

### § 611. Closed-captioning of public service announcements

Any television public service announcement that is produced or funded in whole or in part by any agency or instrumentality of Federal Government shall include closed captioning of the verbal content of such announcement. A television broadcast station licensee—

- (1) shall not be required to supply closed captioning for any such announcement that fails to include it; and
- (2) shall not be liable for broadcasting any such announcement without transmitting a closed caption unless the licensee intentionally fails to transmit the closed caption that was included with the announcement.

(June 19, 1934, ch. 652, title VII, §711, as added Pub. L. 98-549, §8, Oct. 30, 1984, 98 Stat. 2804; amended Pub. L. 101-336, title IV, §402, July 26, 1990, 104 Stat. 369.)

#### AMENDMENTS

1990—Pub. L. 101-336 amended section generally, substituting provisions relating to closed-captioning of public service announcements for provisions relating to establishment, functions, composition, etc., of Telecommunications Policy Study Commission.

#### EFFECTIVE DATE

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

### § 612. Syndicated exclusivity

(a) The Federal Communications Commission shall initiate a combined inquiry and rule-making proceeding for the purpose of—

- (1) determining the feasibility of imposing syndicated exclusivity rules with respect to the delivery of syndicated programming (as defined by the Commission) for private home viewing of secondary transmissions by satellite of broadcast station signals similar to the rules issued by the Commission with respect to syndicated exclusivity and cable television; and
- (2) adopting such rules if the Commission considers the imposition of such rules to be feasible.

(b) In the event that the Commission adopts such rules, any willful and repeated secondary transmission made by a satellite carrier to the public of a primary transmission embodying the performance or display of a work which violates such Commission rules shall be subject to the remedies, sanctions, and penalties provided by subchapter V of this chapter and section 605 of this title.

(June 19, 1934, ch. 652, title VII, §712, as added Pub. L. 100-667, title II, §203, Nov. 16, 1988, 102 Stat. 3958; amended Pub. L. 103-414, title III, §304(a)(17), Oct. 25, 1994, 108 Stat. 4297.)

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-414 struck out “, within 120 days after January 1, 1989,” after “The Federal Communications Commission shall”.

#### EFFECTIVE DATE

Section effective Jan. 1, 1989, see section 206 of Pub. L. 100-667, set out as a note under section 119 of Title 17, Copyrights.

### § 613. Video programming accessibility

#### (a) Commission inquiry

Within 180 days after February 8, 1996, the Federal Communications Commission shall complete an inquiry to ascertain the level at which video programming is closed captioned. Such inquiry shall examine the extent to which existing or previously published programming is closed captioned, the size of the video programming provider or programming owner providing closed captioning, the size of the market served, the relative audience shares achieved, or any other related factors. The Commission shall submit to the Congress a report on the results of such inquiry.

#### (b) Accountability criteria

Within 18 months after February 8, 1996, the Commission shall prescribe such regulations as are necessary to implement this section. Such regulations shall ensure that—

- (1) video programming first published or exhibited after the effective date of such regulations is fully accessible through the provision of closed captions, except as provided in subsection (d) of this section; and
- (2) video programming providers or owners maximize the accessibility of video programming first published or exhibited prior to the effective date of such regulations through the provision of closed captions, except as provided in subsection (d) of this section.

#### (c) Deadlines for captioning

Such regulations shall include an appropriate schedule of deadlines for the provision of closed captioning of video programming.

#### (d) Exemptions

Notwithstanding subsection (b) of this section—

- (1) the Commission may exempt by regulation programs, classes of programs, or services for which the Commission has determined that the provision of closed captioning would be economically burdensome to the provider or owner of such programming;
- (2) a provider of video programming or the owner of any program carried by the provider shall not be obligated to supply closed captions if such action would be inconsistent with contracts in effect on February 8, 1996, except that nothing in this section shall be construed to relieve a video programming provider of its obligations to provide services required by Federal law; and
- (3) a provider of video programming or program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such petition upon a showing that the requirements contained in this section would result in an undue burden.

