE II—UNIVERSAL SERVICE**
10 **REFORM; INTERCONNECTION**

11 **SEC. 201. SHORT TITLE.**

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

14 **Subtitle A—Contributions to**
15 **Universal Service**

16 **SEC. 211. STABILIZATION OF UNIVERSAL SERVICE FUND-**
17 **ING.**

18 (a) ENSURING AN EQUITABLE CONTRIBUTION BASE
19 FOR UNIVERSAL SERVICE.—

20 (1) IN GENERAL.—Section 254(d) (47 U.S.C.
21 254(d)) is amended to read as follows:

22 “(d) UNIVERSAL SERVICE SUPPORT CONTRIBU-
23 TIONS.—

24 “(1) CONTRIBUTION MECHANISM.—

1 “(A) IN GENERAL.—Each communications
2 service provider shall contribute as provided in
3 this subsection to support universal service.

4 “(B) REQUIREMENTS.—The Commission
5 shall ensure that the contributions required by
6 this subsection are—

7 “(i) applied in a manner that is as
8 competitively and technologically neutral as
9 possible;

10 “(ii) specific, predictable, and suffi-
11 cient to sustain the funding of networks
12 used to preserve and advance universal
13 service; and

14 “(iii) applied in a such a manner that
15 no methodology results in a communica-
16 tions services provider being required to
17 contribute more than once to support Fed-
18 eral universal service for the same trans-
19 action, activity, or service.

20 “(C) ADJUSTMENTS.—The Commission
21 shall adjust the contribution for providers for
22 their low call volume residential customers.

23 “(2) EXEMPTIONS.—The Commission may ex-
24 empt a communications service provider or any class
25 of communications service providers from the re-

1 requirements of this subsection in the following cir-
2 cumstances:

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

6 “(B) The communications service is pro-
7 vided pursuant to the Commission’s Lifeline As-
8 sistance Program.

9 “(C) The communications service is pro-
10 vided only to in-vehicle emergency communica-
11 tions customers.

12 “(3) CONTRIBUTION ASSESSMENT FLEXI-
13 BILITY.—

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

17 “(i) revenue from communications
18 service;

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

22 “(iii) network capacity.

23 “(B) USE OF MORE THAN 1 METHOD-
24 OLOGY.—If no single methodology employed
25 under subparagraph (A) achieves the principles

1 described in this subsection, the Commission
2 may employ a combination of any such meth-
3 odologies.

4 “(C) REMOVAL OF INTERSTATE/INTRA-
5 STATE DISTINCTION.—Notwithstanding section
6 2(b) of this Act, the Commission may assess
7 the interstate, intrastate, and international por-
8 tions of communications service for the purpose
9 of universal service contributions.

10 “(D) GROUP PLAN DISCOUNT.—If the
11 Commission utilizes a methodology under sub-
12 paragraph (A) based in whole or in part on
13 working phone numbers, it may provide a dis-
14 count for additional numbers provided under a
15 group or family pricing plan for residential cus-
16 tomers provided in 1 bill.

17 “(4) NON-DISCRIMINATORY ELIGIBILITY RE-
18 QUIREMENT.—A communications service provider is
19 not exempted from the requirements of this sub-
20 section solely on the basis that such provider is not
21 eligible to receive support under this section.

22 “(5) BILLING.—

23 “(A) IN GENERAL.—A communications
24 service provider that contributes to universal
25 service under this section may place on any cus-

1 tomer bill a separate line item charge that does
2 not exceed the amount for the customer that
3 the provider is required to contribute under this
4 subsection that shall be identified as the ‘Fed-
5 eral Universal Service Fee’.

6 “(B) LIMITATION.—A communications
7 service provider may not separately bill cus-
8 tomers for administrative costs associated with
9 its collection and remission of universal service
10 fees under this subsection.

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

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

21 “(i) to the public; or

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

24 “(B) COMMUNICATIONS SERVICE.—The
25 term ‘communications service’ means tele-

1 communications service, broadband service, or
2 IP-enabled voice service (whether part of a bun-
3 dle of services or offered separately).

4 “(C) CONNECTION.—The term ‘connection’
5 means the facilities that provide customers with
6 access to a public or private network, regardless
7 of whether the connection is circuit-switched,
8 packet-switched, wireline or wireless, or leased
9 line.

10 “(D) IN-VEHICLE EMERGENCY COMMU-
11 NICATIONS.—The term ‘in-vehicle emergency
12 communications’ means services and technology,
13 including automatic crash notification, roadside
14 assistance, SOS distress calls, remote
15 diagnostics, navigation and location-based serv-
16 ices, and other driver assistance services, which
17 are integrated into passenger automobiles to fa-
18 cilitate communications from the automobile to
19 emergency response professionals.

20 “(E) IP-ENABLED VOICE SERVICE.—The
21 term ‘IP-enabled voice service’ means the provi-
22 sion of real-time 2-way voice communications
23 offered to the public, or such classes of users as
24 to be effectively available to the public, trans-
25 mitted through customer premises equipment

1 using IP protocol, or a successor protocol, for
2 a fee (whether part of a bundle of services or
3 offered separately) with 2-way interconnection
4 capability such that the service can originate
5 traffic to, and terminate traffic from, the public
6 switched telephone network.

7 “(F) WORKING PHONE NUMBERS.—The
8 term ‘working phone number’ means an as-
9 signed number (as defined in section 52.15 of
10 the Commission’s regulations (47 C.F.R.
11 52.15)) or an intermediate number (as defined
12 in that section).”.

13 (2) CONFORMING AMENDMENT.—Section
14 254(b)(4) (47 U.S.C. 254(b)(4)) is amended by
15 striking “telecommunications services” and inserting
16 “communications services (as defined in subsection
17 (d)(6)(B))”.

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

20 “(f) STATE AUTHORITY.—

21 “(1) IN GENERAL.—A State may adopt regula-
22 tions not inconsistent with the Commission’s rules to
23 preserve and advance universal service. In adopting
24 those rules, a State may require telecommunications
25 service providers and IP-enabled voice service (as de-

1 fined in subsection (d)(6)(E)) providers to con-
2 tribute to universal service on the basis of—

3 “(A) revenue;

4 “(B) working phone numbers or any other
5 identifier protocol or connection to the net-
6 works;

7 “(C) network capacity; or

8 “(D) any combination of such factors.

9 “(2) INTERSTATE COMPONENT DISREGARD.—A
10 State may require telecommunications service pro-
11 viders and IP-enabled voice service providers to con-
12 tribute under paragraph (1) regardless of whether
13 the service contains an interstate component.

14 “(3) GUIDELINES.—Regulations adopted by a
15 State under this subsection shall result in a specific,
16 predictable, and sufficient mechanism to support
17 universal service and shall be competitively and tech-
18 nologically neutral, equitable, and nondiscriminatory.

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

22 (b) PROPER ACCOUNTING OF UNIVERSAL SERVICE
23 CONTRIBUTIONS.—

24 (1) FROM ALL BUDGETS.—Notwithstanding any
25 other provision of law, the receipts and disburse-

1 ments of universal service under section 254 of the
2 Communications Act of 1934 (47 U.S.C. 254) shall
3 not be counted as new budget authority, outlays, re-
4 ceipts, or deficit or surplus for purposes of—

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

7 (B) the Congressional budget;

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

10 (D) any other statute requiring budget se-
11 questers.

12 (2) ADDITIONAL EXEMPTIONS.—Section 1341,
13 subchapter II of chapter 15, and sections 3302,
14 3321, 3322, and 3325 of title 31, United States
15 Code, shall not apply to—

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

19 (B) disbursements or other obligations au-
20 thorized by the Federal Communications Com-
21 mission under section 254 of the Communica-
22 tions Act of 1934 (47 U.S.C. 254).

23 (c) FINANCIAL MANAGEMENT.—The Federal Com-
24 munications Commission and the Administrator of the
25 Universal Service Fund—

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

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

7 (3) may invest unexpended balances only in
8 Federal securities (as defined in section 113(b)(5) of
9 Office of Management and Budget circular OMB A-
10 11 or any revision of that circular).

11 (d) RULEMAKING.—Not later than 180 days after the
12 date of enactment of this Act, the Federal Communica-
13 tions Commission shall issue a rule to implement section
14 254(d) of the Communications Act of 1934 (47 U.S.C.
15 254(d)) as amended by this section.

16 **SEC. 212. MODIFICATION OF RURAL VIDEO SERVICE EX-**
17 **EMPTION.**

18 (a) RURAL TELEPHONE COMPANIES.—Section
19 251(f)(1) (47 U.S.C. 251(f)(1)) is amended—

20 (1) by striking “Subsection” in subparagraph
21 (A) and inserting “Except as provided in subpara-
22 graph (B), subsection”;

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

1 (3) by striking “(under subparagraph (B))” in
2 subparagraph (A) and inserting “(under subpara-
3 graph (C))”;

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

6 (5) by inserting after subparagraph (A) the fol-
7 lowing:

8 “(B) INTERCONNECTION.—Notwithstand-
9 ing subparagraphs (A) and (C), paragraphs (1)
10 and (2) of subsection (c) of this section shall
11 not apply to a rural telephone company until
12 such company has received a bona fide request
13 for interconnection.”;

14 (6) by striking “exemption under subparagraph
15 (A).” in subparagraph (C), as redesignated, and in-
16 serting “exemption.”; and

17 (7) by striking subparagraph (D) as redesign-
18 nated.

19 (b) OTHER RURAL CARRIERS.—Section 251(f)(2)
20 (47 U.S.C. 251(f)(2)) is amended—

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

24 (2) by inserting “A local exchange carrier with
25 fewer than 10 access lines per square mile installed

1 in the aggregate nationwide may petition a State
2 commission for a suspension or modification of the
3 application of the requirements of subsection (b) or
4 (c) to telephone exchange service facilities specified
5 in the petition.” after “petition.”

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-
20minate IP-enabled voice traffic solely on the basis that it
21 is IP-enabled. A provider originating, transmitting, or ter-
22minating 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. In prescribing the regulations,
12 the Commission shall take into account the differences be-
13 tween IP-enabled voice service and circuit-switched com-
14 munications and the functionalities required by the dis-
15 abled community.

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

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

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

4 “(3) a battery backup is required for customer
5 premises equipment installed in connection with the
6 IP-enabled voice service in order for the signaling of
7 such system to function in the event of a power out-
8 age.

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

13 “(e) DEFINITIONS.—In this section:

14 “(1) EMERGENCY RESPONSE SYSTEM.—The
15 term ‘emergency response system’ means an alarm
16 or security system, or personal security or medical
17 monitoring system, that is connected to an emer-
18 gency response center by means of a telecommuni-
19 cations carrier or IP-enabled voice service provider.

20 “(2) EMERGENCY RESPONSE CENTER.—The
21 term ‘emergency response center’ means an entity
22 that monitors transmissions from an emergency re-
23 sponse system.

24 “(3) IP-ENABLED VOICE SERVICE.—The term
25 ‘IP-enabled voice service’ means the provision of

1 real-time 2-way voice communications offered to the
2 public, or such classes of users as to be effectively
3 available to the public, transmitted through cus-
4 tomer premises equipment using IP protocol, or a
5 successor protocol, for a fee (whether part of a bun-
6 dle of services or offered separately) with inter-
7 connection capability such that the service can origi-
8 nate traffic to, and terminate traffic from, the public
9 switched telephone network.”.

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

12 Section 254(g) of the Communications Act of 1934
13 (47 U.S.C. 254(g) is amended by inserting “This section
14 shall also apply to any services within the jurisdiction of
15 the Commission that can be used as effective substitutes
16 for interexchange telecommunications services, including
17 any such substitute classified as an information service
18 that uses telecommunications.” after “State.”.

19 **Subtitle B—Distributions From**
20 **Universal Service**

21 **SEC. 251. ENCOURAGING BROADBAND DEPLOYMENT.**

22 (a) IN GENERAL.—Beginning 2 years after the date
23 of enactment of this Act, and biennially thereafter, an eli-
24 gible communications carrier shall submit a report to the
25 Commission and to the State commission in each State

1 in which it provides communications service that sets forth
2 the following:

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

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

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

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

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

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

20 (c) COMMISSION REPORT.—The Commission shall in-
21 corporate the data from reports it receives under sub-
22 section (a) into its advanced telecommunications capability
23 reports under section 706 of the Telecommunications Act
24 of 1996.

1 **SEC. 252. ESTABLISHMENT OF BROADBAND PROGRAM.**

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

4 **“SEC. 254A. BROADBAND FOR UNSERVED AREAS PROGRAM.**

5 “(a) PROGRAM ESTABLISHED.—

6 “(1) IN GENERAL.—The Commission shall es-
7 tablish a new separate program to be known as the
8 ‘Broadband for Unserved Areas Program’.

9 “(2) PURPOSE.—The purpose of the Program
10 is to provide financial assistance for the deployment
11 of broadband equipment and infrastructure nec-
12 essary for the deployment of broadband service (in-
13 cluding installation costs) to unserved areas
14 throughout the United States.

