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.

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

SECTION 1. SHORT TITLE.
This Act may be cited as the “Video Consumers Have Options in Choosing Entertainment Act of 2013” or the “Video CHOICE Act of 2013”.

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

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

“(D) If a negotiation for a replacement or extended retransmission consent agreement between a television broadcast station and a multichannel video programming distributor reaches an impasse that results in the expiration of the carriage rights of the multichannel video programming distributor, the Commission may, notwithstanding paragraph (1)(A), authorize interim carriage of such station by such distributor pending the conclusion of a new agreement.”.

SEC. 3. PROHIBITION OF AGREEMENTS CONDITIONED ON CARRIAGE OF AFFILIATED PROGRAMMING.

(a) In general.—Section 325(b) of the Communications Act of 1934 (47 U.S.C. 325(b)) is amended by redesignating paragraph (7) as paragraph (8) and inserting after paragraph (6) the following:

“(7) A television broadcast station that elects to exercise its right to grant retransmission consent under this subsection may not enter into a retransmission consent agreement with a multichannel video programming distributor that is directly or indirectly conditioned on carriage of any other programming affiliated with such sta-
tion (or with a person who owns or controls, is owned or
to, or is under common ownership or control
with such station).”.

(b) No Effect on Prior Agreements.—The
amendment made by subsection (a) shall apply with re-
pect to retransmission consent agreements entered into
after the date of the enactment of this Act.

SEC. 4. RULEMAKING ON BLOCKING OF ONLINE CONTENT
DURING NEGOTIATIONS.

Not later than 6 months after the date of the enact-
ment of this Act, the Federal Communications Commis-
sion shall complete a rulemaking proceeding to determine
whether, during retransmission consent negotiations or
after the parties to such negotiations reach an impasse
resulting in the expiration of an existing retransmission
consent agreement, the blocking of online content owned
by or affiliated with a television broadcast station (or a
person who owns or controls, is owned or controlled by,
or is under common ownership or control with such sta-
tion) constitutes a failure to negotiate in good faith under
section 325(b)(3)(C)(ii) of the Communications Act of
1934 (47 U.S.C. 325(b)(3)(C)(ii)).
SEC. 5. CABLE SERVICE TIERS.

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

(b) RETRANSMISSION CONSENT SERVICE TIER.—

(1) IN GENERAL.—Section 623(b) of the Communications Act of 1934 (47 U.S.C. 543(b)) is amended by adding at the end the following:

“(9) RETRANSMISSION CONSENT SERVICE TIER.—

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

“(B) SUBJECT TO RATE REGULATION.—The retransmission consent service tier described in subparagraph (A) shall be subject to rate regulation under this Act to the same extent as the basic service tier described in paragraph (7).”.

(2) PROHIBITION ON CERTAIN BUNDLING.—

Section 623(b)(8)(A) of the Communications Act of
1934 (47 U.S.C. 543(b)(8)(A)) is amended to read as follows:

“(A) PROHIBITION.—A cable operator may not require the subscription to any tier other than the basic service tier required by paragraph (7) as a condition of access to, or discriminate between subscribers to the basic service tier and other subscribers with regard to the rates charged for—

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

“(ii) the retransmission consent service tier described in paragraph (9).”.

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

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

SEC. 6. FCC STUDY OF SPORTS PROGRAMMING COSTS.

For the first year that begins after the date that is 6 months after the date of the enactment of this Act and each year thereafter, the Federal Communications Com-
mission shall conduct a study and submit to Congress a report on the costs paid by multichannel video programming distributors (as defined in section 602 of the Communications Act of 1934 (47 U.S.C. 522)) for carriage of regional and national television sports networks in the top 20 regional sports markets, as determined by the Commission.