(e) **Undue burden**

The term “undue burden” means significant difficulty or expense. In determining whether the closed captions necessary to comply with the requirements of this paragraph would result in an undue economic burden, the factors to be considered include—

- (1) the nature and cost of the closed captions for the programming;
- (2) the impact on the operation of the provider or program owner;
- (3) the financial resources of the provider or program owner; and
- (4) the type of operations of the provider or program owner.

**(f) Video descriptions inquiry**

Within 6 months after February 8, 1996, the Commission shall commence an inquiry to examine the use of video descriptions on video programming in order to ensure the accessibility of video programming to persons with visual impairments, and report to Congress on its findings. The Commission's report shall assess appropriate methods and schedules for phasing video descriptions into the marketplace, technical and quality standards for video descriptions, a definition of programming for which video descriptions would apply, and other technical and legal issues that the Commission deems appropriate.

**(g) Video description**

For purposes of this section, "video description" means the insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue.

**(h) Private rights of actions prohibited**

Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation thereunder. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

(June 19, 1934, ch. 652, title VII, §713, as added Pub. L. 104-104, title III, §305, Feb. 8, 1996, 110 Stat. 126.)

PRIOR PROVISIONS

A prior section 613, act June 19, 1934, ch. 652, title VII, §713, as added Nov. 16, 1988, Pub. L. 100-667, title II, §203, 102 Stat. 3958, related to report to Congress on discrimination, prior to repeal by Pub. L. 103-414, title III, §304(a)(18), Oct. 25, 1994, 108 Stat. 4297.

**§ 614. Telecommunications Development Fund**

**(a) Purpose of section**

It is the purpose of this section—

- (1) to promote access to capital for small businesses in order to enhance competition in the telecommunications industry;
- (2) to stimulate new technology development, and promote employment and training; and
- (3) to support universal service and promote delivery of telecommunications services to underserved rural and urban areas.

**(b) Establishment of Fund**

There is hereby established a body corporate to be known as the Telecommunications Development Fund, which shall have succession until dissolved. The Fund shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof.

**(c) Board of Directors**

**(1) Composition of Board; Chairman**

The Fund shall have a Board of Directors which shall consist of 7 persons appointed by the Chairman of the Commission. Four of such directors shall be representative of the private sector and three of such directors shall be representative of the Commission, the Small Business Administration, and the Department of the Treasury, respectively. The Chairman of the Commission shall appoint one of the representatives of the private sector to serve as chairman of the Fund within 30 days after February 8, 1996, in order to facilitate rapid creation and implementation of the Fund. The directors shall include members with experience in a number of the following areas: finance, investment banking, government banking, communications law and administrative practice, and public policy.

**(2) Terms of appointed and elected members**

The directors shall be eligible to serve for terms of 5 years, except of the initial members, as designated at the time of their appointment—

- (A) 1 shall be eligible to service for a term of 1 year;
- (B) 1 shall be eligible to service for a term of 2 years;
- (C) 1 shall be eligible to service for a term of 3 years;
- (D) 2 shall be eligible to service for a term of 4 years; and
- (E) 2 shall be eligible to service for a term of 5 years (1 of whom shall be the Chairman).

Directors may continue to serve until their successors have been appointed and have qualified.

**(3) Meetings and functions of the Board**

The Board of Directors shall meet at the call of its Chairman, but at least quarterly. The Board shall determine the general policies which shall govern the operations of the Fund. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Fund and shall discharge all such functions, powers, and duties.

**(d) Accounts of Fund**

The Fund shall maintain its accounts at a financial institution designated for purposes of this section by the Chairman of the Board (after consultation with the Commission and the Secretary of the Treasury). The accounts of the Fund shall consist of—

- (1) interest transferred pursuant to section 309(j)(8)(C) of this title;
- (2) such sums as may be appropriated to the Commission for advances to the Fund;
- (3) any contributions or donations to the Fund that are accepted by the Fund; and
- (4) any repayment of, or other payment made with respect to, loans, equity, or other extensions of credit made from the Fund.