We ought not have selectively edited comments. That is the final point.

The gentleman from North Carolina revealed the problem that we have here a few minutes ago when he said that the reason why there are blank spots on these pages is because they were edited that way. Well, we do not think that the public ought to get edited information in this case. We think that there is a big enough problem that has been identified in the House of Representatives that the public ought to have access to the transcripts and what was before the committee.

That is all this resolution asks. It does not ask any more than that. It seems to me it is a resolution that can be adopted by the House in good conscience because at that point we will have said to the public, "Yes, we agree, you should know what went wrong and you should know how we intend to correct it."

With that, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DERRICK). For what purpose does the gentleman from Wisconsin [Mr. KLECZKA] rise?

MOTION OFFERED BY MR. KLECZKA

Mr. KLECZKA. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. KLECZKA moves to lay the resolution on the table.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Wisconsin [Mr. KLECZKA].

The question was taken, and on a division—demanded by Mr. WALKER—there were—ayes 18, noes 17.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 223, nays 196, not voting 15, as follows:

[Roll No. 307]

YEAS—223

Abercrombie	Brewster	de la Garza
Ackerman	Brooks	DeFazio
Alexander	Browder	DeLauro
Anderson	Brown	Dellums
Andrews (ME)	Bryant	Derrick
Andrews (TX)	Bustamante	Dicks
Annunzio	Byron	Dingell
Anthony	Campbell (CO)	Dixon
Applegate	Cardin	Donnelly
Aspin	Carr	Dooley
Atkins	Chapman	Downey
AuCoin	Clay	Durbin
Barnard	Clement	Dwyer
Bellenson	Coleman (TX)	Early
Bennett	Collins (IL)	Eckart
Berman	Collins (MI)	Edwards (CA)
Bevill	Condit	Edwards (TX)
Bilbray	Conyers	Engel
Blackwell	Cooper	Espy
Bonior	Cox (IL)	Fascell
Borski	Coyne	Fazio
Boucher	Cramer	Flake
Boxer	Darden	Foglietta
Ford (MI)	Mazzoli	Russo
Frank (MA)	Mavroules	Sabo
Frost	McCloskey	Sanders
Gaydos	McCurdy	Sangmeister
Gejdenson	McDermott	Sarpalius
Gephardt	McHugh	Savage
Geren	McNulty	Sawyer
Gonzalez	Mfume	Schenck
Gordon	Miller (CA)	Schroeder
Guarini	Mineta	Schumer
Hall (OH)	Mink	Serrano
Harris	Moakley	Sharp
Hayes (IL)	Mollohan	Sikorski
Hayes (LA)	Montgomery	Sisisky
Hefner	Morella	Skaggs
Hertel	Mrazek	Skelton
Hoagland	Murtha	Slaughter
Hochbrueckner	Nagle	Smith (FL)
Horn	Natcher	Smith (IA)
Hoyer	Neal (MA)	Spratt
Hutto	Neal (NC)	Stallings
Jefferson	Nowak	Stark
Jenkins	Oakar	Stenholm
Johnson (SD)	Oberstar	Stokes
Johnston	Obey	Studds
Jones (GA)	Olin	Swift
Jones (NC)	Olver	Synar
Jontz	Ortiz	Tanner
Kanjorski	Orton	Tauzin
Kaptur	Owens (NY)	Thornton
Kennedy	Owens (UT)	Torres
Kennelly	Panetta	Torricelli
Kildee	Parker	Towns
Kleczka	Pastor	Traficant
Kopetski	Patterson	Unsoeld
Kostmayer	Payne (NJ)	Vento
LaFalce	Payne (VA)	Visclosky
Lantos	Pease	Volkmer
LaRocco	Pelosi	Washington
Lehman (CA)	Perkins	Waters
Lehman (FL)	Peterson (MN)	Waxman
Levin (MI)	Pickett	Weiss
Levine (CA)	Pickle	Wheat
Lewis (GA)	Price	Whitten
Lipinski	Rangel	Wilson
Lloyd	Reed	Wise
Long	Richardson	Wolpe
Lowey (NY)	Rios	Wyden
Luken	Roe	Yates
Manton	Rose	Yatron
Markey	Rostenkowski	
Martinez	Rowland	
	Roybal	

