

“(4)(A) To expedite the assignment by competitive bidding of the frequencies identified in section 337(a)(2) of the Communications Act of 1934 (47 U.S.C. 337(a)(2)), the rules governing such frequencies shall be effective immediately upon publication in the Federal Register without regard to sections 553(d), 801(a)(3), 804(2), and 806(a) of title 5, United States Code.

“(B) Chapter 6 of title 5, United States Code, section 3 of the Small Business Act (15 U.S.C. 632), and sections 3507 and 3512 of title 44, United States Code, shall not apply to the rules and competitive bidding procedures governing the frequencies described in subparagraph (A).

“(5) Notwithstanding section 309(b) of the Communications Act of 1934 (47 U.S.C. 309(b)), no application for an instrument of authorization for the frequencies described in paragraph (4) may be granted by the Federal Communications Commission earlier than 7 days following issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial amendment thereto.

“(6) Notwithstanding section 309(d)(1) of the Communications Act of 1934 (47 U.S.C. 309(d)(1)), the Federal Communications Commission may specify a period (which shall be not less than 5 days following issuance of the public notice described in paragraph (5)) for the filing of petitions to deny any application for an instrument of authorization for the frequencies described in paragraph (4).

“(b) REPORTS.—(1) Not later than 30 days after the date of the enactment of this Act [Nov. 29, 1999], the Director of the Office of Management and Budget and the Federal Communications Commission shall each submit to the appropriate congressional committees a report which shall—

“(A) set forth the anticipated schedule (including specific dates) for—

“(i) preparing and conducting the competitive bidding process required by subsection (a); and

“(ii) depositing the receipts of the competitive bidding process;

“(B) set forth each significant milestone in the rulemaking process with respect to the competitive bidding process; and

“(C) include an explanation of the effect of each requirement in subsection (a) on the schedule for the competitive bidding process and any post-bidding activities (including the deposit of receipts) when compared with the schedule for the competitive bidding and any post-bidding activities (including the deposit of receipts) that would otherwise have occurred under section 337(b)(2) of the Communications Act of 1934 (47 U.S.C. 337(b)(2)) if not for the enactment of subsection (a).

“(2) Not later than 60 days after the date of the enactment of this Act [Nov. 29, 1999], the Federal Communications Commission shall submit to the appropriate congressional committees a report which shall set forth for each spectrum auction held by the Commission since January 1, 1998, information on—

“(A) the time required for each stage of preparation for the auction;

“(B) the date of the commencement and of the completion of the auction;

“(C) the time which elapsed between the date of the completion of the auction and the date of the first deposit of receipts from the auction in the Treasury; and

“(D) the amounts, summarized by month, of all subsequent deposits in a Treasury receipt account from the auction.

“(3) Not later than October 31, 2000, the Federal Communications Commission shall submit to the appropriate congressional committees a report which shall—

“(A) describe the course of the competitive bidding process required by subsection (a) through September 30, 2000, including the amount of any receipts from the competitive bidding process deposited in the Treasury as of September 30, 2000; and

“(B) if the course of the competitive bidding process has included any deviations from the schedule set

forth under paragraph (1)(A), an explanation for such deviations from the schedule.

“(4) Each report required by this subsection shall be prepared by the agency concerned without influence of any other Federal department or agency.

“(5) In this subsection, the term “appropriate congressional committees” means the following:

“(A) The Committees on Appropriations, the Budget, and Commerce, Science, and Transportation of the Senate.

“(B) The Committees on Appropriations, the Budget, and Commerce of the House of Representatives.

“(c) CONSTRUCTION.—Nothing in this section shall be construed to supersede the requirements placed on the Federal Communications Commission by section 337(d)(4) of the Communications Act of 1934 (47 U.S.C. 337(d)(4)).

“(d) REPEAL OF SUPERSEDED PROVISIONS.—Section 8124 of the Department of Defense Appropriations Act, 2000 [Pub. L. 106-79, amending this section and enacting provisions formerly set out under this section] is repealed.”

Pub. L. 106-79, title VIII, §8124, Oct. 25, 1999, 113 Stat. 1262, related to the establishment of a competitive bidding process for commercial licenses and required reports to Congressional committees, prior to repeal by Pub. L. 106-113, div. B, §1000(a)(5) [title II, §213(d)], Nov. 29, 1999, 113 Stat. 1536, 1501A-297.

