

113TH CONGRESS
2^D SESSION

H. R. 5728

To amend the Communications Act of 1934 and title 17, United States Code, to extend expiring provisions relating to the retransmission of signals of television broadcast stations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2014

Mr. UPTON (for himself, Mr. WAXMAN, Mr. WALDEN, and Ms. ESHOO) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Communications Act of 1934 and title 17, United States Code, to extend expiring provisions relating to the retransmission of signals of television broadcast stations, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “STELA Reauthorization Act of 2014”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
 Sec. 2. No additional appropriations authorized.

TITLE I—COMMUNICATIONS PROVISIONS

- Sec. 101. Extension of authority.
 Sec. 102. Modification of television markets to further consumer access to relevant television programming.
 Sec. 103. Consumer protections in retransmission consent.
 Sec. 104. Delayed application of JSA attribution rule.
 Sec. 105. Deletion or repositioning of stations during certain periods.
 Sec. 106. Repeal of integration ban.
 Sec. 107. Report on communications implications of statutory licensing modifications.
 Sec. 108. Local network channel broadcast reports.
 Sec. 109. Report on designated market areas.
 Sec. 110. Update to cable rates report.
 Sec. 111. Administrative reforms to effective competition petitions.
 Sec. 112. Definitions.

TITLE II—COPYRIGHT PROVISIONS

- Sec. 201. Reauthorization.
 Sec. 202. Termination of license.
 Sec. 203. Local service area of a primary transmitter.
 Sec. 204. Market determinations.

TITLE III—SEVERABILITY

- Sec. 301. Severability.

3 **SEC. 2. NO ADDITIONAL APPROPRIATIONS AUTHORIZED.**

4 No additional funds are authorized to carry out this
 5 Act, or the amendments made by this Act. This Act, and
 6 the amendments made by this Act, shall be carried out
 7 using amounts otherwise authorized or appropriated.

8 **TITLE I—COMMUNICATIONS** 9 **PROVISIONS**

10 **SEC. 101. EXTENSION OF AUTHORITY.**

11 Section 325(b) of the Communications Act of 1934
 12 (47 U.S.C. 325(b)) is amended—

1 (1) in paragraph (2)(C), by striking “December
2 31, 2014” and inserting “December 31, 2019”; and

3 (2) in paragraph (3)(C), by striking “January
4 1, 2015” each place it appears and inserting “Janu-
5 ary 1, 2020”.

6 **SEC. 102. MODIFICATION OF TELEVISION MARKETS TO**
7 **FURTHER CONSUMER ACCESS TO RELEVANT**
8 **TELEVISION PROGRAMMING.**

9 (a) IN GENERAL.—Section 338 of the Communica-
10 tions Act of 1934 (47 U.S.C. 338) is amended by adding
11 at the end the following:

12 “(1) MARKET DETERMINATIONS.—

13 “(1) IN GENERAL.—Following a written re-
14 quest, the Commission may, with respect to a par-
15 ticular commercial television broadcast station, in-
16 clude additional communities within its local market
17 or exclude communities from such station’s local
18 market to better effectuate the purposes of this sec-
19 tion.

20 “(2) CONSIDERATIONS.—In considering re-
21 quests filed under paragraph (1), the Commission—

22 “(A) may determine that particular com-
23 munities are part of more than one local mar-
24 ket; and

1 “(B) shall afford particular attention to
2 the value of localism by taking into account
3 such factors as—

4 “(i) whether the station, or other sta-
5 tions located in the same area—

6 “(I) have been historically carried
7 on the cable system or systems within
8 such community; or

9 “(II) have been historically car-
10 ried on the satellite carrier or carriers
11 serving such community;

12 “(ii) whether the television station
13 provides coverage or other local service to
14 such community;

15 “(iii) whether modifying the local
16 market of the television station would pro-
17 mote consumers’ access to television broad-
18 cast station signals that originate in their
19 State of residence;

20 “(iv) whether any other television sta-
21 tion that is eligible to be carried by a sat-
22 ellite carrier in such community in fulfill-
23 ment of the requirements of this section
24 provides news coverage of issues of concern
25 to such community or provides carriage or

1 coverage of sporting and other events of
2 interest to the community; and

3 “(v) evidence of viewing patterns in
4 households that subscribe and do not sub-
5 scribe to the services offered by multi-
6 channel video programming distributors
7 within the areas served by such multi-
8 channel video programming distributors in
9 such community.