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

17 “(b) IMPLEMENTATION.—

18 “(1) IN GENERAL.—Within 180 days after the
19 date of enactment of the Internet and Universal
20 Service Act of 2006, the Commission shall issue
21 rules establishing—

22 “(A) guidelines for determining which
23 areas may be considered to be unserved areas
24 for purposes of this section, which may be por-
25 tions of service areas or study areas;

1 “(B) criteria for determining which facili-
2 ties-based providers of broadband service, and
3 which projects, are eligible for support from the
4 Program;

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

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

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

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

20 “(2) FACILITIES-BASED PROVIDER ELIGI-
21 BILITY.—For purposes of this section, satellite
22 broadband service providers, terrestrial wireless
23 broadband providers, and wireline broadband service
24 providers shall be considered to be facilities-based
25 providers eligible for support from the Program. The

1 deployment of satellite broadband customer premises
2 equipment shall be considered to be a project eligible
3 for support from the Program.

4 “(3) DE MINIMIS SUBSCRIBERSHIP EXCEP-
5 TION.—The availability of broadband service by sat-
6 ellite in an area shall not preclude the designation
7 of that area as an unserved area if the Commission
8 determines that subscribership to broadband satellite
9 service in the area is de minimis.

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

12 “(c) LIMITATIONS.—

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

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

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

24 “(A) facilities-based providers of
25 broadband service; and

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

3 “(d) APPLICATION WITH SECTION 410.—Section
4 410 shall not apply to the Broadband for Unserved Areas
5 Program.

6 “(e) BROADBAND SERVICE DEFINED.—

7 “(1) IN GENERAL.—In this section, except to
8 the extent revised by the Commission under para-
9 graph (2), the term ‘broadband service’ means any
10 service used for transmission of information of a
11 user’s choosing at a transmission speed of at least
12 400 kilobits per second in at least 1 direction, re-
13 gardless of the transmission medium or technology
14 employed, that connects to the public Internet di-
15 rectly—

16 “(A) to the public; or

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

19 “(2) ANNUAL REVIEW OF TRANSMISSION
20 SPEED.—The Commission shall review the trans-
21 mission speed component of the definition in sub-
22 paragraph (A) biannually and revise that component
23 as appropriate.

24 “(f) REPORT.—The Commission shall transmit an
25 annual report to the Senate Committee on Commerce,

1 Science, and Transportation and the House of Represent-
2 atives Committee on Energy and Commerce making rec-
3 ommendations for an increase or decrease, if necessary,
4 in the amounts credited to the account under this sec-
5 tion.”.

6 **SEC. 253. COMPETITIVE NEUTRALITY PRINCIPLE.**

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

10 “(7) **COMPETITIVE NEUTRALITY.**—Universal
11 service support mechanisms and rules should be
12 competitively neutral. In this context, competitively
13 neutral means that universal service support mecha-
14 nisms and rules neither unfairly advantage nor dis-
15 advantage one provider over another, and neither
16 unfairly favor nor disfavor one technology over an-
17 other.”.

18 **SEC. 254. TRANSITION RULES FOR MODIFICATIONS AD-**
19 **VERSELY AFFECTING CARRIERS.**

20 If the Federal Communications Commission modifies
21 the high-cost distribution rules under section 254 of the
22 Communications Act of 1934 (47 U.S.C. 254), it shall
23 adopt transition mechanisms of not less than 5 years in
24 duration designed to alleviate any harmful affect of those

1 modifications on existing eligible communications carriers
2 and their customers.

3 **SEC. 255. ELIGIBILITY GUIDELINES.**

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

7 “(8) ELIGIBILITY GUIDELINES.—

8 “(A) IN GENERAL.—A common carrier
9 may not be designated as a new eligible commu-
10 nications carrier unless it—

11 “(i) is committed to providing service
12 throughout its proposed designated service
13 area, using its own facilities or a combina-
14 tion of facilities and resale of another car-
15 rier’s facilities, to all customers making a
16 reasonable request for service;

17 “(ii) has certified to the State com-
18 mission or the Commission that it will pro-
19 vide service on a timely basis to requesting
20 customers within its service area, if service
21 can be provided at reasonable cost;

22 “(iii) has submitted a plan to the
23 State commission or the Commission that
24 describes with specificity proposed im-
25 provements or upgrades to its network that

1 will be accomplished with high-cost support
2 over the first 2 years following its designa-
3 tion as an eligible communications carrier;

4 “(iv) has demonstrated to the State
5 commission or the Commission its ability
6 to remain functional in emergency situa-
7 tions, including a demonstration that it
8 has a reasonable amount of back-up power
9 to ensure functionality without an external
10 power source;

11 “(v) is committed to following applica-
12 ble consumer protection and service quality
13 standards; and

14 “(vi) has complied with annual report-
15 ing requirements established by the Com-
16 mission or by State Commissions for all
17 carriers receiving universal service support
18 to ensure that such support is used for the
19 provision, maintenance, and upgrading of
20 the facilities for which support is intended.

21 “(B) APPLICATION LIMITED TO POST
22 DATE-OF-ENACTMENT DESIGNATIONS.—Sub-
23 paragraph (A) applies only to an entity des-
24 ignated as an eligible communications carrier

1 after the date of enactment of the Internet and
2 Universal Service Act of 2006.

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

11 “(D) ELIGIBLE COMMUNICATIONS CAR-
12 RIER.—In this paragraph, the term ‘eligible
13 communications carrier’ means an entity des-
14 ignated under paragraph (2), (3), or (6) of this
15 subsection. Any reference to eligible tele-
16 communications carrier in this section or in sec-
17 tion 254 refers also to an eligible communica-
18 tions carrier.”.

19 **SEC. 256. PRIMARY LINE.**

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

23 “(9) PRIMARY LINE.—In implementing the re-
24 quirements of this Act with respect to the distribu-
25 tion and use of Federal universal service support the

1 Commission shall not limit such distribution and use
2 to a single connection or primary line, and all resi-
3 dential and business lines served by an eligible com-
4 munications carrier shall be eligible for Federal uni-
5 versal service support.”.

6 **SEC. 257. PHANTOM TRAFFIC.**

7 (a) IN GENERAL.—Section 254 (47 U.S.C. 254) is
8 amended by adding at the end the following:

9 “(m) NETWORK TRAFFIC IDENTIFICATION AC-
10 COUNTABILITY STANDARDS.—

11 “(1) NETWORK TRAFFIC IDENTIFICATION
12 STANDARDS.—A provider of voice communications
13 services shall ensure, to the degree technically pos-
14 sible, that all traffic that originates on its network
15 contains, or, in the case of nonoriginated traffic,
16 preserves, sufficient information to allow for traffic
17 identification by other voice communications service
18 providers that transport, transit, or terminate such
19 traffic, including information on the identity of the
20 originating provider, the class of service of the origi-
21 nating line as required under Commission orders in
22 effect on the date of enactment of the Internet and
23 Universal Service Act of 2006, the calling and called
24 parties, and such other information as the Commis-
25 sion deems appropriate. Except as otherwise per-

1 mitted by the Commission, a provider that trans-
2 ports or transits traffic between communications
3 service providers shall signal-forward without alter-
4 nation call signaling information it receives from an-
5 other provider.

6 “(2) NETWORK TRAFFIC IDENTIFICATION
7 RULEMAKING.—The Commission, in consultation
8 with the States, shall initiate a single rulemaking no
9 later than 180 days after the date of enactment of
10 the Internet and Universal Service Act of 2006 to
11 establish rules and enforcement provisions for traffic
12 identification.

13 “(3) NETWORK TRAFFIC IDENTIFICATION EN-
14 FORCEMENT.—The Commission shall adopt and en-
15 force clear penalties, fines, and sanctions under this
16 section.

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

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

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

1 (2) by striking “services.” and inserting “serv-
2 ices, and the term “call” includes any communica-
3 tion coming within the definition of ‘communications
4 service’ (as defined in section 254(d)) when it origi-
5 nated from a payphone.”.

6 **SEC. 258. RANDOM AUDITS.**

7 Section 254 (47 U.S.C. 214), as amended by section
8 257 of this Act, is amended by adding at the end the fol-
9 lowing:

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

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

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

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

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

21 “(ii) LIMITATION.—The discount re-
22 quired under clause (i) shall be available
23 only to a public or nonprofit health care
24 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 THE**
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 FRANCHISING 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 franchising 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 franchising 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 **“SEC. 604. NO EFFECT ON STATE LAWS OF GENERAL APPLI-**
14 **CABILITY.**

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

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

19 “No State or local government may regulate direct
20 broadcast satellite services (as that term is used in section
21 335 of this Act).”.

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

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

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

2 “(a) IN GENERAL.—Within 30 days after the date
3 of enactment of the Internet and Universal Service Act
4 of 2006, the Commission shall promulgate a standard
5 franchise application form, the use of which by franchising
6 authorities shall be mandatory.

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

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

13 “(2) agrees to comply with all applicable munic-
14 ipal regulations regarding the use and occupation of
15 public rights-of-way in the delivery of video service,
16 including the police powers of the municipalities in
17 which the service is delivered that are consistent
18 with this title.

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

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

24 “(2) The name and business address of each di-
25 rector and principal executive officer.

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

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

5 “(5) The franchise fee percentage under section
6 622(b)(1).

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

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

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

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

14 “(10) A description of the video service to be
15 provided.”.

16 **SEC. 314. DEFINITIONS.**

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

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

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

24 (3) by inserting after paragraph (11) the fol-
25 lowing:

1 “(11A) ‘headend’ means the headend of a cable
2 system or its equivalent as determined by the Com-
3 mission.”;

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

6 “(12A) ‘institutional network’ means a commu-
7 nication network constructed by a cable operator
8 that is generally available only to subscribers who
9 are not residential subscribers.”;

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

12 (6) by inserting after paragraph (16) the fol-
13 lowing:

14 “(16A) ‘satellite carrier’ means an entity that
15 uses the facilities of a satellite or satellite service li-
16 censed by the Commission and operates in the
17 Fixed-Satellite Service under part 25 of title 47,
18 Code of Federal Regulations, or the Direct Broad-
19 cast Satellite Service under part 100 of title 47,
20 Code of Federal Regulations, to establish and oper-
21 ate a channel of communications for point-to-
22 multipoint distribution of television station signals,
23 and that owns or leases capacity or service on a sat-
24 ellite in order to provide such point-to-multipoint
25 distribution, except to the extent that such entity

1 provides such distribution pursuant to tariff under
2 this Act, for purposes other than for private home
3 viewing.”;

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

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

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

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

13 “(A) the transmission to subscribers of—

14 “(i) video programming;

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

16 “(iii) other programming service; and

17 “(B) subscriber interaction, if any, re-

18 quired for the selection or use of such video

19 programming, interactive on-demand service, or

20 other programming service regardless of the

21 transmission technology used and regardless of

22 how the subscriber interacts with the service.

23 “(25) VIDEO SERVICE PROVIDER.—The term

24 ‘video service provider’—

1 “(A) means a facilities-based (as deter-
2 mined by the Commission) provider of video
3 service that utilizes a public right-of-way in the
4 provision of such service (including cable opera-
5 tors and providers offering open video systems
6 under section 653), regardless of the trans-
7 mission technology used and regardless of how
8 the subscriber interacts with the service; but

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

11 “(i) satellite service;

12 “(ii) video programming using radio
13 communication directly to the recipient’s
14 premises; or

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

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

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

20 (2) by redesignating paragraphs (1) through
21 (20) as paragraphs (1) through (23);

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

24 (4) by inserting after the designation of each
25 such paragraph—

1 (A) a heading, in a form consistent with
2 the form of the heading of paragraphs (24) and
3 (25), as added by subsection (a) of this section
4 consisting of the term defined by such para-
5 graph, or the first term so defined if the para-
6 graph defines more than 1 term; and

7 (B) the words “The term”.

8 **SEC.315. FAMILY TIER STUDY.**

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

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

1 (c) REPORT TO CONGRESS.—Within 1 year after the
2 date of enactment of this Act, and every year thereafter
3 for 5 years, the Commission shall submit a report to Con-
4 gress aggregating the data it receives pursuant to sub-
5 section (b).

6 **Subtitle B—Streamlining the**
7 **Provision of Video Services**

8 **SEC. 331. FRANCHISE REQUIREMENTS AND RELATED PRO-**
9 **VISIONS.**

10 (a) GENERAL FRANCHISE REQUIREMENTS.—Section
11 621 (47 U.S.C. 541) is amended—

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

14 “(a) IN GENERAL.—

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

17 “(A) grant an exclusive franchise; or

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

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

24 “(A) IN GENERAL.—Except as provided in
25 this title, no State or local law may prohibit, or

1 have the effect of prohibiting, a video service
2 provider from offering video service.

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

16 “(C) PROPERTY OWNERS.—Nothing in this
17 title precludes a State or local government from
18 requiring that a property owner be justly com-
19 pensated by a video service provider for damage
20 caused by the installation, construction, oper-
21 ation, or removal of facilities by the video serv-
22 ice provider.”; and

23 “(D) DISPUTE RESOLUTION.—If a dispute
24 arises concerning the application of subpara-
25 graph (A), (B), or (C), the sole recourse of any

1 party to the dispute shall be to file an action
2 in a court of competent jurisdiction.”; and

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

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

9 (1) by striking subsections (a) and (b) and in-
10 sserting the following:

11 “(a) IN GENERAL.—A franchising authority may im-
12 pose and collect a franchise fee from a video service pro-
13 vider that provides video services within the local franchise
14 area of that authority. A franchising authority may not
15 discriminate among video service providers in imposing or
16 collecting any fee assessed under this section.

