

thority to regulate rates in accordance with such an agreement.

Page 34, line 9, strike "title 46" and insert "title 47".

Page 79, line 22, strike "(17)" and insert "(47)".

Page 94, line 19, strike "(a)".

Page 36, line 9, after "1985," insert the following: "or on the channel on which it was carried on January 1, 1992."

Page 41, line 2, after the period insert the following: "Such implementing regulations shall include necessary revisions to update section 76.51 of the Commission's regulations (47 C.F.R. 76.51)."

Page 82, after line 6, insert the following new section (and redesignate the succeeding sections accordingly):

SEC. 15. LIMITATION ON FRANCHISING AUTHORITY LIABILITY.

(a) AMENDMENT.—Part IV of title VI of the Communications Act of 1934 is amended by inserting after section 635 (47 U.S.C. 555) the following new section:

SEC. 635A. LIMITATION OF FRANCHISING AUTHORITY LIABILITY.

(a) SUITS FOR DAMAGES PROHIBITED.—In any court proceeding pending on or initiated after the date of enactment of this section involving any claim against a franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity, arising from the regulation of cable service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of a franchise, any relief, to the extent such relief is required by any other provision of Federal, State, or local law, shall be limited to injunctive relief and declaratory relief.

(b) EXCEPTION FOR COMPLETED CASES.—The limitation contained in subsection (a) shall not apply to actions that, prior to such violation, have been determined by a final order of a court of binding jurisdiction, no longer subject to appeal, to be in violation of a cable operator's rights.

(c) DISCRIMINATION CLAIMS PERMITTED.—Nothing in this section shall be construed as limiting the relief authorized with respect to any claim against a franchising authority, or other governmental entity, or any official, member, employee, or agent of such authority or entity, to the extent such claim involves discrimination on the basis of race, color, sex, age, religion, national origin, or handicap.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as creating or authorizing liability of any kind, under any law, for any action or failure to act relating to cable service or the granting of a franchise by any franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity."

(b) CONFORMING AMENDMENT.—Section 635(b) of the Communications Act of 1934 (47 U.S.C. 555(b)) is amended by inserting "and with the provisions of section 635(a)" after "subsection (a)".

Page 93, after line 20, insert the following new paragraph:

(3) ANALYSIS OF PRECLUSIVE CONTRACTS REQUIRED.—In conducting the study required by paragraph (1), the Commission shall analyze the extent to which preclusive contracts between college athletic conferences and video programming vendors have artificially and unfairly restricted the supply of the sporting events of local colleges for broadcast on local television stations. In conducting such analysis, the Commission shall consult with the Attorney General to determine whether and to what extent such preclusive contracts are prohibited by existing statutes. The report required by paragraph (2) shall include a separate statement of the results of the anal-

ysis required by this paragraph, together with such recommendations for legislation as the Commission considers necessary and appropriate. For purposes of the paragraph, the term "preclusive contract" includes any contract that prohibits—

(A) the live broadcast by a local television station of a sporting event of a local college team that is not carried, on a live basis, by any cable system within the local community served by such local television station; or

(B) the delayed broadcast by a local television station of a sporting event of a local college team that is not carried, on a live or delayed basis, by any cable system within the local community served by such local television station.

Page 63, after line 15, insert the following new section (and redesignate the succeeding sections accordingly):

SEC. 10. NOTICE TO CABLE SUBSCRIBERS ON UNSOLICITED SEXUALLY EXPLICIT PROGRAMS.

Section 624(d) of the Communications Act of 1934 (47 U.S.C. 544(d)) is amended by adding at the end the following new paragraph:

"(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 as X, NR17, or R."