NAYS—196

Allard	English	Johnson (TX)
Allen	Erdreich	Kasich
Andrews (NE)	Evans	Klug
Archer	Ewing	Kolbe
Armey	Fawell	Kyl
Bacchus	Fields	Lagomarsino
Baker	Fish	Lancaster
Ballenger	Ford (TN)	Leach
Barrett	Frenzel (CT)	Lent
Barton	Gallegly	Lewis (CA)
Bateman	Galle	Lewis (FL)
Bentley	Gekas	Lightfoot
Bereuter	Gibbons	Livingston
Billrakis	Gilchrest	Lowery (CA)
Bliley	Gillmor	Machtley
Boehlert	Gilman	Marlenee
Boehner	Gingrich	Martin
Broomfield	Glickman	Massoli
Bruce	Goss	McCandless
Bunning	Gradison	McCollum
Burton	Grandy	McCrery
Callahan	Green	McDade
Camp	Gunderson	McEwen
Campbell (CA)	Hall (TX)	McGrath
Carper	Hamilton	McMillan (NC)
Chandler	Hammerschmidt	McMillen (MD)
Clinger	Hancock	Meyers
Coble	Hastert	Michel
Coleman (MO)	Hefley	Miller (OH)
Combest	Henry	Miller (WA)
Costello	Herger	Mottinari
Cox (CA)	Hobson	Moorhead
Crane	Holloway	Moorhead
Cunningham	Hopkins	Morella
Dannemeyer	Horton	Morrison
Davis	Houghton	Murphy
DeLay	Hubbard	Myers
Dickinson	Huckaby	Nichols
Doolittle	Hughes	Nussle
Dorgan (ND)	Hunter	Oxley
Dornan (CA)	Inhofe	Packard
Dreier	Ireland	Pallone
Duncan	Jacobs	Paxon
Edwards (OK)	James	Penny
Emerson	Johnson (CT)	Peri
Porter	Barton	Taylor (MS)
Poshard	Schaefer	Taylor (NC)
Purcell	Schiff	Thomas (CA)
Quillen	Schulze	Thomas (WY)
Rahall	Sensenbrenner	Upton
Ramstad	Shaw	Valentine
Ravenel	Shays	Vander Jagt
Regula	Shuster	Vucanovich
Rhodes	Skeen	Walker
Ridge	Slattery	Walsh
Riggs	Smith (NJ)	Weber
Rinaldo	Smith (OR)	Weldon
Ritter	Smith (TX)	Williams
Roberts	Snowe	Wolf
Roemer	Solomon	Wylie
Rogers	Spence	Young (AK)
Rohrabacher	Staggers	Young (FL)
Ros-Lehtinen	Stearns	Zeliff
Roth	Stump	Zimmer
Roukema	Sundquist	
Santorum	Sweet	

NOT VOTING—15

Coughlin	Hatcher	Ray
Dymally	Hyde	Schaefer
Feighan	Kolter	Thiel
Goodling	Laughlin	Thomas (GA)
Hansen	Peterson (FL)	Traxler

□ 1524

Mr. HEFLEY and Mr. SLATTERY changed their vote from "yea" to "nay."

Mr. SARPALIUS and Mr. JONES of North Carolina changed their vote from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I regret I was unavoidably detained with a constituent matter and missed voting on rollcall No. 307, a motion to table House Resolution 528, to make public direct transcripts of proceedings related to the House post office. Had I been present, I would have voted "no."

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. DERRICK). The gentleman will state it.

Mr. DANNEMEYER. Mr. Speaker, my parliamentary inquiry is, when is it in order to remove this matter that we have just now placed on the table from the table? When is it in order to remove from the table that which we have now placed on the table?

The SPEAKER pro tempore. The motion to take from the table is not a privileged motion.

Mr. DANNEMEYER. When is it in order to make that motion?

The SPEAKER pro tempore. It is not in order.

Mr. DANNEMEYER. Mr. Speaker, a further parliamentary inquiry: Would that kind of a motion be available in the 103d Congress?

The SPEAKER pro tempore. That is not a parliamentary inquiry.

HR 4850

CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 523 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 523

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4850) to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and said substitute shall be considered as having been read. No amendment to said substitute shall be in order except those made in order by section 2 of this resolution or the amendments printed in the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report and shall be considered as having been read. Said amendments shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report. All points of order against the amendments printed in the report are hereby waived.

SEC. 2. It shall be in order at any time for the chairman of the Committee on Energy and Commerce, or his designee, to offer amendments en bloc, consisting of amendments and modifications in the text of any amendment which are germane thereto, printed in the report of the Committee on Rules. Said amendments en bloc shall be considered as having been read, shall not be subject to amendment, or to a demand for a division of the question in the House or in the Committee of the Whole. Such amendments en bloc shall be debatable for not to exceed twenty minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. The original proponents of the amendments offered en bloc shall have permission to insert statements in the Congressional Record immediately before the disposition of the amendments en bloc.

SEC. 3. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 4. After passage of H.R. 4850, it shall be in order to move to take from the Speaker's table the bill S. 12 and ask for its immediate consideration in the House. It shall then be in order to move to strike out all after the enacting clause of S. 12 and insert in lieu thereof the provisions of H.R. 4850 as passed by the House. It shall then be in order to move to insist on the House amendment to S. 12 and request a conference with the Senate thereon.

□ 1530

The SPEAKER pro tempore (Mr. TORRES). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. MOAKLEY asked and was given permission to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, House Resolution 523 is the rule providing for consideration of H.R. 4850, the Cable Television Consumer Protection and Competition Act of 1992. The rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Energy and Commerce Committee. It makes in order the Energy and Commerce Committee amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment.

The rule makes in order only the amendments printed in section 2 of the resolution and amendments printed in the report of the Committee on Rules. These amendments will be considered in the order and manner specified in the report and for the time specified. The amendments will not be subject to amendment except as specified and all points of order against the amendments are waived.

