

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

analog signal of a station affiliate with the same network to that subscriber if the subscriber's satellite carrier, not later than March 1, 2005, submits to that television network the list and statement required by subparagraph (F)(i).

(ii) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the analog signal of a local network station 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 if—

(I) that subscriber seeks to subscribe to such distant analog signal before the date on which such carrier commences to carry pursuant to section 338 of this title the analog signals of stations from the local market of such local network station; and

(II) the satellite carrier, within 60 days after such date, submits to each television network the list and statement required by subparagraph (F)(ii).

(C) Future applicability

A satellite carrier may not provide a distant analog signal (within the meaning of subparagraph (A) or (B)) to a person who—

(i) is not a subscriber lawfully receiving such secondary transmission as of December 8, 2004; and

(ii) at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the analog signal of a local network station affiliated with the same television network pursuant to section 338 of this title, and the retransmission of such signal by such carrier can reach such subscriber.

(D) Special rules for distant digital signals

(i) Eligibility

In the case of a subscriber of a satellite carrier who, with respect to a local network station—

(I) is a subscriber whose household is located outside the coverage area of the analog signal of such station as predicted by the model specified in subsection (c)(3) of this section for the signal intensity required under section 73.683(a) of title 47 of the Code of Federal Regulations, or a successor regulation;

(II) is in an unserved household as determined under section 119(d)(1)(A) of title 17; or

(III) is, after the date on which the conditions required by clause (vii) are met with respect to such station, determined under clause (vi) of this subparagraph to be unable to receive a digital signal of such local network station that exceeds the signal intensity standard specified in such clause;

such subscriber is eligible to receive the digital signal of a distant network station

affiliated with the same network under this section (in this subparagraph referred to as a "distant digital signal") subject to the provisions of this subparagraph.

(ii) Pre-enactment distant digital signal subscribers

Any eligible subscriber under this subparagraph who is a lawful subscriber to such a distant digital signal as of the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 [December 8, 2004] may continue to receive such distant digital signal, whether or not such subscriber elects to subscribe to local digital signals.

(iii) Local-to-local analog markets

In a case in which the satellite carrier makes available to an eligible subscriber under this subparagraph the analog signal of a local network station pursuant to section 338 of this title, the carrier may only provide the distant digital signal of a station affiliated with the same network to that subscriber if—

(I) in the case of any local market in the 48 contiguous States of the United States, the distant digital signal is the secondary transmission of a station whose prime time network programming is generally broadcast simultaneously with, or later than, the prime time network programming of the affiliate of the same network in the local market;

(II) in any local market, the retransmission of the distant digital signal of the distant station occupies at least the equivalent bandwidth (as such term is defined by the Commission under section 340(h)(4) of this title) as the digital signal broadcast by such station; and

(III) the subscriber subscribes to the analog signal of such local network station within 60 days after such signal is made available by the satellite carrier, and adds to or replaces such analog signal with the digital signal from such local network station within 60 days after such signal is made available by the satellite carrier, except that such distant digital signal may continue to be provided to a subscriber who cannot be reached by the satellite transmission of the local digital signal.

(iv) Local-to-local digital markets

After the date on which a satellite carrier makes available the digital signal of a local network station, the carrier may not offer the distant digital signal of a network station affiliated with the same television network to any new subscriber to such distant digital signal after such date, except that such distant digital signal may be provided to a new subscriber who cannot be reached by the satellite transmission of the local digital signal.

(v) Non-local-to-local markets

After December 8, 2004, if the satellite carrier does not make available the digital

signal of a local network station in a local market, the satellite carrier may offer a new subscriber after such date who is eligible under this subparagraph a distant digital signal from a station affiliated with the same network and, in the case of any local market in the 48 contiguous States of the United States, whose prime time network programming is generally broadcast simultaneously with, or later than, the prime time network programming of the affiliate of the same network in the local market, except that—

(I) such carrier may continue to provide such distant digital signal to such a subscriber after the date on which the carrier makes available the digital signal of a local network station affiliated with such network only if such subscriber subscribes to the digital signal from such local network station; and

(II) the limitation contained in subclause (I) of this clause shall not apply to a subscriber that cannot be reached by the satellite transmission of the local digital signal.