§ 338. Carriage of local television signals by satellite carriers

(a) Carriage obligations

(1) In general

Each satellite carrier providing, under section 122 of title 17, secondary transmissions to subscribers located within the local market of a television broadcast station of a primary transmission made by that station shall carry upon request the signals of all television broadcast stations located within that local market, subject to section 325(b) of this title.

(2) Remedies for failure to carry

In addition to the remedies available to television broadcast stations under section 501(f) of title 17, the Commission may use the Commission's authority under this chapter to assure compliance with the obligations of this subsection, but in no instance shall a Commission enforcement proceeding be required as a predicate to the pursuit of a remedy available under such section 501(f).

(3)¹ Low power station carriage optional

No low power television station whose signals are provided under section 119(a)(14) of title 17 shall be entitled to insist on carriage under this section, regardless of whether the satellite carrier provides secondary transmissions of the primary transmissions of other stations in the same local market pursuant to section 122 of such title, nor shall any such carriage be considered in connection with the requirements of subsection (c) of this section.

(3)¹ Effective date

No satellite carrier shall be required to carry local television broadcast stations under paragraph (1) until January 1, 2002.

(4) Carriage of signals of local stations in certain markets

A satellite carrier that offers multichannel video programming distribution service in the

¹ So in original. Two pars. (3) have been enacted.

United States to more than 5,000,000 subscribers shall (A) within 1 year after December 8, 2004, retransmit the signals originating as analog signals of each television broadcast station located in any local market within a State that is not part of the contiguous United States, and (B) within 30 months after December 8, 2004, retransmit the signals originating as digital signals of each such station. The retransmissions of such stations shall be made available to substantially all of the satellite carrier's subscribers in each station's local market, and the retransmissions of the stations in at least one market in the State shall be made available to substantially all of the satellite carrier's subscribers in areas of the State that are not within a designated market area. The cost to subscribers of such retransmissions shall not exceed the cost of retransmissions of local television stations in other States. Within 1 year after December 8, 2004, the Commission shall promulgate regulations concerning elections by television stations in such State between mandatory carriage pursuant to this section and retransmission consent pursuant to section 325(b) of this title, which shall take into account the schedule on which local television stations are made available to viewers in such State.

(b) Good signal required

(1) Costs

A television broadcast station asserting its right to carriage under subsection (a) of this section shall be required to bear the costs associated with delivering a good quality signal to the designated local receive facility of the satellite carrier or to another facility that is acceptable to at least one-half the stations asserting the right to carriage in the local market.

(2) Regulations

The regulations issued under subsection (g) of this section shall set forth the obligations necessary to carry out this subsection.

(c) Duplication not required

(1) Commercial stations

Notwithstanding subsection (a)(1) of this section, a satellite carrier shall not be required to carry upon request the signal of any local commercial television broadcast station that substantially duplicates the signal of another local commercial television broadcast station which is secondarily transmitted by the satellite carrier within the same local market, or to carry upon request the signals of more than one local commercial television broadcast station in a single local market that is affiliated with a particular television network unless such stations are licensed to communities in different States.

(2) Noncommercial stations

The Commission shall prescribe regulations limiting the carriage requirements under subsection (a) of this section of satellite carriers with respect to the carriage of multiple local noncommercial television broadcast stations. To the extent possible, such regulations shall provide the same degree of carriage by sat-

ellite carriers of such multiple stations as is provided by cable systems under section 535 of this title.

(d) Channel positioning

No satellite carrier shall be required to provide the signal of a local television broadcast station to subscribers in that station's local market on any particular channel number or to provide the signals in any particular order, except that the satellite carrier shall retransmit the signal of the local television broadcast stations to subscribers in the stations' local market on contiguous channels and provide access to such station's signals at a nondiscriminatory price and in a nondiscriminatory manner on any navigational device, on-screen program guide, or menu.

(e) Compensation for carriage

A satellite carrier shall not accept or request monetary payment or other valuable consideration in exchange either for carriage of local television broadcast stations in fulfillment of the requirements of this section or for channel positioning rights provided to such stations under this section, except that any such station may be required to bear the costs associated with delivering a good quality signal to the local receive facility of the satellite carrier.

