§ 119. Limitations on exclusive rights: Secondary transmissions of distant television programming by satellite

(a) Secondary Transmissions by Satellite Carriers.—

(1) Non-network stations.— Subject to the provisions of paragraphs (4), (5), and (7) of this subsection and section 114 (d), secondary transmissions of a performance or display of a work embodied in a primary transmission made by a non-network station shall be subject to statutory licensing under this section if the secondary transmission is made by a satellite carrier to the public for private home viewing or for viewing in a commercial establishment, with regard to secondary transmissions the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals, and the carrier makes a direct or indirect charge for each retransmission service to each subscriber receiving the secondary transmission or to a distributor that has contracted with the carrier for direct or indirect delivery of the secondary transmission to the public for private home viewing or for viewing in a commercial establishment.

(2) Network stations.—

(A) In general.— Subject to the provisions of subparagraph (B) of this paragraph and paragraphs (4), (5), (6), and (7) of this subsection and section 114 (d), secondary transmissions of a performance or display of a work embodied in a primary transmission made by a network station shall be subject to statutory licensing under this section if the secondary transmission is made by a satellite carrier to the public for private home viewing, with regard to secondary transmissions the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals, and the carrier makes a direct or indirect charge for such retransmission service to each subscriber receiving the secondary transmission.

(B) Secondary transmissions to unserved households.—

(i) In general.— The statutory license provided for in subparagraph (A) shall be limited to secondary transmissions of the signals of no more than two network stations in a single day for each television network to persons who reside in unserved households.

(ii) Accurate determinations of eligibility.—

(I) Accurate predictive model.— In determining presumptively whether a person resides in an unserved household under subsection (d)(10)(A), a court shall rely on the Individual Location Longley-Rice model set forth by the Federal Communications Commission in Docket No. 98–201, as that model may be amended by the Commission over time under section 339(c)(3) of the Communications Act of 1934 to increase the accuracy of that model.

(II) Accurate measurements.— For purposes of site measurements to determine whether a person resides in an unserved household under subsection (d)(10)(A), a court shall rely on section 339(c)(4) of the Communications Act of 1934.

(III) Accurate predictive model with respect to digital signals.— Notwithstanding subclause (I), in determining presumptively whether a person resides in an unserved household under subsection (d)(10)(A) with respect to digital signals, a court shall rely on a predictive model set forth by the Federal Communications Commission pursuant to a rulemaking as provided in section 339(c)(3) of the Communications Act of 1934 (47 U.S.C. 339(c)(3)), as that model may be amended by the Commission over time under such section to increase the accuracy of that model. Until such time as the Commission sets forth such model, a court shall rely on the predictive model as recommended by the Commission with
respect to digital signals in its Report to Congress in ET Docket No. 05–182, FCC 05–199 (released December 9, 2005).

(iii) C-band exemption to unserved households.—

(I) In general.— The limitations of clause (i) shall not apply to any secondary transmissions by C-band services of network stations that a subscriber to C-band service received before any termination of such secondary transmissions before October 31, 1999.

(II) Definition.— In this clause, the term “C-band service” means a service that is licensed by the Federal Communications Commission and operates in the Fixed Satellite Service under part 25 of title 47, Code of Federal Regulations.

(C) Submission of subscriber lists to networks.—

(i) Initial lists.— A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, not later than 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station a list identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission to subscribers in unserved households.

(ii) Monthly lists.— After the submission of the initial lists under clause (i), the satellite carrier shall, not later than the 15th of each month, submit to the network a list, aggregated by designated market area, identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) any persons who have been added or dropped as subscribers under clause (i) since the last submission under this subparagraph.

(iii) Use of subscriber information.— Subscriber information submitted by a satellite carrier under this subparagraph may be used only for purposes of monitoring compliance by the satellite carrier with this subsection.

(iv) Applicability.— The submission requirements of this subparagraph shall apply to a satellite carrier only if the network to which the submissions are to be made places on file with the Register of Copyrights a document identifying the name and address of the person to whom such submissions are to be made. The Register shall maintain for public inspection a file of all such documents.

(3) Statutory license where retransmissions into local market available.—

(A) Rules for subscribers to signals under subsection (e).—

(i) For those receiving distant signals.— In the case of a subscriber of a satellite carrier who is eligible to receive the secondary transmission of the primary transmission of a network station solely by reason of subsection (e) (in this subparagraph referred to as a “distant signal”), and who, as of October 1, 2004, is receiving the distant signal of that network station, the following shall apply:

(I) In a case in which the satellite carrier makes available to the subscriber the secondary transmission of the primary transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122, the statutory license under paragraph (2) shall apply only to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network—

(aa) if, within 60 days after receiving the notice of the satellite carrier under section 338(h)(1) of the Communications Act of 1934, the subscriber elects to retain the distant signal; but

(bb) only until such time as the subscriber elects to receive such local signal.
(II) Notwithstanding subclause (I), the statutory license under paragraph (2) shall not apply with respect to any subscriber who is eligible to receive the distant signal of a television network station solely by reason of subsection (e), unless the satellite carrier, within 60 days after the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, submits to that television network a list, aggregated by designated market area (as defined in section 122 (j)(2)(C)), that—

(aa) identifies that subscriber by name and address (street or rural route number, city, State, and zip code) and specifies the distant signals received by the subscriber; and

(bb) states, to the best of the satellite carrier’s knowledge and belief, after having made diligent and good faith inquiries, that the subscriber is eligible under subsection (e) to receive the distant signals.

(ii) For those not receiving distant signals.— In the case of any subscriber of a satellite carrier who is eligible to receive the distant signal of a network station solely by reason of subsection (e) and who did not receive a distant signal of a station affiliated with the same network on October 1, 2004, the statutory license under paragraph (2) shall not apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same network.

(B) Rules for lawful subscribers as of date of enactment of 2010 act.— In the case of a subscriber of a satellite carrier who, on the day before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, was lawfully receiving the secondary transmission of the primary transmission of a network station under the statutory license under paragraph (2) (in this subparagraph referred to as the “distant signal”), other than subscribers to whom subparagraph (A) applies, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber’s household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, whether or not the subscriber elects to subscribe to receive the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

(C) Future applicability.—

(i) When local signal available at time of subscription.— The statutory license under paragraph (2) shall not apply to the secondary transmission by a satellite carrier of the primary transmission of a network station to a person who is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

(ii) When local signal available after subscription.— In the case of a subscriber who lawfully subscribes to and receives the secondary transmission by a satellite carrier of the primary transmission of a network station under the statutory license under paragraph (2) (in this clause referred to as the “distant signal”) on or after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber’s household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate
such secondary transmissions, but only if such subscriber subscribes to the secondary
transmission of the primary transmission of a local network station affiliated with the
same network within 60 days after the satellite carrier makes available to the subscriber
such secondary transmission of the primary transmission of such local network station.

(D) **Other provisions not affected.**— This paragraph shall not affect the applicability of the
statutory license to secondary transmissions to unserved households included under paragraph
(11).

(E) **Waiver.**— A subscriber who is denied the secondary transmission of a network station
under subparagraph (B) or (C) may request a waiver from such denial by submitting a request,
through the subscriber’s satellite carrier, to the network station in the local market affiliated
with the same network where the subscriber is located. The network station shall accept or
reject the subscriber’s request for a waiver within 30 days after receipt of the request. If
the network station fails to accept or reject the subscriber’s request for a waiver within that
30-day period, that network station shall be deemed to agree to the waiver request. Unless
specifically stated by the network station, a waiver that was granted before the date of the
enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 under
section 339(c)(2) of the Communications Act of 1934 shall not constitute a waiver for purposes
of this subparagraph.

(F) **Available defined.**— For purposes of this paragraph, a satellite carrier makes available a
secondary transmission of the primary transmission of a local station to a subscriber or person
if the satellite carrier offers that secondary transmission to other subscribers who reside in the
same 9-digit zip code as that subscriber or person.

(4) **Noncompliance with reporting and payment requirements.**— Notwithstanding the
provisions of paragraphs (1) and (2), the willful or repeated secondary transmission to the public
by a satellite carrier of a primary transmission made by a non-network station or a network station
embracing a performance or display of a work is actionable as an act of infringement under
section 501, and is fully subject to the remedies provided by sections 502 through 506, where the
satellite carrier has not deposited the statement of account and royalty fee required by subsection
(b), or has failed to make the submissions to networks required by paragraph (2)(C).

(5) **Willful alterations.**— Notwithstanding the provisions of paragraphs (1) and (2), the
secondary transmission to the public by a satellite carrier of a performance or display of a work
embodied in a primary transmission made by a non-network station or a network station is
actionable as an act of infringement under section 501, and is fully subject to the remedies provided
by sections 502 through 506 and section 510, if the content of the particular program in which
the performance or display is embodied, or any commercial advertising or station announcement
transmitted by the primary transmitter during, or immediately before or after, the transmission of
such program, is in any way willfully altered by the satellite carrier through changes, deletions, or
additions, or is combined with programming from any other broadcast signal.