(vi) Signal testing for digital signals

(I) A subscriber shall be eligible for a distant digital signal under clause (i)(III) if such subscriber is determined, based on a test conducted in accordance with section 73.686(d) of title 47, Code of Federal Regulations, or any successor regulation, not to be able to receive a signal that exceeds the signal intensity standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, as in effect on December 8, 2004.

(II) Such test shall be conducted, upon written request for a digital signal strength test by the subscriber to the satellite carrier, within 30 days after the date the subscriber submits such request for the test. Such test shall be conducted by a qualified and independent person selected by the satellite carrier and the network station or stations, or who has been previously approved by the satellite carrier and by each affected network station but not previously disapproved. A tester may not be so disapproved for a test after the tester has commenced such test.

(III) Unless the satellite carrier and the network station or stations otherwise agree, the costs of conducting the test shall be borne as follows:

(aa) If the subscriber is not eligible for a distant digital signal under clause (i)(I) of this subparagraph (by reason of being outside of the coverage area of the analog signal), the satellite carrier may request the station licensee for a waiver.

(bb) If the licensee agrees to a waiver, or fails to respond to a waiver request within 30 days, the subscriber may receive such distant digital signal.

(cc) If the licensee refuses to grant a waiver, the subscriber may request the satellite carrier to conduct the test.

(dd) If the satellite carrier requests the test and—

(AA) the station's signal is determined to exceed such signal intensity standard, the costs of the test shall be borne by the satellite carrier; and

(BB) the station's signal is determined to not exceed such signal intensity standard, the costs of the test shall be borne by the licensee.

(ee) If the satellite carrier does not request the test, or fails to respond within 30 days, the subscriber may request the test be conducted under the supervision of the carrier, and the costs of the test shall be borne by the subscriber in accordance with regulations prescribed by the Commission. Such regulations shall also require the carrier to notify the subscriber of the typical costs of such test.

(vii) Trigger events for use of testing

A subscriber shall not be eligible for a distant digital signal under clause (i)(III) pursuant to a test conducted under clause (vii) until—

(I) in the case of a subscriber whose household is located within the area predicted to be served (by the predictive model for analog signals under subsection (b)(3) of this section) by the signal of a local network station and who is seeking a distant digital signal of a station affiliated with the same network as that local network station—

(aa) April 30, 2006, if such local network station is within the top 100 television markets and—

(AA) has received a tentative digital television service channel designation that is the same as such station's current digital television service channel; or

(BB) has been found by the Commission to have lost interference protection; or

(bb) July 15, 2007, for any other local network stations, other than translator stations licensed to broadcast on December 8, 2004; or

(II) in the case of a translator station, 1 year after the date on which the Commission completes all actions necessary for the allocation and assignment of digital television licenses to television translator stations.

(viii) Testing waivers

Upon request by a local network station, the Commission may grant a waiver with respect to such station to the beginning of testing under clause (vii), and prohibit subscribers from receiving digital signal strength testing with respect to such station. Such a request shall be filed not less than 5 months prior to the implementation deadline specified in such clause, and the Commission shall act on such request by such implementation deadline. Such a waiver shall expire at the end of not more than 6 months, except that a waiver may be renewed upon a proper showing. The

Commission may only grant such a request upon submission of clear and convincing evidence that the station's digital signal coverage is limited due to the unremediable presence of one or more of the following:

- (I) the need for international coordination or approvals;
- (II) clear zoning or environmental legal impediments;
- (III) force majeure;
- (IV) the station experiences a substantial decrease in its digital signal coverage area due to necessity of using side-mounted antenna;
- (V) substantial technical problems that result in a station experiencing a substantial decrease in its coverage area solely due to actions to avoid interference with emergency response providers; or
- (VI) no satellite carrier is providing the retransmission of the analog signals of local network stations under section 338 of this title in the local market.