The rule also permits the chairman of the Energy and Commerce Committee or his designee to offer amendments en bloc consisting of the text of amendments printed in the report, with germane amendments and modifications. The amendments en bloc are not amendable nor subject to a demand for a division and will be debatable for 20 minutes. All points of order against the amendments en bloc are waived. In addition, the original authors of the en block amendments have authority to insert statements in the CONGRESSIONAL RECORD.

The rule provides for one motion to recommit with or without instructions.

Finally, the rule facilitates the ability to go to conference with the Senate bill, S. 12. It provides that, upon adoption of the resolution, the House is considered to have taken S. 12 from the Speaker's table, stricken all after the enacting clause and inserted the provisions of H.R. 4850, as passed by the House.

Mr. Speaker, this rule will allow the House to consider the Cable Television Consumer Protection and Competition Act of 1992. This bill requires the FCC to establish a rate regulation system for the basic service tier, and authorizes the Commission to reduce rates beyond this tier if a cable operator is charging unreasonable rates. It also requires cable operators to carry local commercial and public television stations; requires the FCC to set standards for customer service; and includes provisions designed to spur competition to the cable business.

Mr. Speaker, H.R. 4850 protects consumers by preventing unreasonable rate hikes, by improving the cable industry's customer service practices, and by promoting the development of a competitive marketplace. House Resolution 523 is a carefully crafted rule that will expedite consideration of this important legislation. I urge my colleagues to support the rule and the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say to the membership that on this side of the aisle we do not intend to ask for a recorded vote on this rule.

Mr. Speaker, I rise in support of this rule for consideration of the Cable Television Consumer Act. House Resolution 523, while not a completely open rule, does not discriminate against any Republican Member. It does not gag any Republican Member who indicated the desire to offer germane amendments to this bill. Although we in the minority generally have concerns with preprinting requirements and rules that limit amendments, we do believe that such requirements should be undertaken in a fair manner. This rule is fair. Therefore, I urge Members on both sides of the aisle to support it.

I would like to thank the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], for dealing with a complex subject and reporting a rule that will permit the House to address the important issues and work its will through the amendment process. I would also like to commend the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], the distinguished ranking Republican, the gentleman from New York [Mr. LENT], and the chairman of the Subcommittee on Telecommunications and Finance, the gentleman from Massachusetts [Mr. MARKEY] and the ranking member, the gentleman from New Jersey [Mr. RINALDO] from coming to the Committee on Rules and requesting a rule that would permit every germane amendment to be offered on this floor.

Mr. Speaker, I would like to take a moment to recognize the efforts of the ranking member on the committee, the gentleman from New York [Mr. LENT]. He has chosen to bring his distinguished career in the House to a close with this 102d Congress and return to Long Island. Needless to say, we are all going to miss him dearly. Our New York delegation will especially miss him.

Mr. Speaker, the chairman of the Committee on Rules has thoroughly

explained this modified closed rule. It provides up to an hour of general debate. It makes 17 amendments in order for consideration in the Committee of the Whole, including all 7 amendments submitted by Republican Members. It also permits the minority to have one motion to recommit with instructions, our traditional right.

Mr. Speaker, the administration opposes the committee bill, and the President's advisers will recommend a veto, if the bill is allowed in this present form. That is why I am supporting the rule, because it does allow amendments to be offered that would correct the problems which the administration might have with the bill.

I would like to submit the administration's statement of policy for the RECORD.

Mr. Speaker, the House will have an opportunity to consider a number of amendments that will improve the bill, including a clarifying substitute by the gentleman from New York [Mr. LENT], which, again, I would point out would allow the President to sign this bill. If the substitute of the gentleman from New York [Mr. LENT] is successfully passed on the floor, the President will be prepared to sign this bill.

The substitute that will be offered by the gentleman from New York [Mr. LENT] provides, I think, the best opportunity to craft a bill that can be accepted by the President. His substitute is very similar to the Cable Television Consumer Protection and Competition Act, which was passed by the House on a voice vote earlier during the 101st Congress, just 2 years ago.

Mr. Speaker, I again commend the chairman of the Committee on Rules for reporting a rule that is fair, I think, to both sides of the aisle. It does not gag any Member who would have germane legislative amendments, and it permits the minority to offer the Lent substitute and a motion to recommit with instructions.

Therefore, I urge everybody to support this rule.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, July 23, 1992.

STATEMENT OF ADMINISTRATION POLICY

H.R. 4850—CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992

The Administration strongly opposes sweeping reregulation of the cable television industry. If H.R. 4850, as reported by the House Energy and Commerce Committee, were presented to the President, his senior advisers would recommend a veto.

The Administration supports House passage of the amendment sponsored by Rep. Lent as an alternative to the reported version of H.R. 4850. The Lent amendment would eliminate or significantly modify many of the excessively regulatory provisions of H.R. 4850. It would also reduce one impediment to competition in the cable industry—the exclusive local franchise.