10 “(3) CARRIAGE OF SIGNALS.—

11 “(A) CARRIAGE OBLIGATION.—A market
12 determination under this subsection shall not
13 create additional carriage obligations for a sat-
14 ellite carrier if it is not technically and economi-
15 cally feasible for such carrier to accomplish
16 such carriage by means of its satellites in oper-
17 ation at the time of the determination.

18 “(B) DELETION OF SIGNALS.—A satellite
19 carrier shall not delete from carriage the signal
20 of a commercial television broadcast station
21 during the pendency of any proceeding under
22 this subsection.

23 “(4) DETERMINATIONS.—Not later than 120
24 days after the date that a written request is filed

1 under paragraph (1), the Commission shall grant or
2 deny the request.

3 “(5) NO EFFECT ON ELIGIBILITY TO RECEIVE
4 DISTANT SIGNALS.—No modification of a commer-
5 cial television broadcast station’s local market pursu-
6 ant to this subsection shall have any effect on the
7 eligibility of households in the community affected
8 by such modification to receive distant signals pur-
9 suant to section 339, notwithstanding subsection
10 (h)(1) of this section.”.

11 (b) CONFORMING AMENDMENTS.—Section
12 614(h)(1)(C) of the Communications Act of 1934 (47
13 U.S.C. 534(h)(1)(C)) is amended—

14 (1) in clause (ii)—

15 (A) in subclause (I), by striking “commu-
16 nity” and inserting “community or on the sat-
17 ellite carrier or carriers serving such commu-
18 nity”;

19 (B) by redesignating subclauses (III) and
20 (IV) as subclauses (IV) and (V), respectively;

21 (C) by inserting after subclause (II) the
22 following:

23 “(III) whether modifying the market
24 of the television station would promote
25 consumers’ access to television broadcast

1 station signals that originate in their State
2 of residence;” and

3 (D) by amending subclause (V), as redesign-
4 nated, to read as follows:

5 “(V) evidence of viewing patterns in
6 households that subscribe and do not sub-
7 scribe to the services offered by multi-
8 channel video programming distributors
9 within the areas served by such multi-
10 channel video programming distributors in
11 such community.”; and

12 (2) by moving the margin of clause (iv) 2 ems
13 to the left.

14 (c) MARKET MODIFICATION PROCESS.—The Com-
15 mission shall make information available to consumers on
16 its website that explains the market modification process,
17 including—

18 (1) who may petition to include additional com-
19 munities within, or exclude communities from, a—

20 (A) local market (as defined in section
21 122(j) of title 17, United States Code); or

22 (B) television market (as determined under
23 section 614(h)(1)(C) of the Communications
24 Act of 1934 (47 U.S.C. 534(h)(1)(C))); and

1 (2) the factors that the Commission takes into
2 account when responding to a petition described in
3 paragraph (1).

4 (d) IMPLEMENTATION.—

5 (1) DEADLINE FOR REGULATIONS.—Not later
6 than 9 months after the date of the enactment of
7 this Act, the Commission shall promulgate regula-
8 tions to implement this section and the amendments
9 made by this section.

10 (2) MATTERS FOR CONSIDERATION.—As part of
11 the rulemaking required by paragraph (1), the Com-
12 mission shall ensure that procedures for the filing
13 and consideration of a written request under sec-
14 tions 338(l) and 614(h)(1)(C) of the Communica-
15 tions Act of 1934 (47 U.S.C. 338(l); 534(h)(1)(C))
16 fully effectuate the purposes of the amendments
17 made by this section, and update what it considers
18 to be a community for purposes of a modification of
19 a market under section 338(l) or 614(h)(1)(C) of
20 the Communications Act of 1934.