Under no circumstances may such a waiver be based upon financial exigency.

(ix) Special waiver provision for translators

Upon request by a television translator station, the Commission may grant, for not more than 3 years, a waiver with respect to such station to the beginning of testing under clause (vii), and prohibit subscribers from receiving digital signal strength testing with respect to such station, if the Commission determines that the translator station is not broadcasting a digital signal due to one or more of the following:

- (I) frequent occurrence of inclement weather; or
- (II) mountainous terrain at the transmitter tower location.

(x) Savings provision

Nothing in this subparagraph shall be construed to affect a satellite carrier's obligations under section 338 of this title.

(xi) Definition

For purposes of clause (viii), the term "emergency response providers" means Federal, State, or local governmental and nongovernmental emergency public safety, law enforcement, fire, emergency response, emergency medical (including hospital emergency facilities), and related personnel, organizations, agencies, or authorities.

(E) Authority to grant station-specific waivers

This paragraph shall not prohibit a retransmission of a distant analog signal or distant digital signal (within the meaning of subparagraph (A), (B), or (D)) of any distant network station to any subscriber to whom the signal of a local network station affiliated with the same network is available, if and to the extent that such local network

station has affirmatively granted a waiver from the requirements of this paragraph to such satellite carrier with respect to retransmission of such distant network station to such subscriber.

(F) Notices to networks of distant signal subscribers

(i) Within 60 days after December 8, 2004, each satellite carrier that provides a distant signal of a network station to a subscriber pursuant to subparagraph (A) or (B)(i) of this paragraph shall submit to each network—

(I) a list, aggregated by designated market area, identifying each subscriber provided such a signal by—

- (aa) name;
- (bb) address (street or rural route number, city, State, and zip code); and
- (cc) the distant network signal or signals received; and

(II) a statement that, to the best of the carrier's knowledge and belief after having made diligent and good faith inquiries, the subscriber is qualified under the existing law to receive the distant network signal or signals pursuant to subparagraph (A) or (B)(i) of this paragraph.

(ii) Within 60 days after the date a satellite carrier commences to carry pursuant to section 338 of this title the signals of stations from a local market, such a satellite carrier that provides a distant signal of a network station to a subscriber pursuant to subparagraph (B)(ii) of this paragraph shall submit to each network—

(I) a list identifying each subscriber in that local market provided such a signal by—

- (aa) name;
- (bb) address (street or rural route number, city, State, and zip code); and
- (cc) the distant network signal or signals received; and

(II) a statement that, to the best of the carrier's knowledge and belief after having made diligent and good faith inquiries, the subscriber is qualified under the existing law to receive the distant network signal or signals pursuant to subparagraph (B)(ii) of this paragraph.

(G) Other provisions not affected

This paragraph shall not affect the eligibility of a subscriber to receive secondary transmissions under section 340 of this title or as an unserved household included under section 119(a)(12) of title 17.

(H) Available defined

For purposes of this paragraph, a satellite carrier makes available a local signal to a subscriber or person if the satellite carrier offers that local signal to other subscribers who reside in the same zip code as that subscriber or person.

(3) Penalty for violation

Any satellite carrier that knowingly and willfully provides the signals of television stations to subscribers in violation of this sub-

section shall be liable for a forfeiture penalty under section 503 of this title in the amount of \$50,000 for each violation or each day of a continuing violation, except that paragraph (2)(D) of this subsection, relating to the provision of distant digital signals, shall be enforceable under the provisions of section 340(f) of this title.