(6) **Violation of territorial restrictions on statutory license for network stations.**—

(A) **Individual violations.**— The willful or repeated secondary transmission by a satellite
carrier of a primary transmission made by a network station and embodying a performance
or display of a work to a subscriber who is not eligible to receive the transmission under this
section is actionable as an act of infringement under section 501 and is fully subject to the
remedies provided by sections 502 through 506, except that—

(i) no damages shall be awarded for such act of infringement if the satellite carrier took
corrective action by promptly withdrawing service from the ineligible subscriber, and

(ii) any statutory damages shall not exceed $250 for such subscriber for each month
during which the violation occurred.

(B) **Pattern of violations.**— If a satellite carrier engages in a willful or repeated pattern
or practice of delivering a primary transmission made by a network station and embodying a
performance or display of a work to subscribers who are not eligible to receive the transmission under this section, then in addition to the remedies set forth in subparagraph (A)—

(i) if the pattern or practice has been carried out on a substantially nationwide basis, the court shall order a permanent injunction barring the secondary transmission by the satellite carrier, for private home viewing, of the primary transmissions of any primary network station affiliated with the same network, and the court may order statutory damages of not to exceed $2,500,000 for each 3-month period during which the pattern or practice was carried out; and

(ii) if the pattern or practice has been carried out on a local or regional basis, the court shall order a permanent injunction barring the secondary transmission, for private home viewing in that locality or region, by the satellite carrier of the primary transmissions of any primary network station affiliated with the same network, and the court may order statutory damages of not to exceed $2,500,000 for each 6-month period during which the pattern or practice was carried out.

(C) Previous subscribers excluded.— Subparagraphs (A) and (B) do not apply to secondary transmissions by a satellite carrier to persons who subscribed to receive such secondary transmissions from the satellite carrier or a distributor before November 16, 1988.

(D) Burden of proof.— In any action brought under this paragraph, the satellite carrier shall have the burden of proving that its secondary transmission of a primary transmission by a network station is to a subscriber who is eligible to receive the secondary transmission under this section.

(E) Exception.— The secondary transmission by a satellite carrier of a performance or display of a work embodied in a primary transmission made by a network station to subscribers who do not reside in unserved households shall not be an act of infringement if—

(i) the station on May 1, 1991, was retransmitted by a satellite carrier and was not on that date owned or operated by or affiliated with a television network that offered interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more States;

(ii) as of July 1, 1998, such station was retransmitted by a satellite carrier under the statutory license of this section; and

(iii) the station is not owned or operated by or affiliated with a television network that, as of January 1, 1995, offered interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more States.

The court shall direct one half of any statutory damages ordered under clause (i) 1 to be deposited with the Register of Copyrights for distribution to copyright owners pursuant to subsection (b). The Copyright Royalty Judges shall issue regulations establishing procedures for distributing such funds, on a proportional basis, to copyright owners whose works were included in the secondary transmissions that were the subject of the statutory damages.

(7) Discrimination by a satellite carrier.— Notwithstanding the provisions of paragraph (1), the willful or repeated secondary transmission to the public by a satellite carrier of a performance or display of a work embodied in a primary transmission made by a non-network station or a network station is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, if the satellite carrier unlawfully discriminates against a distributor.

(8) Geographic limitation on secondary transmissions.— The statutory license created by this section shall apply only to secondary transmissions to households located in the United States.

(9) Loser pays for signal intensity measurement; recovery of measurement costs in a civil action.— In any civil action filed relating to the eligibility of subscribing households as unserved households—
(A) a network station challenging such eligibility shall, within 60 days after receipt of the measurement results and a statement of such costs, reimburse the satellite carrier for any signal intensity measurement that is conducted by that carrier in response to a challenge by the network station and that establishes the household is an unserved household; and

(B) a satellite carrier shall, within 60 days after receipt of the measurement results and a statement of such costs, reimburse the network station challenging such eligibility for any signal intensity measurement that is conducted by that station and that establishes the household is not an unserved household.

(10) **Inability to conduct measurement.**— If a network station makes a reasonable attempt to conduct a site measurement of its signal at a subscriber’s household and is denied access for the purpose of conducting the measurement, and is otherwise unable to conduct a measurement, the satellite carrier shall within 60 days notice thereof, terminate service of the station’s network to that household.

(11) **Service to recreational vehicles and commercial trucks.**—

(A) **Exemption.**—

(i) **In general.**— For purposes of this subsection, and subject to clauses (ii) and (iii), the term “unserved household” shall include—

(I) recreational vehicles as defined in regulations of the Secretary of Housing and Urban Development under section 3282.8 of title 24, Code of Federal Regulations; and

(II) commercial trucks that qualify as commercial motor vehicles under regulations of the Secretary of Transportation under section 383.5 of title 49, Code of Federal Regulations.

(ii) **Limitation.**— Clause (i) shall apply only to a recreational vehicle or commercial truck if any satellite carrier that proposes to make a secondary transmission of a network station to the operator of such a recreational vehicle or commercial truck complies with the documentation requirements under subparagraphs (B) and (C).

(iii) **Exclusion.**— For purposes of this subparagraph, the terms “recreational vehicle” and “commercial truck” shall not include any fixed dwelling, whether a mobile home or otherwise.

(B) **Documentation requirements.**— A recreational vehicle or commercial truck shall be deemed to be an unserved household beginning 10 days after the relevant satellite carrier provides to the network that owns or is affiliated with the network station that will be secondarily transmitted to the recreational vehicle or commercial truck the following documents:

(i) **Declaration.**— A signed declaration by the operator of the recreational vehicle or commercial truck that the satellite dish is permanently attached to the recreational vehicle or commercial truck, and will not be used to receive satellite programming at any fixed dwelling.

(ii) **Registration.**— In the case of a recreational vehicle, a copy of the current State vehicle registration for the recreational vehicle.

(iii) **Registration and license.**— In the case of a commercial truck, a copy of—

(I) the current State vehicle registration for the truck; and

(II) a copy of a valid, current commercial driver’s license, as defined in regulations of the Secretary of Transportation under section 383 of title 49, Code of Federal Regulations, issued to the operator.

(C) **Updated documentation requirements.**— If a satellite carrier wishes to continue to make secondary transmissions to a recreational vehicle or commercial truck for more than a 2-year period, that carrier shall provide each network, upon request, with updated
documentation in the form described under subparagraph (B) during the 90 days before expiration of that 2-year period.

(12) **Statutory license contingent on compliance with Fcc rules and remedial steps.**— Notwithstanding any other provision of this section, the willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission embodying a performance or display of a work made by a broadcast station licensed by the Federal Communications Commission is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, if, at the time of such transmission, the satellite carrier is not in compliance with the rules, regulations, and authorizations of the Federal Communications Commission concerning the carriage of television broadcast station signals.

(13) **Waivers.**— A subscriber who is denied the secondary transmission of a signal of a network station under subsection (a)(2)(B) may request a waiver from such denial by submitting a request, through the subscriber’s satellite carrier, to the network station asserting that the secondary transmission is prohibited. The network station shall accept or reject a subscriber’s request for a waiver within 30 days after receipt of the request. If a television network station fails to accept or reject a subscriber’s request for a waiver within the 30-day period after receipt of the request, that station shall be deemed to agree to the waiver request and have filed such written waiver. Unless specifically stated by the network station, a waiver that was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 under section 339(c)(2) of the Communications Act of 1934, and that was in effect on such date of enactment, shall constitute a waiver for purposes of this paragraph.

(14) **Restricted transmission of out-of-state distant network signals into certain markets.**—

(A) **Out-of-state network affiliates.**— Notwithstanding any other provision of this title, the statutory license in this subsection and subsection (b) shall not apply to any secondary transmission of the primary transmission of a network station located outside of the State of Alaska to any subscriber in that State to whom the secondary transmission of the primary transmission of a television station located in that State is made available by the satellite carrier pursuant to section 122.

(B) **Exception.**— The limitation in subparagraph (A) shall not apply to the secondary transmission of the primary transmission of a digital signal of a network station located outside of the State of Alaska if at the time that the secondary transmission is made, no television station licensed to a community in the State and affiliated with the same network makes primary transmissions of a digital signal.

(b) **Deposit of Statements and Fees; Verification Procedures.**—

(1) **Deposits with the register of copyrights.**— A satellite carrier whose secondary transmissions are subject to statutory licensing under subsection (a) shall, on a semiannual basis, deposit with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation—

(A) a statement of account, covering the preceding 6-month period, specifying the names and locations of all non-network stations and network stations whose signals were retransmitted, at any time during that period, to subscribers as described in subsections (a)(1) and (a)(2), the total number of subscribers that received such retransmissions, and such other data as the Register of Copyrights may from time to time prescribe by regulation;

(B) a royalty fee payable to copyright owners pursuant to paragraph (4) for that 6-month period, computed by multiplying the total number of subscribers receiving each secondary transmission of a primary stream or multicast stream of each non-network station or network station during each calendar year month by the appropriate rate in effect under this subsection; and

(C) a filing fee, as determined by the Register of Copyrights pursuant to section 708 (a).
(2) Verification of accounts and fee payments.— The Register of Copyrights shall issue regulations to permit interested parties to verify and audit the statements of account and royalty fees submitted by satellite carriers under this subsection.

(3) Investment of fees.— The Register of Copyrights shall receive all fees (including the filing fee specified in paragraph (1)(C)) deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section (other than the costs deducted under paragraph (5)), shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing securities of the United States for later distribution with interest by the Librarian of Congress as provided by this title.