The Administration opposes the amendment to be offered by Rep. Tauzin concerning access to cable programs. It would restrict the discretion of cable programmers in distributing their product. Exclusive distribution arrangements are common in the entertainment industry and encourage the risk-taking needed to develop new programming. Requiring programming networks that are commonly owned with cable systems to make their product available to competing distributors could undermine the incentives of cable operators to invest in developing new programming. This would be to the long-term detriment of the American public. If competitive problems emerge in this area, they can and should be addressed under the existing antitrust laws.

The Administration opposes H.R. 4850 because:

It is anticonsumer. It would raise cable operating costs by $760 million to $1 billion annually. Rates would rise in many communities, and consumers additionally would be denied the benefits of improved service quality, new products and services, and expansion of cable to areas not now served.

It is reregulatory. It establishes a broad, intrusive regulatory structure that fails to provide incentives for cable systems to respond to consumer needs. The regulatory costs of the bill to Federal, State, and local governments would be $22 million to $60 million annually. These costs would be paid by taxpayers or consumers. The Administration believes that competition, rather than reregulation, creates the most substantial benefits for consumers and the greatest opportunities for American industry. Competition would drive down rates and improve service quality for consumers, while promoting industry development.

It would restrict foreign ownership of U.S. cable systems and other multichannel video delivery and programming-related services. Such a restriction invites retaliation by other countries and violates existing international obligations. It could stifle the growing investment of U.S. firms in foreign cable systems. It also threatens negotiations to: (1) eliminate the use of trade restrictions by other countries, and (2) open foreign government procurement to U.S. telecommunications products and services, an area in which the U.S. is in an increasingly strong position.

It would require cable operators and, perhaps, some direct broadcast satellite (DBS) operators to carry the signals of virtually all television stations. The signals would have to be carried regardless of whether those providers believe that the programming reflects the desires and tastes of their subscribers. The Administration believes that such "must carry" requirements would raise serious First Amendment questions by infringing upon the editorial discretion exercised by cable and DBS operators in their selection of programming.

It would interfere unnecessarily with business investment decisions made by cable operators. For example, the bill would apparently require the Federal Communications Commission (FCC) to adopt rules limiting the number of subscribers a multichannel video operator may serve nationwide. This would be done despite the lack of evidence of anticompetitive behavior by cable operators and the existence of antitrust laws to remedy such conduct should it occur. H.R. 4850 would also generally bar the sale of a cable system within three years after its purchase or construction. Such a provision would unnecessarily intrude into ordinary business decisions made by cable operators and prospective purchasers.

It would require that the FCC promulgate rules limiting the ability of multichannel video distributors to acquire ownership interests in video programming. Such vertical integration both increases the supply and quality of programming and permits operational efficiencies that ultimately benefit subscribers. If individual abuses occur, they can and should be dealt with under the antitrust laws.

The Administration is well aware of the widespread consumer concern about the structure and performance of the cable television industry. The task is to address these concerns in a way that benefits consumers and does not jeopardize the substantial benefits that the cable industry has produced for consumers since passage of the 1984 Cable Act. The Administration is convinced that this can best be accomplished by removing barriers to increased competition in the video services marketplace. The Administration, therefore, would support legislation to remove, subject to adequate safeguards, current prohibitions against telephone company provision of video programming and eliminate other barriers to competition in the video marketplace. The action of the FCC on July 16, 1992, in adopting a "video dialtone" framework for telephone company participation in video markets is an important step toward competition. Increased competition is the only way to ensure that cable legislation will benefit, rather than harm, American consumers.

Mr. Speaker, I include for the RECORD a copy of the statement of administration policy to which I referred.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, for the purposes of debate only, I yield 4 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

(Mr. RICHARDSON asked and was given permission to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, first of all, I rise in support of the rule.

□ 1540

Second, two individuals deserve enormous credit, the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from Michigan [Mr. DINGELL], both of whom have constructed a bill that deserves very, very strong attention from this House.

Mr. Speaker, there are a lot of industry squabbles that are involved in this bill, but nonetheless, they have made the consumer provisions the heart of the legislation: They are: rate protection for cable consumers, universal customer service standards, ensuring that local over-the-air broadcast stations are carried on cable systems, and finally protecting customers from egregious behavior on the part of a limited number of cable operators.

I think what we must do, Mr. Speaker, is pass a bill that will be signed into law. Let us pass a good, moderate bill that does the job, that provides a solution to four issues that I mentioned before. Let us not make just a political statement on a whole set of other issues. Three years have been put into this bill. Let it not go to waste.

The second point that I want to make is that while there are legitimate consumer measures that the gentleman from Massachusetts [Mr. MARKEY], the gentleman from Michigan [Mr. DINGELL], and the minority have put in and that should be preserved, this is not, as one consumer organization claims, the consumer issue of the dec-

ade. We need to put this bill in perspective. This is an important consumer issue. Our constituents do want us to deal with cable rates, but it is also a vehicle for three powerful industries, the cable industry, the broadcast industry, and the program production industry, to settle disputes that will favor one group over the other.

I hope the final version of the cable bill preserves a regulatory environment that allows the cable industry and emerging competitors like DBS operators to have the freedom and incentive to invest in new programming, services, and infrastructure. From my perspective, a cable bill does need to be passed. So if the question is: Does the cable industry need new rules? The answer is yes. But does it need to be overregulated to death? The answer is no. Do they deserve to be regulated like a utility? The answer is no.