(b) Extension of network nonduplication, syndicated exclusivity, and sports blackout to satellite retransmission

(1) Extension of protections

Within 45 days after November 29, 1999, the Commission shall commence a single rule-making proceeding to establish regulations that—

(A) apply network nonduplication protection (47 CFR 76.92) syndicated exclusivity protection (47 CFR 76.151), and sports blackout protection (47 CFR 76.67) to the retransmission of the signals of nationally distributed superstations by satellite carriers to subscribers; and

(B) to the extent technically feasible and not economically prohibitive, apply sports blackout protection (47 CFR 76.67) to the retransmission of the signals of network stations by satellite carriers to subscribers.

(2) Deadline for action

The Commission shall complete all actions necessary to prescribe regulations required by this section so that the regulations shall become effective within 1 year after November 29, 1999.

(c) Eligibility for retransmission

(1) Study of digital strength testing procedures

(A) Study required

Not later than 1 year after December 8, 2004, the Federal Communications Commission shall complete an inquiry regarding whether, for purposes of identifying if a household is unserved by an adequate digital signal under section 119(d)(10) of title 17, the digital signal strength standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, or the testing procedures in section 73.686(d) of title 47, Code of Federal Regulations, such statutes or regulations should be revised to take into account the types of antennas that are available to consumers.

(B) Study considerations

In conducting the study under this paragraph, the Commission shall consider whether—

(i) to account for the fact that an antenna can be mounted on a roof or placed in a home and can be fixed or capable of rotating;

(ii) section 73.686(d) of title 47, Code of Federal Regulations, should be amended to create different procedures for determining if the requisite digital signal strength is present than for determining if the requisite analog signal strength is present;

(iii) a standard should be used other than the presence of a signal of a certain strength to ensure that a household can

receive a high-quality picture using antennas of reasonable cost and ease of installation;

(iv) to develop a predictive methodology for determining whether a household is unserved by an adequate digital signal under section 119(d)(10) of title 17;

(v) there is a wide variation in the ability of reasonably priced consumer digital television sets to receive over-the-air signals, such that at a given signal strength some may be able to display high-quality pictures while others cannot, whether such variation is related to the price of the television set, and whether such variation should be factored into setting a standard for determining whether a household is unserved by an adequate digital signal; and

(vi) to account for factors such as building loss, external interference sources, or undesired signals from both digital television and analog television stations using either the same or adjacent channels in nearby markets, foliage, and man-made clutter.

(C) Report

Not later than 1 year after December 8, 2004, the Federal Communications Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(i) the results of the study under this paragraph; and

(ii) recommendations, if any, as to what changes should be made to Federal statutes or regulations.

(2) Waivers

A subscriber who is denied the retransmission of a signal of a network station under section 119 of title 17 may request a waiver from such denial by submitting a request, through such subscriber's satellite carrier, to the network station asserting that the retransmission is prohibited. The network station shall accept or reject a subscriber's request for a waiver within 30 days after receipt of the request. The subscriber shall be permitted to receive such retransmission under section 119(d)(10)(B) of title 17, if such station agrees to the waiver request and files with the satellite carrier a written waiver with respect to that subscriber allowing the subscriber to receive such retransmission. If a television network station fails to accept or reject a subscriber's request for a waiver within the 30-day period after receipt of the request, that station shall be deemed to agree to the waiver request and have filed such written waiver.

(3) Establishment of improved predictive model required

Within 180 days after November 29, 1999, the Commission shall take all actions necessary, including any reconsideration, to develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations to receive signals in accordance with the signal

intensity standard in effect under section 119(d)(10)(A) of title 17. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Federal Communications Commission in Docket No. 98-201 and ensure that such model takes into account terrain, building structures, and other land cover variations. The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.

