§ 521. Purposes

The purposes of this subchapter are to—

(1) establish a national policy concerning cable communications;

(2) establish franchise procedures and standards which encourage the growth and development of cable systems and which assure that cable systems are responsive to the needs and interests of the local community;

(3) establish guidelines for the exercise of Federal, State, and local authority with respect to the regulation of cable systems;

(4) assure that cable communications provide and are encouraged to provide the widest possible diversity of information sources and services to the public;

(5) establish an orderly process for franchise renewal which protects cable operators against unfair denials of renewal where the operator’s past performance and proposal for future performance meet the standards established by this subchapter; and

(6) promote competition in cable communications and minimize unnecessary regulation that would impose an undue economic burden on cable systems.

“(3) There has been a substantial increase in the penetration of cable television systems over the past decade. Nearly 56,000,000 households, over 60 percent of the households with televisions, subscribe to cable television, and this percentage is almost certain to increase. As a result of this growth, the cable television industry has become a dominant nationwide video medium.

“(4) The cable industry has become highly concentrated. The potential effects of such concentration are barriers to entry for new programmers and a reduction in the number of media voices available to consumers.

“(5) The cable industry has become vertically integrated; cable operators and cable programmers often have common ownership. As a result, cable operators have the incentive and ability to favor their affiliated programmers. This could make it more difficult for noncable-affiliated programmers to secure carriage on cable systems. Vertically integrated program suppliers also have the incentive and ability to favor their affiliated cable operators over nonaffiliated cable operators and programming distributors using other technologies.

“(6) There is a substantial governmental and First Amendment interest in promoting a diversity of views provided through multiple technology media.

“(7) There is a substantial governmental and First Amendment interest in ensuring that cable subscribers have access to local noncommercial educational stations which Congress has authorized, as expressed in section 396(a)(5) of the Communications Act of 1934 [47 U.S.C. 396 (a)(5)]. The distribution of unique noncommercial, educational programming services advances that interest.

“(8) The Federal Government has a substantial interest in making all nonduplicative local public television services available on cable systems because—

“(A) public television provides educational and informational programming to the Nation’s citizens, thereby advancing the Government’s compelling interest in educating its citizens;

“(B) public television is a local community institution, supported through local tax dollars and voluntary citizen contributions in excess of $10,800,000,000 since 1972, that provides public service programming that is responsive to the needs and interests of the local community;

“(C) the Federal Government, in recognition of public television’s integral role in serving the educational and informational needs of local communities, has invested more than $3,000,000,000 in public broadcasting since 1969; and

“(D) absent carriage requirements there is a substantial likelihood that citizens, who have supported local public television services, will be deprived of those services.

“(9) The Federal Government has a substantial interest in having cable systems carry the signals of local commercial television stations because the carriage of such signals is necessary to serve the goals contained in section 307(b) of the Communications Act of 1934 [47 U.S.C. 307 (b)] of providing a fair, efficient, and equitable distribution of broadcast services.

“(10) A primary objective and benefit of our Nation’s system of regulation of television broadcasting is the local origination of programming. There is a substantial governmental interest in ensuring its continuation.

“(11) Broadcast television stations continue to be an important source of local news and public affairs programming and other local broadcast services critical to an informed electorate.

“(12) Broadcast television programming is supported by revenues generated from advertising broadcast over stations. Such programming is otherwise free to those who own television sets and do not require cable transmission to receive broadcast signals. There is a substantial governmental interest in promoting the continued availability of such free television programming, especially for viewers who are unable to afford other means of receiving programming.

“(13) As a result of the growth of cable television, there has been a marked shift in market share from broadcast television to cable television services.

“(14) Cable television systems and broadcast television stations increasingly compete for television advertising revenues. As the proportion of households subscribing to cable television increases, proportionately more advertising revenues will be reallocated from broadcast to cable television systems.

“(15) A cable television system which carries the signal of a local television broadcaster is assisting the broadcaster to increase its viewership, and thereby attract additional advertising revenues that otherwise might be earned by the cable system operator. As a result, there is an economic incentive for cable systems to terminate the retransmission of the broadcast signal, refuse to carry new signals, or reposition a broadcast signal to a disadvantageous channel position. There is a substantial likelihood that absent the reimposition of such a requirement, additional local broadcast signals will be deleted, repositioned, or not carried.

“(16) As a result of the economic incentive that cable systems have to delete, reposition, or not carry local broadcast signals, coupled with the absence of a requirement that such systems carry local broadcast signals, the economic
viability of free local broadcast television and its ability to originate quality local programming will be seriously jeopardized.