(4) Persons to whom fees are distributed.— The royalty fees deposited under paragraph (3) shall, in accordance with the procedures provided by paragraph (5), be distributed to those copyright owners whose works were included in a secondary transmission made by a satellite carrier during the applicable 6-month accounting period and who file a claim with the Copyright Royalty Judges under paragraph (5).

(5) Procedures for distribution.— The royalty fees deposited under paragraph (3) shall be distributed in accordance with the following procedures:

(A) Filing of claims for fees.— During the month of July in each year, each person claiming to be entitled to statutory license fees for secondary transmissions shall file a claim with the Copyright Royalty Judges, in accordance with requirements that the Copyright Royalty Judges shall prescribe by regulation. For purposes of this paragraph, any claimants may agree among themselves as to the proportionate division of statutory license fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(B) Determination of controversy; distributions.— After the first day of August of each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Copyright Royalty Judges determine that no such controversy exists, the Copyright Royalty Judges shall authorize the Librarian of Congress to proceed to distribute such fees to the copyright owners entitled to receive them, or to their designated agents, subject to the deduction of reasonable administrative costs under this section. If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

(C) Withholding of fees during controversy.— During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall have the discretion to authorize the Librarian of Congress to proceed to distribute any amounts that are not in controversy.

(c) Adjustment of Royalty Fees.—

(1) Applicability and determination of royalty fees for signals.—

(A) Initial fee.— The appropriate fee for purposes of determining the royalty fee under subsection (b)(1)(B) for the secondary transmission of the primary transmissions of network stations and non-network stations shall be the appropriate fee set forth in part 258 of title 37, Code of Federal Regulations, as in effect on July 1, 2009, as modified under this paragraph.

(B) Fee set by voluntary negotiation.— On or before June 1, 2010, the Copyright Royalty Judges shall cause to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining the royalty fee to be paid by satellite carriers for the secondary transmission of the primary transmissions of network stations and non-network stations under subsection (b)(1)(B).

(C) Negotiations.— Satellite carriers, distributors, and copyright owners entitled to royalty fees under this section shall negotiate in good faith in an effort to reach a voluntary agreement or agreements for the payment of royalty fees. Any such satellite carriers, distributors and
copyright owners may at any time negotiate and agree to the royalty fee, and may designate
common agents to negotiate, agree to, or pay such fees. If the parties fail to identify common
agents, the Copyright Royalty Judges shall do so, after requesting recommendations from the
parties to the negotiation proceeding. The parties to each negotiation proceeding shall bear
the cost thereof.

(D) Agreements binding on parties; filing of agreements; public notice.—

(i) Voluntary agreements; filing.— Voluntary agreements negotiated at any time in
accordance with this paragraph shall be binding upon all satellite carriers, distributors,
and copyright owners that are parties thereto. Copies of such agreements shall be filed
with the Copyright Office within 30 days after execution in accordance with regulations
that the Register of Copyrights shall prescribe.

(ii) Procedure for adoption of fees.—

(I) Publication of notice.— Within 10 days after publication in the Federal
Register of a notice of the initiation of voluntary negotiation proceedings, parties
who have reached a voluntary agreement may request that the royalty fees in that
agreement be applied to all satellite carriers, distributors, and copyright owners
without convening a proceeding under subparagraph (F).

(II) Public notice of fees.— Upon receiving a request under subclause (I), the
Copyright Royalty Judges shall immediately provide public notice of the royalty fees
from the voluntary agreement and afford parties an opportunity to state that they
object to those fees.

(III) Adoption of fees.— The Copyright Royalty Judges shall adopt the royalty
fees from the voluntary agreement for all satellite carriers, distributors, and copyright
owners without convening the proceeding under subparagraph (F) unless a party with
an intent to participate in that proceeding and a significant interest in the outcome of
that proceeding objects under subclause (II).

(E) Period agreement is in effect.— The obligation to pay the royalty fees established under
a voluntary agreement which has been filed with the Copyright Royalty Judges in accordance
with this paragraph shall become effective on the date specified in the agreement, and shall
remain in effect until December 31, 2014, or in accordance with the terms of the agreement,
whichever is later.

(F) Fee set by copyright royalty judges proceeding.—

(i) Notice of initiation of the proceeding.— On or before September 1, 2010, the
Copyright Royalty Judges shall cause notice to be published in the Federal Register of the
initiation of a proceeding for the purpose of determining the royalty fees to be paid for the
secondary transmission of the primary transmissions of network stations and non-network
stations under subsection (b)(1)(B) by satellite carriers and distributors—

(I) in the absence of a voluntary agreement filed in accordance with subparagraph
(D) that establishes royalty fees to be paid by all satellite carriers and distributors; or

(II) if an objection to the fees from a voluntary agreement submitted for adoption
by the Copyright Royalty Judges to apply to all satellite carriers, distributors, and
copyright owners is received under subparagraph (D) from a party with an intent
to participate in the proceeding and a significant interest in the outcome of that
proceeding.

Such proceeding shall be conducted under chapter 8.

(ii) Establishment of royalty fees.— In determining royalty fees under this
subparagraph, the Copyright Royalty Judges shall establish fees for the secondary
transmissions of the primary transmissions of network stations and non-network stations
that most clearly represent the fair market value of secondary transmissions, except that
the Copyright Royalty Judges shall adjust royalty fees to account for the obligations of
the parties under any applicable voluntary agreement filed with the Copyright Royalty
Judges in accordance with subparagraph (D). In determining the fair market value, the
Judges shall base their decision on economic, competitive, and programming information
presented by the parties, including—

(I) the competitive environment in which such programming is distributed, the cost
of similar signals in similar private and compulsory license marketplaces, and any
special features and conditions of the retransmission marketplace;

(II) the economic impact of such fees on copyright owners and satellite carriers; and

(III) the impact on the continued availability of secondary transmissions to the
public.

(iii) Effective date for decision of copyright royalty judges.— The obligation to pay
the royalty fees established under a determination that is made by the Copyright Royalty
Judges in a proceeding under this paragraph shall be effective as of January 1, 2010.

(iv) Persons subject to royalty fees.— The royalty fees referred to in clause (iii) shall
be binding on all satellite carriers, distributors and copyright owners, who are not party
to a voluntary agreement filed with the Copyright Office under subparagraph (iii).

(2) Annual royalty fee adjustment.— Effective January 1 of each year, the royalty fee payable
under subsection (b)(1)(B) for the secondary transmission of the primary transmissions of network
stations and non-network stations shall be adjusted by the Copyright Royalty Judges to reflect any
changes occurring in the cost of living as determined by the most recent Consumer Price Index
(for all consumers and for all items) published by the Secretary of Labor before December 1 of
the preceding year. Notification of the adjusted fees shall be published in the Federal Register at
least 25 days before January 1.

(d) Definitions.— As used in this section—

(1) Distributor.— The term “distributor” means an entity that contracts to distribute secondary
transmissions from a satellite carrier and, either as a single channel or in a package with other
programming, provides the secondary transmission either directly to individual subscribers or
indirectly through other program distribution entities in accordance with the provisions of this
section.

(2) Network station.— The term “network station” means—

(A) a television station licensed by the Federal Communications Commission, including
any translator station or terrestrial satellite station that rebroadcasts all or substantially all of
the programming broadcast by a network station, that is owned or operated by, or affiliated
with, one or more of the television networks in the United States that offer an interconnected
program service on a regular basis for 15 or more hours per week to at least 25 of its affiliated
television licensees in 10 or more States; or

(B) a noncommercial educational broadcast station (as defined in section 397 of the
Communications Act of 1934);

except that the term does not include the signal of the Alaska Rural Communications Service, or
any successor entity to that service.

(3) Primary network station.— The term “primary network station” means a network station
that broadcasts or rebroadcasts the basic programming service of a particular national network.

(4) Primary transmission.— The term “primary transmission” has the meaning given that term
in section 111 (f) of this title.

(5) Private home viewing.— The term “private home viewing” means the viewing, for private
use in a household by means of satellite reception equipment that is operated by an individual in that
household and that serves only such household, of a secondary transmission delivered by a satellite
carrier of a primary transmission of a television station licensed by the Federal Communications Commission.

(6) **Satellite carrier.**— The term “satellite carrier” means an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operates in the Fixed-Satellite Service under part 25 of title 47, Code of Federal Regulations, or the Direct Broadcast Satellite Service under part 100 of title 47, Code of Federal Regulations, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing pursuant to this section.

(7) **Secondary transmission.**— The term “secondary transmission” has the meaning given that term in section 111 (f) of this title.

(8) **Subscriber; subscribe.**—

(A) **Subscriber.**— The term “subscriber” means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

(B) **Subscribe.**— The term “subscribe” means to elect to become a subscriber.

(9) **Non-network station.**— The term “non-network station” means a television station, other than a network station, licensed by the Federal Communications Commission, that is secondarily transmitted by a satellite carrier.