17 “(b) AMOUNT.—

18 “(1) IN GENERAL.—The franchise fee imposed
19 by a franchising authority under subsection (a) for
20 any 12-month period may not exceed 5 percent of
21 the video service provider’s gross revenue derived in
22 such period. For purposes of this section, the 12-
23 month period shall be the 12-month period applica-
24 ble under the franchise for accounting purposes.

1 “(2) PREPAID OR DEFERRED PAYMENT AR-
2 RANGEMENTS.—Nothing in this subsection prohibits
3 a franchising authority and a video service provider
4 from agreeing that franchise fees which lawfully
5 could be collected for any such 12-month period
6 shall be paid on a prepaid or deferred basis, except
7 that the sum of the fees paid during the term of the
8 franchise may not exceed the amount, including the
9 time value of money, which would have lawfully been
10 collected if such fees had been paid per annum.

11 “(3) FRANCHISING AUTHORITY AND VIDEO
12 SERVICE PROVIDER AGREEMENTS.—Nothing in this
13 section precludes a State or local government and a
14 video service provider from entering into a voluntary
15 commercial agreement, whereby in consideration for
16 a mutually agreed upon reduction in the franchise
17 fee under paragraph (1), the video service provider
18 makes available to the local unit of government serv-
19 ices, equipment, capabilities, or other valuable con-
20 sideration.

21 “(4) PEG AND INSTITUTIONAL NETWORK FI-
22 NANCIAL SUPPORT.—

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

1 “(i) not more than 1 percent of the
2 video service provider’s gross revenue in
3 the franchise area to the franchising au-
4 thority for the support of public, edu-
5 cational, and governmental access facilities
6 and institutional networks; or

7 “(ii) the value, on a per subscriber
8 basis, of all monetary grants or in-kind
9 services or facilities for public, educational,
10 or governmental access facilities provided
11 in the calendar year preceding the date of
12 enactment of the Video Competition and
13 Savings for Consumers Act of 2006 by the
14 cable operator in the franchise area with
15 the most cable service subscribers, pursu-
16 ant to that cable operator’s existing fran-
17 chise in effect on the date of enactment of
18 that Act, but excluding one-time or lump-
19 sum payments.

20 “(B) CALCULATION DATA.—A franchising
21 authority may require a cable operator to pro-
22 vide information sufficient to calculate the per-
23 subscriber equivalent fee allowed by subpara-
24 graph (A)(ii). The information shall be treated
25 as confidential and proprietary business infor-

1 mation. The payments made by a video service
2 provider pursuant to subparagraph (A) shall be
3 assessed and collected in a manner consistent
4 with this section.

5 “(C) EXISTING INSTITUTIONAL NET-
6 WORKS.—

7 “(i) CONTINUED SERVICE.—A fran-
8 chising authority may require a cable oper-
9 ator or video service provider with a fran-
10 chise in effect on the date of enactment of
11 the Video Competition and Savings for
12 Consumers Act of 2006 to continue to pro-
13 vide any institutional network it was re-
14 quired to provide on the date of enactment
15 of that Act notwithstanding the expiration
16 or termination of that franchise pursuant
17 to section 381(b) of the Video Competition
18 and Savings for Consumers Act of 2006.

19 “(ii) NEW NETWORK NOT RE-
20 QUIRED.—A franchising authority may not
21 require a video service provider to con-
22 struct a new institutional network.”; and

23 (2) by striking subsections (d) through (h), re-
24 designating subsection (i) as subsection (h), and in-
25 serting the following after subsection (c):

1 “(d) OTHER TAXES, FEES, AND ASSESSMENTS NOT
2 AFFECTED.—Except as otherwise provided in this section,
3 nothing in this section shall be construed to modify, im-
4 pair, supersede, or authorize the modification, impair-
5 ment, or supersession of, any State or local law pertaining
6 to taxation.

7 “(e) ANNUAL REVIEW.—

8 “(1) FRANCHISING AUTHORITY AUDIT PROCE-
9 DURE.—A franchising authority may, upon reason-
10 able written request, but no more than once in any
11 12-month period, review the business records of a
12 video service provider to the extent reasonably nec-
13 essary to ensure payment of the fees required by this
14 section. The review may include the methodology
15 used by the video service provider to assign portions
16 of the revenue from video service that may be bun-
17 dled or functionally integrated with other services,
18 capabilities, or applications. The review shall be con-
19 ducted in accordance with procedures established by
20 the Commission.

21 “(2) AVAILABILITY OF BOOKS AND RECORDS.—

22 Upon request under paragraph (1), a video service
23 provider shall make available its books and records
24 for periodic audit by a franchising authority. The
25 franchising authority shall treat information ob-

1 tained in the course of such an audit as confidential
2 and proprietary and protect sensitive information
3 from public disclosure.

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

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

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

25 “(g) DEFINITIONS.—In this section:

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

3 “(A) includes any tax, fee, or assessment
4 of any kind imposed by a franchising authority
5 or a State or local governmental entity on a
6 video service provider or subscriber, or both,
7 solely because of their status as such; but

8 “(B) does not include—

9 “(i) any tax, fee, or assessment of
10 general applicability (including any such
11 tax, fee, or assessment imposed on both
12 utilities and video service providers or their
13 services but not including a tax, fee, or as-
14 sessment which is unduly discriminatory
15 against video service providers or sub-
16 sscribers);

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

19 “(iii) requirements or charges inci-
20 dental to the use of public rights-of-way,
21 including payments for bonds, security
22 funds, letters of credit, insurance, indem-
23 nification, penalties, or liquidated damages;

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

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

3 “(2) GROSS REVENUE.—

4 “(A) IN GENERAL.—The term ‘gross rev-
5 enue’ means all consideration of any kind or
6 nature including cash, credits, property, and in-
7 kind contributions (services or goods) received
8 by a video service provider from the provision of
9 video service within a franchise area includ-
10 ing—

11 “(i) all charges and fees paid by sub-
12 scribers for the provision of video service,
13 including fees attributable to video service
14 when that service is sold individually or as
15 part of a package or bundle, or is function-
16 ally integrated with services other than
17 video service;

18 “(ii) revenue received by a video serv-
19 ice provider as compensation for carriage
20 of video programming on the provider’s
21 system;

22 “(iii) compensation received by a video
23 service provider as compensation for pro-
24 motion or exhibition of any product or
25 service on the provider’s video service, such

1 as a home shopping or similar channel,
2 subject to subparagraph (D)(vi); and

3 “(iv) a pro rata portion of all revenue
4 derived by a video service provider or an
5 affiliate thereof pursuant to a compensa-
6 tion arrangement for advertising derived
7 from the operation of the provider’s video
8 service or the video service within a fran-
9 chise area subject to subparagraph (D)(ii).

10 “(B) AFFILIATES.—The gross revenue of a
11 video service provider includes gross revenue of
12 an affiliate to the extent the exclusion of the af-
13 filiate’s gross revenue would have the effect of
14 permitting the video service provider to evade
15 the payment of franchise fees which would oth-
16 erwise be paid by that video service provider for
17 video services provided within the franchise area
18 of the franchising authority imposing the fee.

19 “(C) REVENUE FROM BUNDLED OR FUNC-
20 TIONALLY INTEGRATED SERVICE.—In the case
21 of a video service that is packaged, bundled, or
22 functionally integrated with other services, ca-
23 pabilities, or applications, gross revenue shall
24 include only the revenue attributable to the
25 video service, which shall be reflected on the

1 books and records of the video service provider
2 kept in the regular course of business.

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

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

11 “(ii) refunds, rebates, credits, or dis-
12 counts to subscribers or a municipality to
13 the extent not already excluded under
14 clause (i);

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

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

23 “(II) services, capabilities, and
24 applications that are sold or provided
25 as part of a package or bundle of

1 services or capabilities, or that are
2 functionally integrated with video
3 service;

4 “(iv) any revenues received by a video
5 service provider or its affiliates for the pro-
6 vision of directory or Internet advertising,
7 including yellow pages, white pages, banner
8 advertisement, and electronic publishing;

9 “(v) any costs attributable to the pro-
10 vision of video services to subscribers at no
11 charge, including the provision of such
12 services to public institutions without
13 charge;

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

1 “(vii) any revenue forgone from the
2 provision of video service at no charge to
3 any person other than forgone revenue ex-
4 changed for trades, barter, services, or
5 other items of value;

6 “(viii) any tax, fee, or assessment of
7 general applicability imposed on a sub-
8 scriber, subscription, or subscription-re-
9 lated transaction by Federal, State, or
10 local government that is required to be col-
11 lected by the video service provider and re-
12 mitted to the taxing authority, including
13 sales taxes, use taxes, and utility user
14 taxes;

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

17 “(x) the reimbursement by program-
18 mers for marketing costs actually incurred
19 by a video service provider for the intro-
20 duction of new programming; or

21 “(xi) any revenue from the sale of
22 video services for resale to the extent that
23 the purchaser certifies in writing that it
24 will—

25 “(I) resell the service; and

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

3 **SEC. 332. RENEWAL; REVOCATION.**

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

7 **“SEC. 625. RENEWAL; REVOCATION.**

8 “(a) **RENEWAL.**—A video service provider may sub-
9 mit a written application for renewal of its franchise to
10 a franchising authority not more than 180 days before the
11 franchise expires. Any such application shall be made on
12 the standard application form promulgated by the Com-
13 mission under section 612 and shall be treated under sec-
14 tion 603 in the same manner as any other franchise appli-
15 cation.

16 “(b) **REVOCATION.**—Notwithstanding any other law
17 of general applicability, a franchising authority may re-
18 voke a video service provider’s franchise if it determines,
19 after notice and an opportunity for a hearing, that the
20 video service provider has willfully and repeatedly—

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

24 “(2) made false statements, or material omis-
25 sions, in any filing with the franchising authority or

1 the Commission relating to the provision of video
2 service in the franchise area;

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

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

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

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

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

18 “(d) FINALITY OF DECISION.—Any decision of a
19 franchising authority to revoke a franchise under this sec-
20 tion is final for purposes of appeal. A video service pro-
21 vider whose franchise is revoked by a franchising authority
22 may avail itself of the procedures in section 635 of this
23 Act.”.

1 **SEC. 333. PEG AND INSTITUTIONAL NETWORK OBLIGA-**
2 **TIONS.**

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

5 **“SEC. 611. CHANNELS FOR PUBLIC, EDUCATIONAL, OR GOV-**
6 **ERNMENTAL USE.**

7 “(a) **IN GENERAL.**—A video service provider that ob-
8 tains a franchise shall provide channel capacity for public,
9 educational, or governmental use that is not less than the
10 channel capacity required of the cable operator or video
11 service provider with the greatest number of public, edu-
12 cational, or governmental use channels in the franchise
13 area on the effective date of the franchise. If there is no
14 other video service provider in the franchise area on the
15 effective date of the franchise, the video service provider
16 may be required to provide up to 3 channels.

17 “(b) **ADJUSTMENT.**—Every 15 years after the com-
18 mencement of a franchise granted after April 30, 2006,
19 a franchising authority may require a video service pro-
20 vider to increase the channel capacity designated for pub-
21 lic, educational, or governmental use, and the channel ca-
22 pacity designated for such use on any institutional net-
23 works required under subsection (a). The increase may not
24 exceed the greater of—

25 “(1) 1 channel; or

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

4 “(c) EDITORIAL CONTROL.—Subject to section
5 624(d)(1), a video service provider shall not exercise any
6 editorial control over any public, educational, or govern-
7 mental use of channel capacity provided pursuant to this
8 section, but a video service provider may refuse to trans-
9 mit any public access program or portion of a public ac-
10 cess program which contains obscenity.

11 “(d) TRANSMISSION AND PRODUCTION OF PROGRAM-
12 MING.—

13 “(1) PEG PROGRAMMING.—A video service pro-
14 vider shall ensure that all subscribers receive any
15 public, educational, or governmental programming
16 carried by the video service provider within the sub-
17 scriber’s franchise area.

18 “(2) PRODUCTION RESPONSIBILITY.—The pro-
19 duction of any programming provided under this
20 subsection shall be the responsibility of the fran-
21 chising authority.

22 “(3) TRANSMISSION RESPONSIBILITY.—The
23 video service provider shall be responsible for the
24 transmission from the signal origination point (or
25 points) of the programming, or from the point of

1 interconnection with another video service provider
2 already offering the public, educational, or govern-
3 mental programming under paragraph (4), to the
4 video service provider's subscribers, or any public,
5 educational, or governmental programming produced
6 by or for the franchising authority and carried by
7 the video service provider pursuant to this section.

