public understanding of mathematics, the sciences, the humanities, and the arts and has a documented annual expenditure on programming exceeding $15,000,000. The annual expenditure on programming means all annual costs incurred by the programming source to produce or acquire programs which are scheduled to be televised, and specifically excludes marketing, promotion, satellite transmission and operational costs, and general administrative costs.

(4) Nothing in this subsection shall substitute for the requirements to carry qualified noncommercial educational television stations as specified under section 535 of this title.

(j) Single channel access to indecent programming

(1) Within 120 days following October 5, 1992, the Commission shall promulgate regulations designed to limit the access of children to indecent programming, as defined by Commission regulations, and which cable operators have not voluntarily prohibited under subsection (h) of this section by—

(A) requiring cable operators to place on a single channel all indecent programs, as identified by program providers, intended for carriage on channels designated for commercial use under this section;

(B) requiring cable operators to block such single channel unless the subscriber requests access to such channel in writing; and

(C) requiring programmers to inform cable operators if the program would be indecent as defined by Commission regulations.

(2) Cable operators shall comply with the regulations promulgated pursuant to paragraph (1).

(June 19, 1934, ch. 652, title VI, § 612, as added Pub. L. 98–549, § 2, Oct. 30, 1984, 98 Stat. 2782; amended Pub. L. 102–385, §§ 9, 10(a), (b), Oct. 5, 1992, 106 Stat. 1484, 1486; Pub. L. 104–104, title V, § 506(b), Feb. 8, 1996, 110 Stat. 137.)

AMENDMENTS

1996—Subsec. (c)(2). Pub. L. 104–104 substituted ''a cable operator may refuse to transmit any leased access program or portion of a leased access program which contains obscenity, indecency, or nudity and'' for ''an operator''.

1992—Subsec. (a). Pub. L. 102–385, § 9(a), inserted ''to promote competition in the delivery of diverse sources of video programming and'' after ''purpose of this section is''.

Subsec. (b)(5). Pub. L. 102–385, § 9(d), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''For the purposes of this section—

''(A) the term 'activated channels' means those channels engineered at the headend of the cable system for the provision of services generally available to residential subscribers of the cable system, regardless of whether such services actually are provided, including any channel designated for public, educational, or governmental use; and

''(B) the term 'commercial use' means the provision of video programming, whether or not for profit.''

Subsec. (c)(1). Pub. L. 102–385, § 9(b)(1), inserted ''and with rules prescribed by the Commission under paragraph (4)'' after ''purpose of this section''.

Subsec. (c)(4). Pub. L. 102–385, § 9(b)(2), added par. (4).

Subsec. (h). Pub. L. 102–385, § 10(a), inserted ''or the cable operator'' after ''franchising authority'' and inserted at end ''This subsection shall permit a cable operator to enforce prospectively a written and published policy of prohibiting programming that the cable operator reasonably believes describes or depicts sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards.''

Subsec. (i). Pub. L. 102–385, § 9(c), added subsec. (i).

Subsec. (j). Pub. L. 102–385, § 10(b), added subsec. (j).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–385 effective 60 days after Oct. 5, 1992, see section 28 of Pub. L. 102–385, set out as a note under section 325 of this title.

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.

§ 533. Ownership restrictions

(a) Cable operator holding license for multichannel distribution or offering satellite service

It shall be unlawful for a cable operator to hold a license for multichannel multipoint distribution service, or to offer satellite master antenna television service separate and apart from any franchised cable service, in any portion of the franchise area served by that cable operator's cable system. The Commission—

(1) shall waive the requirements of this paragraph for all existing multichannel multipoint distribution services and satellite master antenna television services which are owned by a cable operator on October 5, 1992;

(2) may waive the requirements of this paragraph to the extent the Commission determines is necessary to ensure that all significant portions of a franchise area are able to obtain video programming; and

(3) shall not apply the requirements of this subsection to any cable operator in any franchise area in which a cable operator is subject to effective competition as determined under section 543(*l*) of this title.

(b) Repealed. Pub. L. 104–104, title III, § 302(b)(1), Feb. 8, 1996, 110 Stat. 124

(c) Promulgation of rules

The Commission may prescribe rules with respect to the ownership or control of cable systems by persons who own or control other media of mass communications which serve the same community served by a cable system.

(d) Regulation of ownership by States or franchising authorities

Any State or franchising authority may not prohibit the ownership or control of a cable system by any person because of such person's ownership or control of any other media of mass communications or other media interests. Nothing in this section shall be construed to prevent any State or franchising authority from prohibiting the ownership or control of a cable system in a jurisdiction by any person (1) because of such person's ownership or control of any other cable system in such jurisdiction; or (2) in circumstances in which the State or franchising authority determines that the acquisition of such a cable system may eliminate or reduce competition in the delivery of cable service in such jurisdiction.