(f) Remedies

(1) Complaints by broadcast stations

Whenever a local television broadcast station believes that a satellite carrier has failed to meet its obligations under subsections (b) through (e) of this section, such station shall notify the carrier, in writing, of the alleged failure and identify its reasons for believing that the satellite carrier failed to comply with such obligations. The satellite carrier shall, within 30 days after such written notification, respond in writing to such notification and comply with such obligations or state its reasons for believing that it is in compliance with such obligations. A local television broadcast station that disputes a response by a satellite carrier that it is in compliance with such obligations may obtain review of such denial or response by filing a complaint with the Commission. Such complaint shall allege the manner in which such satellite carrier has failed to meet its obligations and the basis for such allegations.

(2) Opportunity to respond

The Commission shall afford the satellite carrier against which a complaint is filed under paragraph (1) an opportunity to present data and arguments to establish that there has been no failure to meet its obligations under this section.

(3) Remedial actions; dismissal

Within 120 days after the date a complaint is filed under paragraph (1), the Commission shall determine whether the satellite carrier has met its obligations under subsections (b) through (e) of this section. If the Commission determines that the satellite carrier has failed to meet such obligations, the Commission shall order the satellite carrier to take appro-

ropriate remedial action. If the Commission determines that the satellite carrier has fully met the requirements of such subsections, the Commission shall dismiss the complaint.

(g) Carriage of local stations on a single dish

(1) Single dish

Each satellite carrier that retransmits the analog signals of local television broadcast stations in a local market shall retransmit such analog signals in such market by means of a single reception antenna and associated equipment.

(2) Exception

If the carrier retransmits signals in the digital television service, the carrier shall retransmit such digital signals in such market by means of a single reception antenna and associated equipment, but such antenna and associated equipment may be separate from the single reception antenna and associated equipment used for analog television service signals.

(3) Effective date

The requirements of paragraphs (1) and (2) of this subsection shall apply on and after 18 months after December 8, 2004.

(4) Notice of disruptions

A carrier that is providing signals of a local television broadcast station in a local market under this section on December 8, 2004, shall, not later than 15 months after December 8, 2004, provide to the licensees for such stations and the carrier's subscribers in such local market a notice that displays prominently and conspicuously a clear statement of—

(A) any reallocation of signals between different reception antennas and associated equipment that the carrier intends to make in order to comply with the requirements of this subsection;

(B) the need, if any, for subscribers to obtain an additional reception antenna and associated equipment to receive such signals; and

(C) any cessation of carriage or other material change in the carriage of signals as a consequence of the requirements of this paragraph.

(h) Additional notices to subscribers, networks, and stations concerning signal carriage

(1) Notices to and elections by subscribers concerning grandfathered signals

Any carrier that provides a distant signal of a network station to a subscriber pursuant² section 339(a)(2)(A) of this title shall—

(A) within 60 days after the local signal of a network station of the same television network is available pursuant to section 338 of this title, or within 60 days after December 8, 2004, whichever is later, send a notice to the subscriber—

(i) offering to substitute the local network signal for the duplicating distant network signal; and

(ii) informing the subscriber that, if the subscriber fails to respond in 60 days, the

subscriber will lose the distant network signal but will be permitted to subscribe to the local network signal; and

(B) if the subscriber—

(i) elects to substitute such local network signal within such 60 days, switch such subscriber to such local network signal within 10 days after the end of such 60-day period; or

(ii) fails to respond within such 60 days, terminate the distant network signal within 10 days after the end of such 60-day period.

(2) Notice to station licensees of commencement of local-into-local service

(A) Notice required

Within 180 days after December 8, 2004, the Commission shall revise the regulations under this section relating to notice to broadcast station licensees to comply with the requirements of this paragraph.

(B) Contents of commencement notice

The notice required by such regulations shall inform each television broadcast station licensee within any local market in which a satellite carrier proposes to commence carriage of signals of stations from that market, not later than 60 days prior to the commencement of such carriage—

(i) of the carrier's intention to launch local-into-local service under this section in a local market, the identity of that local market, and the location of the carrier's proposed local receive facility for that local market;

(ii) of the right of such licensee to elect carriage under this section or grant retransmission consent under section 325(b) of this title;

(iii) that such licensee has 30 days from the date of the receipt of such notice to make such election; and

(iv) that failure to make such election will result in the loss of the right to demand carriage under this section for the remainder of the 3-year cycle of carriage under section 325 of this title.