The 1984 Cable Act, for all of its shortcomings, was a success. Here is why. In 1984, 37 million Americans received cable. Now there are over 60 million Americans getting cable. And the average cable system in 1984 had 24 channels. Now the average system has 30 to 53 channels.

And the cable industry has produced an enormous amount of quality new programming: sports events, children shows, news, public affairs programming, entertainment, gavel-to-gavel coverage of the Congress, gavel-to-gavel coverage of the conventions, not by the broadcasting industry, but by cable.

We should build on the successes of the Cable Act and make changes that are fair, but not punitive.

Mr. Speaker, we have before us a good bill. There are a lot of amendments that are killer amendments and that would derail this legislation. I do believe that we have a compromise that can be signed. We need to move into conference with the Senate. This is important legislation, maybe not the most important consumer bill in the last 10 years, but clearly a bill that should become law. The consumer wants action, and at the same time we must deal with three industries with billions of dollars in revenue. Let us not tilt the balance among these industries unfairly. Let us keep it balanced, and most importantly, let us make sure that we pass legislation that still allow for new investment and incentives for programming and ultimately the American consumer.

Mr. SOLOMON. Mr. Speaker, I yield 7 minutes to the gentleman from Texas [Mr. FIELDS], a member of the Committee on Energy and Commerce.

[Mr. FIELDS asked and was given permission to revise and extend his remarks.]

Mr. FIELDS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the rule on H.R. 4850, the Cable Television Consumer Protection and Competition Act. I say I oppose this rule with all due respect to the gentleman from Massachusetts [Mr. MOAKLEY], and the ranking member, the gentleman from New York [Mr. SOLOMON], because I understand all of the political dynamics that are at work on this particular piece of legislation.

However, it is important for people to know that this rule prohibits my colleague, the gentleman from Ohio [Mr. ECKART], and myself from offering an amendment which is a germane amendment to the cable bill that would give broadcasters the right to control their only product, their signal.

Mr. Speaker, I am astounded that we have been denied the right to argue an issue that is central to the cable debate, I would say central to the future of television communication policy in this country.

As we discuss the legislation before us today, many statements will be made about the monopoly status of cable and about the need to foster competition in the industry. Yet the gentleman from Ohio [Mr. ECKART] and myself have been denied the opportunity to offer an amendment which would strengthen the competitive relationship between the broadcasters and cable.

While Congress should not be in the business of picking winners or losers in this debate, we do have an obligation to assure that the playing field is level. The Eckart-Fields amendment, otherwise known as retransmission consent, would have given local TV stations the right to negotiate with cable operators over the terms and conditions of their carriage on cable.

Currently broadcasters have no rights in the video marketplace vis-a-vis the cable. Under current law a local cable operator can take a local broadcaster's signal, the only product of the broadcaster, without permission of the broadcaster, and for free. The cable operator then turns around and sells that signal to the cable consumer at a monopoly price, and uses the profit to create competing programming which cuts into the broadcaster's audience and his only source of revenue, the advertising market.

Cable systems routinely pay the Discovery Channel, Cable News Network, TNT, and others to carry their programming, so why should they not pay the local broadcaster to carry the local news as well?

I think it is important to remember that in 1927 in the Communications Act Congress gave the right to control that signal to the broadcaster, be it TV or radio. In 1969, the FCC gave a special exemption to a fledgling industry, the cable industry. Now we have a $20 billion industry.

The amendment that the gentleman from Ohio [Mr. ECKART] and I want to offer would have restored the original congressional intent. However, in essence broadcasters are being forced to subsidize their chief competitor, which has evolved into a healthy $20 billion giant. I would ask my colleagues here in the House, can anyone think of a single other business where one company uses its competitor's products for free and then competes with that competitor by using the profits from selling that product? The gentleman from Ohio [Mr. ECKART] and I cannot think of any such situation.

Retransmission consent would have addressed the existing competitive imbalance by resolving the issue fairly in the marketplace to negotiations between the local broadcaster and the local cable operator.

Mr. Speaker, retransmission consent language is already in the Senate cable bill. It was approved by the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce before being removed at the full committee level for jurisdictional reasons. If we had been allowed the opportunity to debate the issue today, I am convinced that retransmission consent would have overwhelmingly passed the House.

I am sorely disappointed that the Committee on Rules has denied the Members of this Chamber the opportunity to support an amendment that is so vital to the future of free over-the-air television. It is clear that an open discussion was refused in order to please certain special interests who oppose our proposal.

Mr. Speaker, this action sends a terrible signal that we are satisfying the interests of the wealthy and the powerful at the expense of the viewing public. The issue central to this amendment was proprietary rights: who controls the signal, who controls the developed product. The result could be loss of local news. The result could be the loss of local public interest programming.

The loss of this particular amendment could mean at some point there is no free over-the-air sports.

Mr. ECKART. Mr. Speaker, will the gentleman yield?