21 **SEC. 103. CONSUMER PROTECTIONS IN RETRANSMISSION**

22 **CONSENT.**

23 (a) JOINT RETRANSMISSION CONSENT NEGOTIA-
24 TIONS.—Section 325(b)(3)(C) of the Communications Act
25 of 1934 (47 U.S.C. 325(b)(3)(C)) is amended—

1 (1) in clause (ii), by striking “and” at the end;

2 (2) in clause (iii), by striking the period at the
3 end and inserting a semicolon; and

4 (3) by adding at the end the following:

5 “(iv) prohibit a television broadcast station
6 from coordinating negotiations or negotiating on a
7 joint basis with another television broadcast station
8 in the same local market (as defined in section
9 122(j) of title 17, United States Code) to grant re-
10 transmission consent under this section to a multi-
11 channel video programming distributor, unless such
12 stations are directly or indirectly under common de
13 jure control permitted under the regulations of the
14 Commission; and”.

15 (b) PROTECTIONS FOR SIGNIFICANTLY VIEWED AND
16 OTHER TELEVISION SIGNALS.—Section 325(b)(3)(C) of
17 the Communications Act of 1934 (47 U.S.C.
18 325(b)(3)(C)) is further amended by adding at the end
19 the following:

20 “(v) prohibit a television broadcast station from
21 limiting the ability of a multichannel video program-
22 ming distributor to carry into the local market (as
23 defined in section 122(j) of title 17, United States
24 Code) of such station a television signal that has
25 been deemed significantly viewed, within the mean-

1 ing of section 76.54 of title 47, Code of Federal
2 Regulations, or any successor regulation, or any
3 other television broadcast signal such distributor is
4 authorized to carry under section 338, 339, 340, or
5 614 of this Act, unless such stations are directly or
6 indirectly under common de jure control permitted
7 by the Commission.”.

8 (c) GOOD FAITH.—Not later than 9 months after the
9 date of the enactment of this Act, the Commission shall
10 commence a rulemaking to review its totality of the cir-
11 cumstances test for good faith negotiations under clauses
12 (ii) and (iii) of section 325(b)(3)(C) of the Communica-
13 tions Act of 1934 (47 U.S.C. 325(b)(3)(C)).

14 (d) MARGIN CORRECTIONS.—Section 325(b) of the
15 Communications Act of 1934 (47 U.S.C. 325(b)) is fur-
16 ther amended—

17 (1) in paragraph (3)(C), by moving the margin
18 of clause (iii) 4 ems to the left; and

19 (2) by moving the margin of paragraph (7) 2
20 ems to the left.

21 (e) DEADLINE FOR REGULATIONS.—Not later than
22 9 months after the date of the enactment of this Act, the
23 Commission shall promulgate regulations to implement
24 the amendments made by this section.

1 **SEC. 104. DELAYED APPLICATION OF JSA ATTRIBUTION**
2 **RULE.**

3 A party to a joint sales agreement (as defined in Note
4 2(k) to section 73.3555 of title 47, Code of Federal Regu-
5 lations) that is in effect on the effective date of the amend-
6 ment to Note 2(k)(2) to such section made by the Further
7 Notice of Proposed Rulemaking and Report and Order
8 adopted by the Commission on March 31, 2014 (FCC 14–
9 28), shall not be considered to be in violation of the owner-
10 ship limitations of such section by reason of the applica-
11 tion of the rule in such Note 2(k)(2) (as so amended) to
12 such agreement before the date that is 6 months after the
13 end of the period specified by the Commission in such Re-
14 port and Order for such a party to come into compliance
15 with such ownership limitations.

16 **SEC. 105. DELETION OR REPOSITIONING OF STATIONS DUR-**
17 **ING CERTAIN PERIODS.**

18 (a) IN GENERAL.—Section 614(b)(9) of the Commu-
19 nications Act of 1934 (47 U.S.C. 534(b)(9)) is amended
20 by striking the second sentence.