(e) Holding of ownership interests or exercise of editorial control by States or franchising authorities

(1) Subject to paragraph (2), a State or franchising authority may hold any ownership interest in any cable system.

(2) Any State or franchising authority shall not exercise any editorial control regarding the content of any cable service on a cable system in which such governmental entity holds ownership interest (other than programming on any channel designated for educational or governmental use), unless such control is exercised through an entity separate from the franchising authority.

(f) Enhancement of effective competition

(1) In order to enhance effective competition, the Commission shall, within one year after October 5, 1992, conduct a proceeding—

(A) to prescribe rules and regulations establishing reasonable limits on the number of cable subscribers a person is authorized to reach through cable systems owned by such person, or in which such person has an attributable interest;

(B) to prescribe rules and regulations establishing reasonable limits on the number of channels on a cable system that can be occupied by a video programmer in which a cable operator has an attributable interest; and

(C) to consider the necessity and appropriateness of imposing limitations on the degree to which multichannel video programming distributors may engage in the creation or production of video programming.

(2) In prescribing rules and regulations under paragraph (1), the Commission shall, among other public interest objectives—

(A) ensure that no cable operator or group of cable operators can unfairly impede, either because of the size of any individual operator or because of joint actions by a group of operators of sufficient size, the flow of video programming from the video programmer to the consumer;

(B) ensure that cable operators affiliated with video programmers do not favor such programmers in determining carriage on their cable systems or do not unreasonably restrict the flow of the video programming of such programmers to other video distributors;

(C) take particular account of the market structure, ownership patterns, and other relationships of the cable television industry, including the nature and market power of the local franchise, the joint ownership of cable systems and video programmers, and the various types of non-equity controlling interests;

(D) account for any efficiencies and other benefits that might be gained through increased ownership or control;

(E) make such rules and regulations reflect the dynamic nature of the communications marketplace;

(F) not impose limitations which would bar cable operators from serving previously unserved rural areas; and

(G) not impose limitations which would impair the development of diverse and high quality video programming.

(g) Combination of interests under prior law

This section shall not apply to prohibit any combination of any interests held by any person on July 1, 1984, to the extent of the interests so held as of such date, if the holding of such interests was not inconsistent with any applicable Federal or State law or regulations in effect on that date.

(h) "Media of mass communications" defined

For purposes of this section, the term ''media of mass communications'' shall have the meaning given such term under section 309(i)(3)(C)(i) of this title.

(June 19, 1934, ch. 652, title VI, § 613, as added Pub. L. 98–549, § 2, Oct. 30, 1984, 98 Stat. 2785; amended Pub. L. 102–385, § 11, Oct. 5, 1992, 106 Stat. 1486; Pub. L. 103–414, title III, § 303(a)(22), Oct. 25, 1994, 108 Stat. 4295; Pub. L. 104–104, title II, § 202(i), title III, §§ 302(b)(1), Feb. 8, 1996, 110 Stat. 112, 124.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–104, § 202(i), redesignated par. (2) as subsec. (a) and subpars. (A) and (B) of par. (2) as pars. (1) and (2) of subsec. (a), respectively, added par. (3), and struck out former par. (1) which read as follows: ''It shall be unlawful for any person to be a cable operator if such person, directly or through 1 or more affiliates, owns or controls, the licensee of a television broadcast station and the predicted grade B contour of such station covers any portion of the community served by such operator's cable system.''

Subsec. (b). Pub. L. 104–104, § 302(b)(1), struck out subsec. (b), which related to common carriers, direct video programming, an exception for rural areas, and waiver.

1994—Subsec. (b)(2). Pub. L. 103–414 substituted ''pole, line, conduit space'' for ''pole line conduit space''.

1992—Subsec. (a). Pub. L. 102–385, § 11(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (d). Pub. L. 102–385, § 11(b), substituted ''any other media'' for ''any media'' and inserted at end ''Nothing in this section shall be construed to prevent any State or franchising authority from prohibiting the ownership or control of a cable system in a jurisdiction by any person (1) because of such person's ownership or control of any other cable system in such jurisdiction; or (2) in circumstances in which the State or franchising authority determines that the acquisition of such a cable system may eliminate or reduce competition in the delivery of cable service in such jurisdiction.''

Subsecs. (f) to (h). Pub. L. 102–385, § 11(c), added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–385 effective 60 days after Oct. 5, 1992, see section 28 of Pub. L. 102–385, set out as a note under section 325 of this title.

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.

§ 534. Carriage of local commercial television signals

(a) Carriage obligations

Each cable operator shall carry, on the cable system of that operator, the signals of local commercial television stations and qualified low power stations as provided by this section. Car-