by this chapter or in the exercise of duties, powers, or functions transferred to the Commission by this chapter, and which are in effect at the time this section takes effect, shall continue in effect until modified, terminated, superseded, or repealed by the Commission or by operation of law.

(b) Availability of records

All records transferred to the Commission under this chapter shall be available for use by the Commission to the same extent as if such records were originally records of the Commission. All final valuations and determinations of depreciation charges by the Interstate Commerce Commission with respect to common carriers engaged in radio or wire communication, and all orders of the Interstate Commerce Commission with respect to such valuations and determinations, shall have the same force and effect as though made by the Commission under this chapter.

(June 19, 1934, ch. 652, title VII, § 704, formerly title VI, § 604, 48 Stat. 1103; renumbered title VII, § 704, Pub. L. 98–549, § 6(a), Oct. 30, 1984, 98 Stat. 2804; amended Pub. L. 103–414, title III, § 304(a)(14), Oct. 25, 1994, 108 Stat. 4297.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, as amended, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

1994—Subsecs. (b), (c). Pub. L. 103–414 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''Any proceeding, hearing, or investigation commenced or pending before the Federal Radio Commission, the Interstate Commerce Commission, or the Postmaster General, at the time of the organization of the Commission, shall be continued by the Commission in the same manner as though originally commenced before the Commission, if such proceeding, hearing, or investigation (1) involves the administration of duties, powers, and functions transferred to the Commission by this chapter, or (2) involves the exercise of jurisdiction similar to that granted to the Commission under the provisions of this chapter.''

Subsec. (d). Pub. L. 103–414, § 303(a)(14)(A), struck out subsec. (d) which read as follows: ''The provisions of this chapter shall not affect suits commenced prior to the date of the organization of the Commission; and all such suits shall be continued, proceedings therein had, appeals therein taken and judgments therein rendered, in the same manner and with the same effect as if this chapter had not been passed. No suit, action, or other proceeding lawfully commenced by or against any agency or officer of the United States, in relation to the discharge of official duties, shall abate by reason of any transfer of authority, power, and duties from such agency or officer to the Commission under the provisions of this chapter, but the court, upon motion or supplemental petition filed at any time within twelve months after such transfer, showing the necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the Commission.''

TRANSFER OF FUNCTIONS

Office of Postmaster General of Post Office Department abolished and functions, powers, and duties of Postmaster General transferred to United States Postal Service by Pub. L. 91–375, § 4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104–88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 701 of Title 49.

§ 605. Unauthorized publication or use of communications

(a) Practices prohibited

Except as authorized by chapter 119, title 18, no person receiving, assisting in receiving, transmitting, or assisting in transmitting, any interstate or foreign communication by wire or radio shall divulge or publish the existence, contents, substance, purport, effect, or meaning thereof, except through authorized channels of transmission or reception, (1) to any person other than the addressee, his agent, or attorney, (2) to a person employed or authorized to forward such communication to its destination, (3) to proper accounting or distributing officers of the various communicating centers over which the communication may be passed, (4) to the master of a ship under whom he is serving, (5) in response to a subpena issued by a court of competent jurisdiction, or (6) on demand of other lawful authority. No person not being authorized by the sender shall intercept any radio communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person. No person not being entitled thereto shall receive or assist in receiving any interstate or foreign communication by radio and use such communication (or any information therein contained) for his own benefit or for the benefit of another not entitled thereto. No person having received any intercepted radio communication or having become acquainted with the contents, substance, purport, effect, or meaning of such communication (or any part thereof) knowing that such communication was intercepted, shall divulge or publish the existence, contents, substance, purport, effect, or meaning of such communication (or any part thereof) or use such communication (or any information therein contained) for his own benefit or for the benefit of another not entitled thereto. This section shall not apply to the receiving, divulging, publishing, or utilizing the contents of any radio communication which is transmitted by any station for the use of the general public, which relates to ships, aircraft, vehicles, or persons in distress, or which is transmitted by an amateur radio station operator or by a citizens band radio operator.