21 (b) REVISION OF RULES.—Not later than 90 days
22 after the date of the enactment of this Act, the Commis-
23 sion shall revise section 76.1601 of its rules (47 C.F.R.
24 76.1601) and any note to such section by removing the
25 prohibition against deletion or repositioning of a local
26 commercial television station during a period in which

1 major television ratings services measure the size of audi-
2 ences of local television stations.

3 **SEC. 106. REPEAL OF INTEGRATION BAN.**

4 (a) **TERMINATION OF EFFECTIVENESS.**—The second
5 sentence of section 76.1204(a)(1) of title 47, Code of Fed-
6 eral Regulations, terminates effective on the date that is
7 1 year after the date of the enactment of this Act.

8 (b) **REMOVAL FROM RULES.**—Not later than 545
9 days after the date of the enactment of this Act, the Com-
10 mission shall complete all actions necessary to remove the
11 sentence described in subsection (a) from its rules.

12 (c) **PRESERVATION OF WAIVERS.**—Any waiver of sec-
13 tion 76.1204(a)(1) of title 47, Code of Federal Regula-
14 tions, in effect as of the date of the enactment of this
15 Act or granted after such date shall be extended through
16 December 31, 2015.

17 (d) **WORKING GROUP.**—

18 (1) **IN GENERAL.**—Not later than 45 days after
19 the date of the enactment of this Act, the Chairman
20 of the Commission shall establish a working group
21 of technical experts representing a wide range of
22 stakeholders, to identify, report, and recommend
23 performance objectives, technical capabilities, and
24 technical standards of a not unduly burdensome,
25 uniform, and technology- and platform-neutral soft-

1 ware-based downloadable security system designed to
2 promote the competitive availability of navigation de-
3 vices in furtherance of section 629 of the Commu-
4 nications Act of 1934 (47 U.S.C. 549).

5 (2) REPORT.—Not later than 9 months after
6 the date of the enactment of this Act, the working
7 group shall file a report with the Commission on its
8 work under paragraph (1).

9 (3) COMMISSION ASSISTANCE.—The Chairman
10 of the Commission may appoint a member of the
11 Commission’s staff—

12 (A) to moderate and direct the work of the
13 working group under this subsection; and

14 (B) to provide technical assistance to mem-
15 bers of the working group, as appropriate.

16 (4) INITIAL MEETING.—The initial meeting of
17 the working group shall take place not later than 90
18 days after the date of the enactment of this Act.

19 **SEC. 107. REPORT ON COMMUNICATIONS IMPLICATIONS OF**
20 **STATUTORY LICENSING MODIFICATIONS.**

21 (a) STUDY.—The Comptroller General of the United
22 States shall conduct a study that analyzes and evaluates
23 the changes to the carriage requirements currently im-
24 posed on multichannel video programming distributors
25 under the Communications Act of 1934 (47 U.S.C. 151

1 et seq.) and the regulations promulgated by the Commis-
2 sion that would be required or beneficial to consumers,
3 and such other matters as the Comptroller General con-
4 siders appropriate, if Congress implemented a phase-out
5 of the current statutory licensing requirements set forth
6 under sections 111, 119, and 122 of title 17, United
7 States Code. Among other things, the study shall consider
8 the impact such a phase-out and related changes to car-
9 riage requirements would have on consumer prices and ac-
10 cess to programming.

11 (b) REPORT.—Not later than 18 months after the
12 date of the enactment of this Act, the Comptroller General
13 shall submit to the appropriate congressional committees
14 a report on the results of the study conducted under sub-
15 section (a), including any recommendations for legislative
16 or administrative actions. Such report shall also include
17 a discussion of any differences between such results and
18 the results of the study conducted under section 303 of
19 the Satellite Television Extension and Localism Act of
20 2010 (124 Stat. 1255).