8 “(4) INTERCONNECTION; COST-SHARING.—Un-
9 less 2 video service providers otherwise agree to the
10 terms for interconnection and cost sharing, such
11 video service providers shall comply with regulations
12 prescribed by the Commission providing for—

13 “(A) the interconnection between 2 video
14 service providers in a franchise area for trans-
15 mission of public, educational, or governmental
16 programming, without material degradation in
17 signal quality or functionality; and

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

21 “(5) DISPLAY OF PROGRAM INFORMATION.—
22 The video service provider shall display the program
23 information for public, educational, or governmental
24 programming in any print or electronic program
25 guide in the same manner in which it displays pro-

1 gram information for other video programming in
2 the franchise area. The video service provider may
3 not omit public, educational, or governmental pro-
4 gramming from any navigational device, guide, or
5 menu containing other video programming that is
6 available to subscribers in the franchise area if the
7 franchising authority provides such programming to
8 the video service provider at a location, in the data
9 format, and in sufficient time normally required for
10 the programming to be displayed on such device,
11 guide, or menu.”.

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

13 (a) IN GENERAL.—Section 624 (47 U.S.C. 544) is
14 amended—

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

18 (2) by inserting “or wire” after “cable” in sub-
19 section (d), as redesignated.

20 (b) CONFORMING AMENDMENT.—Section 611(c) (47
21 U.S.C. 531(c)), as amended by section 333 of this Act,
22 is amended by striking “624(d)(1)” and inserting
23 “624(a)(1)”.

1 **SEC. 335. SHARED FACILITIES.**

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

4 (1) by striking section 627 and redesignating
5 sections 628 and 629 as sections 626 and 627, re-
6 spectively; and

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

8 **“SEC. 628. ACCESS TO PROGRAMMING FOR SHARED FACILI-**
9 **TIES.**

10 “(a) IN GENERAL.—A video service programming
11 vendor in which a video service provider has an attrib-
12 utable interest may not deny a video service provider with
13 a franchise under this title access to video programming
14 solely because that video service provider uses a headend
15 for its video service system that is also used, under a
16 shared ownership or leasing agreement, as the headend
17 for another video service system.

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

1 **SEC. 336. CONSUMER PROTECTION AND CUSTOMER SERV-**
2 **ICE.**

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

5 **“SEC. 632. CONSUMER PROTECTION AND CUSTOMER SERV-**
6 **ICE.**

7 “(a) REGULATIONS.—

8 “(1) IN GENERAL.—Not later than 120 days
9 after the date of enactment of the Video Competition
10 and Savings for Consumers Act of 2006, the Com-
11 mission, after receiving comments from interested
12 parties, including national associations representing
13 franchising authorities or consumers, shall promul-
14 gate regulations, which shall include penalties to be
15 paid to subscribers with respect to customer service
16 and consumer protection requirements for video
17 service providers.

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

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

25 “(c) REVIEW BY COMMISSION.—A video service pro-
26 vider may appeal any enforcement action taken against

1 that provider by a franchising authority to the Commis-
2 sion.”.

3 **SEC. 337. REDLINING.**

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

6 **“SEC. 642. REDLINING.**

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

11 “(b) ENFORCEMENT.—

12 “(1) STATE ATTORNEY GENERAL ENFORCE-
13 MENT.—This section may be enforced by the State
14 attorney general through a complaint-initiated adju-
15 dication process under which a complaint may be
16 filed by a resident of the franchising area who is ag-
17 grieved by a violation of subsection (a) or by a fran-
18 chising authority on behalf of residents of its fran-
19 chise area. Within 180 days after receiving the resi-
20 dent’s or franchising authority’s complaint, a State
21 attorney general shall act on such a complaint either
22 by filing a complaint with a court of competent ju-
23 risdiction or notifying the resident or franchising au-
24 thority that the State attorney general will not file
25 such a complaint.

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

6 “(c) REMEDIES.—If a court determines that a video
7 service provider has violated subsection (a) it—

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

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

14 “(d) LIMITATIONS.—

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

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

24 “(e) REPORTS.—

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

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

21 **Subtitle C—Miscellaneous and** 22 **Conforming Amendments**

23 **SEC. 351. MISCELLANEOUS AMENDMENTS.**

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

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

8 (b) SUNSET.—Section 626(c)(5), as redesignated by
9 section 335 of this Act, is amended—

10 (1) by striking “10 years after the date of en-
11 actment of this section,” and inserting “on October
12 5, 2012,”; and

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

16 (c) UPDATING.—Section 613 (47 U.S.C. 533) is
17 amended—

18 (1) by striking “July 1, 1984,” in subsection
19 (g) and inserting “the date of enactment of the
20 Communications, Consumers’ Choice, and
21 Broadband Deployment of 2006”; and

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

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

3 (e) ENFORCEMENT.—Section 634(i) (47 U.S.C.
4 554(i)) is amended—

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

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

8 (f) RESTRUCTURING PART IV.—Part IV of title VI
9 (47 U.S.C. 551 et seq.) is amended—

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

11 (2) by redesignating sections 635A, 638, 639,
12 640, 641, and 642 (as added by section 339 of this
13 Act) as sections 636, 637, 638, 639, 640, and 641,
14 respectively.

15 (g) FEDERAL REGULATION OF IP-ENABLED VIDEO
16 SERVICE.—TITLE VI (47 U.S.C. 521 ET SEQ.), AS AMEND-
17 ED BY SUBSECTION (F), IS AMENDED BY ADDING AT THE
18 END THE FOLLOWING:

19 **“SEC. 642. IP-ENABLED VIDEO SERVICE.**

20 “(a) IN GENERAL.—Notwithstanding any other pro-
21 vision of law, IP-enable video service is an interstate serv-
22 ice and is subject only to Federal regulations.

23 “(b) IP-ENABLED VIDEO SERVICE DEFINED.—In
24 this section, the term ‘IP-enabled video service’ means a
25 video service provided using the public Internet or a pri-

1 vate network utilizing Internet protocol, or any successor
2 protocol that is not offered by a video service provider.”.

3 (h) CONFORMING AMENDMENTS FOR RETRANS-
4 MISSION.—

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

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

10 (B) by inserting “The term ‘video service
11 provider’ has the meaning given it in section
12 602(25) of this Act.” after “title.” in the mat-
13 ter following subparagraph (E) of paragraph
14 (2).

15 (2) Section 336(b) (47 U.S.C. 336(b)) is
16 amended by striking “section 614 or 615 or be
17 deemed a multichannel video programming dis-
18 tributor for purposes of section 628;” and inserting
19 “section 614 or 615;”.

20 **Subtitle D—Effective Dates and**
21 **Transition Rules.**

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

23 (a) IN GENERAL.—

24 (1) 6-MONTH DELAY.—Except as provided in
25 paragraph (2), the amendments made by this Act

1 (the Video Competition and Savings for Consumers
2 Act of 2006) shall take effect 180 days after the
3 date of enactment of this Act.

4 (2) INITIATION OF CERTAIN PROCEEDINGS.—
5 Notwithstanding paragraph (1), the Federal Com-
6 munications Commission shall initiate any pro-
7 ceeding required by title VI of the Communications
8 Act of 1934, as amended by this Act, or made nec-
9 essary by such amendment as soon as practicable
10 after the date of enactment of this Act.

11 (b) APPLICATION TO EXISTING FRANCHISE AGREE-
12 MENTS.—

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

1 (A) the expiration date of the agreement;

2 or

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

6 (2) COMPETITION TRIGGER.—

7 (A) NOTIFICATION OF EXISTING
8 FRANCHISEE REQUIRED.—If a franchising au-
9 thority authorizes a video service provider to
10 provide video service in an area in which cable
11 service is already being provided under an exist-
12 ing franchise agreement, the franchising au-
13 thority shall—

14 (i) require the video service provider
15 to notify it when the video service provider
16 commences video service in that area; and

17 (ii) immediately notify any cable oper-
18 ator providing cable service in that area
19 upon receipt of the notice required under
20 clause (i).

21 (B) NEW FRANCHISE AGREEMENT SUPER-
22 SEDES EXISTING AGREEMENT.—Upon receipt of
23 notice under subparagraph (A)(ii), a cable oper-
24 ator with an existing franchise to provide cable
25 service in that area may submit an application

1 for a franchise under section 603 of the Com-
2 munications Act of 1934, as amended by this
3 Act. When the franchise is granted—

4 (i) the terms and conditions of the
5 new franchise agreement supersede the ex-
6 isting franchise agreement; and

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

10 (c) LIMITED APPLICATION OF PRIOR LAW.—

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

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

23 (B) that date on which a new franchise
24 agreement takes effect that replaces a cable op-

1 erator's franchise agreement described in sub-
2 paragraph (A).

3 (2) PRESERVATION OF BASIC TIER REGULA-
4 TION.—Notwithstanding any other provision of this
5 subsection, section 623 of old title VI shall continue
6 to apply in any franchise area until a franchising au-
7 thority receives a notice under subsection
8 (b)(2)(A)(i).

9 (3) DEFINITIONS.—In this subsection:

10 (A) CABLE OPERATOR.—The term “cable
11 operator” includes a local exchange carrier that
12 provides video services to video service sub-
13 scribers in its telephone service area through an
14 open video system that complies with the re-
15 quirements of section 653 of the Communica-
16 tions Act of 1934 (47 U.S.C. 573).

17 (B) NEW TITLE VI.—The term “new title
18 VI” means title VI of the Communications Act
19 of 1934 (47 U.S.C. 521 et seq.) as amended by
20 this Act.

21 (C) OLD TITLE VI.—The term “old title
22 VI” means title VI of the Communications Act
23 of 1934 (47 U.S.C. 521 et seq.) as in effect on
24 the day before the date of enactment of this
25 Act.

1 **TITLE IV—VIDEO CONTENT**
2 **Subtitle A—National Satellite**

3 **SEC. 401. AVAILABILITY OF CERTAIN LICENSED SERVICES**
4 **IN NONCONTIGUOUS STATES.**

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

7 “(c) **ALASKA AND HAWAII OBLIGATIONS.**—

8 “(1) **IN GENERAL.**—Each satellite carrier shall,
9 to the extent technically feasible given the carrier’s
10 satellite constellation then in use, provide a com-
11 parable consumer product to subscribers in Alaska
12 and Hawaii at prices and terms comparable to those
13 made available to subscribers in the contiguous
14 United States.

15 “(2) **CONDITIONS ON NEW LICENSES.**—

16 “(A) **IN GENERAL.**—Before the Commis-
17 sion grants a license under this for a new sat-
18 ellite used for service in the contiguous United
19 States to a satellite carrier, it shall ensure that,
20 to the extent technically feasible, the following
21 minimum conditions are met:

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

1 “(I) capable of providing services
2 to consumers in the cities of Anchor-
3 age, Fairbanks, and Juneau, Alaska,
4 using signal power levels of at least
5 45 dBW effective isotropic radiated
6 power; and

7 “(II) capable of providing service
8 to consumers in the islands of Oahu,
9 Maui, Kauai, Molokai, and Hawaii
10 using signal power levels of at least
11 46 dBW effective isotropic radiated
12 power.

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

15 “(I) with respect to services of-
16 fered on beams covering substantially
17 the entire contiguous United States,
18 the carrier must make best efforts to
19 ensure that the effective isotropic ra-
20 diated power of the satellite on the
21 downlink and, where applicable, the
22 efficiency of the satellite receive an-
23 tenna (G/T) can allow the use of a
24 commercially available antenna in
25 Alaska and Hawaii with a gain that is

1 no more than 4 dB greater than that
2 used to provide the service in the con-
3 tiguous United States; and

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

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

22 “(3) SATELLITE CARRIER DEFINED.—In this
23 subsection, the term ‘satellite carrier’ means an enti-
24 ty that uses the facilities of a satellite in the Fixed-
25 Satellite Service, the Direct Broadcast Satellite serv-

1 ice, the Broadcast Satellite Service, the Mobile-Sat-
2 ellite Service, or the Digital Audio Radio Service
3 that is licensed by the Commission under part 25 of
4 title 47, Code of Federal Regulations, or is licensed
5 or authorized by a foreign government.”.

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

10 (c) IMPLEMENTATION BY COMMISSION.—

11 (1) IN GENERAL.—The Federal Communica-
12 tions Commission shall adopt such rules and policies
13 as are necessary to implement and enforce section
14 335(c) of the Communications Act of 1934 (47
15 U.S.C. 335(c)).

16 (2) AMENDMENT OF RULES.—Within 30 days
17 after the date of enactment of this Act, the Commis-
18 sion shall amend section 1.4000(a)(1)(i)(B) of its
19 rules (47 C.F.R. 1.4000(a)(1)(i)(B)) to insert “and
20 Hawaii” after “Alaska”.

21 **Subtitle B—Video and Audio Flag**

22 **SEC. 451. SHORT TITLE.**

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

1 **SEC. 452. PROTECTION OF DIGITAL BROADCAST VIDEO**
2 **CONTENT.**

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

6 “(z) Have authority with respect to digital television
7 receivers to adopt such regulations and certifications as
8 are necessary to implement the Report and Order in the
9 matter of Digital Broadcast Content Protection, FCC 03–
10 273, as ratified by the Congress in section 102(b) of the
11 Consumer Competition and Broadband Promotion Act,
12 with the exclusive purpose of limiting the indiscriminate
13 redistribution of digital television content over the Inter-
14 net or similar distribution platforms, including the author-
15 ity to reconsider, amend, repeal, supplement, and other-
16 wise modify any such regulations and certifications, in
17 whole or in part, only for that purpose.”.