Mr. FIELDS. I am glad to yield to my friend, the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Speaker, my colleague's statement expresses more eloquently than I could the view about how and why this matter should have been considered, known as retransmission consent. There is no doubt in my mind that we would have in fact prevailed. It was in fact germane, and it went to the central question of whether or not local broadcasters, the Nation's electronic front porch, will still have the standing, the wherewithal, and the ability to tell us what is happening in our neighborhoods and backyards.

☐ 1550

But I join my colleagues in the expression of frustration of having worked out in the gym for 6 months waiting for the championship fight, and now finding out that it had been canceled. But I express to my colleagues my sincere hope that we are going to get that title belt anyway.

and I feel confident and hopeful as this bill progresses that we will recognize the wisdom of the Senate provision which was adopted overwhelmingly in the other body, and which hopefully now the conferees can ultimately accede.

I thank my colleague for yielding.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Vermont [Mr. SANDERS].

(Mr. SANDERS asked and was given permission to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, in 1984, as part of the deregulation swindle pushed by the Reagan administration and some Members of Congress, the Government withdrew its rate protection for cable TV consumers. Despite the fact that in community after community, in Vermont and throughout this country, there is no competition between different companies—that monopolies exist—the Government said to the cable TV industry, "You can raise your rates as high as you want. You can squeeze the consumer as hard as you want."

And what have been the results? The General Accounting Office determined that cable rates, on the national level, increased 61 percent from November 1986 to April 1991. And in recent years, cable TV rates have gone up even faster. They are going up off the wall.

Mr. Speaker, President Reagan and Members of this Congress deregulated the savings and loan industry, and the taxpayers of this country will be paying hundreds of billions of dollars in additional taxes as a result. President Reagan and Members of this Congress deregulated the cable TV industry, and consumers from one end of this country to the other are paying billions more than they should be paying in rates for the basic tier of cable TV services.

Mr. Speaker, it is not acceptable to me that in my own State of Vermont, according to the National Association of Broadcasters, rates for similar channel offerings since 1986 have gone up by 58 percent in Bennington, 123 percent in Montpelier 119 percent in St. Johnsbury, 34 percent in Burlington, and 34 percent in Rutland.

Mr. Speaker, where competition does not exist and a monopoly is in place, the Government has a legitimate right to make certain that citizens, especially our elderly citizens on limited incomes, can receive basic cable TV service at a rate that they can afford. That is a right of the people.

Mr. Speaker, last year I held hearings in Vermont on this issue and in my view, the people want regulatory protection. They want some control on the escalating costs of basic rates for cable TV, and this legislation begins that process.

Mr. Speaker, I urge support for the rule and support for the entire legislation.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Alabama [Mr. CALLAHAN].

(Mr. CALLAHAN asked and was given permission to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker, I stand to echo the comments of the gentleman from Ohio [Mr. ECKART] and the gentleman from Texas [Mr. FIELDS] with respect to our disappointment that retransmission consent was not included in the rule, for I, too, think it would have passed.

Mr. Speaker, one of the most important services that our local television broadcasters provide is local news. That includes weather bulletins, public service programming, and public affairs programs as well as local happenings.

Because I feel strongly that local news is so crucial, I was supportive of the Eckart-Fields amendment to H.R. 4850, the Cable Television Consumer Protection and Competition Act, and am disappointed that it will not be offered. This amendment would give local broadcasters the opportunity to negotiate their terms of carriage with local cable operators and develop a second revenue stream which can help support the cost of local news and other programming. If local stations cannot bargain on the open market for the value of their signal—which is their only product—one of the first areas that local stations will have to cut back on is local news and other programming. In fact, we're already seeing that happen at many news departments around the country.

This right of retransmission consent, which the Eckart-Fields amendment would provide, is a local right. This is not, as some allege, a network bailout for Dan Rather or Jay Leno. Networks are not a party to these negotiations, except in those few instances where they own local stations themselves.

This is a fundamental rights issue, however, about what one business can do with the product of another.

Congress should act to ensure that local TV news and other local programming can continue to serve the American people. If we are not able to address this issue today, I urge the leaders of my Committee on Energy and Commerce to favorably consider it in conference.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, I rise in strong support of the rule, House Resolution 523. It is a good rule, and deserves the support of our colleagues.

I would like to thank the Committee on Rules, and particularly its chairman, Mr. MOAKLEY, for the time that they spent yesterday crafting this rule. This is a complicated matter, and I am grateful that the committee was willing to hear from so many members on issues that are frequently difficult to comprehend.

In its wisdom, the Committee on Rules did not make in order amendments that are nongermane. This was a wise decision, particularly in that it will keep the House from debating extraneous matters that are time-consuming and complicated. I know that some who hoped to offer amendments are disappointed; however, in my view the House is well served by a rule of this type.

Two years ago, the House was able to pass a cable reregulation bill under suspension of the rules, with 40 minutes of debate. I very much regret that we will be unable to repeat that performance today. But the rule will help us to move this bill as expeditiously as possible, and we will do our best to avoid unnecessary delays.

Frequently, telecommunications legislation addresses disputes between what I like to characterize as the very rich and the very wealthy. In my view, this rule has helped us to avoid that situation. The rule has focused on the heart of the legislation—customer rates and service for cable subscribers. We are here to legislate on behalf of our constituents, and this rule will keep us on track.