21 **SEC. 108. LOCAL NETWORK CHANNEL BROADCAST RE-**
22 **PORTS.**

23 (a) REQUIREMENT.—

24 (1) IN GENERAL.—On the 270th day after the
25 date of the enactment of this Act, and on each suc-

1 ceeding anniversary of such 270th day, each satellite
2 carrier shall submit an annual report to the Com-
3 mission setting forth—

4 (A) each local market in which it—

5 (i) retransmits signals of 1 or more
6 television broadcast stations with a com-
7 munity of license in that market;

8 (ii) has commenced providing such
9 signals in the preceding 1-year period; and

10 (iii) has ceased to provide such signals
11 in the preceding 1-year period; and

12 (B) detailed information regarding the use
13 and potential use of satellite capacity for the re-
14 transmission of local signals in each local mar-
15 ket.

16 (2) TERMINATION.—The requirement under
17 paragraph (1) shall cease after each satellite carrier
18 has submitted 5 reports under such paragraph.

19 (b) DEFINITIONS.—In this section—

20 (1) the terms “local market” and “satellite car-
21 rier” have the meaning given such terms in section
22 339(d) of the Communications Act of 1934 (47
23 U.S.C. 339(d)); and

24 (2) the term “television broadcast station” has
25 the meaning given such term in section 325(b)(7) of

1 the Communications Act of 1934 (47 U.S.C.
2 325(b)(7)).

3 **SEC. 109. REPORT ON DESIGNATED MARKET AREAS.**

4 (a) IN GENERAL.—Not later than 18 months after
5 the date of the enactment of this Act, the Commission
6 shall submit to the appropriate congressional committees
7 a report that contains—

8 (1) an analysis of—

9 (A) the extent to which consumers in each
10 local market have access to broadcast program-
11 ming from television broadcast stations located
12 outside their local market, including through
13 carriage by cable operators and satellite carriers
14 of signals that are significantly viewed (within
15 the meaning of section 340 of the Communica-
16 tions Act of 1934 (47 U.S.C. 340)); and

17 (B) whether there are technologically and
18 economically feasible alternatives to the use of
19 designated market areas to define markets that
20 would provide consumers with more program-
21 ming options and the potential impact such al-
22 ternatives could have on localism and on broad-
23 cast television locally, regionally, and nationally;
24 and

1 (2) recommendations on how to foster increased
2 localism in counties served by out-of-State des-
3 ignated market areas.

4 (b) CONSIDERATIONS FOR FOSTERING INCREASED
5 LOCALISM.—In making recommendations under sub-
6 section (a)(2), the Commission shall consider—

7 (1) the impact that designated market areas
8 that cross State lines have on access to local pro-
9 gramming;

10 (2) the impact that designated market areas
11 have on local programming in rural areas; and

12 (3) the state of local programming in States
13 served exclusively by out-of-State designated market
14 areas.

15 **SEC. 110. UPDATE TO CABLE RATES REPORT.**

16 Section 623(k) of the Communications Act of 1934
17 (47 U.S.C. 543(k)) is amended to read as follows:

18 “(k) REPORTS ON AVERAGE PRICES.—

19 “(1) IN GENERAL.—The Commission shall an-
20 nually publish statistical reports on the average
21 rates for basic cable service and other cable pro-
22 gramming, and for converter boxes, remote control
23 units, and other equipment of cable systems that the
24 Commission has found are subject to effective com-
25 petition under subsection (a)(2) compared with cable

1 systems that the Commission has found are not sub-
2 ject to such effective competition.

3 “(2) INCLUSION IN ANNUAL REPORT.—

4 “(A) IN GENERAL.—The Commission shall
5 include in its report under paragraph (1) the
6 aggregate average total amount paid by cable
7 systems in compensation under section 325.

8 “(B) FORM.—The Commission shall pub-
9 lish information under this paragraph in a
10 manner substantially similar to the way other
11 comparable information is published in such re-
12 port.”.

13 **SEC. 111. ADMINISTRATIVE REFORMS TO EFFECTIVE COM-
14 PETITION PETITIONS.**

15 Section 623 of the Communications Act of 1934 (47
16 U.S.C. 543) is amended by adding at the end the fol-
17 lowing:

18 “(o) STREAMLINED PETITION PROCESS FOR SMALL
19 CABLE OPERATORS.—

20 “(1) IN GENERAL.—Not later than 180 days
21 after the date of the enactment of this subsection,
22 the Commission shall complete a rulemaking to es-
23 tablish a streamlined process for filing of an effec-
24 tive competition petition pursuant to this section for

1 small cable operators, particularly those who serve
2 primarily rural areas.