It was decided in the affirmative { Yeas ..... 403 Nays ..... 2

88.26 [Roll No. 309] AYES—403

Table listing names of representatives: Abercrombie, Ackerman, Alexander, Allard, Allen, Anderson, Andrews (ME), Andrews (NJ), Andrews (TX), Annunzio, Applegate, Archer, Arney, Aspin, Atkins, AuCoin, Bacchus, Baker, Ballenger, Barnard, Barrett, Bartton, Beilenson, Bennett, Bentley, Berman, Beville, Bilirakis, Blackwell, Bileley, Boehlert, Boehner, Bonior, Borski, Boucher, Boxer, Brewster, Brooks, Broomfield, Browder, Brown, Bruce, Bryant, Bunning, Burton, Bustamante, Byron, Callahan, Camp, Campbell (CA), Campbell (CO), Cardin, Carper, Carr, Chandler, Chapman, Clay, Clement, Clinger, Coble, Coleman (MO), Coleman (TX), Collins (IL), Collins (MI), Combest, Condit, Conyers, Cooper, Costello, Cox (CA), Cox (IL), Coyne, Cramer, Crane, Cunningham, Dannemeyer, Darden, Davis, de la Garza, DeFazio, DeLauro, DeLay, Dellums, Derrick, Dickinson, Dicks, Dingell, Dixon, Donnelly, Dooley, Doolittle, Dorgan (ND), Dornan (CA), Downey, Dreier, Duncan, Durbin, Early, Eckart, Edwards (CA), Edwards (OK), Edwards (TX), Emerson, Engel, English, Erdreich, Espy, Evans, Ewing, Fascell, Fawell, Fazio, Fields, Fish, Flake, Foglietta, Ford (MI), Ford (TN), Frank (MA), Franks (CT), Gallegly, Gallo, Gaydos, Gejdenson, Gekas, Geren, Gibbons, Gilchrist, Gillmor, Gilman, Gingrich, Glickman, Gonzalez, Goodling, Gordon, Goss, Gradison, Grandy, Green, Guarini, Gunderson, Hall (OH), Hall (TX), Hamilton, Hammerschmidt, Hancock, Harris, Hastert, Hayes (IL), Hayes (LA), Hefner, Henry, Herger, Hertel, Hoagland, Hobson, Hochbrueckner, Holloway, Hopkins, Horn, Horton, Houghton, Hoyer, Hubbard, Huckaby, Hughes, Hutto, Inhofe, Ireland, Jacobs, James, Jefferson, Jenkins, Johnson (CT), Johnson (SD), Johnson (TX), Johnston, Jones (NC), Jontz, Kanjorski, Kaptur, Kasich, Kennedy, Kennelly, Kildee, Kleczka, Klug, Kolbe, Kopetski, Kostmayer, Kyl, LaFalce, Lagomarsino, Lancaster, Lantos, LaRocco, Leach, Lehman (CA), Lent, Levin (MI), Lewis (CA), Lewis (FL), Lewis (GA), Lightfoot, Lipinski, Livingston, Lloyd, Long, Lowey (NY), Luken, Machtley, Manton, Markey, Marlenee, Martin, Martinez, Matsui, Mavroules, Mazzoli, McCandless, McCloskey, McCollum, McCreery, McCurdy, McDade, McDermott, McEwen, McGrath, McHugh, McMillan (NC), McMillan (MD), McNulty, Meyers, Mfume, Michel, Miller (CA), Miller (OH), Miller (WA), Mineta, Mink, Moakley, Molinari, Mollohan, Montgomery, Moody, Moorhead, Moran, Morella, Morrison, Mrazek, Murphy, Murtha, Myers, Nagle, Natcher, Neal (MA), Neal (NC), Nichols, Nowak, Nussle, Oakar, Oberstar, Obey, Olin, Olver, Ortiz, Orton, Owens (NY), Owens (UT), Oxley, Packard, Pallone, Panetta, Parker, Pastor, Patterson, Paxon, Payne (NJ), Payne (VA), Pease, Pelosi, Penny, Perkins, Peterson (MN), Petri, Pickett, Pickle, Porter, Poshard, Price, Pursell, Quillen, Rahall, Ramstad, Ravenel, Reed, Regula, Rhodes, Richardson, Ridge, Riggs, Rinaldo, Ritter, Roberts, Roe, Rogers, Rohrabacher, Ros-Lehtinen, Rose, Roth, Roukema, Rowland, Roybal, Russo, Sabo, Sanders, Sangmeister, Santorum, Sarpalius, Savage, Sawyer, Saxton, Schaefer, Scheuer, Schiff, Schroeder, Schulze, Schumer, Sensenbrenner, Serrano, Sharp, Shaw, Shays, Shuster, Sikorski, Siskisky, Skaggs, Skeen, Skelton, Slattery, Slaughter, Smith (FL), Smith (IA), Smith (NJ), Smith (OR), Smith (TX), Snowe, Solarz, Solomon, Spence, Spratt, Staggers, Stallings, Stark, Stearns, Stenholm, Stokes, Studds, Stump, Sundquist, Sweet, Swift, Synar, Tanner, Tauzin, Taylor (MS), Taylor (NC), Thomas (CA), Thornton, Torres, Torricelli, Towns, Traficant, Unsoeld, Upton, Valentine, Vander Jagt, Vento, Visclosky, Volkmer, Vucanovich, Walker, Walsh, Waters, Waxman, Weber, Weiss, Weldon, Wheat, Whitten, Williams, Wise, Wolf, Wolpe, Wyden, Wylie, Yatton, Young (AK), Young (FL), Zeliff, Zimmer