(10) **Unserved household.**— The term “unserved household”, with respect to a particular television network, means a household that—

(A) cannot receive, through the use of an antenna, an over-the-air signal containing the primary stream, or, on or after the qualifying date, the multicast stream, originating in that household’s local market and affiliated with that network of—

(i) if the signal originates as an analog signal, Grade B intensity as defined by the Federal Communications Commission in section 73.683(a) of title 47, Code of Federal Regulations, as in effect on January 1, 1999; or

(ii) if the signal originates as a digital signal, intensity defined in the values for the digital television noise-limited service contour, as defined in regulations issued by the Federal Communications Commission (section 73.622(e) of title 47, Code of Federal Regulations), as such regulations may be amended from time to time;

(B) is subject to a waiver that meets the standards of subsection (a)(13), whether or not the waiver was granted before the date of the enactment of the Satellite Television Extension and Localism Act of 2010;

(C) is a subscriber to whom subsection (e) applies;

(D) is a subscriber to whom subsection (a)(11) applies; or

(E) is a subscriber to whom the exemption under subsection (a)(2)(B)(iii) applies.

(11) **Local market.**— The term “local market” has the meaning given such term under section 122 (j).

(12) **Commercial establishment.**— The term “commercial establishment”—

(A) means an establishment used for commercial purposes, such as a bar, restaurant, private office, fitness club, oil rig, retail store, bank or other financial institution, supermarket, automobile or boat dealership, or any other establishment with a common business area; and

(B) does not include a multi-unit permanent or temporary dwelling where private home viewing occurs, such as a hotel, dormitory, hospital, apartment, condominium, or prison.

(13) **Qualifying date.**— The term “qualifying date”, for purposes of paragraph (10)(A), means—
(A) October 1, 2010, for multicast streams that exist on March 31, 2010; and

(B) January 1, 2011, for all other multicast streams.

(14) Multicast stream.— The term “multicast stream” means a digital stream containing programming and program-related material affiliated with a television network, other than the primary stream.

(15) Primary stream.— The term “primary stream” means—

(A) the single digital stream of programming as to which a television broadcast station has the right to mandatory carriage with a satellite carrier under the rules of the Federal Communications Commission in effect on July 1, 2009; or

(B) if there is no stream described in subparagraph (A), then either—

(i) the single digital stream of programming associated with the network last transmitted by the station as an analog signal; or

(ii) if there is no stream described in clause (i), then the single digital stream of programming affiliated with the network that, as of July 1, 2009, had been offered by the television broadcast station for the longest period of time.

(e) Moratorium on Copyright Liability.— Until December 31, 2014, a subscriber who does not receive a signal of Grade A intensity (as defined in the regulations of the Federal Communications Commission under section 73.683(a) of title 47, Code of Federal Regulations, as in effect on January 1, 1999, or predicted by the Federal Communications Commission using the Individual Location Longley-Rice methodology described by the Federal Communications Commission in Docket No. 98–201) of a local network television broadcast station shall remain eligible to receive signals of network stations affiliated with the same network, if that subscriber had satellite service of such network signal terminated after July 11, 1998, and before October 31, 1999, as required by this section, or received such service on October 31, 1999.

(f) Expedited Consideration by Justice Department of Voluntary Agreements to Provide Satellite Secondary Transmissions to Local Markets.—

(1) In general.— In a case in which no satellite carrier makes available, to subscribers located in a local market, as defined in section 122 (j)(2), the secondary transmission into that market of a primary transmission of one or more television broadcast stations licensed by the Federal Communications Commission, and two or more satellite carriers request a business review letter in accordance with section 50.6 of title 28, Code of Federal Regulations (as in effect on July 7, 2004), in order to assess the legality under the antitrust laws of proposed business conduct to make or carry out an agreement to provide such secondary transmission into such local market, the appropriate official of the Department of Justice shall respond to the request no later than 90 days after the date on which the request is received.

(2) Definition.— For purposes of this subsection, the term “antitrust laws”—

(A) has the meaning given that term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12 (a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section 5 applies to unfair methods of competition; and

(B) includes any State law similar to the laws referred to in paragraph (1).

(g) Certain Waivers Granted to Providers of Local-into-local Service to All DMAs.—

(1) Injunction waiver.— A court that issued an injunction pursuant to subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction if the court recognizes the entity against which the injunction was issued as a qualified carrier.

(2) Limited temporary waiver.—

(A) In general.— Upon a request made by a satellite carrier, a court that issued an injunction against such carrier under subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction with respect to the statutory license provided under subsection (a)(2) to the extent necessary to allow such carrier to make secondary transmissions
of primary transmissions made by a network station to unserved households located in short markets in which such carrier was not providing local service pursuant to the license under section 122 as of December 31, 2009.

(B) Expiration of temporary waiver.— A temporary waiver of an injunction under subparagraph (A) shall expire after the end of the 120-day period beginning on the date such temporary waiver is issued unless extended for good cause by the court making the temporary waiver.

(C) Failure to provide local-into-local service to all DMAs.—

(i) Failure to act reasonably and in good faith.— If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to act reasonably or has failed to make a good faith effort to provide local-into-local service to all DMAs, such failure—

(I) is actionable as an act of infringement under section 501 and the court may in its discretion impose the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

(II) shall result in the termination of the waiver issued under subparagraph (A).

(ii) Failure to provide local-into-local service.— If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to provide local-into-local service to all DMAs, but determines that the carrier acted reasonably and in good faith, the court may in its discretion impose financial penalties that reflect—

(I) the degree of control the carrier had over the circumstances that resulted in the failure;

(II) the quality of the carrier’s efforts to remedy the failure; and

(III) the severity and duration of any service interruption.

(D) Single temporary waiver available.— An entity may only receive one temporary waiver under this paragraph.

(E) Short market defined.— For purposes of this paragraph, the term “short market” means a local market in which programming of one or more of the four most widely viewed television networks nationwide as measured on the date of the enactment of this subsection is not offered on the primary stream transmitted by any local television broadcast station.

(3) Establishment of qualified carrier recognition.—

(A) Statement of eligibility.— An entity seeking to be recognized as a qualified carrier under this subsection shall file a statement of eligibility with the court that imposed the injunction. A statement of eligibility must include—

(i) an affidavit that the entity is providing local-into-local service to all DMAs;

(ii) a motion for a waiver of the injunction;

(iii) a motion that the court appoint a special master under Rule 53 of the Federal Rules of Civil Procedure;

(iv) an agreement by the carrier to pay all expenses incurred by the special master under paragraph (4)(B)(ii); and

(v) a certification issued pursuant to section 342(a) of Communications Act of 1934.

(B) Grant of recognition as a qualified carrier.— Upon receipt of a statement of eligibility, the court shall recognize the entity as a qualified carrier and issue the waiver under paragraph (1). Upon motion pursuant to subparagraph (A)(iii), the court shall appoint a special master to conduct the examination and provide a report to the court as provided in paragraph (4)(B).
(C) Voluntary termination.— At any time, an entity recognized as a qualified carrier may file a statement of voluntary termination with the court certifying that it no longer wishes to be recognized as a qualified carrier. Upon receipt of such statement, the court shall reinstate the injunction waived under paragraph (1).

(D) Loss of recognition prevents future recognition.— No entity may be recognized as a qualified carrier if such entity had previously been recognized as a qualified carrier and subsequently lost such recognition or voluntarily terminated such recognition under subparagraph (C).

(4) Qualified carrier obligations and compliance.—

(A) Continuing obligations.—

(i) In general.— An entity recognized as a qualified carrier shall continue to provide local-into-local service to all DMAs.

(ii) Cooperation with compliance examination.— An entity recognized as a qualified carrier shall fully cooperate with the special master appointed by the court under paragraph (3)(B) in an examination set forth in subparagraph (B).

(B) Qualified carrier compliance examination.—

(i) Examination and report.— A special master appointed by the court under paragraph (3)(B) shall conduct an examination of, and file a report on, the qualified carrier’s compliance with the royalty payment and household eligibility requirements of the license under this section. The report shall address the qualified carrier’s conduct during the period beginning on the date on which the qualified carrier is recognized as such under paragraph (3)(B) and ending on April 30, 2012.

(ii) Records of qualified carrier.— Beginning on the date that is one year after the date on which the qualified carrier is recognized as such under paragraph (3)(B), but not later than December 1, 2011, the qualified carrier shall provide the special master with all records that the special master considers to be directly pertinent to the following requirements under this section:

(I) Proper calculation and payment of royalties under the statutory license under this section.

(II) Provision of service under this license to eligible subscribers only.

(iii) Submission of report.— The special master shall file the report required by clause (i) not later than July 24, 2012, with the court referred to in paragraph (1) that issued the injunction, and the court shall transmit a copy of the report to the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate.

(iv) Evidence of infringement.— The special master shall include in the report a statement of whether the examination by the special master indicated that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement.

(v) Subsequent examination.— If the special master’s report includes a statement that its examination indicated the existence of substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement, the special master shall, not later than 6 months after the report under clause (i) is filed, initiate another examination of the qualified carrier’s compliance with the royalty payment and household eligibility requirements of the license under this section since the last report was filed under clause (iii). The special master shall file a report on the results of the examination conducted under this clause with the court referred to in paragraph (1) that issued the injunction, and the court shall transmit a copy to the
Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate. The report shall include a statement described in clause (iv).

(vi) **Compliance.**— Upon motion filed by an aggrieved copyright owner, the court recognizing an entity as a qualified carrier shall terminate such designation upon finding that the entity has failed to cooperate with an examination required by this subparagraph.