“(17) Consumers who subscribe to cable television often do so to obtain local broadcast signals which they otherwise would not be able to receive, or to obtain improved signals. Most subscribers to cable television systems do not or cannot maintain antennas to receive broadcast television services, do not have input selector switches to convert from a cable to antenna reception system, or cannot otherwise receive broadcast television services. The regulatory system created by the Cable Communications Policy Act of 1984 was premised upon the continued existence of mandatory carriage obligations for cable systems, ensuring that local stations would be protected from anticompetitive conduct by cable systems.

“(18) Cable television systems often are the single most efficient distribution system for television programming. A Government mandate for a substantial societal investment in alternative distribution systems for cable subscribers, such as the ‘A/B’ input selector antenna system, is not an enduring or feasible method of distribution and is not in the public interest.

“(19) At the same time, broadcast programming that is carried remains the most popular programming on cable systems, and a substantial portion of the benefits for which consumers pay cable systems is derived from carriage of the signals of network affiliates, independent television stations, and public television stations. Also cable programming placed on channels adjacent to popular off-the-air signals obtains a larger audience than on other channel positions. Cable systems, therefore, obtain great benefits from local broadcast signals which, until now, they have been able to obtain without the consent of the broadcaster or any copyright liability. This has resulted in an effective subsidy of the development of cable systems by local broadcasters. While at one time, when cable systems did not attempt to compete with local broadcasters for programming, audience, and advertising, this subsidy may have been appropriate, it is no longer and results in a competitive imbalance between the 2 industries.

“(20) The Cable Communications Policy Act of 1984, in its amendments to the Communications Act of 1934 [47 U.S.C. 151 et seq.], limited the regulatory authority of franchising authorities over cable operators. Franchising authorities are finding it difficult under the current regulatory scheme to deny renewals to cable systems that are not adequately serving cable subscribers.

“(21) Cable systems should be encouraged to carry low-power television stations licensed to the communities served by those systems where the low-power station creates and broadcasts, as a substantial part of its programming day, local programming.

“(b) Statement of Policy.—It is the policy of the Congress in this Act [enacting sections 334, 335, 534 to 537, 544a, 548, and 555a of this title, amending sections 325, 332, 522, 532, 533, 541 to 544, 546, 551 to 555, and 558 of this title, and enacting provisions set out as notes under this section and sections 325, 531, 543, and 554 of this title] to—

“(1) promote the availability to the public of a diversity of views and information through cable television and other video distribution media;

“(2) rely on the marketplace, to the maximum extent feasible, to achieve that availability;

“(3) ensure that cable operators continue to expand, where economically justified, their capacity and the programs offered over their cable systems;

“(4) where cable television systems are not subject to effective competition, ensure that consumer interests are protected in receipt of cable service; and

“(5) ensure that cable television operators do not have undue market power vis-a-vis video programmers and consumers.”

Sports Programming Migration Study and Report

Pub. L. 102–385, § 26, Oct. 5, 1992, 106 Stat. 1502, directed Federal Communications Commission to investigate and analyze, on a sport-by-sport basis, trends in migration of local, regional, and national sports programming from carriage by broadcast stations to carriage over cable programming networks and pay-per-view systems, including economic causes and consequences of such trends, and further directed Commission to submit to Congress interim and final reports of such study, no later than July 1, 1993, and July 1, 1994, respectively, along with recommendations for legislative or regulatory activity.

Applicability of Antitrust Laws to Pub. L. 102–385

Pub. L. 102–385, § 27, Oct. 5, 1992, 106 Stat. 1503, provided that: “Nothing in this Act [enacting sections 334, 335, 534 to 537, 544a, 548, and 555a of this title, amending sections 325, 332, 522, 532, 533, 541 to 544, 546, 551 to 555, and 558 of this title, and enacting provisions set out as notes under this section and sections 325, 531, 543, and 554 of this title] or the amendments made by this Act shall be construed to alter or restrict in any manner the applicability of any Federal or State antitrust law.”
Effect of Cable Communications Policy Act of 1984 on Jurisdiction of Federal Communications Commission Respecting Wire or Radio Communications Through Cable Systems

Section 3(b) of Pub. L. 98–549 provided that: “The provisions of this Act [enacting this subchapter and section 611 of this title, amending sections 152, 224, 309, and 605 of this title, section 2511 of Title 18, Crimes and Criminal Procedure, and section 1805 of Title 50, War and National Defense, and enacting provisions set out as notes under this section and sections 543, 605, and 609 of this title] and amendments made by this Act shall not be construed to affect any jurisdiction the Federal Communications Commission may have under the Communications Act of 1934 [this chapter] with respect to any communication by wire or radio (other than cable service, as defined in section 602(5) of such Act [section 522(5) of this title]) which is provided through a cable system, or persons or facilities engaged in such communications.”