

power of Federal agencies, States, or franchising authorities, in subsec. (b) to promulgation, scope, content, periodic review, and amendment of regulations, in subsec. (c) to regulation by franchising authority during initial 2-year period, in subsec. (d) to automatic granting of rate increase requests upon agency inaction within 180-day period, in subsec. (e) to additional increases in rates and to reduction by amount of increase under franchise provisions, in subsec. (f) to non-discrimination and facilitation of reception by hearing-impaired individuals, in subsec. (g) to continued effectiveness of limitation or the preemption of regulation under prior State law, and in subsec. (h) to reports and recommendations to Congress.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 301(k)(2) of Pub. L. 104-104 provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on the date of enactment of this Act [Feb. 8, 1996] and shall be applicable to any rate proposal filed on or after September 4, 1993, upon which no final action has been taken by December 1, 1995."

#### EFFECTIVE DATE OF 1992 AMENDMENT

Section 3(b) of Pub. L. 102-385 provided that: "The amendment made by subsection (a) [amending this section] shall take effect 180 days after the date of enactment of this Act [Oct. 5, 1992], except that the authority of the Federal Communications Commission to prescribe regulations is effective on such date of enactment."

#### 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.

#### RESTORATION, RETIERMENT AND REPRICING OF SERVICE PREVIOUSLY ELIMINATED, RETIERED, OR REPRICED

Section 9(b) of Pub. L. 98-549 provided that: "Nothing in section 623 or 624 of the Communications Act of 1934 [sections 543 and 544 of this title], as added by this Act, shall be construed to allow a franchising authority, or a State or any political subdivision of a State, to require a cable operator to restore, retier, or reprice any cable service which was lawfully eliminated, retiered, or repriced as of September 26, 1984."

### § 544. Regulation of services, facilities, and equipment

#### (a) Regulation by franchising authority

Any franchising authority may not regulate the services, facilities, and equipment provided by a cable operator except to the extent consistent with this subchapter.

#### (b) Requests for proposals; establishment and enforcement of requirements

In the case of any franchise granted after the effective date of this subchapter, the franchising authority, to the extent related to the establishment or operation of a cable system—

(1) in its request for proposals for a franchise (including requests for renewal proposals, subject to section 546 of this title), may establish requirements for facilities and equipment, but may not, except as provided in subsection (h) of this section, establish requirements for video programming or other information services; and

(2) subject to section 545 of this title, may enforce any requirements contained within the franchise—

(A) for facilities and equipment; and

(B) for broad categories of video programming or other services.

#### (c) Enforcement authority respecting franchises effective under prior law

In the case of any franchise in effect on the effective date of this subchapter, the franchising authority may, subject to section 545 of this title, enforce requirements contained within the franchise for the provision of services, facilities, and equipment, whether or not related to the establishment or operation of a cable system.

#### (d) Cable service unprotected by Constitution; blockage of premium channel upon request

(1) Nothing in this subchapter shall be construed as prohibiting a franchising authority and a cable operator from specifying, in a franchise or renewal thereof, that certain cable services shall not be provided or shall be provided subject to conditions, if such cable services are obscene or are otherwise unprotected by the Constitution of the United States.

(2) In order to restrict the viewing of of of<sup>1</sup> programming which is obscene or indecent, upon the request of a subscriber, a cable operator shall provide (by sale or lease) a device by which the subscriber can prohibit viewing of a particular cable service during periods selected by that subscriber.

(3)(A) If a cable operator provides a premium channel without charge to cable subscribers who do not subscribe to such premium channel, the cable operator shall, not later than 30 days before such premium channel is provided without charge—

(i) notify all cable subscribers that the cable operator plans to provide a premium channel without charge;

(ii) notify all cable subscribers when the cable operator plans to offer a premium channel without charge;

(iii) notify all cable subscribers that they have a right to request that the channel carrying the premium channel be blocked; and

(iv) block the channel carrying the premium channel upon the request of a subscriber.

(B) For the purpose of this section, the term "premium channel" shall mean any pay service offered on a per channel or per program basis, which offers movies rated by the Motion Picture Association of America as X, NC-17, or R.

#### (e) Technical standards

Within one year after October 5, 1992, the Commission shall prescribe regulations which establish minimum technical standards relating to cable systems' technical operation and signal quality. The Commission shall update such standards periodically to reflect improvements in technology. No State or franchising authority may prohibit, condition, or restrict a cable system's use of any type of subscriber equipment or any transmission technology.