(vii) **Oversight.**— During the period of time that the special master is conducting an examination under this subparagraph, the Comptroller General shall monitor the degree to which the entity seeking to be recognized or recognized as a qualified carrier under paragraph (3) is complying with the special master’s examination. The qualified carrier shall make available to the Comptroller General all records and individuals that the Comptroller General considers necessary to meet the Comptroller General’s obligations under this clause. The Comptroller General shall report the results of the monitoring required by this clause to the Committees on the Judiciary and on Energy and Commerce of the House of Representatives and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate at intervals of not less than six months during such period.

(C) **Affirmation.**— A qualified carrier shall file an affidavit with the district court and the Register of Copyrights 30 months after such status was granted stating that, to the best of the affiant’s knowledge, it is in compliance with the requirements for a qualified carrier. The qualified carrier shall attach to its affidavit copies of all reports or orders issued by the court, the special master, and the Comptroller General.

(D) **Compliance determination.**— Upon the motion of an aggrieved television broadcast station, the court recognizing an entity as a qualified carrier may make a determination of whether the entity is providing local-into-local service to all DMAs.

(E) **Pleading requirement.**— In any motion brought under subparagraph (D), the party making such motion shall specify one or more designated market areas (as such term is defined in section 122 (j)(2)(C)) for which the failure to provide service is being alleged, and, for each such designated market area, shall plead with particularity the circumstances of the alleged failure.

(F) **Burden of proof.**— In any proceeding to make a determination under subparagraph (D), and with respect to a designated market area for which failure to provide service is alleged, the entity recognized as a qualified carrier shall have the burden of proving that the entity provided local-into-local service with a good quality satellite signal to at least 90 percent of the households in such designated market area (based on the most recent census data released by the United States Census Bureau) at the time and place alleged.

(5) **Failure to provide service.**—

(A) **Penalties.**— If the court recognizing an entity as a qualified carrier finds that such entity has willfully failed to provide local-into-local service to all DMAs, such finding shall result in the loss of recognition of the entity as a qualified carrier and the termination of the waiver provided under paragraph (1), and the court may, in its discretion—

(i) treat such failure as an act of infringement under section 501, and subject such infringement to the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

(ii) impose a fine of not less than $250,000 and not more than $5,000,000.

(B) **Exception for nonwillful violation.**— If the court determines that the failure to provide local-into-local service to all DMAs is nonwillful, the court may in its discretion impose financial penalties for noncompliance that reflect—

(i) the degree of control the entity had over the circumstances that resulted in the failure;
(ii) the quality of the entity’s efforts to remedy the failure and restore service; and
(iii) the severity and duration of any service interruption.

(6) Penalties for violations of license.— A court that finds, under subsection (a)(6)(A), that an entity recognized as a qualified carrier has willfully made a secondary transmission of a primary transmission made by a network station and embodying a performance or display of a work to a subscriber who is not eligible to receive the transmission under this section shall reinstate the injunction waived under paragraph (1), and the court may order statutory damages of not more than $2,500,000.

(7) Local-into-local service to all DMAs defined.— For purposes of this subsection:

(A) In general.— An entity provides “local-into-local service to all DMAs” if the entity provides local service in all designated market areas (as such term is defined in section 122 (j)(2)(C)) pursuant to the license under section 122.

(B) Household coverage.— For purposes of subparagraph (A), an entity that makes available local-into-local service with a good quality satellite signal to at least 90 percent of the households in a designated market area based on the most recent census data released by the United States Census Bureau shall be considered to be providing local service to such designated market area.

(C) Good quality satellite signal defined.— The term “good quality satellite signal” has the meaning given such term under section 342(e)(2) of Communications Act of 1934.

Footnotes
1 So in original. Probably means subpar. (B)(i).
2 So in original. Probably should be preceded by “the”.


Termination of Section
For termination of section by section 107(a) of Pub. L. 111–175, see Termination of Section note below.

References in Text

The date of the enactment of the Satellite Television Extension and Localism Act of 2010, referred to in subsecs. (a)(3)(B), (C) and (d)(10)(B), is the date of enactment of Pub. L. 111–175, which shall be deemed to refer to Feb. 27, 2010, see section 307(a) of Pub. L. 111–175, set out as an Effective Date of 2010 Amendment note under section 111 of this title.
The Communications Act of 1934, referred to in subsec. (d)(6), is act June 19, 1934, ch. 652, 48 Stat. 1064, which is classified principally to chapter 5 (§ 151 et seq.) of Title 47, Telegraphs, Telephones, and Radiotelegraphs. Sections 338, 339, 342, and 397 of the Act are classified to sections 338, 339, 342, and 397, respectively, of Title 47. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

The date of the enactment of this subsection, referred to in subsec. (g)(1), (2)(A), (E), is the date of enactment of Pub. L. 111–175, which shall be deemed to refer to Feb. 27, 2010. See section 307(a) of Pub. L. 111–175, set out as an Effective Date of 2010 Amendment note under section 111 of this title.


Amendments

2010—Pub. L. 111–175, § 102(a)(1), substituted “distant television programming by satellite” for “superstations and network stations for private home viewing” in section catchline.

Subsec. (a). Pub. L. 111–175, § 102(h)(1)(B), (C), redesignated pars. (4) to (14) and (16) as (3) to (13) and (14), respectively, and struck out former pars. (3) and (15) which related to secondary transmissions of significantly viewed signals and carriage of low power television stations, respectively.

Subsec. (a)(1). Pub. L. 111–175, § 102(h)(2)(A)(i), substituted “(4), (5), and (7)” for “(5), (6), and (8)”.

Pub. L. 111–175, § 102(g)(2), which directed amendment of section by substituting “non-network stations” for “superstations” wherever appearing in headings, was executed by substituting “Non-network stations” for “Superstations” in par. (1) heading, to reflect the probable intent of Congress.

Pub. L. 111–175, § 102(g)(1), substituted “non-network station” for “superstation”.

Subsec. (a)(2)(A). Pub. L. 111–175, § 102(h)(2)(A)(ii)(I), substituted “subparagraph (B) of this paragraph and paragraphs (4), (5), (6), and (7)” for “subparagraphs (B) and (C) of this paragraph and paragraphs (5), (6), (7), and (8)”.


Subsec. (a)(2)(C). Pub. L. 111–175, § 102(h)(1)(A), redesignated subpar. (D) as (C) and struck out former subpar. (C), which related to exceptions.

Subsec. (a)(2)(C)(i), (ii). Pub. L. 111–175, § 102(h)(2)(A)(ii)(I), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which related to initial lists and monthly lists, respectively.


Subsec. (a)(3)(C). Pub. L. 111–175, § 102(h)(1)(A), redesignated subpar. (E) as (D) and struck out former subpar. (D) which related to special rules for distant digital signals.

Subsec. (a)(3)(E). Pub. L. 111–175, § 102(h)(2)(C)(D), redesignated subpar. (F) as (E) and substituted “(B) or (C)” for “(E) or (D)”.

Pub. L. 111–175, § 102(h)(2)(A)(iii), struck out “under paragraph (3) or” after “transmissions” and substituted “paragraph (11)” for “paragraph (12)”.

Subsec. (a)(3)(F), (G). Pub. L. 111–175, § 102(h)(2)(C), (E), redesignated subpar. (G) as (F) and inserted “9-digit” before “zip code”. Former subpar. (F) redesignated (E).


Subsec. (a)(5). Pub. L. 111–175, § 102(g)(1), substituted “non-network station” for “superstation”.


Pub. L. 111–175, § 102(g)(1), substituted “non-network station” for “superstation”.

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Subsec. (a)(6)(B)(i). Pub. L. 111–175, § 102(i)(3)(B)(i), substituted “$2,500,000 for each 3-month period” for “$250,000 for each 6-month period”.


Subsec. (a)(8). Pub. L. 111–175, § 102(g)(1), substituted “non-network station” for “superstation”.


Subsec. (b). Pub. L. 111–175, § 102(d)(1), amended heading generally. Prior to amendment, heading read as follows: “Statutory License for Secondary Transmissions for Private Home Viewing.—”.

Subsec. (b)(1). Pub. L. 111–175, § 102(h)(2)(B), struck out concluding provisions which read as follows: “Notwithstanding the provisions of subparagraph (B), a satellite carrier whose secondary transmissions are subject to statutory licensing under paragraph (1) or (2) of subsection (a) shall have no royalty obligation for secondary transmissions to a subscriber under paragraph (3) of such subsection.”

Subsec. (b)(1)(A). Pub. L. 111–175, § 102(g)(2), substituted “non-network stations” for “superstations”.

Subsec. (b)(1)(B). Pub. L. 111–175, § 102(d)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: “a royalty fee for that 6-month period, computed by multiplying the total number of subscribers receiving each secondary transmission of each superstation or network station during each calendar month by the appropriate rate in effect under this section; and”.

Subsec. (b)(1)(C). Pub. L. 111–175, § 102(c), added subpar. (C).

Subsec. (b)(2). Pub. L. 111–175, § 102(d)(4), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 111–175, § 102(d)(3), (5), redesignated par. (2) as (3), inserted “(including the filing fee specified in paragraph (1)(C))” after “shall receive all fees”, and substituted “paragraph (5)” for “paragraph (4)”. Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 111–175, § 102(d)(3), (6), redesignated par. (3) as (4), substituted “paragraph (3)” for “paragraph (2)”, and substituted “paragraph (5)” for “paragraph (4)” in two places. Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 111–175, § 102(d)(3), (7), redesignated par. (4) as (5) and substituted “paragraph (3)” for “paragraph (2)” in introductory provisions.