NOES—2

Hefley Hunter  
NOT VOTING—29

Anthony	Hansen	Rangel
Bateman	Hatcher	Ray
Bereuter	Hyde	Tallon
Bilbray	Jones (GA)	Thomas (GA)
Coughlin	Kolter	Thomas (WY)
Dwyer	Laughlin	Traxler
Dymally	Lehman (FL)	Washington
Feighan	Levine (CA)	Wilson
Frost	Lowery (CA)	Yates
Gephardt	Peterson (FL)	

So the amendments en bloc were agreed to.

After some further time,

188.27 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following substitute amendment submitted by Mr. MAN-  
TON for the amendment submitted by Mr. TAUZIN:

Amendment submitted by Mr. TAU-  
ZIN:

Page 65, after line 11, insert the following new section (and redesignate the succeeding sections accordingly):

**SEC. 11. DEVELOPMENT OF COMPETITION AND DIVERSITY IN VIDEO PROGRAMMING DISTRIBUTION.**

Part III of title VI of the Communications Act of 1934 is amended by inserting after section 627 (47 U.S.C. 547) the following new section:

**"SEC. 628. DEVELOPMENT OF COMPETITION AND DIVERSITY IN VIDEO PROGRAMMING DISTRIBUTION.**

"(a) PURPOSE.—The purpose of this section is to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market, to increase the availability of satellite cable programming to persons in rural and other areas not currently able to receive such service, and to spur the development of communications technologies.

"(b) PROHIBITION.—It shall be unlawful for a cable operator or a satellite cable programming vendor in which a cable operator has an attributable interest in violation of any regulation prescribed under subsection (c) to engage in unfair methods of competition or unfair or deceptive acts or practices, the purpose or effect of which is to hinder significantly or to prevent any multichannel video programming distributor from providing satellite cable programming to subscribers or consumers.

"(c) REGULATIONS REQUIRED.—

"(1) PROCEEDING REQUIRED.—Within 180 days after the enactment of this Act, the Commission shall, in order to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market and continuing development of communications technologies, prescribe regulations to specify the conduct that is prohibited by subsection (b).

"(2) MINIMUM CONTENTS OF REGULATIONS.—The regulations to be promulgated under this section shall—

"(A) establish effective safeguards to prevent a cable operator which has an attributable interest in a satellite cable programming vendor from unduly or improperly influencing the decision of such vendor to sell, or the price, terms, and conditions of sale of, satellite cable programming to any unaffiliated multichannel video programming distributor;

"(B) prohibit discrimination by a satellite cable programming vendor in which a cable

operator has an attributable interest in the price, terms, and conditions in the sale or delivery of satellite cable programming among or between cable systems, cable operators, or their agents or buying groups, or other multichannel video programming distributors; except that such a satellite cable programming vendor in which a cable operator has an attributable interest shall not be prohibited from—

"(i) imposing reasonable requirements for creditworthiness, offering of service, and financial stability and standards regarding character and technical quality;

"(ii) establishing different prices, terms, and conditions to take into account actual and reasonable differences in the cost of creation, sale, delivery, or transmission of satellite cable programming;

"(iii) establishing different price, terms, and conditions which take into account reasonable volume discounts based on the number of subscribers served by the distributor; or

"(iv) entering into an exclusive contract that is permitted under subparagraph (D);

"(C) prohibit practices, understandings, arrangements, or activities, including exclusive contracts for satellite cable programming between a cable operator and a cable satellite programming vendor, which prevent a multichannel video programming distributor from obtaining such programming from any satellite cable programming vendor in which a cable operator has an attributable interest for distribution to persons in areas not served by a cable operator as of the date of enactment of this section; and

"(D) with respect to distribution to persons in areas served by a cable operator, prohibit exclusive contracts for satellite cable programming between a cable operator and a satellite cable programming vendor in which a cable operator has an attributable interest, unless the Commission determines (in accordance with paragraph (4)) that such contract is in the public interest.