(4) Objective verification

(A) In general

If a subscriber's request for a waiver under paragraph (2) is rejected and the subscriber submits to the subscriber's satellite carrier a request for a test verifying the subscriber's inability to receive a signal that meets the signal intensity standard in effect under section 119(d)(10)(A) of title 17, the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct a test in accordance with section 73.686(d) of its regulations (47 CFR 73.686(d)), or any successor regulation. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such section (or any successor regulation) demonstrate that the subscriber does not receive a signal that meets or exceeds the signal intensity standard in effect under section 119(d)(10)(A) of title 17, the subscriber shall not be denied the retransmission of a signal of a network station under section 119 of title 17.

(B) Designation of tester and allocation of costs

If the satellite carrier and the network station or stations asserting that the retransmission is prohibited are unable to agree on such a person to conduct the test, the person shall be designated by an independent and neutral entity designated by the Commission by rule. Unless the satellite carrier and the network station or stations otherwise agree, the costs of conducting the test under this paragraph shall be borne by the satellite carrier, if the station's signal meets or exceeds the signal intensity standard in effect under section 119(d)(10)(A) of title 17, or by the network station, if its signal fails to meet or exceed such standard.

(C) Avoidance of undue burden

Commission regulations prescribed under this paragraph shall seek to avoid any undue burden on any party.

(D) Reduction of verification burdens

Within 1 year after December 8, 2004, the Commission shall by rule exempt from the verification requirements of subparagraph (A) any request for a test made by a subscriber to a satellite carrier to whom the retransmission of the signals of local broadcast stations is available under section 338 of this title from such carrier.

(E) Exception

A satellite carrier may refuse to engage in the testing process. If the carrier does so refuse, a subscriber in a local market in which the satellite carrier does not offer the signals of local broadcast stations under section 338 of this title may, at his or her own expense, authorize a signal intensity test to be performed pursuant to the procedures specified by the Commission in section 73.686(d) of title 47, Code of Federal Regulations, by a tester who is approved by the satellite carrier and by each affected network station, or who has been previously approved by the satellite carrier and by each affected network station but not previously disapproved. A tester may not be so disapproved for a test after the tester has commenced such test. The tester shall give 5 business days advance written notice to the satellite carrier and to the affected network station or stations. A signal intensity test conducted in accordance with this subparagraph shall be determinative of the signal strength received at that household for purposes of determining whether the household is capable of receiving a Grade B intensity signal.

(5) Definition

Notwithstanding subsection (d)(4) of this section, for purposes of paragraphs (2) and (4) of this subsection, the term "satellite carrier" includes a distributor (as defined in section 119(d)(1) of title 17), but only if the satellite distributor's relationship with the subscriber includes billing, collection, service activation, and service deactivation.

(d) Definitions

For the purposes of this section:

(1) Local market

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

(2) Nationally distributed superstation

The term "nationally distributed superstation" means a television broadcast station, licensed by the Commission, that—

(A) is not owned or operated by or affiliated with a television network that, as of January 1, 1995, offered interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more States;

(B) on May 1, 1991, was retransmitted by a satellite carrier and was not a network station at that time; and

(C) was, as of July 1, 1998, retransmitted by a satellite carrier under the statutory license of section 119 of title 17.

(3) Network station

The term "network station" has the meaning given such term under section 119(d) of title 17.

(4) Satellite carrier

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

(5) Television network

The term “television network” means a television network in the United States which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated broadcast stations in 10 or more States.

(June 19, 1934, ch. 652, title III, § 339, as added Pub. L. 106-113, div. B, § 1000(a)(9) [title I, § 1008(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A-534; amended Pub. L. 106-553, § 1(a)(2) [title X, § 1008], Dec. 21, 2000, 114 Stat. 2762, 2762A-140; Pub. L. 108-447, div. J, title IX [title II, §§ 204, 209], Dec. 8, 2004, 118 Stat. 3416, 3429.)

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108-447, § 204(a)(1), inserted at end “Such two network stations may be comprised of both the analog signal and digital signal of not more than two network stations.”