18 (b) RATIFICATION OF FCC REPORT AND ORDERS.—
19 The Report and Order in the matter of Digital Broadcast
20 Content Protection, FCC 03–273, and the Order in the
21 matter of Digital Output Protection Technology and Re-
22 cording Method Certifications, FCC 04–193, are ratified,
23 subject to the limitations set forth in subsection (d), and
24 shall become effective 12 months after the date of enact-
25 ment of this Act.

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

17 (d) LIMITATIONS.—

18 (1) IN GENERAL.—Nothing in this Act or sec-
19 tion 303(z) of the Communications Act of 1934 (47
20 U.S.C. 303(z)), or in regulations of the Commission
21 adopted pursuant thereto, shall—

22 (A) limit the Commission’s authority to ap-
23 prove digital output protection technologies and
24 recording methods that allow for the redistribu-
25 tion of digital broadcast content within the

1 home or similar environment, or the use of the
2 Internet to transmit digital broadcast content,
3 where such technologies and recording methods
4 adequately protect such content from indis-
5 criminate redistribution; or

6 (B) be construed to affect rights, remedies,
7 limitations, or defenses to copyright infringe-
8 ment, including fair use, under title 17, United
9 States Code.

10 (2) USE OF REDISTRIBUTION CONTROL
11 DESCRIPTOR.—Licensees of television broadcast sta-
12 tions may not utilize the Redistribution Control
13 Descriptor, as adopted by the Report and Order de-
14 scribed in subparagraph (b), to limit the redistribu-
15 tion of news and public affairs programming the pri-
16 mary commercial value of which depends on timeli-
17 ness. The Federal Communications Commission
18 shall allow each broadcaster or broadcasting network
19 to determine whether the primary commercial value
20 of a particular news program depends on timeliness.
21 The Commission may review any such determination
22 by a broadcaster or broadcasting network if it re-
23 ceives bona fide complaints alleging, or otherwise
24 has reason to believe, that particular broadcast dig-
25 ital television content has violated this subsection.

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

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

12 **CONTENT.**

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

15 **“SEC. 342. PROTECTION OF DIGITAL AUDIO BROADCASTING**

16 **CONTENT.**

17 “(a) IN GENERAL.—Subject to section 454(d)(2) of
18 the Digital Content Protection Act of 2006, the Commis-
19 sion may promulgate regulations governing the distribu-
20 tion of audio content with respect to—

21 “(1) digital radio broadcasts;

22 “(2) satellite digital radio transmissions; and

23 “(3) digital radios.

24 “(b) MONITORING ORGANIZATIONS.—

1 “(1) IN GENERAL.—The Commission shall en-
2 sure that a performing rights society or a mechan-
3 ical rights organization, or any entity acting on be-
4 half of such a society or organization, is granted a
5 license for free or for a de minimis fee to cover only
6 the reasonable costs to the licensor of providing the
7 license, and on reasonable, nondiscriminatory terms
8 and conditions, to access and retransmit as nec-
9 essary any content contained in such transmissions
10 protected by content protection or similar tech-
11 nologies, if—

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

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

19 “(2) PROTECTED ACTIVITIES.—Nothing shall
20 preclude or prevent a performing rights organiza-
21 tion, a mechanical rights organization, a monitoring
22 service, a measuring service, or any entity owned in
23 whole or in part by, or acting on behalf of, such an
24 organization or service, from monitoring or meas-
25 uring public performances or other uses of copy-

1 righted works, advertisements, or announcements
2 contained in performances or other uses, or other in-
3 formation concerning the content or audience of
4 such performances or other uses.

5 “(3) ALTERNATIVE LICENSING LANGUAGE.—
6 The Commission may require that any such organi-
7 zation, service, or entity be given a license on either
8 a gratuitous basis or for a de minimis fee to cover
9 only the reasonable costs to the licensor of providing
10 the license, and on reasonable, nondiscriminatory
11 terms, to access, record, and retransmit as necessary
12 any content contained in any such performance or
13 use protected by content protection or similar tech-
14 nology, if—

15 “(A) the license is used for carrying out
16 the activities of such organizations, services, or
17 entities in monitoring or measuring the public
18 performance or other use of copyrighted works,
19 advertisements, or announcements, or other in-
20 formation concerning the content or audience of
21 such performances or uses; and

22 “(B) the organizations, services, or entities
23 employ reasonable methods to protect any such
24 content accessed from further distribution.”.

1 **SEC. 454. DIGITAL AUDIO REVIEW BOARD.**

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

5 (b) MEMBERSHIP.—Members of the Board shall be
6 appointed by the chairman of the Commission and shall
7 include representatives nominated by—

8 (1) the information technology industry;

9 (2) the software industry;

10 (3) the consumer electronics industry;

11 (4) the radio broadcasting industry;

12 (5) the satellite radio broadcasting industry;

13 (6) the cable industry;

14 (7) the audio recording industry;

15 (8) the music publishing industry;

16 (9) performing rights societies, including—

17 (A) the American Society of Composers,
18 Authors and Publishers;

19 (B) Broadcast Music, Inc.; and

20 (C) SESAC, Inc.;

21 (10) public interest organizations;

22 (11) organizations representing recording art-
23 ists, performers and musicians;

24 (12) organizations representing songwriters;

25 and

1 (13) any other group that the Commission de-
2 termines will be directly affected by adoption of
3 broadcast flag technology regulations.

4 (c) DUTY.—

5 (1) IN GENERAL.—Within 1 year after the date
6 of enactment of this Act, the Board shall submit to
7 the Commission a proposed regulation under section
8 343 of the Communications Act of 1934 (47 U.S.C.
9 343) that—

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

12 (B) are consistent with fair use principles.

13 (2) EXTENSION OF 1-YEAR PERIOD.—The Com-
14 mission may extend, for good cause shown, the 1-
15 year period described in paragraph (1) for a period
16 of not more than 6 months, if the Commission deter-
17 mines that—

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

21 (B) the members of the Board are con-
22 tinuing to negotiate in good faith; and

23 (C) there is a reasonable expectation that
24 the Board will draft and submit a proposed reg-

1 ulation before the expiration of the extended pe-
2 riod of time.

3 (d) COMMISSION TREATMENT OF PROPOSED REGU-
4 LATION.—

5 (1) DRAFT REGULATION.—Within 30 days after
6 the Commission receives a proposed regulation from
7 the Board under this section the Commission shall
8 initiate a rulemaking proceeding to implement the
9 proposed regulation.

10 (2) DEFERENCE; DEADLINE.—If the Board
11 submits a proposed regulation under this section the
12 Commission, in promulgating a regulation under sec-
13 tion 343 of the Communications Act of 1934,
14 shall—

15 (A) give substantial deference to the pro-
16 posed regulation submitted by the Board; and

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

20 (3) COMMISSION ACTION IF NO BOARD AC-
21 TION.—If the Board does not submit a proposed
22 regulation to the Commission within 1 year after the
23 date of enactment of this Act, plus any extension
24 granted by the Commission under subsection (c)—

1 (A) the Commission may initiate a pro-
2 ceeding to determine what, if any, regulations
3 under section 343 of the Communications Act
4 of 1934 regarding digital audio copy protection
5 are necessary; and

6 (B) if the Commission determines that
7 such regulations are necessary, the Commission
8 may promulgate a rule implementing such pro-
9 tections as long as such regulations do not
10 harm or delay the continued roll-out of HD
11 radio.

12 (e) ADMINISTRATIVE PROVISIONS.—

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

15 (2) EXECUTIVE DIRECTOR.—The Chairman of
16 the Commission may, without regard to civil service
17 laws and regulations, appoint and terminate an Ex-
18 ecutive Director and such other additional personnel
19 as may be necessary to enable the Board to perform
20 its duties. The Executive Director shall be com-
21 pensated at a rate not to exceed the rate of pay pay-
22 able for level V of the Executive Schedule under sec-
23 tion 5316 of title 5, United States Code.

24 (3) TEMPORARY AND INTERMITTENT SERV-
25 ICES.—In carrying out its duty, the Board may pro-

1 cure temporary and intermittent services of consult-
2 ants and experts under section 3109(b) of title 5,
3 United States Code, at rates for individuals which
4 do not exceed the daily equivalent of the annual rate
5 of basic pay prescribed for level V of the Executive
6 Schedule under section 5316 of such title.

7 (4) DETAIL OF GOVERNMENT EMPLOYEES.—
8 Upon request of the Board, the head of any Federal
9 agency may detail any Federal Government em-
10 ployee to the Board without reimbursement, and
11 such detail shall be without interruption or loss of
12 civil service status or privilege.

13 (5) ADMINISTRATIVE SUPPORT.—Notwith-
14 standing section 7(c) of the Federal Advisory Com-
15 mittee Act (5 U.S.C. App.), the Commission shall
16 provide the Board with such administrative and sup-
17 portive services as are necessary to ensure that the
18 Board can carry out its functions.

19 (6) TERMINATION.—The Board shall terminate
20 on the date on which it submits a proposed regula-
21 tion to the Commission or at the discretion of the
22 Chairman of the Federal Communications Commis-
23 sion, but no later than 18 months after the Board's
24 first meeting.

1 **TITLE V—MUNICIPAL**
2 **BROADBAND**

3 **SEC. 501. SHORT TITLE.**

4 This title may be cited as the “Community
5 Broadband Act”.

6 **SEC. 502. STATE REGULATION OF MUNICIPAL BROADBAND**
7 **NETWORKS.**

8 Section 706 of the Telecommunications Act of 1996
9 (47 U.S.C. 157 note) is amended—

10 (1) by redesignating subsection (c) as sub-
11 section (i);

12 (2) by inserting after subsection (b) the fol-
13 lowing:

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

22 “(d) SAFEGUARDS.—

23 “(1) ANTIDISCRIMINATION.—To the extent any
24 public provider regulates competing providers of ad-
25 vanced telecommunications capability or any service

1 that utilizes the advanced telecommunications capa-
2 bility provided by such providers, the public provider
3 shall apply its ordinances, rules, policies, and fees,
4 including those relating to the public rights-of-way,
5 permitting, performance bonding, and reporting,
6 without discrimination in favor of itself or any other
7 advanced telecommunications capability provider
8 that such public provider owns or is affiliated with,
9 as compared to other providers of such capability or
10 services.

11 “(2) APPLICATION OF GENERAL LAWS.—Noth-
12 ing in this subsection or subsections (d) through (g)
13 shall exempt a public provider from any Federal or
14 State telecommunications law or regulation that ap-
15 plies to all providers of—

16 “(A) advanced telecommunications capa-
17 bility; or

18 “(B) any service that utilizes the advanced
19 telecommunications capability provided by such
20 public provider.

21 “(e) PUBLIC-PRIVATE PARTNERSHIPS ENCOUR-
22 AGED.—Each public provider that intends to provide ad-
23 vanced telecommunications capability or any service that
24 utilizes the advanced telecommunications capability pro-
25 vided by such provider to the public shall consider the po-

1 tential benefits of a public-private partnership prior to
2 providing such capability or services.

3 “(f) NOTICE AND OPPORTUNITY TO BID FOR THE
4 PRIVATE SECTOR.—

5 “(1) NOTICE AND OPPORTUNITY TO BID RE-
6 QUIRED.—If a public provider decides not to initiate
7 a project to provide advanced telecommunications
8 capability or any service that utilizes the advanced
9 telecommunications capability provided by such pub-
10 lic provider to the public through a public-private
11 partnership, then, before the public provider may
12 provide such advanced telecommunications capability
13 or any such service that utilizes the advanced tele-
14 communications capability provided by such public
15 provider to the public, the public provider shall—

16 “(A)(i) publish notice of its intention in
17 media generally available to the public in the
18 area in which it intends to provide such capa-
19 bility or service; or

20 “(ii) utilize such notice procedures as such
21 provider already had in effect as of the date of
22 enactment of the Community Broadband Act, if
23 such notice has the effect of making such notice
24 generally known to the public; and

1 “(B) provide an opportunity for commer-
2 cial enterprises to bid to provide such capability
3 or service during the 30-day period following
4 publication of the notice.

5 “(2) NOTICE REQUIREMENTS.—The public pro-
6 vider shall include in the notice required by para-
7 graph (1) a description of the proposed scope of the
8 advanced telecommunications capability or any serv-
9 ice that utilizes the advanced telecommunications ca-
10 pability provided by such public provider to be pro-
11 vided, including—

12 “(A) the services to be provided (including
13 network capabilities);

14 “(B) the coverage area;

15 “(C) service tiers and pricing; and

16 “(D) any proposal for providing advanced
17 telecommunications capability or any service
18 that utilizes the advanced telecommunications
19 capability provided by such public provider to
20 low-income areas, or other demographically or
21 geographically defined areas.

22 “(3) PUBLIC NOTICE AND INPUT ON PROPOSED
23 PROJECTS.—

24 “(A) IN GENERAL.—Each public provider
25 shall—

1 “(i) publish notice of each proposal to
2 provide advanced telecommunications capa-
3 bility or any service that utilizes the ad-
4 vanced telecommunications capability pro-
5 vided by such public provider to the public
6 by a commercial enterprise under para-
7 graph (1)(B); and

8 “(ii) provide local citizens in the juris-
9 diction of that public provider and such
10 commercial enterprises with information on
11 the specifics of each such project, includ-
12 ing—

13 “(I) the cost to taxpayers, and
14 the benefits of, the proposed public
15 provider project; and

16 “(II) any potential alternatives to
17 the proposed public provider project,
18 including any public-private partner-
19 ships.