(b) Exceptions

The provisions of subsection (a) of this section shall not apply to the interception or receipt by

any individual, or the assisting (including the manufacture or sale) of such interception or receipt, of any satellite cable programming for private viewing if—

(1) the programming involved is not encrypted; and

(2)(A) a marketing system is not established under which—

(i) an agent or agents have been lawfully designated for the purpose of authorizing private viewing by individuals, and

(ii) such authorization is available to the individual involved from the appropriate agent or agents; or

(B) a marketing system described in subparagraph (A) is established and the individuals receiving such programming has obtained authorization for private viewing under that system.

(c) Scrambling of Public Broadcasting Service programming

No person shall encrypt or continue to encrypt satellite delivered programs included in the National Program Service of the Public Broadcasting Service and intended for public viewing by retransmission by television broadcast stations; except that as long as at least one unencrypted satellite transmission of any program subject to this subsection is provided, this subsection shall not prohibit additional encrypted satellite transmissions of the same program.

(d) Definitions

For purposes of this section—

(1) the term ''satellite cable programming'' means video programming which is transmitted via satellite and which is primarily intended for the direct receipt by cable operators for their retransmission to cable subscribers;

(2) the term ''agent'', with respect to any person, includes an employee of such person;

(3) the term ''encrypt'', when used with respect to satellite cable programming, means to transmit such programming in a form whereby the aural and visual characteristics (or both) are modified or altered for the purpose of preventing the unauthorized receipt of such programming by persons without authorized equipment which is designed to eliminate the effects of such modification or alteration;

(4) the term ''private viewing'' means the viewing for private use in an individual's dwelling unit by means of equipment, owned or operated by such individual, capable of receiving satellite cable programming directly from a satellite;

(5) the term ''private financial gain'' shall not include the gain resulting to any individual for the private use in such individual's dwelling unit of any programming for which the individual has not obtained authorization for that use; and

(6) the term ''any person aggrieved'' shall include any person with proprietary rights in the intercepted communication by wire or radio, including wholesale or retail distributors of satellite cable programming, and, in the case of a violation of paragraph (4) of subsection (e) of this section, shall also include any person engaged in the lawful manufacture, distribution, or sale of equipment necessary to authorize or receive satellite cable programming.

(e) Penalties; civil actions; remedies; attorney's fees and costs; computation of damages; regulation by State and local authorities

(1) Any person who willfully violates subsection (a) of this section shall be fined not more than $2,000 or imprisoned for not more than 6 months, or both.

(2) Any person who violates subsection (a) of this section willfully and for purposes of direct or indirect commercial advantage or private financial gain shall be fined not more than $50,000 or imprisoned for not more than 2 years, or both, for the first such conviction and shall be fined not more than $100,000 or imprisoned for not more than 5 years, or both, for any subsequent conviction.

(3)(A) Any person aggrieved by any violation of subsection (a) of this section or paragraph (4) of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction.

(B) The court—

(i) may grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain violations of subsection (a) of this section;

(ii) may award damages as described in subparagraph (C); and

(iii) shall direct the recovery of full costs, including awarding reasonable attorneys' fees to an aggrieved party who prevails.

(C)(i) Damages awarded by any court under this section shall be computed, at the election of the aggrieved party, in accordance with either of the following subclauses;

(I) the party aggrieved may recover the actual damages suffered by him as a result of the violation and any profits of the violator that are attributable to the violation which are not taken into account in computing the actual damages; in determining the violator's profits, the party aggrieved shall be required to prove only the violator's gross revenue, and the violator shall be required to prove his deductible expenses and the elements of profit attributable to factors other than the violation; or

(II) the party aggrieved may recover an award of statutory damages for each violation of subsection (a) of this section involved in the action in a sum of not less than $1,000 or more than $10,000, as the court considers just, and for each violation of paragraph (4) of this subsection involved in the action an aggrieved party may recover statutory damages in a sum not less than $10,000, or more than $100,000, as the court considers just.