Subsec. (a)(2). Pub. L. 108-447, § 204(a)(3), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 108-447, § 204(a)(4), which directed amendment of par. (3) by inserting “, except that paragraph (2)(D) of this subsection, relating to the provision of distant digital signals, shall be enforceable under the provisions of section 340(f) of this title” at end, was executed by making the insertion before period at end, to reflect the probable intent of Congress.

Pub. L. 108-447, § 204(a)(2), redesignated par. (2) as (3).

Subsec. (c)(1). Pub. L. 108-447, § 204(b), added par. (1) and struck out heading and text of former par. (1). Text read as follows: “For the purposes of identifying an unserved household under section 119(d)(10) of title 17, within 1 year after November 29, 1999, the Commission shall conclude an inquiry to evaluate all possible standards and factors for determining eligibility for retransmissions of the signals of network stations, and, if appropriate—

“(A) recommend modifications to the Grade B intensity standard for analog signals set forth in section 73.683(a) of its regulations (47 CFR 73.683(a)), or recommend alternative standards or factors for purposes of determining such eligibility; and

“(B) make a further recommendation relating to an appropriate standard for digital signals.”

Subsec. (c)(4)(D), (E). Pub. L. 108-447, § 209, added subpars. (D) and (E).

2000—Subsec. (c)(5). Pub. L. 106-553 added par. (5).

§ 340. Significantly viewed signals permitted to be carried**(a) Significantly viewed stations**

In addition to the broadcast signals that subscribers may receive under section¹ 338 and 339 of this title, a satellite carrier is also authorized to retransmit to a subscriber located in a community the signal of any station located outside the local market in which such subscriber is located, to the extent such signal—

(1) has, before December 8, 2004, been determined by the Federal Communications Commission to be a signal a cable operator may carry as significantly viewed in such community, except to the extent that such signal is prevented from being carried by a cable system in such community under the Commission’s network nonduplication and syndicated exclusivity rules; or

(2) is, after December 8, 2004, determined by the Commission to be significantly viewed in

such community in accordance with the same standards and procedures concerning shares of viewing hours and audience surveys as are applicable under the rules, regulations, and authorizations of the Commission to determining with respect to a cable system whether signals are significantly viewed in a community.

(b) Limitations**(1) Analog service limited to subscribers taking local-into-local service**

With respect to a signal that originates as an analog signal of a network station, this section shall apply only to retransmissions to subscribers of a satellite carrier who receive retransmissions of a signal that originates as an analog signal of a local network station from that satellite carrier pursuant to section 338 of this title.

(2) Digital service limitations

With respect to a signal that originates as a digital signal of a network station, this section shall apply only if—

(A) the subscriber receives from the satellite carrier pursuant to section 338 of this title the retransmission of the digital signal of a network station in the subscriber’s local market that is affiliated with the same television network; and

(B) either—

(i) the retransmission of the local network station occupies at least the equivalent bandwidth as the digital signal retransmitted pursuant to this section; or

(ii) the retransmission of the local network station is comprised of the entire bandwidth of the digital signal broadcast by such local network station.

(3) Limitation not applicable where no network affiliates

The limitations in paragraphs (1) and (2) shall not prohibit a retransmission under this section to a subscriber located in a local market in which there are no network stations affiliated with the same television network as the station whose signal is being retransmitted pursuant to this section.

(4) Authority to grant station-specific waivers

Paragraphs (1) and (2) shall not prohibit a retransmission of a network station to a subscriber if and to the extent that the network station in the local market in which the subscriber is located, and that is affiliated with the same television network, has privately negotiated and affirmatively granted a waiver from the requirements of paragraph² (1) and (2) to such satellite carrier with respect to retransmission of the significantly viewed station to such subscriber.

(c) Publication and modifications of lists; regulations**(1) In general**

The Commission shall—

(A) within 60 days after December 8, 2004—

(i) publish a list of the stations that are eligible for retransmission under sub-

¹ So in original. Probably should be “sections”.

² So in original. Probably should be “paragraphs”.