

113TH CONGRESS
1ST SESSION

H. R. 3719

To amend the Communications Act of 1934 to facilitate retransmission consent negotiations between television broadcast stations and multichannel video programming distributors, to provide greater subscriber choice in cable service tiers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 12, 2013

Ms. ESHOO (for herself and Ms. LOFGREN) introduced the following bill;
which was referred to the Committee on Energy and Commerce

A BILL

To amend the Communications Act of 1934 to facilitate retransmission consent negotiations between television broadcast stations and multichannel video programming distributors, to provide greater subscriber choice in cable service tiers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Video Consumers Have
5 Options in Choosing Entertainment Act of 2013” or the
6 “Video CHOICE Act of 2013”.

1 **SEC. 2. CARRIAGE DURING RETRANSMISSION CONSENT NE-**
2 **GOTIATION IMPASSE.**

3 Section 325(b)(3) of the Communications Act of
4 1934 (47 U.S.C. 325(b)(3)) is amended by adding at the
5 end the following:

6 “(D) If a negotiation for a replacement or extended
7 retransmission consent agreement between a television
8 broadcast station and a multichannel video programming
9 distributor reaches an impasse that results in the expira-
10 tion of the carriage rights of the multichannel video pro-
11 gramming distributor, the Commission may, notwith-
12 standing paragraph (1)(A), authorize interim carriage of
13 such station by such distributor pending the conclusion
14 of a new agreement.”.

15 **SEC. 3. PROHIBITION OF AGREEMENTS CONDITIONED ON**
16 **CARRIAGE OF AFFILIATED PROGRAMMING.**

17 (a) IN GENERAL.—Section 325(b) of the Commu-
18 nications Act of 1934 (47 U.S.C. 325(b)) is amended by
19 redesignating paragraph (7) as paragraph (8) and insert-
20 ing after paragraph (6) the following:

21 “(7) A television broadcast station that elects to exer-
22 cise its right to grant retransmission consent under this
23 subsection may not enter into a retransmission consent
24 agreement with a multichannel video programming dis-
25 tributor that is directly or indirectly conditioned on car-
26 riage of any other programming affiliated with such sta-

1 tion (or with a person who owns or controls, is owned or
2 controlled by, or is under common ownership or control
3 with such station).”.

4 (b) NO EFFECT ON PRIOR AGREEMENTS.—The
5 amendment made by subsection (a) shall apply with re-
6 spect to retransmission consent agreements entered into
7 after the date of the enactment of this Act.

8 **SEC. 4. RULEMAKING ON BLOCKING OF ONLINE CONTENT**
9 **DURING NEGOTIATIONS.**

10 Not later than 6 months after the date of the enact-
11 ment of this Act, the Federal Communications Commis-
12 sion shall complete a rulemaking proceeding to determine
13 whether, during retransmission consent negotiations or
14 after the parties to such negotiations reach an impasse
15 resulting in the expiration of an existing retransmission
16 consent agreement, the blocking of online content owned
17 by or affiliated with a television broadcast station (or a
18 person who owns or controls, is owned or controlled by,
19 or is under common ownership or control with such sta-
20 tion) constitutes a failure to negotiate in good faith under
21 section 325(b)(3)(C)(ii) of the Communications Act of
22 1934 (47 U.S.C. 325(b)(3)(C)(ii)).

1 **SEC. 5. CABLE SERVICE TIERS.**

2 (a) CONTENTS OF BASIC SERVICE TIER.—Section
3 623(b)(7)(A) of the Communications Act of 1934 (47
4 U.S.C. 543(b)(7)(A)) is amended by striking clause (iii).

5 (b) RETRANSMISSION CONSENT SERVICE TIER.—

6 (1) IN GENERAL.—Section 623(b) of the Com-
7 munications Act of 1934 (47 U.S.C. 543(b)) is
8 amended by adding at the end the following:

9 “(9) RETRANSMISSION CONSENT SERVICE
10 TIER.—

11 “(A) IN GENERAL.—Each cable operator
12 of a cable system shall offer its subscribers a
13 separately available retransmission consent
14 service tier that consists only of the signal of
15 each television broadcast station electing re-
16 transmission consent under section 325(b) that
17 is carried on the cable system.

18 “(B) SUBJECT TO RATE REGULATION.—
19 The retransmission consent service tier de-
20 scribed in subparagraph (A) shall be subject to
21 rate regulation under this Act to the same ex-
22 tent as the basic service tier described in para-
23 graph (7).”.

24 (2) PROHIBITION ON CERTAIN BUNDLING.—
25 Section 623(b)(8)(A) of the Communications Act of

1 1934 (47 U.S.C. 543(b)(8)(A)) is amended to read
2 as follows:

3 “(A) PROHIBITION.—A cable operator may
4 not require the subscription to any tier other
5 than the basic service tier required by para-
6 graph (7) as a condition of access to, or dis-
7 criminate between subscribers to the basic serv-
8 ice tier and other subscribers with regard to the
9 rates charged for—

10 “(i) video programming offered on a
11 per channel or per program basis; or

12 “(ii) the retransmission consent serv-
13 ice tier described in paragraph (9).”.

14 (3) CONFORMING AMENDMENT.—Section
15 623(a)(2)(A) of the Communications Act of 1934
16 (47 U.S.C. 543(a)(2)(A)) is amended by striking
17 “basic cable service” and inserting “the basic service
18 tier described in subsection (b)(7)”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on the date that is 6 months
21 after the date of the enactment of this Act.

22 **SEC. 6. FCC STUDY OF SPORTS PROGRAMMING COSTS.**

23 For the first year that begins after the date that is
24 6 months after the date of the enactment of this Act and
25 each year thereafter, the Federal Communications Com-

1 mission shall conduct a study and submit to Congress a
2 report on the costs paid by multichannel video program-
3 ming distributors (as defined in section 602 of the Com-
4 munications Act of 1934 (47 U.S.C. 522)) for carriage
5 of regional and national television sports networks in the
6 top 20 regional sports markets, as determined by the Com-
7 mission.

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