(C) Transmission of notices

Such regulations shall require that each satellite carrier shall transmit the notices required by such regulation via certified mail to the address for such television station licensee listed in the consolidated database system maintained by the Commission.

(i) Privacy rights of satellite subscribers

(1) Notice

At the time of entering into an agreement to provide any satellite service or other service to a subscriber and at least once a year thereafter, a satellite carrier shall provide notice in the form of a separate, written statement to such subscriber which clearly and conspicuously informs the subscriber of—

(A) the nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;

²So in original. Probably should be followed by "to".

(B) the nature, frequency, and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made;

(C) the period during which such information will be maintained by the satellite carrier;

(D) the times and place at which the subscriber may have access to such information in accordance with paragraph (5); and

(E) the limitations provided by this section with respect to the collection and disclosure of information by a satellite carrier and the right of the subscriber under paragraphs (7) and (9) to enforce such limitations.

In the case of subscribers who have entered into such an agreement before the effective date of this subsection, such notice shall be provided within 180 days of such date and at least once a year thereafter.

(2) Definitions

For purposes of this subsection, other than paragraph (9)—

(A) the term “personally identifiable information” does not include any record of aggregate data which does not identify particular persons;

(B) the term “other service” includes any wire or radio communications service provided using any of the facilities of a satellite carrier that are used in the provision of satellite service; and

(C) the term “satellite carrier” includes, in addition to persons within the definition of satellite carrier, any person who—

(i) is owned or controlled by, or under common ownership or control with, a satellite carrier; and

(ii) provides any wire or radio communications service.

(3) Prohibitions

(A) Consent to collection

Except as provided in subparagraph (B), a satellite carrier shall not use any facilities used by the satellite carrier to collect personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned.

(B) Exceptions

A satellite carrier may use such facilities to collect such information in order to—

(i) obtain information necessary to render a satellite service or other service provided by the satellite carrier to the subscriber; or

(ii) detect unauthorized reception of satellite communications.

(4) Disclosure

(A) Consent to disclosure

Except as provided in subparagraph (B), a satellite carrier shall not disclose personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned

and shall take such actions as are necessary to prevent unauthorized access to such information by a person other than the subscriber or satellite carrier.

(B) Exceptions

A satellite carrier may disclose such information if the disclosure is—

(i) necessary to render, or conduct a legitimate business activity related to, a satellite service or other service provided by the satellite carrier to the subscriber;

(ii) subject to paragraph (9), made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed;

(iii) a disclosure of the names and addresses of subscribers to any satellite service or other service, if—

(I) the satellite carrier has provided the subscriber the opportunity to prohibit or limit such disclosure; and

(II) the disclosure does not reveal, directly or indirectly, the—

(aa) extent of any viewing or other use by the subscriber of a satellite service or other service provided by the satellite carrier; or

(bb) the nature of any transaction made by the subscriber over any facilities used by the satellite carrier; or

(iv) to a government entity as authorized under chapter 119, 121, or 206 of title 18, except that such disclosure shall not include records revealing satellite subscriber selection of video programming from a satellite carrier.

(5) Access by subscriber

A satellite subscriber shall be provided access to all personally identifiable information regarding that subscriber which is collected and maintained by a satellite carrier. Such information shall be made available to the subscriber at reasonable times and at a convenient place designated by such satellite carrier. A satellite subscriber shall be provided reasonable opportunity to correct any error in such information.

(6) Destruction of information

A satellite carrier shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under paragraph (5) or pursuant to a court order.

(7) Penalties

Any person aggrieved by any act of a satellite carrier in violation of this section may bring a civil action in a United States district court. The court may award—

(A) actual damages but not less than liquidated damages computed at the rate of \$100 a day for each day of violation or \$1,000, whichever is higher;

(B) punitive damages; and

(C) reasonable attorneys' fees and other litigation costs reasonably incurred.

The remedy provided by this subsection shall be in addition to any other lawful remedy available to a satellite subscriber.

(8) Rule of construction

Nothing in this subchapter shall be construed to prohibit any State from enacting or enforcing laws consistent with this section for the protection of subscriber privacy.

(9) Court orders

Except as provided in paragraph (4)(B)(iv), a governmental entity may obtain personally identifiable information concerning a satellite subscriber pursuant to a court order only if, in the court proceeding relevant to such court order—

(A) such entity offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case; and

(B) the subject of the information is afforded the opportunity to appear and contest such entity's claim.