Subsec. (c)(1)(A). Pub. L. 111–175, § 102(e)(1)(B), (g)(2), substituted “primary transmissions” for “primary analog transmissions”, “non-network stations” for “superstations”, and “July 1, 2009” for “July 1, 2004”.

Subsec. (c)(1)(B). Pub. L. 111–175, § 102(e)(1)(C), (g)(2), substituted “June 1, 2010, the Copyright Royalty Judges” for “January 2, 2005, the Librarian of Congress”, “primary transmissions” for “primary analog transmission”, and “non-network stations” for “superstations”.

Subsec. (c)(1)(C). Pub. L. 111–175, § 102(e)(1)(D), substituted “Copyright Royalty Judges” for “Librarian of Congress”.

Subsec. (c)(1)(D)(i). Pub. L. 111–175, § 102(e)(1)(E)(i), inserted heading and substituted “that are parties” for “that a parties”.


Subsec. (c)(1)(D)(ii)(I). Pub. L. 111–175, § 102(e)(1)(E)(ii)(I), (II), inserted heading and substituted “a proceeding under subparagraph (F)” for “an arbitration proceeding pursuant to subparagraph (E)”.

Subsec. (c)(1)(D)(ii)(II). Pub. L. 111–175, § 102(e)(1)(E)(ii)(III), inserted heading and substituted “Upon receiving a request under subclause (I), the Copyright Royalty Judges” for “Upon receiving a request under subclause (I), the Librarian of Congress”.

Subsec. (c)(1)(D)(ii)(III). Pub. L. 111–175, § 102(e)(1)(E)(ii)(IV), inserted heading and substituted “The Copyright Royalty Judges” for “The Librarian”, “the proceeding under subparagraph (F)” for “an arbitration proceeding”, and “that proceeding” for “the arbitration proceeding”.


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Subsec. (c)(1)(F)(i). Pub. L. 111–175, § 102(e)(1)(G)(ii)(I), (II), (IV), (g)(2), in heading, substituted “the proceeding” for “proceedings”, in introductory provisions, substituted “September 1, 2010, the Copyright Royalty Judges” for “May 1, 2005, the Librarian of Congress”, “a proceeding” for “arbitration proceedings”, “fees to be paid” for “fee to be paid”, “the primary transmissions” for “primary analog transmission”, “non-network stations” for “superstations”, and “distributors—” for “distributors”, and amended concluding provisions generally. Prior to amendment, concluding provisions read as follows: “Such arbitration proceeding shall be conducted under chapter 8 as in effect on the day before the date of the enactment of the Copyright Royalty and Distribution Act of 2004.”

Subsec. (c)(1)(F)(ii). Pub. L. 111–175, § 102(e)(1)(G)(ii)(II). Pub. L. 111–175, § 102(e)(1)(G)(ii)(III), substituted “the proceeding” for “proceedings” in heading, amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: “In determining royalty fees under this subparagraph, the Copyright Royalty and Distribution Act of 2004 shall establish fees for the secondary transmissions of the primary analog transmission of network stations and superstations that most clearly represent the fair market value of secondary transmissions, except that the Librarian of Congress and any copyright arbitration royalty panel shall adjust those fees to account for the obligations of the parties under any applicable voluntary agreement filed with the Copyright Royalty and Distribution Act of 2004; or

“(I) if made by a copyright arbitration royalty panel in an arbitration proceeding under this paragraph and is adopted by the Librarian of Congress under section 802(f), as in effect on the day before the date of the enactment of the Copyright Royalty and Distribution Act of 2004; or

“(II) is established by the Librarian under section 802(f) as in effect on the day before such date of enactment shall be effective as of January 1, 2005.”

Subsec. (c)(1)(F)(iv). Pub. L. 111–175, § 102(e)(1)(G)(v), substituted “fees” for “fee” in heading and substituted “fees referred to in clause (iii)” for “fee referred to in (iii)” in text.

Subsec. (c)(2). Pub. L. 111–175, § 102(e)(2), amended par. (2) generally. Prior to amendment, par. (2) related to applicability and determination of royalty fees for digital signals.

Subsec. (d)(1). Pub. L. 111–175, § 102(f)(6), substituted “that contracts” for “which contracts”.

Subsec. (d)(2)(A). Pub. L. 111–175, § 102(f)(6), substituted “that offer” for “which offer”.

Subsec. (d)(5). Pub. L. 111–175, § 102(f)(6), substituted “that is operated” for “which is operated” and “that serves” for “which serves”.


Subsec. (d)(8). Pub. L. 111–175, § 102(f)(1), amended par. (8) generally. Prior to amendment, text read as follows: “The term ‘subscriber’ means an individual or entity that receives a secondary transmission service by means of a secondary transmission from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor in accordance with the provisions of this section.”

Subsec. (d)(9). Pub. L. 111–175, § 102(g)(1), which directed amendment of section by substituting “non-network station” for “superstation” wherever appearing in headings, was executed by substituting “Non-network station” for “Superstation” in par. (9) heading, to reflect the probable intent of Congress.

Pub. L. 111–175, § 102(g)(1), substituted “non-network station” for “superstation”.

Subsec. (d)(10)(A). Pub. L. 111–175, § 102(b)(1)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: “cannot receive, through the use of a conventional, stationary, outdoor rooftop receiving antenna, an over-the-air signal of a primary network station affiliated with that network of Grade B intensity as defined by the Federal Communications Commission under section 73.683(a) of title 47 of the Code of Federal Regulations, as in effect on January 1, 1999;”.

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Subsec. (d)(11). Pub. L. 111–175, § 102(f)(2), amended par. (11) generally. Prior to amendment, text read as follows: “The term ‘local market’ has the meaning given such term under section 122 (j), except that with respect to a low power television station, the term ‘local market’ means the designated market area in which the station is located.”

Subsec. (d)(12), (13). Pub. L. 111–175, § 102(f)(3), redesignated pars. (13) and (14) as (12) and (13), respectively, and struck out former par. (12). Text read as follows: “The term ‘low power television station’ means a low power television as defined under section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term ‘low power television station’ includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.”


Pub. L. 111–175, § 102(b)(2), added par. (14).


Subsec. (g). Pub. L. 111–175, § 105, added subsec. (g).


2008—Subsec. (a)(6). Pub. L. 109–303, § 4(e)(1)(A), substituted second sentence for former second sentence which read as follows: “If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, after deducting reasonable administrative costs under this paragraph, distribute such fees to the copyright owners entitled to receive them, or to their designated agents.”

Subsec. (b)(4)(C). Pub. L. 109–303, § 4(e)(1)(B), amended subpar. (C) generally. Prior to amendment, text of subpar. (C) read as follows: “During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have the discretion to proceed to distribute any amounts that are not in controversy.”

Subsec. (c). Pub. L. 109–303, § 4(g), deemed amendment by Pub. L. 108–419, § 5(h), never to have been enacted. See 2004 Amendment note below.


2004—Subsec. (a)(1). Pub. L. 108–447, § 107(a)(1), inserted “or for viewing in a commercial establishment” after “for private home viewing” in two places and substituted “subscriber” for “household”.

Pub. L. 108–447, § 102(1), struck out “and pbs satellite feed” after “Superstations” in heading, substituted “paragraphs (5), (6), and (8)” for “paragraphs (3), (4), and (6)” and struck out “or by the Public Broadcasting Service satellite feed” after “primary transmission made by a superstation” in first sentence, and struck out at end “In the case of the Public Broadcasting Service satellite feed, the statutory license shall be effective until January 1, 2002.”

Subsec. (a)(2)(A). Pub. L. 108–447, § 102(2)(A), substituted “paragraphs (5), (6), (7), and (8)” for “paragraphs (3), (4), (5), and (6)”.


Subsec. (a)(2)(C), (D). Pub. L. 108–447, § 102(2)(B), added subpars. (C) and (D) and struck out heading and text of former subpar. (C). Text read as follows: “A satellite carrier that makes secondary transmissions of a primary
transmission made by a network station pursuant to subparagraph (A) shall, 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station a list identifying (by name and street address, including county and zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission. Thereafter, on the 15th of each month, the satellite carrier shall submit to the network a list identifying (by name and street address, including county and zip code) any persons who have been added or dropped as such subscribers since the last submission under this subparagraph. Such subscriber information submitted by a satellite carrier may be used only for purposes of monitoring compliance by the satellite carrier with this subsection. The submission requirements of this subparagraph shall apply to a satellite carrier only if the network to whom the submissions are to be made places on file with the Register of Copyrights a document identifying the name and address of the person to whom such submissions are to be made. The Register shall maintain for public inspection a file of all such documents.”

Subsec. (a)(3) to (6). Pub. L. 108–447, §§ 102(5), (6), 103 (1), added pars. (3) and (4) and redesignated former pars. (3) and (4) as (5) and (6), respectively. Former pars. (5) and (6) redesignated (7) and (8), respectively.


Subsec. (a)(7)(D). Pub. L. 108–447, § 103(6)(C), substituted “is to a subscriber who is eligible to receive the secondary transmission under this section” for “is for private home viewing to an unserved household”.