20 “(B) 30-DAY PERIOD.—In order to provide
21 local citizens and commercial enterprises with
22 an adequate opportunity to be informed, a pub-
23 lic provider shall provide additional notice re-
24 questing that any public comments on the pro-
25 posed public provider project be filed not later

1 than 30 days after the date of publication of
2 the notice required under subparagraph (A).

3 “(4) APPROVAL PROCESS.—If a public provider
4 decides to proceed with its own project to provide
5 advanced telecommunications capability or any serv-
6 ice that utilizes the advanced telecommunications ca-
7 pability provided by such public provider to the pub-
8 lic despite bids by commercial enterprises received in
9 accordance with paragraph (1)(B), such public pro-
10 vider shall authorize that project by whatever proc-
11 ess typically utilized by such public provider to ap-
12 prove projects of comparable cost in the jurisdiction
13 of such public provider.

14 “(5) APPLICATION TO EXISTING ARRANGE-
15 MENTS AND PENDING PROPOSALS.—This subsection
16 does not apply to—

17 “(A) any contract or other arrangement
18 under which a public provider is providing or
19 upgrading advanced telecommunications capa-
20 bility or any service that utilizes the advanced
21 telecommunications capability provided by such
22 public provider to the public as of April 20,
23 2006; or

24 “(B) any public provider proposal to pro-
25 vide advanced communications capability or any

1 service that utilizes the advanced telecommuni-
2 cations capability provided by such public pro-
3 vider to the public that, as of April 20, 2006—

4 “(i) is in the request-for-proposals
5 process;

6 “(ii) is in the process of being built;
7 or

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

11 “(g) NO RECEIPT OF FEDERAL FUNDS.—If any
12 project to provide advanced telecommunications capability
13 or any service that utilizes the advanced telecommuni-
14 cations capability provided by a public provider under this
15 section fails whether due to bankruptcy, insufficient funds,
16 or any other reason, no Federal funds may be provided
17 to such public provider to assist such public provider in
18 maintaining, reviving, or renewing such project, except if
19 such failure occurred in any jurisdiction that is subject
20 to a declaration by the President of a major disaster, as
21 defined under section 102 of the Robert T. Stafford Dis-
22 aster Relief and Emergency Assistance Act (42 U.S.C.
23 5122).

1 “(h) TEMPORARY SERVICES DURING STATES OF
2 EMERGENCY.—Nothing in subsections (c) through (h)
3 shall preclude a public provider from—

4 “(1) immediately deploying a temporary ad-
5 vanced telecommunications capability or any service
6 that utilizes the advanced telecommunications capa-
7 bility provided by such public provider to the public
8 during a state of emergency declared by the Presi-
9 dent or the Governor of the State in which such
10 public provider is located; and

11 “(2) continuing the operation of such capability
12 or service until the emergency situation is resolved.”;
13 and

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

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

18 “(A) a State or political subdivision there-
19 of;

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

22 “(C) an Indian tribe (as defined in section
23 4(e) of the Indian Self-Determination and Edu-
24 cation Assistance Act (25 U.S.C. 450b(e)); or

1 “(D) any entity that is owned, controlled,
2 or otherwise affiliated with a State, political
3 subdivision thereof, agency, authority, or instru-
4 mentality, or Indian tribe.”.

5 **TITLE VI—WIRELESS**
6 **INNOVATION NETWORKS**

7 **SEC. 601. SHORT TITLE.**

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

10 **SEC. 602. ELIGIBLE TELEVISION SPECTRUM MADE AVAIL-**
11 **ABLE FOR WIRELESS USE.**

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

15 **“SEC. 343. ELIGIBLE BROADCAST TELEVISION SPECTRUM**
16 **MADE AVAILABLE FOR WIRELESS USE.**

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

22 “(b) COMMISSION TO FACILITATE USE.—Within 270
23 days after the date of enactment of that Act, the Commis-
24 sion shall adopt technical and device rules in ET Docket
25 No. 04–186 to facilitate the efficient use of eligible broad-

1 cast television frequencies by certified unlicensed devices,
2 which shall include rules and procedures—

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

5 “(2) to require certification of unlicensed de-
6 vices designed to be operated in the eligible broad-
7 cast television frequencies that includes testing,
8 which may include testing in an independent labora-
9 tory certified by the Commission and field testing,
10 that demonstrates—

11 “ (A) compliance with the requirements set
12 forth pursuant to this paragraph; and

13 “(B) that such compliance effectively pro-
14 tects licensees from harmful interference;

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

20 “(4) to act immediately on any bona fide com-
21 plaints from licensees that a certified unlicensed de-
22 vice causes harmful interference including
23 verification, in the field, of actual harmful inter-
24 ference; and

1 “(5) to limit the operation or use of certified
2 unlicensed devices within any geographic area in
3 which a public safety entity is authorized to operate
4 as a primary licensee within the eligible broadcast
5 television frequencies.

6 “(c) DEFINITIONS.—In this section:

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

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

13 “(A) All frequencies between 54 and 72
14 megaHertz, inclusive.

15 “(B) All frequencies between 76 and 88
16 megaHertz, inclusive.

17 “(C) All frequencies between 174 and 216
18 megaHertz, inclusive.

19 “(D) All frequencies between 470 and 608
20 megaHertz, inclusive.

21 “(E) All frequencies between 614 and 698
22 megaHertz, inclusive.

23 “(3) LICENSEE.—The term ‘licensee’ means a
24 licensee, as defined in section 3(24), that is oper-

1 ating in a manner that is not inconsistent with its
2 license.”.

3 **TITLE VII—DIGITAL TELEVISION**

4 **SEC. 701. ANALOG AND DIGITAL TELEVISION SETS AND**
5 **CONVERTER BOXES; CONSUMER EDUCATION**
6 **AND REQUIREMENTS TO REDUCE THE GOV-**
7 **ERNMENT COST OF THE CONVERTER BOX**
8 **PROGRAM.**

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

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

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

15 “(d) CONSUMER EDUCATION REQUIREMENTS RE-
16 GARDING ANALOG RECEIVERS.—

17 “(1) REQUIREMENTS FOR MANUFACTURERS.—

18 The manufacturer of any analog only television set
19 manufactured in the United States or shipped in
20 interstate commerce shall—

21 “(A) place the appropriate removable label
22 described in paragraph (3) on the screen of
23 such television set; and

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

4 “(i) in a clear and conspicuous man-
5 ner; and

6 “(ii) in a manner that cannot be re-
7 moved.

8 “(2) REQUIREMENTS FOR RETAILERS.—A re-
9 tailer of analog only television sets that sells such
10 television sets via direct mail, catalog, or electronic
11 means, shall include in all advertisements or descrip-
12 tions of such television set the product and the in-
13 formation described in paragraph (3) within 120
14 days after the date of enactment of the Communica-
15 tions, Consumers’ Choice, and Broadband Deploy-
16 ment Act of 2006.

17 “(3) PRODUCT AND DIGITAL TELEVISION TRAN-
18 SITION INFORMATION.—The following product and
19 digital television transition information shall be dis-
20 played as a label on analog television sets, in both
21 English and Spanish:

‘CONSUMER ALERT

‘This TV has only an “analog” broadcast tuner and will require a converter box after February 17, 2009 to receive over-the-air broadcasts with an antenna because of the Nation’s transition to digital broadcasting on that date as required by Federal law. It should continue to work as before with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products.’

1 “(4) COMMISSION OUTREACH.—

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

10 “(B) WEBSITE.—The Commission shall
11 maintain and publicize a website, or an easily
12 accessible page on its website, containing such
13 consumer information as well as any links to
14 other websites the Commission determines to be
15 appropriate.

16 “(5) PUBLIC SERVICE ANNOUNCEMENTS.—
17 Each day from November 15, 2008, through Feb-
18 ruary 17, 2009, each commercial television broad-
19 cast licensee or permittee shall broadcast 2 30-sec-
20 ond public service announcements at such times as
21 the Commission may require in order to assure the
22 widest possible audience. The public service an-
23 nouncements shall notify the public of the digital
24 transition and contain the address of the website

1 provided by the Commission under paragraph
2 (4)(B).

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

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

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

14 (1) IN GENERAL.—Within 60 days after the
15 date of enactment of this Act, the Federal Commu-
16 nications Commission shall establish an advisory
17 committee, to be known as the DTV Working
18 Group, to consult with State and local governments,
19 providers of low income assistance programs, edu-
20 cational institutions, community groups, and the Na-
21 tional Telecommunications and Information Admin-
22 istration to promote consumer outreach and to pro-
23 vide logistical assistance to consumers with special
24 needs, including the converter box subsidy program.

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

18 (3) PURPOSES.—The purposes of the DTV
19 Working Group are—

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

1 (B) to ensure that the Commission's na-
2 tional plan includes, at a minimum, rec-
3 ommended procedures for public service an-
4 nouncements by broadcasters, toll-free informa-
5 tion hotlines, and retail displays or notices;

6 (C) to ensure that the Commission's na-
7 tional plan includes a requirement that all li-
8 censed broadcasters in a designated market
9 area submit a joint plan to the Commission ad-
10 dressing the public outreach and public service
11 announcement requirements required by this
12 title to inform consumers in those areas of the
13 transition to digital television that—

14 (i) includes a description of how each
15 commercial television broadcaster will ful-
16 fill the public service announcement re-
17 quirements required under section
18 330(d)(7) of the Communications Act of
19 1934 (47 U.S.C. 330(d)(7));

20 (ii) includes market research by each
21 commercial television broadcaster regard-
22 ing projected consumer demand for con-
23 verter boxes in their designated market
24 area; and

1 (iii) will be shared with retailers in-
2 side their designated market area so that
3 such retailers may stock the appropriate
4 amount of converter boxes to meet the
5 needs of consumers within each designated
6 market area; and

7 (D) to provide to the Commission a DTV
8 Progress Report that reflects ongoing and
9 planned efforts by the private sector, both na-
10 tionally and in various television broadcast mar-
11 kets, to inform consumers about the digital
12 transition and to minimize potential disruption
13 to consumers attributable to the transition to
14 digital broadcasting.

15 (c) REQUIREMENTS TO PROMOTE SALE OF DIGITAL
16 TELEVISIONS AND CONVERTER BOXES.—

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

20 **“SEC. 303A. REQUIREMENTS FOR DIGITAL TELEVISION**
21 **SETS AND CERTAIN OTHER EQUIPMENT.**

22 “After March 1, 2007, it is unlawful to import into
23 the United States or ship in interstate commerce for sale
24 or resale to the public, a television broadcast receiver (as
25 defined in section 15.3(w) of the Commission’s regulations

1 (47 C.F.R. 15.3(w))) that is not equipped with a tuner
2 capable of receiving and decoding digital signals.”.

3 (2) COMMISSION NOT TO CHANGE SCHEDULE.—

4 The Federal Communications Commission may not
5 revise the digital television reception capability im-
6 plementation schedule under section 15.117(i) of its
7 regulations (47 C.F.R. 15.117(i)) except to conform
8 that section to the requirements of section 303A of
9 the Communications Act of 1934.

10 (3) CONVERTER BOXES.—

11 (A) ENERGY STANDARDS.—Within 1 year
12 after the date of enactment of this Act, the As-
13 sistant Secretary of Commerce for Communica-
14 tions and Information, in consultation with the
15 Secretary of Energy, shall set the energy stand-
16 ards for digital-to-analog converter boxes (as
17 defined in section 3005(d) of the Digital Tele-
18 vision Transition and Public Safety Act of 2005
19 (47 U.S.C. 309 note)), taking into consider-
20 ation the cost of the converter box. The stand-
21 ards shall meet the criteria specified in section
22 325(o) of the Energy Policy and Conservation
23 Act (42 U.S.C. 6295(o)).

24 (B) APPLICATION.—Notwithstanding any
25 other provision of law, the standards set under

1 subparagraph (A) shall solely govern the energy
2 standards for converter boxes manufactured or
3 imported for use in the United States on and
4 after the effective date established by the As-
5 sistant Secretary. This paragraph shall not
6 apply after May 17, 2010.

7 (C) CONFORMING AMENDMENT.—Section
8 3005(d) of the Digital Television Transition
9 and Public Safety Act of 2005 (47 U.S.C. 309
10 note)) is amended by inserting “a clock, other
11 incidental features, or” after “include”.

12 (d) DOWNCONVERSION FROM DIGITAL SIGNALS TO
13 ANALOG SIGNALS.—

14 (1) DIGITAL-TO-ANALOG CONVERSION.—Section
15 614(b)(4) (47 U.S.C. 534(b)(4)) is amended—

16 (A) by redesignating subparagraph (B) as
17 subparagraph (I); and

18 (B) by inserting after subparagraph (A)
19 the following:

20 “(B) DIGITAL VIDEO SIGNAL.—With re-
21 spect to any television station that is transmit-
22 ting broadcast programming exclusively in the
23 digital television service in a local market, a
24 cable operator of a cable system in that market
25 shall carry any digital video signal requiring

1 carriage under this section and program-related
2 material in the digital format transmitted by
3 that station, without material degradation, if
4 the licensee for that station relies on this sec-
5 tion or section 615 to obtain carriage of the
6 digital video signal and program-related mate-
7 rial on that cable system in that market.

