H. R. 5140

[Report No. 116–354]

To amend title 17, United States Code, to narrow the category of households eligible to receive signals under a distant-signal satellite license, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2019

Mr. Nadler introduced the following bill; which was referred to the Committee on the Judiciary

DECEMBER 17, 2019

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on November 18, 2019]
A BILL

To amend title 17, United States Code, to narrow the category of households eligible to receive signals under a distant-signal satellite license, and for other purposes.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Satellite Television Community Protection and Promotion Act of 2019”.

SEC. 2. ELIGIBILITY TO RECEIVE SIGNALS UNDER A DISTANT-SIGNAL SATELLITE LICENSE.

(a) In General.—Section 119 of title 17, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking “signals, and” and inserting “signals,”;

(II) by inserting “, and the carrier provides local-into-local service to all DMAs” after “receiving the secondary transmission”; and

(III) by adding at the end the following new sentence: “Failure to reach an agreement with network stations to retransmit their signals shall not be construed to affect compliance with providing local-into-local service to all DMAs if the satellite carrier has the
capability to retransmit such signals when an agreement is reached.”; and
(ii) in subparagraph (B)—
(I) by striking clauses (ii) and (iii); and
(II) by adding at the end the following:
“(ii) SHORT MARKETS.—In the case of secondary transmissions to households located in short markets, subject to clause (i), the statutory license shall be further limited to secondary transmissions of only those primary transmissions of network stations that embody the programming of networks not offered on the primary stream or the multicast stream transmitted by any network station in that market.”; and
(iii) by adding at the end the following:
“(D) TEMPORARY AND LIMITED USE OF LICENSE.—

“(i) IN GENERAL.—Notwithstanding the requirement under subparagraph (A) that a satellite carrier provide local-into-local service to all DMAs before making a
secondary transmission under the license under this section, a satellite carrier that does not provide local-into-local service to all DMAs may make a covered transmission under such license if not later than 180 days after the date of the enactment of the Satellite Television Community Protection and Promotion Act of 2019 the satellite carrier—

“(I) demonstrates that it has acted reasonably and made a good faith effort to provide local-into-local service to all DMAs and that it will continue to make a good faith effort to provide local-into-local service to all DMAs; and

“(II) files a Notice of Temporary Limited Use with the Copyright Office in accordance with clause (ii). “

“(ii) NOTICE OF TEMPORARY LIMITED USE.—A Notice of Temporary Limited Use filed with the Copyright Office under this subparagraph shall contain—

“(I) an affirmation that the carrier intends to make covered trans-
missions under the license under this
section despite not providing local-
into-local service to all DMAs;

“(II) a signed statement that the
satellite carrier acted reasonably and
made good faith efforts to provide
local-into-local service to all DMAs;

“(III) a list of the designated
market areas with respect to which no
local-into-local service is provided by
the satellite carrier; and

“(IV) a summary of actions taken
by the satellite carrier to make ar-
rangements to provide local-into-local
service to all DMAs.

“(iii) Period of Temporary and
Limited License.—

“(I) Initial 90-day Period.—A
satellite carrier that meets the require-
ments of this subparagraph may use
the license under this section to make
covered transmissions for a 90-day pe-
period beginning on the date such carrier
files a Notice of Temporary Limited
Use with the Copyright Office.
“(II) ADDITIONAL PERIODS.—The initial 90-day period described under clause (I) may be extended for additional periods of 90 days if the satellite carrier files a new Notice of Temporary Limited Use with the Copyright Office on or before the last day of such initial period, and each successive 90-day period thereafter.

“(iv) AUDIT AND VERIFICATION OF NOTICES.—The Register of Copyrights shall issue regulations that are similar in nature to the regulations issued under subsection (b)(2) to permit interested parties to verify and audit Notices of Temporary Limited Use filed by satellite carriers under this subparagraph.

“(v) CHALLENGE.—Any owner of a network station for which the primary stream or multicast stream of that network would have been transmitted by a satellite carrier under the license under this section but for the failure of that satellite carrier to provide local-into-local service to all DMAs may bring a civil action to challenge the
sufficiency of the reasonable actions and
good faith efforts of that satellite carrier to
provide local-into-local service to all DMAs,
as such actions and efforts are described in
the applicable Notice of Temporary Limited
Use.

“(vi) Covered transmission defined.—In this subparagraph, the term
‘covered transmission’ means a secondary
transmission of a primary transmission
made by a network station to an unserved
household.”.

(B) by striking paragraphs (3), (6)(E), (9),
(10), and (13); and

(C) by redesignating paragraphs (4), (5),
(6), (7), (8), (11), (12), and (14) as paragraphs
(3) through (10), respectively;

(2) in subsection (c)(1)(E)—

(A) by striking the comma after “in the
agreement”;

(B) by striking “until December 31, 2019,
or”; and

(C) by striking “, whichever is later” and
inserting “until the subscriber for which the roy-
alty is payable is no longer eligible to receive a
secondary transmission pursuant to the license under this section’’;

(3) in subsection (d)—

(A) in paragraph (10)—

(i) in subparagraph (D), by striking “subsection (a)(11)” and inserting “subsection (a)(8)”;

(ii) by striking subparagraphs (A), (B), (C), and (E);

(iii) by redesignating subparagraph (D) as subparagraph (A); and

(iv) by adding at the end the following:

“(B) is a subscriber located in a short market.”;

(B) by striking paragraph (13);

(C) by redesignating paragraphs (14) and (15) as paragraphs (13) and (14), respectively; and

(D) by adding at the end the following:

“(15) LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—The term ‘local-into-local service to all DMAs’ has the meaning given such term in subsection (f)(7).

“(16) SHORT MARKET.—The term ‘short market’ means a local market in which programming of one
or more of the four most widely viewed television networks nationwide is not offered on either the primary stream or multicast stream transmitted by any network station in that market.”;

(4) by striking subsections (e) and (h); and

(5) by redesignating subsections (f) and (g) as subsections (e) and (f).

(b) PREVIOUSLY COVERED SUBSCRIBERS UNDER THE STELA REAUTHORIZATION ACT OF 2014.—

(1) IN GENERAL.—A subscriber of a satellite carrier who receives the secondary transmission of a network station under the statutory license in section 119 of title 17, United States Code, as in effect on the day before the date of the enactment of this Act, and to whom subsection (a)(2)(B) of such section, as amended by subsection (a), does not apply, shall continue to be eligible to receive that secondary transmission from such carrier under such license, and at the royalty rate established for such license by the Copyright Royalty Board or voluntary agreement, as applicable, until the date that is the earlier of—

(A) 180 days after the date of the enactment of this Act; or

(B) the date on which such carrier provides local-into-local service to all DMAs.
(2) DEFINITIONS.—In this subsection, the terms “satellite carrier”, “subscriber”, “secondary transmission”, “network station”, and “local-into-local service to all DMAs” have the meaning given those terms in section 119 of title 17, United States Code.

(c) CONFORMING AMENDMENTS.—Title 17, United States Code, is further amended—

(1) in section 119, as amended by subsection (a)—

(A) in subsection (a)—

(i) in paragraph (1), by striking “paragraphs (4), (5), and (7)” and inserting “paragraphs (3), (4), and (6)”;

(ii) in paragraph (2), by striking “paragraphs (4), (5), (6), and (7)” and inserting “paragraphs (3), (4), (5), and (6)”;

and

(B) in subsection (g), by striking “subsection (a)(7)(B)” each place it appears and inserting “subsection (a)(5)(B)”;

and

(2) in section 501(e), by striking “section 119(a)(5)” and inserting “section 119(a)(3)”. 

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