Subsec. (a)(8). Pub. L. 108–447, § 102(3), (5), redesignated par. (6) as (8) and struck out former par. (8) which related to transitional signal intensity measurement procedures.

Subsec. (a)(9) to (13). Pub. L. 108–447, § 102(4), (5), redesignated pars. (7) and (9) to (12) as (9) and (10) to (13), respectively.


Subsec. (b)(1). Pub. L. 108–447, § 103(4), inserted at end: “Notwithstanding the provisions of subparagraph (B), a satellite carrier whose secondary transmissions are subject to statutory licensing under paragraph (1) or (2) of subsection (a) shall have no royalty obligation for secondary transmissions to a subscriber under paragraph (3) of such subsection.”


Subsec. (b)(1)(B). Pub. L. 108–447, § 103(3), added subpar. (B) and struck out former subpar. (B) which read as follows: “a royalty fee for that 6-month period, computed by—

“(i) multiplying the total number of subscribers receiving each secondary transmission of a superstation during each calendar month by 17.5 cents per subscriber in the case of superstations that as retransmitted by the satellite carrier include any program which, if delivered by any cable system in the United States, would be subject to the syndicated exclusivity rules of the Federal Communications Commission, and 14 cents per subscriber in the case of superstations that are syndex-proof as defined in section 258.2 of title 37, Code of Federal Regulations;

“(ii) multiplying the number of subscribers receiving each secondary transmission of a network station or the Public Broadcasting Service satellite feed during each calendar month by 6 cents; and

“(iii) adding together the totals computed under clauses (i) and (ii).”


Pub. L. 108–419, § 5(g)(1), substituted “Copyright Royalty Judges” for “Librarian of Congress”.


Subsec. (b)(4)(B), (C). Pub. L. 108–419, § 5(g)(2)(B), reenacted headings without change and amended text generally, substituting provisions relating to duties of Copyright Royalty Judges concerning determination of royalty fee controversies and distribution of royalty fees for provisions relating to duties of Librarian of Congress relating to such determination and distribution.

Pub. L. 108–419, § 5(h), which directed amendment of subsec. (c) by substituting “Copyright Royalty Judges” for “Librarian of Congress” in par. (2)(B), “Copyright Royalty Judges shall prescribe as provided in section 803 (b)(6)” for “Register of Copyrights shall prescribe” in par. (2)(C), “proceedings” for “arbitration proceedings” and for “arbitration proceeding” in par. (3)(A), “Copyright Royalty Judges” for “copyright arbitration royalty panel appointed under chapter 8” and “Copyright Royalty Judges shall base their determination” for “panel shall base its decision” in par. (3)(B), “determination under chapter 8” for “decision of arbitration panel or order of librarian” in heading of par. (3)(C), and “(i) is made by the Copyright Royalty Judges pursuant to this paragraph and becomes final, or” and “(ii) is made by the court on appeal under section 803 (d)(3),” for cls. (i) and (ii), respectively, of par. (3)(C), was deemed never to have been enacted by Pub L. 109–303, § 4(g). See Removal of Inconsistent Provisions note below.

Subsec. (d)(1). Pub. L. 108–447, § 107(a)(3), struck out “for private home viewing” after “individual subscribers” and inserted “in accordance with the provisions of this section” before the period at end.


Subsec. (d)(8). Pub. L. 108–447, § 107(a)(5), substituted “or entity that” for “who”, struck out “for private home viewing” after “transmission service”, and inserted “in accordance with the provisions of this section” before period at end.


“(A) means a television broadcast station, other than a network station, licensed by the Federal Communications Commission that is secondarily transmitted by a satellite carrier; and

“(B) except for purposes of computing the royalty fee, includes the Public Broadcasting Service satellite feed.”

Subsec. (d)(10)(B). Pub. L. 108–447, § 105(3)(A), substituted “that meets the standards of subsection (a)(12) whether or not the waiver was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004” for “granted under regulations established under section 339(c)(2) of the Communications Act of 1934”.


Subsec. (d)(11) to (13). Pub. L. 108–447, § 105(4), added pars. (11) to (13) and struck out former pars. (11) and (12) which read as follows:

“(11) Local market.—The term ‘local market’ has the meaning given such term under section 122 (j).

“(12) Public broadcasting service satellite feed.—The term ‘Public Broadcasting Service satellite feed’ means the national satellite feed distributed and designated for purposes of this section by the Public Broadcasting Service consisting of educational and informational programming intended for private home viewing, to which the Public Broadcasting Service holds national terrestrial broadcast rights.”


Subsec. (b)(1)(A). Pub. L. 107–273, § 13210(8), substituted “retransmitted” for “transmitted” and “retransmissions” for “transmissions”.

1999—Subsec. (a)(1). Pub. L. 106–113, § 1000(a)(9) [title I, § 1011(b)(2)(A)], as amended by Pub. L. 107–273, § 13209(3)(B), substituted “performance or display of a work embodied in a primary transmission made by a superstation or by the Public Broadcasting Service satellite feed” for “primary transmission made by a superstation and embodying a performance or display of a work”.

Pub. L. 106–113, § 1000(a)(9) [title I, § 1007(1)], inserted “with regard to secondary transmissions the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals,” after “satellite carrier to the public for private home viewing.”.

Pub. L. 106–113, § 1000(a)(9) [title I, § 1006(a)], as amended by Pub. L. 107–273, § 13209(3)(A), in heading substituted “Superstations and pbs satellite feed” for “Superstations” and in text inserted “In the case of the Public Broadcasting Service satellite feed, the statutory license shall be effective until January 1, 2002.” at end. Pub. L. 107–273, § 13209(3)(A)(ii), which repealed Pub. L. 106–113, § 1000(a)(9) [title I, § 1006(a)(2)], was executed by striking out “or by the Public Broadcasting Service satellite feed” which had been inserted by section 1006 (a)(2) after “of a primary transmission made by a superstation”, to reflect the probable intent of Congress.

Subsec. (a)(2)(A). Pub. L. 106–113, § 1000(a)(9) [title I, § 1011(b)(2)(A)], substituted “performance or display of a work embodied in a primary transmission made by a network station” for “programming contained in a primary transmission made by a network station and embodying a performance or display of a work”.

Pub. L. 106–113, § 1000(a)(9) [title I, § 1007(2)], as amended by Pub. L. 107–273, § 13209(1)(A), inserted “with regard to secondary transmissions the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals,” after “satellite carrier to the public for private home viewing.”.

Subsec. (a)(2)(B). Pub. L. 106–113, § 1000(a)(9) [title I, § 1005(a)(2)], reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The statutory license provided for in subparagraph (A) shall be limited to secondary transmissions to persons who reside in unserved households.”

Subsec. (a)(2)(C). Pub. L. 106–113, § 1000(a)(9) [title I, § 1011(c)], struck out “currently” after “all subscribers to which the satellite carrier” in first sentence.

Subsec. (a)(4). Pub. L. 106–113, § 1000(a)(9) [title I, § 1011(b)(2)(C)], inserted “a performance or display of a work embodied in” after “by a satellite carrier of” and struck out “and embodying a performance or display of a work” after “network station”.


Subsec. (a)(6). Pub. L. 106–113, § 1000(a)(9) [title I, § 1011(b)(2)(D)], inserted “performance or display of a work embodied in” after “by a satellite carrier of” and struck out “and embodying a performance or display of a work” after “network station”.

Subsec. (a)(8)(C)(ii). Pub. L. 106–44 substituted “within the network station’s” for “within the network’s station” in first sentence.


Subsec. (c)(4), (5). Pub. L. 106–113, § 1000(a)(9) [title I, § 1004], added pars. (4) and (5).

Subsec. (d)(2). Pub. L. 106–113, § 1000(a)(9) [title I, § 1008(b)], substituted a semicolon for the period at end of subpar. (B) and inserted concluding provisions.

Subsec. (d)(9). Pub. L. 106–113, § 1000(a)(9) [title I, § 1006(c)(1)], reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The term ‘superstation’ means a television broadcast station, other than a network station, licensed by the Federal Communications Commission that is secondarily transmitted by a satellite carrier.”

Subsec. (d)(10). Pub. L. 106–113, § 1000(a)(9) [title I, § 1005(a)(1)], added par. (10) and struck out heading and text of former par. (10). Text read as follows: “The term ‘unserved household’, with respect to a particular television network, means a household that—

“(A) cannot receive, through the use of a conventional outdoor rooftop receiving antenna, an over-the-air signal of grade B intensity (as defined by the Federal Communications Commission) of a primary network station affiliated with that network, and
“(B) has not, within 90 days before the date on which that household subscribes, either initially or on renewal, to receive secondary transmissions by a satellite carrier of a network station affiliated with that network, subscribed to a cable system that provides the signal of a primary network station affiliated with that network.”

Subsec. (d)(11). Pub. L. 106–113, § 1000(a)(9) [title I, § 1005(e)], reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The term ‘local market’ means the area encompassed within a network station’s predicted Grade B contour as that contour is defined by the Federal Communications Commission.”


Subsec. (e). Pub. L. 106–113, § 1000(a)(9) [title I, § 1005(f)], amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: “No provision of section 111 of this title or any other law (other than this section) shall be construed to contain any authorization, exemption, or license through which secondary transmissions by satellite carrier for private home viewing of programming contained in a primary transmission made by a superstation or a network station may be made without obtaining the consent of the copyright owner.”