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

16 “(i) the cable operator offers the dig-
17 ital video signal and program-related mate-
18 rial in the converted analog or digital for-
19 mat or formats without material degrada-
20 tion; and

21 “(ii) also offers the digital video signal
22 and program-related material in the man-
23 ner or manners required by this para-
24 graph.

1 “(D) TRANSITIONAL CONVERSIONS.—Not-
2 withstanding the requirement in subparagraph
3 (B) to carry the digital video signal and pro-
4 gram-related material in the digital format
5 transmitted by the local television station, but
6 subject to the prohibition on material degrada-
7 tion, until February 17, 2014—

8 “(i) a cable operator—
9 “(I) shall offer the digital video
10 signal and program-related material
11 in the format or formats necessary for
12 such signal and material to be
13 viewable on analog and digital tele-
14 visions; and

15 “(II) may convert the digital
16 video signal and program-related ma-
17 terial to standard-definition digital
18 format in lieu of offering it in the dig-
19 ital format transmitted by the local
20 television station; and

21 “(ii) notwithstanding clause (i), a
22 cable operator of a cable system with an
23 activated capacity of 550 megahertz or
24 less—

1 “(I) shall offer the digital video
2 signal and program-related material
3 of the local television station described
4 in subparagraph (A), converted to an
5 analog format; and

6 “(II) may, but shall not be re-
7 quired to, offer the digital video signal
8 and program-related material in any
9 digital format or formats.

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

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

20 “(G) CARRIAGE OF PROGRAM-RELATED
21 MATERIAL.—The obligation to carry program-
22 related material under this paragraph is effec-
23 tive only to the extent technically feasible.

24 “(H) DEFINITION OF STANDARD-DEFINI-
25 TION FORMAT.—For purposes of this para-

1 graph, a signal shall be in standard definition
2 digital format if such signal meets the criteria
3 for such format specified in the standard recog-
4 nized by the Commission in section 73.682 of
5 its rules (47 C.F.R. 73.682) or a successor reg-
6 ulation.”.

7 (2) TIERING.—

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

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

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

1 (3) MATERIAL DEGRADATION.—Section 614
2 (47 U.S.C. 534) is amended—

3 (A) by redesignating subsection (h) as sub-
4 section (i); and

5 (B) by inserting after subsection (g) the
6 following:

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

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

16 “(l) SPECIFIC CARRIAGE OBLIGATIONS AFTER DIG-
17 ITAL TRANSITION.—

18 “(1) DIGITAL VIDEO SIGNAL.—With respect to
19 any television broadcast station that is transmitting
20 broadcast programming exclusively in the digital tel-
21 evision service in a local market in the United
22 States, a satellite carrier carrying the digital signal
23 of any other television broadcast station in that local
24 market shall carry the station’s video signal required
25 to be carried and program-related material without

1 material degradation, if the licensee for that station
2 relies on this section to obtain carriage of the sta-
3 tion's video signal and program-related material on
4 that satellite carrier's system in that market.

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

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

20 “(A) the satellite carrier offers the video
21 signal and program-related material in the con-
22 verted analog or digital format or formats with-
23 out material degradation; and

1 “(B) also offers the video signal and pro-
2 gram-related material in the manner or man-
3 ners required by this paragraph.

4 “(4) TRANSITIONAL CONVERSIONS.—Notwith-
5 standing any requirement in paragraph (1) or (2) to
6 carry the video signal and program-related material
7 in the digital format transmitted by the local tele-
8 vision station, but subject to the prohibition on ma-
9 terial degradation, until February 17, 2014, a sat-
10 ellite carrier—

11 “(A) shall offer the video signal and pro-
12 gram-related material of any local television
13 broadcast station required to be carried under
14 paragraph (1) in the format or formats nec-
15 essary for such signal and material to be
16 viewable on analog and digital televisions; and

17 “(B) may convert the video signal and pro-
18 gram-related material to standard-definition
19 digital format in lieu of offering it in the digital
20 format transmitted by the local television sta-
21 tion.

22 “(5) LOCATION AND METHOD OF CONVER-
23 SION.—A satellite carrier may perform any conver-
24 sion permitted or required by this paragraph at any

1 location, from the local receive facility to the cus-
2 tomer premises, inclusive.

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

7 “(7) CARRIAGE OF PROGRAM-RELATED MATE-
8 RIAL.—The obligation to carry program-related ma-
9 terial under this paragraph is effective only to the
10 extent technically feasible.

11 “(8) DEFINITION OF STANDARD-DEFINITION
12 FORMAT.—For purposes of this subsection, a signal
13 shall be in standard definition digital format if such
14 signal meets the criteria for such format specified in
15 the standard recognized by the Commission in sec-
16 tion 73.682 of its rules (47 C.F.R. 73.682) or a suc-
17 cessor regulation.

18 “(9) MATERIAL DEGRADATION.—For purposes
19 of this subsection, transmission of a digital signal
20 over a cable system in a compressed bitstream shall
21 not be considered material degradation as long as
22 such compression does not materially affect the pic-
23 ture quality the consumer receives.”

1 **SEC. 702. DIGITAL STREAM REQUIREMENT FOR THE BLIND.**

2 (a) **RULES REINSTATED.**—The video description
3 rules of the Federal Communications Commission con-
4 tained in the report and order identified as Implementa-
5 tion of Video Description of Video Programming, Report
6 and Order, 15 F.C.C.R. 15,230 (2000), shall, notwith-
7 standing the decision of the United States Court of Ap-
8 peals for the District of Columbia Circuit in Motion Pic-
9 ture Association of America, Inc., et al., v. Federal Com-
10 munications Commission, et al. (309 F. 3d 796, November
11 8, 2002), be considered to be authorized and ratified by
12 law.

13 (b) **CONTINUING AUTHORITY OF COMMISSION.**—The
14 Federal Communications Commission—

15 (1) shall, within 45 days after the date of en-
16 actment of this Act, republish its video description
17 rules contained in the report and order Implementa-
18 tion of Video Description of Video Programming,
19 Report and Order, 15 F.C.C.R. 15,230 (2000);

20 (2) may amend, repeal, or otherwise modify
21 such rules;

22 (3) shall initiate a proceeding within 120 days
23 after the date of enactment of this Act, and com-
24 plete that proceeding within 1 year, to consider in-
25 corporating accessible information requirements in
26 its video description rules; and

1 (4) shall extend the video description rules
2 under this section to digital broadcast programming
3 and video programming (as defined in section
4 602(23) of the Communications Act of 1934), as ap-
5 propriate, in the public interest.

6 (c) ACCESSIBLE INFORMATION DEFINED.—In this
7 section, the term “accessible information” may include
8 written information displayed on television screens during
9 regular programming, hazardous warnings and other
10 emergency information, local and national news bulletins,
11 and any other information the Commission deems appro-
12 priate.

13 **SEC. 703. STATUS OF INTERNATIONAL COORDINATION.**

14 Until the date on which the international coordina-
15 tion with Canada and Mexico of the DTV table of allot-
16 ments is complete (as determined by the Federal Commu-
17 nications Commission), the Federal Communications
18 Commission shall submit a report every 6 months on the
19 status of that international coordination to the Senate
20 Committee on Commerce, Science, and Transportation
21 and the House of Representatives Committee on Energy
22 and Commerce.

23 **SEC. 704. CERTAIN BORDER STATIONS.**

24 Section 309(j)(14) (47 U.S.C. 309(j)(14)) is amend-
25 ed by adding at the end the following:

1 “(D) BORDER STATIONS.—An analog
2 broadcast television station, whose program-
3 ming is broadcast entirely in the Spanish-lan-
4 guage, that prior to February 17, 2009, is li-
5 censed by the Commission to serve communities
6 located within 50 miles of the common border
7 with the United Mexican States and can estab-
8 lish to the satisfaction of the Federal Commu-
9 nications Commission that its continued oper-
10 ation in analog is in the public interest, shall be
11 entitled to the renewal of its television broad-
12 cast license authorizing analog television service
13 and to operate on a channel between 2 and 51
14 that complies with the following provisions
15 through February 17, 2011:

16 “(i) The channel used for analog oper-
17 ation may not—

18 “(I) prevent the auction of recov-
19 ered spectrum, as provided for in
20 paragraph (15) of this subsection;

21 “(II) prevent the use of recovered
22 spectrum by public safety services, as
23 provided for by section 337(a)(1) of
24 this Act; and

1 “(III) encumber nor interfere
2 with any channels reserved for public
3 safety use as designated in FCC ET
4 Docket No. 97–157.

5 “(ii) The station shall operate on its
6 assigned analog channel as of February
7 16, 2009, if that channel—

8 “(I) is designated between 2 and
9 51;

10 “(II) has not been assigned to
11 the station itself or another station
12 for digital operation after the digital
13 transition; and

14 “(III) could be used by that sta-
15 tion for analog operation after the
16 digital transition without causing in-
17 terference to previously authorized
18 digital television stations.

19 “(iii) If the station does not meet the
20 criteria of clause (ii) for operation on its
21 assigned analog channel as of February
22 16, 2009, the station may request, and the
23 Commission shall promptly act upon such
24 request, to be assigned a new channel for

1 its analog operation, if the requested chan-
2 nel—

3 “(I) is shall between channels 2
4 and 51; and

5 “(II) allows the station to oper-
6 ate on a primary basis without caus-
7 ing interference to other analog or
8 digital television stations or to sta-
9 tions licensed to operate in other radio
10 services that also operate on channels
11 between 2 and 51. Where mutually ex-
12 clusive applications are submitted for
13 analog television operation on a chan-
14 nel under the provisions of this sec-
15 tion, the Commission shall award the
16 authority to use that channel through
17 the application of the procedures of
18 this subsection and giving due consid-
19 eration to the alternative resolution
20 procedures of paragraph (6)(E) of
21 this subsection.

22 “(iv) The station shall, from February
23 16, 2009, through February 17, 2011, reg-
24 ularly broadcast Spanish-language public
25 service announcements that serve to edu-

1 cate the station’s viewers to the digital
2 transition and the need to secure digital
3 converters or monitors so that the station’s
4 viewers can receive the station’s digital sig-
5 nal after February 17, 2011.”.

6 **TITLE VIII—PROTECTING**
7 **CHILDREN**

8 **SEC. 801. VIDEO TRANSMISSION OF CHILD PORNOGRAPHY.**

9 Section 621 (47 U.S.C. 541) is amended by adding
10 at the end the following:

11 “(j) CHILD PORNOGRAPHY.—

12 “(1) IN GENERAL.—A video service provider au-
13 thorized to provide video service in a local franchise
14 area shall comply with the regulations on child por-
15 nography promulgated pursuant to paragraph (2).

16 “(2) REGULATIONS.—Not later than 180 days
17 after the date of enactment of the Communications,
18 Consumers’ Choice, and Broadband Deployment of
19 2006, the Commission shall promulgate regulations
20 to require a video service to prevent the offering of
21 child pornography (as such term is defined in section
22 254(h)(7)(F)).”.

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

3 **SEC. 901. SHORT TITLE.**

4 This title may be cited as the “Internet Consumer
5 Bill of Rights Act of 2006”.

6 **SEC. 902. FINDINGS.**

7 Congress finds that the Federal Communications
8 Commission should seek to—

9 (1) preserve the free-flow of ideas and informa-
10 tion on the Internet;

11 (2) promote public discourse on the Internet;

12 (3) preserve the vibrant and competitive free
13 market that presently exists for the Internet and
14 other interactive computer services unfettered by
15 Federal or State regulation;

16 (4) encourage investment and innovation in
17 Internet networks and applications markets through
18 a diversity of business models; and

19 (5) promote deployment of broadband networks
20 nationwide.

21 **SEC. 903. CONSUMER INTERNET BILL OF RIGHTS.**

22 (a) IN GENERAL.—Except as otherwise provided in
23 this title, with respect to Internet services, each Internet
24 service provider shall allow each subscriber to—

1 (1) access and post any lawful content of that
2 subscriber's choosing;

3 (2) access any web page of that subscriber's
4 choosing;

5 (3) access and run any voice application, soft-
6 ware, or service of that subscriber's choosing;

7 (4) access and run any video application, soft-
8 ware, or service of that subscriber's choosing;

9 (5) access and run any email application, soft-
10 ware, or service of that subscriber's choosing;

11 (6) access and run any search engine of that
12 subscriber's choosing;

13 (7) access and run any other application, soft-
14 ware, or service of that subscriber's choosing;

15 (8) connect any legal device of that subscriber's
16 choosing to the Internet access equipment of that
17 subscriber, if such device does not harm the network
18 of the Internet service provider; and

19 (9) receive clear and conspicuous information,
20 in plain language, about the estimated speeds, capa-
21 bilities, limitations, and pricing of any Internet serv-
22 ice offered to the public.

23 (b) NO INTERFERENCE WITH THE INTERNET.—A
24 subscriber may exercise any of the rights enumerated in
25 subsection (a)—

1 (1) without interference from any Federal,
2 State, or local government, except as specifically au-
3 thorized by law;

4 (2) without interference from an Internet serv-
5 ice provider, except as otherwise provided by law;

6 (3) for any legal purpose; and

7 (4) subject to the limitations of the Internet
8 service such subscriber has purchased.