(j) Regulations by Commission

Within 1 year after November 29, 1999, the Commission shall issue regulations implementing this section following a rulemaking proceeding. The regulations prescribed under this section shall include requirements on satellite carriers that are comparable to the requirements on cable operators under sections 534(b)(3) and (4) and 535(g)(1) and (2) of this title.

(k) Definitions

As used in this section:

(1) Distributor

The term “distributor” means an entity which contracts to distribute secondary transmissions from a satellite carrier and, either as a single channel or in a package with other programming, provides the secondary transmission either directly to individual subscribers or indirectly through other program distribution entities.

(2) Local receive facility

The term “local receive facility” means the reception point in each local market which a satellite carrier designates for delivery of the signal of the station for purposes of retransmission.

(3) Local market

The term “local market” has the meaning given that term under section 122(j) of title 17.

(4) Low power television station

The term “low power television station” means a low power television station as defined under section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term “low power television station” includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.

(5) Satellite carrier

The term “satellite carrier” has the meaning given such term under section 119(d) of title 17.

(6) Secondary transmission

The term “secondary transmission” has the meaning given such term in section 119(d) of title 17.

(7) Subscriber

The term “subscriber” has the meaning given that term under section 122(j) of title 17.

(8) Television broadcast station

The term “television broadcast station” has the meaning given such term in section 325(b)(7) of this title.

(June 19, 1934, ch. 652, title III, §338, as added Pub. L. 106-113, div. B, §1000(a)(9) [title I, §1008(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A-531; amended Pub. L. 108-447, div. J, title IX [title II, §§203, 205, 206(a), 210], Dec. 8, 2004, 118 Stat. 3414, 3424, 3425, 3429.)

REFERENCES IN TEXT

For the effective date of this subsection, referred to in subsec. (i)(1), as 60 days after Dec. 8, 2004, see section 206(b) of Pub. L. 108-447, set out as an Effective Date of 2004 Amendment note below.

AMENDMENTS

2004—Subsec. (a)(1) to (3). Pub. L. 108-447, §203(b)(1), added pars. (1) and (2) and the par. (3) relating to low power station carriage and struck out former pars. (1) and (2) which required each satellite carrier providing secondary transmissions within the local market of a television broadcast station of a primary transmission made by that station to carry upon request the signals of all television broadcast stations within that local market and provided for remedies for failure to carry.

Subsec. (a)(4). Pub. L. 108-447, §210, added par. (4).

Subsec. (c)(1). Pub. L. 108-447, §203(b)(2), substituted “subsection (a)(1)” for “subsection (a)”.

Subsecs. (g), (h). Pub. L. 108-447, §§203(a)(2), 205, added subsecs. (g) and (h). Former subsecs. (g) and (h) redesignated (j) and (k), respectively.

Subsec. (i). Pub. L. 108-447, §206(a), added subsec. (i).

Subsec. (j). Pub. L. 108-447, §203(a)(1), redesignated subsec. (g) as (j).

Subsec. (k). Pub. L. 108-447, §203(a)(1), redesignated subsec. (h) as (k).

Subsec. (k)(4) to (8). Pub. L. 108-447, §203(b)(3), added par. (4) and redesignated former pars. (4) to (7) as (5) to (8), respectively.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-447, div. J, title IX [title II, §206(b)], Dec. 8, 2004, 118 Stat. 3428, provided that: “Section 338(i) of the Communications Act of 1934 (47 U.S.C. 338(i)) as amended by subsection (a) of this section shall be effective 60 days after the date of enactment of this Act [Dec. 8, 2004].”

RURAL LOCAL TELEVISION SIGNALS

Pub. L. 106-113, div. B, §1000(a)(9) [title II], Nov. 29, 1999, 113 Stat. 1536, 1501A-544, provided that:

“SEC. 2001. SHORT TITLE.

“This title may be cited as the ‘Rural Local Broadcast Signal Act’.

“SEC. 2002. LOCAL TELEVISION SERVICE IN UNSERVED AND UNDERSERVED MARKETS.

“(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act [Nov. 29, 1999], the Federal Communications Commission (‘the Commission’) shall take all actions necessary to make a determination regarding licenses or other authorizations for facilities that will utilize, for delivering local broadcast television station signals to satellite television subscribers in unserved and underserved local tele-

vision markets, spectrum otherwise allocated to commercial use.