(ii) In any case in which the court finds that the violation was committed willfully and for purposes of direct or indirect commercial advantage or private financial gain, the court in its discretion may increase the award of damages, whether actual or statutory, by an amount of not more than $100,000 for each violation of subsection (a) of this section.

(iii) In any case where the court finds that the violator was not aware and had no reason to be-

lieve that his acts constituted a violation of this section, the court in its discretion may reduce the award of damages to a sum of not less than $250.

(4) Any person who manufactures, assembles, modifies, imports, exports, sells, or distributes any electronic, mechanical, or other device or equipment, knowing or having reason to know that the device or equipment is primarily of assistance in the unauthorized decryption of satellite cable programming, or direct-to-home satellite services, or is intended for any other activity prohibited by subsection (a) of this section, shall be fined not more than $500,000 for each violation, or imprisoned for not more than 5 years for each violation, or both. For purposes of all penalties and remedies established for violations of this paragraph, the prohibited activity established herein as it applies to each such device shall be deemed a separate violation.

(5) The penalties under this subsection shall be in addition to those prescribed under any other provision of this subchapter.

(6) Nothing in this subsection shall prevent any State, or political subdivision thereof, from enacting or enforcing any laws with respect to the importation, sale, manufacture, or distribution of equipment by any person with the intent of its use to assist in the interception or receipt of radio communications prohibited by subsection (a) of this section.

(f) Rights, obligations, and liabilities under other laws unaffected

Nothing in this section shall affect any right, obligation, or liability under title 17, any rule, regulation, or order thereunder, or any other applicable Federal, State, or local law.

(g) Universal encryption standard

The Commission shall initiate an inquiry concerning the need for a universal encryption standard that permits decryption of satellite cable programming intended for private viewing. In conducting such inquiry, the Commission shall take into account—

(1) consumer costs and benefits of any such standard, including consumer investment in equipment in operation;

(2) incorporation of technological enhancements, including advanced television formats;

(3) whether any such standard would effectively prevent present and future unauthorized decryption of satellite cable programming;

(4) the costs and benefits of any such standard on other authorized users of encrypted satellite cable programming, including cable systems and satellite master antenna television systems;

(5) the effect of any such standard on competition in the manufacture of decryption equipment; and

(6) the impact of the time delay associated with the Commission procedures necessary for establishment of such standards.

(h) Rulemaking for encryption standard

If the Commission finds, based on the information gathered from the inquiry required by subsection (g) of this section, that a universal encryption standard is necessary and in the public interest, the Commission shall initiate a rulemaking to establish such a standard.

(June 19, 1934, ch. 652, title VII, § 705, formerly title VI, § 605, 48 Stat. 1103; Pub. L. 90–351, title III, § 803, June 19, 1968, 82 Stat. 223; Pub. L. 97–259, title I, § 126, Sept. 13, 1982, 96 Stat. 1099; renumbered title VII, § 705, and amended Pub. L. 98–549, §§ 5(a), 6(a), Oct. 30, 1984, 98 Stat. 2802, 2804; Pub. L. 100–626, § 11, Nov. 7, 1988, 102 Stat. 3211; Pub. L. 100–667, title II, §§ 204, 205, Nov. 16, 1988, 102 Stat. 3958, 3959; Pub. L. 103–414, title III, §§ 303(a)(25)–(28), 304(a)(15), Oct. 25, 1994, 108 Stat. 4295–4297; Pub. L. 104–104, title II, § 205(a), Feb. 8, 1996, 110 Stat. 114.)

AMENDMENTS

1996—Subsec. (e)(4). Pub. L. 104–104 inserted ''or direct-to-home satellite services,'' after ''programming,''.

1994—Subsec. (d)(6). Pub. L. 103–414, § 303(a)(25), substituted ''subsection (e)'' for ''subsection (d)''.

Subsec. (e)(3)(A). Pub. L. 103–414, § 303(a)(26), substituted ''paragraph (4) of this subsection'' for ''paragraph (4) of subsection (d) of this section''.