I know that many of our colleagues are disappointed that the rule did not make in order consideration of the Eckart-Fields retransmission-consent amendment. I supported their right to offer that amendment. It is germane, and it addressed an important issue with respect to the relationship between cable system operators and television broadcasters.

But while I understand the disappointment that many here feel, I would remind my colleagues that the Senate companion bill, S. 12, contains a retransmission consent provision. Retransmission consent will be on the table in the House-Senate conference, and Members will be able to express their views on the conference report, which will reflect the outcome of that discussion.

Mr. Speaker, we have a long day ahead of us today, and I will not take more of the House's time. I would like to reiterate my appreciation to the Rules Committee and Chairman MOAKLEY for this rule, and urge my colleagues to support its adoption.

Mr. SOLOMON. Mr. Speaker, I yield 3½ minutes to the gentleman from California [Mr. ROHRABACHER], the star of the "Good Morning Show" this morning.

Mr. ROHRABACHER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I do not have any great problem with this rule, but I rise in strong opposition to H.R. 4850.

Mr. Speaker, this bill's supposed purpose is consumer protection. Admittedly, people are up in arms about the rates charged by cable TV companies. But Mr. Speaker, this bill is ultimately anticonsumer, despite its good intentions. And despite its good intentions, this bill will end up decreasing, over time, the choices available to viewers and the quality of programming. Increased costs, decreased choice, lower quality—I ask you, is this protecting the consumer?

Granted, consumers are angry over their cable TV rates. But increased regulation is not the answer to high costs; it never is. No; the answer instead is increased competition. That is what Congress should be fostering, not additional burdensome, counterproductive regulation.

Instead of focusing on and requiring must-carry provisions, for example, we should instead be forbidding exclusive cable franchising practices which create cable monopolies. We should also be working to let the Nation's telephone companies into the cable marketplace—and to let the nation's cable companies into the switched-network telephone marketplace. Let us let the phone companies and the cable companies fight it out with each other over who can provide the best service, not only in the video market but in the telecommunications market as well.

Mr. Speaker, new technologies always foster increased competition, and new communications and information technologies are on their way. Direct broadcast satellite systems, for example are about to become commercially available. Fiber optics, digital television, advanced interactive information services, world-wide cellular telephone systems, and much, much more will also soon be here. In such a hothouse atmosphere of technological change who knows what other new capabilities and services will result? Which is precisely the point, Mr. Speaker.

This is the time to free this vital industry from the burden of regulation, not saddle innovation to the control of politicians and bureaucrats. We can expect expansion of service and product offerings, improved quality, and dramatic innovation as new technologies come on line—if there is competition, and if businessmen and entrepreneurs are free to manage their affairs, rather than be shackled with political and bureaucratic regulation.

Mr. Speaker, I urge my colleagues to withstand the temptation of offering something for nothing to our constituents at the expense of the future. I urge my colleagues to defeat this bill, although I have no great complaint with the rule.

□ 1600

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, I rise in strong support of this rule for the consideration of H.R. 4850, the Cable Television Consumer Protection and Competition Act of 1992. I support this rule and I support H.R. 4850, legislation reported by the Energy and Commerce Committee to reregulate the cable television industry.

Mr. DREIER of California. Mr. Speaker, I yield 3½ minutes to the gentleman from Louisiana [Mr. HOLLOWAY], a hard-working member of the committee.

Mr. Speaker, this important legislation would give consumers effective and immediate relief from unfair and unreasonable cable television rates and service. The bill would require the Federal Communications Commission to establish a rate regulation scheme for a basic tier of service that would include all broadcast signals and any public, educational, or government access programming.

The Commission would also be authorized to reduce rates for cable programming services outside of the basic rate regulated tier that are determined to be unreasonable.

In this respect, the bill responds to the concerns many of our constituents have expressed: unreasonable and excessive cable television rates must be brought under control.

Mr. Speaker, I also want to take this opportunity to thank the Rules Committee for making my substitute amendment to the Tauzin amendment on program access in order.

Mr. Speaker, should Congressman TAUZIN offer his amendment on program access, I plan to offer a substitute with my good friend and colleague, the gentleman from North Carolina [Mr. ROSE].

The Manton-Rose amendment is virtually identical to the program access provision contained in the cable reregulation bill that unanimously passed the House during the 101st Congress. The Manton-Rose amendment is a bipartisan compromise that has the strong support of the chairman of the Energy and Commerce Committee, the distinguished gentleman from Michigan [Mr. DINGELL] and the ranking minority member of the committee, my friend, the gentleman from New York, [Mr. LENT]

The Manton-Rose amendment strikes a balance between the need to promote competition in the multichannel video marketplace and the need to protect the legitimate intellectual property rights of video programmers. I will speak in greater detail on the amendment when it is offered during consideration of the bill later today.

Mr. Speaker, I urge members to vote for the rule and to support the Manton—Rose substitute to the Tauzin amendment on program access during the consideration of this important consumer protection legislation.