9 **SEC. 904. APPLICATION OF THE FIRST AMENDMENT.**

10 Consistent with the First Amendment to the United
11 States Constitution, as applied to the States through the
12 Fourteenth Amendment to the United States Constitu-
13 tion—

14 (1) no Federal, State, or local government may
15 limit, restrict, ban, prohibit, or otherwise regulate
16 content on the Internet because of the religious
17 views, political views, or any other views expressed
18 in such content unless specifically authorized by law;
19 and

20 (2) no Internet service provider engaged in
21 interstate commerce may limit, restrict, ban, pro-
22 hibit, or otherwise regulate content on the Internet
23 because of the religious views, political views, or any
24 other views expressed in such content unless specifi-
25 cally authorized by law.

1 **SEC. 905. STAND-ALONE INTERNET SERVICE SHALL BE OF-**
2 **FERED TO THE PUBLIC.**

3 An Internet service provider shall offer to any poten-
4 tial subscriber any Internet service such provider offers
5 without requiring that subscriber to purchase or use any
6 telecommunications service, information service, IP-en-
7 abled voice service, video service, or other service offered
8 by such Internet service provider.

9 **SEC. 906. NETWORK SECURITY, WORMS, VIRUSES, DENIAL**
10 **OF SERVICE, PARENTAL CONTROLS, AND**
11 **BLOCKING CHILD PORNOGRAPHY.**

12 An Internet service provider may—

13 (1) protect the security, privacy, or integrity of
14 the network or facilities of such provider, the com-
15 puter of any subscriber, or any service, including
16 by—

17 (A) blocking worms or viruses; or

18 (B) preventing denial of service attacks;

19 (2) facilitate diagnostics, technical support,
20 maintenance, network management, or repair of the
21 network or service of such provider;

22 (3) prevent or detect unauthorized, fraudulent,
23 or otherwise unlawful uses of the network or service
24 of such provider;

1 (4) block access to content, applications, or
2 services that Federal or State law expressly author-
3 izes to be blocked, including child pornography;

4 (5) provide consumers Parental Control applica-
5 tions, devices, or services, including—

6 (A) blocking access to websites with ob-
7 scene or adult content;

8 (B) blocking display of video content based
9 on a common rating; or

10 (C) offering a family friendly tier of serv-
11 ice; and

12 (6) allow a subscriber to elect to have content,
13 applications, or services blocked at the request of
14 such subscriber.

15 **SEC. 907. ENFORCEMENT.**

16 (a) IN GENERAL.—The Federal Communications
17 Commission shall, by rule, establish an adjudicatory en-
18 forcement procedure under which—

19 (1) any subscriber aggrieved by a violation of
20 the requirements of section 903 may initiate an en-
21 forcement action by filing a complaint, in such form
22 and in such manner as the Commission may pre-
23 scribe; and

24 (2) the Commission shall make a determination,
25 after notice and an opportunity for a hearing, with

1 respect to any bona fide complaint not later than
2 120 days after the date on which such complaint is
3 received.

4 (b) PENALTY FOR VIOLATIONS.—Any person who
5 violates any provision of this title shall be subject to a
6 fine pursuant to section 503(b)(2)(C) of the Communica-
7 tions Act of 1934 (47 U.S.C. 503(b)(2)(C)).

8 (c) EQUITABLE RELIEF AVAILABLE.—In response to
9 any complaint of a violation of this title, the Commission
10 may—

11 (1) issue an injunction or temporary restraining
12 order; or

13 (2) provide such other equitable relief as the
14 Commission determines appropriate.

15 **SEC. 908. COMMISSION PROHIBITED FROM ISSUING REGU-**
16 **LATIONS.**

17 Except as provided in section 907(a), the Commission
18 shall not—

19 (1) promulgate any regulations implementing
20 this title; nor

21 (2) enlarge or modify the obligations imposed
22 on Internet service providers through the adjudica-
23 tory process under section 907.

1 **SEC. 909. FCC REVIEW.**

2 (a) IN GENERAL.—Beginning 1 year after the date
3 of enactment of this Act, the Federal Communications
4 Commission shall report annually to the Committee on
5 Commerce, Science, and Transportation of the Senate and
6 the Committee on Energy and Commerce of the House
7 of Representatives regarding—

8 (1) the developments in Internet traffic proc-
9 essing, routing, peering, transport, and interconnec-
10 tion;

11 (2) how such developments impact the free-flow
12 of information over the public Internet and the con-
13 sumer and small business experience using the pub-
14 lic Internet;

15 (3) business relationships between Internet
16 service providers and applications and online user
17 service providers; and

18 (4) the development of and services available
19 over public and private Internet offerings.

20 (b) DETERMINATIONS AND RECOMMENDATIONS.—

21 The Federal Communications Commission shall make
22 such recommendations under subsection (a), as the Com-
23 mission determines appropriate.

24 **SEC. 910. EXCEPTIONS.**

25 Nothing in this title shall—

1 (1) preclude an Internet service provider from
2 displaying advertisements in connection with a
3 broadband service; or

4 (2) apply to a service in which Internet service
5 is not the primary service, such as a video service of-
6 fered under Title VI of the Communications Act of
7 1934 (47 U.S.C. 521 et seq.).

8 **SEC. 911. DEFINITIONS.**

9 In this title:

10 (1) **INTERNET SERVICE.**—The term “Internet
11 service” means any service that provides access to
12 the public Internet directly to the public.

13 (2) **SUBSCRIBER.**—The term “subscriber”
14 means a retail end user that purchases Internet
15 service.

16 **TITLE X—MISCELLANEOUS**

17 **SEC. 1001. COMMISSIONER PARTICIPATION IN FORUMS**
18 **AND MEETINGS.**

19 (a) **IN GENERAL.**—Section 5 (47 U.S.C. 155) is
20 amended by adding at the end the following:

21 “(f) **MEETINGS.**—

22 “(1) **ATTENDANCE REQUIRED.**—Notwith-
23 standing 552b of title 5, United States Code, and
24 section 4(h) of this Act, the Commission may con-

1 duct a meeting that is not open to the public if the
2 meeting is attended by—

3 “(A) all members of the Commission; or

4 “(B) at least 1 member of the political
5 party whose members are in the minority.

6 “(2) VOTING PROHIBITED.—The Commission
7 may not vote or make any final decision on any mat-
8 ter pending before it in a meeting that is not open
9 to the public, unless—

10 “(A) otherwise authorized by section
11 552b(b) of title 5, United States Code; or

12 “(B) the Commission has moved its oper-
13 ations outside Washington, D.C., pursuant to a
14 Continuity of Operations Plan.

15 “(3) PUBLICATION OF SUMMARY.—If the Com-
16 mission conducts a meeting that is not open to the
17 public under this section, the Commission shall
18 promptly publish an executive summary describing
19 the matters discussed at that meeting after the
20 meeting ends, except for such matters as the Com-
21 mission determines may be withheld under section
22 552b(c) of title 5, United States Code. This para-
23 graph does not apply to a meeting described in para-
24 graph (4).

1 “(4) QUORUM UNNECESSARY FOR CERTAIN
2 MEETINGS.—Neither section 552b of title 5, United
3 States Code, nor paragraph (1) of this subsection
4 applies to—

5 “(A) a meeting of 3 or more members of
6 the Commission with the President, any person
7 employed by the Office of the President, any of-
8 ficial of a Federal, State, or local agency, a
9 Member of Congress or his staff;

10 “(B) the attendance, by 3 or more mem-
11 bers of the Commission, at a forum or con-
12 ference to discuss general communications
13 issues; or

14 “(C) a meeting of 3 or more members of
15 the Commission when the Continuity of Oper-
16 ations Plan is in effect and the Commission is
17 operating under the terms of that Plan.

18 “(5) SAVINGS CLAUSE.—Nothing in this sub-
19 section shall be construed to prohibit the Commis-
20 sion from doing anything authorized by section 552b
21 of title 5, United States Code.”.

22 **SEC. 1002. DATA ON LOCAL COMPETITION IN DIFFERENT**
23 **PRODUCT MARKETS.**

24 (a) INQUIRY.—Not later than 180 days after the date
25 of enactment of this Act, and every year thereafter, the

1 Commission shall conduct an inquiry regarding the extent
2 to which providers of communications service have de-
3 ployed their own local transmission facilities.

4 (b) DATA COLLECTION.—In connection with its in-
5 quiry, the Commission shall require that all providers of
6 communications service submit annual reports to the Com-
7 mission describing the extent to which they have deployed
8 their own local transmission facilities. At a minimum, pro-
9 viders shall report separately on their deployment of loop
10 facilities in each wire center used to provide service in dif-
11 ferent product markets served by communications service
12 providers. In defining product markets for these purposes,
13 the Commission shall utilize the methodology set forth in
14 the United States Department of Justice and Federal
15 Trade Commission Horizontal Merger Guidelines and
16 shall, at a minimum, distinguish among the products de-
17 manded by—

- 18 (1) residential customers;
19 (2) small and medium-sized business customers;
20 and
21 (3) large business customers.

22 (c) REPORT TO CONGRESS.—Not later than one year
23 after the date of enactment of this Act, and each year
24 thereafter, the Commission shall submit a report to Con-
25 gress describing the extent to which providers of tele-

1 communications service, broadband service, and IP-en-
2 abled voice service have deployed their own local trans-
3 mission facilities. Such report shall analyze separately the
4 extent of actual facilities-based competition in each wire
5 center in the product markets described in subsection (b).

6 (d) DEFINITIONS.—In this section:

7 (1) BROADBAND SERVICE.—The term
8 “broadband service” means any service used for
9 transmission of information of a user’s choosing
10 with a transmission speed of at least 200 kilobits
11 per second in at least 1 direction, regardless of the
12 transmission medium or technology employed, that
13 connects to the public Internet for a fee directly—

14 (A) to the public; or

15 (B) to such classes of users as to be effec-
16 tively available directly to the public.

17 (2) COMMUNICATIONS SERVICE.—The term
18 “communications service” means telecommunications
19 service, broadband service, or IP-enabled voice serv-
20 ice (whether offered separately or as part of a bun-
21 dle of services).

22 (3) IP-ENABLED VOICE SERVICE.—The term
23 “IP-enabled voice service” means the provision of
24 real-time 2-way voice communications offered to the
25 public, or such classes of users as to be effectively

1 available to the public, transmitted through cus-
2 tomer premises equipment using IP protocol, or a
3 successor protocol, for a fee (whether part of a bun-
4 dle of services or separately) with 2-way interconnec-
5 tion capability such that the service can originate
6 traffic to, and terminate traffic from, the public
7 switched telephone network.

8 (4) LOCAL TRANSMISSION FACILITIES.—The
9 term “local transmission facilities” means wireless
10 and wireline transmission facilities used to transmit
11 information or signals to, from or among locations
12 within a wire center.

13 **SEC. 1003. IMPROVED ENFORCEMENT OPTIONS.**

14 (a) INCREASED PENALTIES.—Section 503(b)(2)(B)
15 of the Communications Act of 1934 (47 U.S.C.
16 503(b)(2)(B)) is amended—

17 (1) by striking “\$100,000” and inserting
18 “\$1,000,000”; and

19 (2) by striking “\$1,000,000” and inserting
20 “\$10,000,000”.

21 (b) STATUTE OF LIMITATIONS.—Section 503(b)(6)
22 of the Communications Act of 1934 (47 U.S.C. 503(b)(6))
23 is amended—

24 (1) by striking “or” after the semicolon in sub-
25 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. CHALLENGES OF COMMISSION RULINGS OR**
13 **REGULATIONS.**

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

22 **SEC. 1005. FEDERAL REVIEW.**

23 Subparagraph (A) of section 332(c)(3) (47 USC
24 332(c)(3)) is amended—

1 (1) by striking the first sentence and inserting
2 “(i) Notwithstanding sections 2(b) and 221(b) or
3 any other provision of law, a State or local govern-
4 ment shall not regulate or adjudicate—

5 “(I) the entry of or the rates charged
6 by any provider of commercial mobile serv-
7 ice or private mobile service for any such
8 mobile service or any or any other service
9 that is primarily intended for receipt on or
10 use with a wireless device that is utilized
11 by a customer of such mobile service in
12 connection with such mobile service; or

13 “(II) any terms and conditions of such mo-
14 bile service or any other such service, except
15 pursuant to a law or regulation generally appli-
16 cable to businesses in the State other than a
17 law or regulation that regulates or has the ef-
18 fect of regulating the entry or rates for any
19 such service.”;

20 (2) by inserting after the first sentence, as so
21 amended the following:

22 “(ii) Nothing in this section shall affect the au-
23 thority of the Commission under this Act to adopt
24 consumer protection requirements applicable to pro-

1 viders of commercial mobile service or private mobile
2 services.”;

3 (3) by indenting the sentence beginning “Noth-
4 ing in this subparagraph” and inserting “(iii)” be-
5 fore “Nothing”; and

6 (4) by redesignating clauses (i) and (ii) in the
7 third sentence as subclauses (I) and (II), respec-
8 tively.

9 **SEC. 1006. SEVERABILITY.**

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

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