Subsec. (f). Pub. L. 103–414, § 303(a)(27), redesignated subsec. (f), relating to universal encryption standard, as (g).

Subsec. (g). Pub. L. 103–414, § 304(a)(15), which directed substitution of ''The Commission'' for ''within 6 months after November 16, 1988, the Federal Communications Commission'', was executed by making the substitution in text which read ''Within 6 months'' rather than ''within 6 months'' in introductory provisions to reflect the probable intent of Congress.

Pub. L. 103–414, § 303(a)(27), redesignated subsec. (f), relating to universal encryption standard, as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 103–414, § 303(a)(27), (28), redesignated subsec. (g) as (h) and substituted ''subsection (g)'' for ''subsection (f)''.

1988—Subsecs. (c), (d). Pub. L. 100–626 added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(6). Pub. L. 100–667, § 205(1), which directed the addition of par. (6) to subsec. (c), was executed to subsec. (d) to reflect the probable intent of Congress and the intervening redesignation of subsec. (c) as (d) by Pub. L. 100–626.

Subsec. (e). Pub. L. 100–667, § 205(2)–(12), which directed the amendment of subsec. (d)(1) to (4) of this section, was executed to subsec. (e)(1) to (4) of this section, see below, to reflect the probable intent of Congress and the intervening redesignation of subsec. (d) as (e) by Pub. L. 100–626.

Pub. L. 100–626 redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 100–667, § 205(2), substituted ''$2,000'' for ''$1,000''.

Subsec. (e)(2). Pub. L. 100–667, § 205(3), substituted ''$50,000 or imprisoned for not more than 2 years, or both, for the first such conviction and shall be fined not more than $100,000 or imprisoned for not more than 5 years'' for ''$25,000 or imprisoned for not more than 1 year, or both, for the first such conviction and shall be fined not more than $50,000 or imprisoned for not more than 2 years''.

Subsec. (e)(3)(A). Pub. L. 100–667, § 205(4), inserted ''or paragraph (4) of subsection (d) of this section'' before ''may bring''.

Subsec. (e)(3)(B). Pub. L. 100–667, § 205(5)–(8), struck out ''may'' after ''The court'' and substituted ''may grant'' for ''grant'' in cl. (i), ''may award'' for ''award'' in cl. (ii), and ''shall direct'' for ''direct'' in cl. (iii).

Subsec. (e)(3)(C)(i)(II). Pub. L. 100–667, § 205(9), inserted ''of subsection (a) of this section'' after ''violation'', substituted ''$1,000'' for ''$250'', and inserted before period at end '', and for each violation of paragraph (4) of this subsection involved in the action an aggrieved party may recover statutory damages in a sum not less than $10,000, or more than $100,000, as the court considers just''.

Subsec. (e)(3)(C)(ii). Pub. L. 100–667, §205(10), substituted ''$100,000 for each violation of subsection (a) of this section'' for ''$50,000''.

Subsec. (e)(3)(C)(iii). Pub. L. 100–667, §205(11), substituted ''$250'' for ''$100''.

Subsec. (e)(4). Pub. L. 100–667, §205(12), added par. (4) and struck out former par. (4) which read as follows: ''The importation, manufacture, sale, or distribution of equipment by any person with the intent of its use to assist in any activity prohibited by subsection (a) of this section shall be subject to penalties and remedies under this subsection to the same extent and in the same manner as a person who has engaged in such prohibited activity.''

Subsec. (f). Pub. L. 100–667, §204, added subsec. (f) relating to universal encryption standard.

Pub. L. 100–626 redesignated subsec. (e), relating to rights, obligations, and liabilities under other laws, as (f).

Subsec. (g). Pub. L. 100–667, §204, added subsec. (g).

1984—Pub. L. 98–549, §5(a), designated existing provisions as subsec. (a) and added subsecs. (b) to (e).