“(b) RULES.—

“(1) FORM OF BUSINESS.—To the extent not inconsistent with the Communications Act of 1934 [47 U.S.C. 151 et seq.] and the Commission’s rules, the Commission shall permit applicants under subsection (a) to engage in partnerships, joint ventures, and similar operating arrangements for the purpose of carrying out subsection (a).

“(2) HARMFUL INTERFERENCE.—The Commission shall ensure that no facility licensed or authorized under subsection (a) causes harmful interference to the primary users of that spectrum or to public safety spectrum use.

“(3) LIMITATION ON COMMISSION.—Except as provided in paragraphs (1) and (2), the Commission may not restrict any entity granted a license or other authorization under subsection (a) from using any reasonable compression, reformatting, or other technology.

“(c) REPORT.—Not later than January 1, 2001, the Commission shall report to the Agriculture, Appropriations, and the Judiciary Committees of the Senate and the House of Representatives, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Commerce [now Committee on Energy and Commerce], on the extent to which licenses and other authorizations under subsection (a) have facilitated the delivery of local signals to satellite television subscribers in unserved and underserved local television markets. The report shall include—

“(1) an analysis of the extent to which local signals are being provided by direct-to-home satellite television providers and by other multichannel video program distributors;

“(2) an enumeration of the technical, economic, and other impediments each type of multichannel video programming distributor has encountered; and

“(3) recommendations for specific measures to facilitate the provision of local signals to subscribers in unserved and underserved markets by direct-to-home satellite television providers and by other distributors of multichannel video programming service.”

§ 339. Carriage of distant television stations by satellite carriers

(a) Provisions relating to carriage of distant signals

(1) Carriage permitted

(A) In general

Subject to section 119 of title 17, any satellite carrier shall be permitted to provide the signals of no more than two network stations in a single day for each television network to any household not located within the local markets of those network stations.

(B) Additional service

In addition to signals provided under subparagraph (A), any satellite carrier may also provide service under the statutory license of section 122 of title 17, to the local market within which such household is located. The service provided under section 122 of such title may be in addition to the two signals provided under section 119 of such title.

Such two network stations may be comprised of both the analog signal and digital signal of not more than two network stations.

(2) Replacement of distant signals with local signals

Notwithstanding any other provision of paragraph (1), the following rules shall apply after December 8, 2004:

(A) Rules for grandfathered subscribers to analog signals

(i) For those receiving distant analog signals

In the case of a subscriber of a satellite carrier who is eligible to receive the analog signal of a network station solely by reason of section 119(e) of title 17 (in this subparagraph referred to as a “distant analog signal”), and who, as of October 1, 2004, is receiving the distant analog signal of that network station, the following shall apply:

(I) In a case in which the satellite carrier makes available to the subscriber the analog signal of a local network station affiliated with the same television network pursuant to section 338 of this title, the carrier may only provide the secondary transmissions of the distant analog signal of a station affiliated with the same network to that subscriber—

(aa) if, within 60 days after receiving the notice of the satellite carrier under section 338(h)(1) of this title, the subscriber elects to retain the distant analog signal; but

(bb) only until such time as the subscriber elects to receive such local analog signal.

(II) Notwithstanding subclause (I), the carrier may not retransmit the distant analog signal to any subscriber who is eligible to receive the analog signal of a network station solely by reason of section 119(e) of title 17, unless such carrier, within 60 days after December 8, 2004, submits to that television network the list and statement required by subparagraph (F)(i).

(ii) For those not receiving distant analog signals

In the case of any subscriber of a satellite carrier who is eligible to receive the distant analog signal of a network station solely by reason of section 119(e) of title 17 and who did not receive a distant analog signal of a station affiliated with the same network on October 1, 2004, the carrier may not provide the secondary transmissions of the distant analog signal of a station affiliated with the same network to that subscriber.

(B) Rules for other subscribers to analog signals

In the case of a subscriber of a satellite carrier who is eligible to receive the analog signal of a network station under this section (in this subparagraph referred to as a “distant analog signal”), other than subscribers to whom subparagraph (A) applies, the following shall apply:

(i) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the analog signal of a local network station affiliated with the same television network pursuant to section 338 of this title, the carrier may only provide the secondary transmissions of the distant