3 “(2) CONSTRUCTION.—Nothing in this sub-
4 section shall be construed to have any effect on the
5 duty of a small cable operator to prove the existence
6 of effective competition under this section.

7 “(3) DEFINITION OF SMALL CABLE OPER-
8 ATOR.—In this subsection, the term ‘small cable op-
9 erator’ has the meaning given the term in subsection
10 (m)(2).”.

11 **SEC. 112. DEFINITIONS.**

12 In this title:

13 (1) APPROPRIATE CONGRESSIONAL COMMIT-
14 TEES.—The term “appropriate congressional com-
15 mittees” means the Committee on Energy and Com-
16 merce and the Committee on the Judiciary of the
17 House of Representatives and the Committee on
18 Commerce, Science, and Transportation and the
19 Committee on the Judiciary of the Senate.

20 (2) COMMISSION.—The term “Commission”
21 means the Federal Communications Commission.

1 **TITLE II—COPYRIGHT**
2 **PROVISIONS**

3 **SEC. 201. REAUTHORIZATION.**

4 Chapter 1 of title 17, United States Code, is amend-
5 ed—

6 (1) in section 111(d)(3)—

7 (A) in the matter preceding subparagraph
8 (A), by striking “clause” and inserting “para-
9 graph”; and

10 (B) in subparagraph (B), by striking
11 “clause” and inserting “paragraph”; and

12 (2) in section 119—

13 (A) in subsection (c)(1)(E), by striking
14 “2014” and inserting “2019”; and

15 (B) in subsection (e), by striking “2014”
16 and inserting “2019”.

17 **SEC. 202. TERMINATION OF LICENSE.**

18 (a) **IN GENERAL.**—Section 119 of title 17, United
19 States Code, as amended in section 201, is amended by
20 adding at the end the following:

21 “(h) **TERMINATION OF LICENSE.**—This section shall
22 cease to be effective on December 31, 2019.”.

23 (b) **CONFORMING AMENDMENT.**—Section 107(a) of
24 the Satellite Television Extension and Localism Act of
25 2010 (17 U.S.C. 119 note) is repealed.

1 **SEC. 203. LOCAL SERVICE AREA OF A PRIMARY TRANS-**
2 **MITTER.**

3 Section 111(f)(4) of title 17, United States Code, is
4 amended, in the second sentence—

5 (1) by inserting “as defined by the rules and
6 regulations of the Federal Communications Commis-
7 sion,” after “television station,”;

8 (2) by striking “comprises the area within 35
9 miles of the transmitter site, except that” and in-
10 sserting “comprises the designated market area, as
11 defined in section 122(j)(2)(C), that encompasses
12 the community of license of such station and any
13 community that is located outside such designated
14 market area that is either wholly or partially within
15 35 miles of the transmitter site or,”; and

16 (3) by striking “the number of miles shall be 20
17 miles” and inserting “wholly or partially within 20
18 miles of such transmitter site”.

19 **SEC. 204. MARKET DETERMINATIONS.**

20 Section 122(j)(2) of title 17, United States Code, is
21 amended—

22 (1) by moving the margins of subparagraphs
23 (B), (C), and (D) 2 ems to the left; and

24 (2) by adding at the end the following:

25 “(E) MARKET DETERMINATIONS.—The
26 local market of a commercial television broad-

1 cast station may be modified by the Federal
2 Communications Commission in accordance
3 with section 338(l) of the Communications Act
4 of 1934 (47 U.S.C. 338).”.

5 **TITLE III—SEVERABILITY**

6 **SEC. 301. SEVERABILITY.**

7 If any provision of this Act, an amendment made by
8 this Act, or the application of such provision or amend-
9 ment to any person or circumstance is held to be unconsti-
10 tutional, the remainder of this Act, the amendments made
11 by this Act, and the application of such provision or
12 amendment to any person or circumstance shall not be af-
13 fected thereby.

○