1982—Pub. L. 97–259 struck out ''broadcast or'' after ''communication which is'', substituted ''any station'' for ''amateurs or others'', struck out ''or'' after ''general public,'', and substituted ''ships, aircraft, vehicles, or persons in distress, or which is transmitted by an amateur radio station operator or by a citizens band radio operator'' for ''ships in distress''.

1968—Pub. L. 90–351 inserted ''Except as authorized by chapter 119, title 18'', designated existing provisions as cls. (1) to (6), inserted ''radio'' before ''communication'' in second and fourth sentences, struck out ''wire or'' before ''radio'' in third sentence, and substituted ''intercepted'' for ''obtained'' in fourth sentence.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–667 effective Jan. 1, 1989, see section 206 of Pub. L. 100–667, set out as an Effective Date note under section 119 of Title 17, Copyrights.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 5(b) of Pub. L. 98–549 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on the effective date of this Act [Dec. 29, 1984].''

Amendment by Pub. L. 98–549 effective 60 days after Oct. 30, 1984, except where otherwise expressly provided, see section 9(a) of Pub. L. 98–549, set out as an Effective Date note under section 521 of this title.

§606. War powers of President

(a) Priority communications

During the continuance of a war in which the United States is engaged, the President is authorized, if he finds it necessary for the national defense and security, to direct that such communications as in his judgment may be essential to the national defense and security shall have preference or priority with any carrier subject to this chapter. He may give these directions at and for such times as he may determine, and may modify, change, suspend, or annul them and for any such purpose he is authorized to issue orders directly, or through such person or persons as he designates for the purpose, or through the Commission. Any carrier complying with any such order or direction for preference or priority herein authorized shall be exempt from any and all provisions in existing law imposing civil or criminal penalties, obligations, or liabilities upon carriers by reason of giving preference or priority in compliance with such order or direction.

(b) Obstruction of interstate or foreign communications

It shall be unlawful for any person during any war in which the United States is engaged to knowingly or willfully, by physical force or intimidation by threats of physical force, obstruct or retard or aid in obstructing or retarding interstate or foreign communication by radio or wire. The President is authorized, whenever in his judgment the public interest requires, to employ the armed forces of the United States to prevent any such obstruction or retardation of communication: *Provided*, That nothing in this section shall be construed to repeal, modify, or affect either section 17 of title 15 or section 52 of title 29.

(c) Suspension or amendment of rules and regulations applicable to certain emission stations or devices

Upon proclamation by the President that there exists war or a threat of war, or a state of public peril or disaster or other national emergency, or in order to preserve the neutrality of the United States, the President, if he deems it necessary in the interest of national security or defense, may suspend or amend, for such time as he may see fit, the rules and regulations applicable to any or all stations or devices capable of emitting electromagnetic radiations within the jurisdiction of the United States as prescribed by the Commission, and may cause the closing of any station for radio communication, or any device capable of emitting electromagnetic radiations between 10 kilocycles and 100,000 megacycles, which is suitable for use as a navigational aid beyond five miles, and the removal therefrom of its apparatus and equipment, or he may authorize the use or control of any such station or device and/or its apparatus and equipment, by any department of the Government under such regulations as he may prescribe upon just compensation to the owners. The authority granted to the President, under this subsection, to cause the closing of any station or device and the removal therefrom of its apparatus and equipment, or to authorize the use or control of any station or device and/or its apparatus and equipment, may be exercised in the Canal Zone.

(d) Suspension or amendment of rules and regulations applicable to wire communications; closing of facilities; Government use of facilities

Upon proclamation by the President that there exists a state or threat of war involving the United States, the President, if he deems it necessary in the interest of the national security and defense, may, during a period ending not later than six months after the termination of such state or threat of war and not later than such earlier date as the Congress by concurrent resolution may designate, (1) suspend or amend the rules and regulations applicable to any or all facilities or stations for wire communication within the jurisdiction of the United States as prescribed by the Commission, (2) cause the closing of any facility or station for wire communication and the removal therefrom of its apparatus and equipment, or (3) authorize the use or control of any such facility or station and its