Subsec. (a)(8) to (10). Pub. L. 103–369, § 2(5)(B), added pars. (8) to (10).

Subsec. (b)(1)(B)(i). Pub. L. 103–369, § 2(3)(A), as amended by Pub. L. 105–80, § 1(1), substituted “17.5 cents per subscriber in the case of superstations that as retransmitted by the satellite carrier include any program which, if delivered by any cable system in the United States, would be subject to the syndicated exclusivity rules of the Federal Communications Commission, and 14 cents per subscriber in the case of superstations that are syndex-proof as defined in section 258.2 of title 37, Code of Federal Regulations” for “12 cents”.


Subsec. (c)(1). Pub. L. 103–369, § 2(4)(A), as amended by Pub. L. 105–80, § 1(2), struck out “until December 31, 1992,” before “unless a royalty fee”, substituted “paragraph (2) or (3) of this subsection” for “paragraph (2), (3), or (4) of this subsection”, and struck out at end “After that date, the fee shall be determined either in accordance with the voluntary negotiation procedure specified in paragraph (2) or in accordance with the compulsory arbitration procedure specified in paragraphs (3) and (4).”


Subsec. (c)(3)(B). Pub. L. 103–369, § 2(4)(C)(ii), as amended by Pub. L. 105–80, § 1(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows:

“(B) Factors for determining royalty fees.—In determining royalty fees under this paragraph, the copyright arbitration royalty panel appointed under chapter 8 shall consider the approximate average cost to a cable system for the right to secondarily transmit to the public a primary transmission made by a broadcast station, the fee established under any
voluntary agreement filed with the Copyright Office in accordance with paragraph (2), and the last fee proposed by the parties, before proceedings under this paragraph, for the secondary transmission of superstations or network stations for private home viewing. The fee shall also be calculated to achieve the following objectives:

“(i) To maximize the availability of creative works to the public.

“(ii) To afford the copyright owner a fair return for his or her creative work and the copyright user a fair income under existing economic conditions.

“(iii) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication.

“(iv) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.”


Subsec. (d)(2). Pub. L. 103–369, § 2(6)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

“(2) Network station.—The term ‘network station’ has the meaning given that term in section 111 (f) of this title, and includes any translator station or terrestrial satellite station that rebroadcasts all or substantially all of the programming broadcast by a network station.”


1993—Subsec. (b)(1). Pub. L. 103–198, § 5(1)(A), struck out “, after consultation with the Copyright Royalty Tribunal,” in introductory provisions after “Register shall” and in subpar. (A) after “Copyrights may”.

Subsec. (b)(2), (3). Pub. L. 103–198, § 5(1)(B), (C), substituted “Librarian of Congress” for “Copyright Royalty Tribunal”.

Subsec. (b)(4). Pub. L. 103–198, § 5(1)(D), in subpar. (A), substituted “Librarian of Congress” for “Copyright Royalty Tribunal” after “claim with the” and for “Tribunal” after “requirements that the”, in subpar. (B), substituted “Librarian of Congress” for “Copyright Royalty Tribunal” before “shall determine” and for “Tribunal” wherever else appearing, and substituted “convene a copyright arbitration royalty panel” for “conduct a proceeding”, and in subpar. (C), substituted “Librarian of Congress” for “Copyright Royalty Tribunal”.


Subsec. (c)(2). Pub. L. 103–198, § 5(2)(B), substituted “Librarian of Congress” for “Copyright Royalty Tribunal” in subpars. (A) and (B).

Subsec. (c)(3)(A). Pub. L. 103–198, § 5(2)(C)(i), substituted “Librarian of Congress” for “Copyright Royalty Tribunal” and substituted last sentence for former last sentence which read as follows: “Such notice shall include the names and qualifications of potential arbitrators chosen by the Tribunal from a list of available arbitrators obtained from the American Arbitration Association or such similar organization as the Tribunal shall select.”

Subsec. (c)(3)(B). Pub. L. 103–198, § 5(2)(C)(ii), (iii), redesignated subpar. (D) as (B), substituted “copyright arbitration royalty panel appointed under chapter 8” for “Arbitration Panel” in introductory provisions, and struck out former subpar. (B) which provided for the selection of an Arbitration Panel.

Subsec. (c)(3)(C). Pub. L. 103–198, § 5(2)(C)(ii), (v), redesignated subpar. (G) as (C), amended subpar. generally, substituting provisions relating to period during which decision of arbitration panel or order of Librarian of Congress becomes effective for provisions relating to period during which decision of Arbitration Panel or order of Copyright Royalty Tribunal became effective, and struck out former subpar. (C) which related to proceedings in arbitration.

Subsec. (c)(3)(D). Pub. L. 103–198, § 5(2)(C)(vi), redesignated subpar. (H) as (D) and substituted “referred to in subparagraph (C)” for “adopted or ordered under subparagraph (F)”.

Subsec. (c)(3)(E) to (H). Pub. L. 103–198, § 5(2)(C)(iv)–(vi), struck out subpar. (E) which required the Arbitration Panel to report to the Copyright Royalty Tribunal not later than 60 days after publication of notice initiating an arbitration proceeding, struck out subpar. (F) which required action by the Tribunal within 60 days after receiving the report by the Panel, and redesignated subpars. (G) and (H) as (C) and (D), respectively.

Effective Date of 2010 Amendment
Amendment by Pub. L. 111–175 effective Feb. 27, 2010, see section 307(a) of Pub. L. 111–175, set out as a note under section 111 of this title.

Effective Date of 2006 Amendment

Effective Date of 2004 Amendment

Effective Date of 1999 Amendment

Effective Date of 1997 Amendment
Section 13 of Pub. L. 105–80 provided that:
“(a) In General.—Except as provided in subsections (b) and (c), the amendments made by this Act [amending this section, sections 101, 104A, 108 to 110, 114 to 116, 303, 304, 405, 407, 411, 504, 509, 601, 708, 801 to 803, 909, 910, 1006, and 1007 of this title, and section 2319 of Title 18, Crimes and Criminal Procedure, and amending provisions set out as a note under section 914 of this title] shall take effect on the date of the enactment of this Act [Nov. 13, 1997].
“(b) Satellite Home Viewer Act.—The amendments made by section 1 [amending this section] shall be effective as if enacted as part of the Satellite Home Viewer Act of 1994 (Public Law 103–369).
“(c) Technical Amendment.—The amendment made by section 12 (b)(1) [amending provisions set out as a note under section 914 of this title] shall be effective as if enacted on November 9, 1987.”

Effective Date of 1995 Amendment

Effective and Termination Dates of 1994 Amendment
Pub. L. 103–369, § 6, Oct. 18, 1994, 108 Stat. 3481, provided that:
“(a) In General.—Except as provided in subsections (b) and (d), this Act [amending this section and section 111 of this title, enacting provisions set out as notes under this section and section 101 of this title, and repealing provisions set out as a note under this section] and the amendments made by this Act take effect on the date of the enactment of this Act [Oct. 18, 1994].
“(b) Burden of Proof Provisions.—The provisions of section 119 (a)(5)(D) [now section 119 (a)(6)(D)] of title 17, United States Code (as added by section 2(2) of this Act) relating to the burden of proof of satellite carriers, shall take effect on January 1, 1997, with respect to civil actions relating to the eligibility of subscribers who subscribed to service as an unserved household before the date of the enactment of this Act.
“(c) Transitional Signal Intensity Measurement Procedures.—The provisions of [former] section 119 (a)(8) of title 17, United States Code (as added by section 2(5) of this Act), relating to transitional signal intensity measurements, shall cease to be effective on December 31, 1996.
“(d) Local Service Area of a Primary Transmitter.—The amendment made by section 3 (b) [amending section 111 of this title], relating to the definition of the local service area of a primary transmitter, shall take effect on July 1, 1994.”

Effective Date
Section 206 of title II of Pub. L. 100–667 provided that: “This title and the amendments made by this title [enacting this section and sections 612 and 613 of Title 47, Telegraphs, Telephones, and Radiotelegraphs, amending sections 111, 501, 801, and 804 of this title and section 605 of Title 47, and enacting provisions set out as notes under this section and section 101 of this title] take effect on January 1, 1989, except that the authority of the Register of Copyrights to issue regulations pursuant to section 119 (b)(1) of title 17, United States Code, as added by section 202 of this Act, takes effect on the date of the enactment of this Act [Nov. 16, 1988].”
Section 207 of title II of Pub. L. 100–667 provided that this title and the amendments made by this title (other than the amendments made by section 205 [amending section 605 of Title 47]) cease to be effective on Dec. 31, 1994, prior to repeal by Pub. L. 103–369, § 4(b), Oct. 18, 1994, 108 Stat. 3481.

**Termination of Section**

Pub. L. 111–175, title I, § 107(a), May 27, 2010, 124 Stat. 1245, provided that: “Section 119 of title 17, United States Code, as amended by this Act, shall cease to be effective on December 31, 2014.”


**Removal of Inconsistent Provisions**


**Effect on Certain Proceedings**


**Applicability of 1994 Amendment**

Section 5 of Pub. L. 103–369 provided that: “The amendments made by this section apply only to section 119 of title 17, United States Code.”