"(3) GEOGRAPHIC LIMITATIONS.—Nothing in this section shall require any person who is engaged in the national or regional distribution of video programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution. Nothing in this section shall apply to the signal of any broadcast affiliate of a national television network or other television signal that is retransmitted by satellite, and shall not apply to any internal satellite communication of any broadcast network or cable network, except that satellite broadcast programming shall be subject to the requirements of this section.

"(4) PUBLIC INTEREST DETERMINATIONS ON EXCLUSIVE CONTRACTS.—In determining whether an exclusive contract is in the public interest for purposes of paragraph (2)(D), the Commission shall consider each of the following factors with respect to the effect of such contract on the distribution of video programming in areas that are served by a cable operator:

"(A) the effect of such exclusive contract on the development of competition in local and national multichannel video programming distribution markets;

"(B) the effect of such exclusive contract on competition from multichannel video programming distribution technologies other than cable;

"(C) the effect of such exclusive contract on the attraction of capital investment in the production and distribution of new satellite cable programming;

"(D) the effect of such exclusive contract on diversity of programming in the multichannel video programming distribution market; and

"(E) the duration of the exclusive contract.

"(5) SUNSET PROVISION.—The prohibition required by paragraph (2)(D) shall cease to be effective 10 years after the date of enactment of this Act.

"(d) ADJUDICATORY PROCEEDING.—Any multichannel video programming distributor aggrieved by conduct that it alleges constitutes a violation of this section, or the implementing regulations of the Commission under this section, may commence an adjudicatory proceeding at the Commission.

"(e) REMEDIES FOR VIOLATIONS.—

"(1) REMEDIES AUTHORIZED.—Upon completion of such adjudicatory proceeding, the Commission shall have the power to order appropriate remedies, including, if necessary, the power to establish price, terms, and conditions of sale of programming to the aggrieved multichannel video programming distributor.

"(2) ADDITIONAL REMEDIES.—The remedies provided in paragraph (1) are in addition to and not in lieu of the remedies available under title V or any other provision of this Act.

"(f) PROCEDURES.—The Commission shall prescribe regulations to implement this section. The Commission's regulations shall—

"(1) provide for an expedited review of any complaints made pursuant to this section;

"(2) establish procedures for the Commission to collect such data, including the right to obtain copies of all contracts and documents reflecting arrangements and understandings alleged to violate this section, as the Commission requires to carry out this section; and

"(3) provide for any penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(g) REPORTS.—The Commission shall, beginning not later than 18 months after promulgation of the regulations required by subsection (c), annually report to Congress on the status of competition in the market for the delivery of video programming.

"(h) EXEMPTIONS FOR PRIOR CONTRACTS.—

"(1) IN GENERAL.—Nothing in this section shall affect any contract that grants exclusive distribution rights to any person with respect to satellite cable programming and that was entered into on or before June 1, 1990, except that the provisions of subsection (c)(2)(C) shall apply for distribution to persons in areas not served by a cable operator.

"(2) LIMITATION ON RENEWALS.—A contract that was entered into on or before June 1, 1990, but that is renewed or extended after the date of enactment of this section shall not be exempt under paragraph (1) of this subsection.

"(i) APPLICABILITY OF ANTITRUST LAWS; NO ANTITRUST IMMUNITY.—Nothing in this section shall be construed to alter or restrict in any manner the applicability of any Federal or State antitrust law.

"(j) DEFINITIONS.—As used in this section:

"(1) The term 'satellite cable programming vendor' means a person engaged in the production, creation, or wholesale distribution of a satellite cable programming service for sale.

"(2) The terms 'cable system', 'multichannel video programming distributor', and 'video programming' have the meanings provided under section 602 of this Act.

"(3) The term 'satellite cable programming' has the meaning provided under section 705 of the Act.

"(4) The term 'satellite broadcast programming' means broadcast programming, other than programming of an affiliate of a national network, when such programming is retransmitted by satellite and the entity retransmitting such programming is not the broadcaster or an entity performing such retransmission on behalf of and with the specific consent of the broadcaster."