#### (f) Limitation on regulatory powers of Federal agencies, States, or franchising authorities; exceptions

(1) Any Federal agency, State, or franchising authority may not impose requirements regard-

<sup>1</sup> So in original.

ing the provision or content of cable services, except as expressly provided in this subchapter.

(2) Paragraph (1) shall not apply to—

(A) any rule, regulation, or order issued under any Federal law, as such rule, regulation, or order (i) was in effect on September 21, 1983, or (ii) may be amended after such date if the rule, regulation, or order as amended is not inconsistent with the express provisions of this subchapter; and

(B) any rule, regulation, or order under title 17.

**(g) Access to emergency information**

Notwithstanding any such rule, regulation, or order, each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations in subpart G of part 73, title 47, Code of Federal Regulations.

**(h) Notice of changes in and comments on services**

A franchising authority may require a cable operator to do any one or more of the following:

(1) Provide 30 days' advance written notice of any change in channel assignment or in the video programming service provided over any such channel.

(2) Inform subscribers, via written notice, that comments on programming and channel position changes are being recorded by a designated office of the franchising authority.

**(i) Disposition of cable upon termination of service**

Within 120 days after October 5, 1992, the Commission shall prescribe rules concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber.

(June 19, 1934, ch. 652, title VI, § 624, as added Pub. L. 98-549, § 2, Oct. 30, 1984, 98 Stat. 2789; amended Pub. L. 102-385, §§ 15, 16, Oct. 5, 1992, 106 Stat. 1490; Pub. L. 103-414, title III, §§ 303(a)(23), 304(a)(12), Oct. 25, 1994, 108 Stat. 4295, 4297; Pub. L. 104-104, title III, § 301(e), Feb. 8, 1996, 110 Stat. 116.)

REFERENCES IN TEXT

For "the effective date of this subchapter", referred to in subssecs. (b) and (c), as 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.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104-104 substituted "No State or franchising authority may prohibit, condition, or restrict a cable system's use of any type of subscriber equipment or any transmission technology." for "A franchising authority may require as part of a franchise (including a modification, renewal, or transfer thereof) provisions for the enforcement of the standards prescribed under this subsection. A franchising authority may apply to the Commission for a waiver to impose standards that are more stringent than the standards prescribed by the Commission under this subsection."

1994—Subsec. (d)(2). Pub. L. 103-414, § 304(a)(12), struck out designation "(A)", inserted "of" after "restrict the viewing", and struck out subpar. (B) which read as follows: "Subparagraph (A) shall take effect 180 days after the effective date of this subchapter."

Pub. L. 103-414, § 303(a)(23), inserted "of" after "restrict the viewing" in subpar. (A).

1992—Subsec. (b)(1). Pub. L. 102-385, § 16(c)(1), inserted ", except as provided in subsection (h) of this section," after "but may not".

Subsec. (d)(3). Pub. L. 102-385, § 15, added par. (3).

Subsec. (e). Pub. L. 102-385, § 16(a), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "The Commission may establish technical standards relating to the facilities and equipment of cable systems which a franchising authority may require in the franchise."

Subsec. (g). Pub. L. 102-385, § 16(b), added subsec. (g).

Subsec. (h). Pub. L. 102-385, § 16(c)(2), added subsec. (h).

Subsec. (i). Pub. L. 102-385, § 16(d), added subsec. (i).

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.

RESTORATION, RETIERMENT AND REPRICING OF SERVICE PREVIOUSLY ELIMINATED, RETIERED, OR REPRICED

Section not to be construed to allow a franchising authority, or a State or political subdivision thereof, to require a cable operator to restore, retier or reprice cable service previously eliminated, retiered, or repriced as of Sept. 26, 1984, see section 9(b) of Pub. L. 98-549, set out as a note under section 543 of this title.

**§ 544a. Consumer electronics equipment compatibility**

**(a) Findings**

The Congress finds that—

(1) new and recent models of television receivers and video cassette recorders often contain premium features and functions that are disabled or inhibited because of cable scrambling, encoding, or encryption technologies and devices, including converter boxes and remote control devices required by cable operators to receive programming;

(2) if these problems are allowed to persist, consumers will be less likely to purchase, and electronics equipment manufacturers will be less likely to develop, manufacture, or offer for sale, television receivers and video cassette recorders with new and innovative features and functions;

(3) cable operators should use technologies that will prevent signal thefts while permitting consumers to benefit from such features and functions in such receivers and recorders; and

(4) compatibility among televisions, video cassette recorders, and cable systems can be assured with narrow technical standards that mandate a minimum degree of common design and operation, leaving all features, functions, protocols, and other product and service options for selection through open competition in the market.