Mr. HOLLOWAY. Mr. Speaker, I rise in opposition to the rule. I am troubled by the fact that the amendment on retransmission consent for broadcasters which was to be offered by my colleague from Texas has not been made in order.

The Cable Act of 1984 has been successful, in that it has allowed cable to flourish. Dozens of new programming options have been created, and cable has grown beyond anyone's expectations. These successes have not been without cost, however, and that is why we are considering the bill before us today.

As we debate solutions to the problems that have arisen with cable, I agree with those who favor marketplace solutions wherever possible. We should avoid heavyhanded regulations, and look to competition as the cure. In my view, retransmission consent is a prime example of such an approach. It is designed to allow local broadcasters and local cable operators to address competitive issues with a minimum of Government intrusion.

The amendment establishing retransmission consent is simple. It provides that no multichannel provider may use the signal of a local broadcaster without first obtaining permission. A broadcaster's exercise of the must carry option would constitute such a grant of permission. For those who utilize their retransmission rights, it does not require payments, or impose taxes, fees, or surcharges. It does not affect any of the commercial networks. Retransmission consent simply establishes a mechanism by which two established commercial interests can negotiate with each other and both interests bring something of value to these negotiations.

While retransmission consent will allow such negotiations for the first time, it does not require an agreement or mandate that the parties come to terms. It places the broadcaster who opts for retransmission consent at risk, because the broadcaster must choose between must carry and retransmission consent and then enter into negotiations with the cable operator. If there is no agreement, the broadcaster can lose access to that part of his market that subscribes to cable for 3 years. Also, it is important to keep in mind that the broadcaster who deals with several or many cable systems is not required to lock in to retransmission consent or must carry for all of those systems. The broadcaster can choose between the two options for each cable system within the broadcasters market.

I just speak on these issues, because I am in a small market, 50,000-people station. News cost is tremendous, and I think each and every one of us depend on the commercial stations' newscasts in our local markets. The cost is rising. We all know how the cost is rising on news on our local stations. They do it all. They do all the newscasts. The market on advertising is shrinking, because the cables are getting part of it. It is limited to start with.

In closing, retransmission consent is a marketplace mechanism that allows two business interests to try and reach

an agreement. It does not mandate any predetermined outcome. I am disappointed that we will not have the opportunity today to vote for this amendment.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Washington [Mr. SWIFT].

(Mr. SWIFT asked and was given permission to revise and extend his remarks.)

Mr. SWIFT. Mr. Speaker, I support H.R. 4850. However, an amendment, which to my disappointment has not been made in order, would have improved this bill significantly.

It was a procompetition amendment. It was a proconsumer amendment. It would have addressed a growing threat to something all Americans take for granted—that local TV stations are the principal means by which they can know and understand what is going on in their communities; the principal means by which their communities are reflected back to them.

In the last decade or so, much has changed in the way Americans receive their news and entertainment on their television sets. And, in the past, those local televisions stations provided all the services we call localism and made a lot of money doing it. Today, those same TV stations still provide those services—are still the only television service required by law, regulation, and license to provide those services.

But, during that time, the marketplace has changed dramatically. Local broadcast TV is no longer the gold mine it once was. Competition from new and diverse technologies has changed that. And that is OK. But if those broadcasters must compete with the added burden of providing local programming but with limitations on their ability to compete for revenue, the localism we take for granted can and will disappear with the TV stations themselves. None of the competitors to the local station are required to provide the viewing public with that localism service.

The amendment I wish had been made in order by this rule would have addressed this situation. It would have recognized broadcasters' retransmission consent rights, thus establishing fair competition in the local marketplace.

Further, retransmission consent relies on competition, itself—not regulation—to check any anticompetitive behavior of cable operators. It frees stations to negotiate with local cable systems without Government intervention or coercion. Retransmission consent does not intrude into the private business of either cable operators or local broadcasters. It permits negotiations, but does not dictate the terms of any agreements that these two parties choose to enter into. Indeed, it does not require that the two parties come to terms at all.

I believe that the majority of Members support legislation to address today's problems with the cable industry. But a retransmission consent provision would also protect broadcasters' rights in their signal, allow them to function more effectively in the marketplace and assure they can continue to provide the basic local service that only they have been required to offer since the Communications Act was first passed 58 years ago. I will vote for this rule, but it is unfortunate that we will not be able to include a retransmission consent provision in the legislation that will pass the House today.

□ 1610

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. CHANDLER], a very hard-working member of the Committee on Ways and Means who is going to be carrying his brilliance to the other body in January.

(Mr. CHANDLER asked and was given permission to revise and extend his remarks.)

Mr. CHANDLER. Mr. Speaker, I rise in opposition to the rule.

I am delighted to follow my fellow former broadcaster, the gentleman from Washington [Mr. SWIFT], in complaining about this rule.

Mr. Speaker, I rise today to express my dismay that the amendment to be offered by the gentleman from Texas [Mr. FIELDS] was not made in order. While I understand that there is varied opinion on this issue, I believe that it is an issue this House should have the opportunity to debate on the floor during debate on H.R. 4850.

The Fields amendment would have provided for a retransmission consent option for free, over-the-air broadcasters. The intent of the amendment was to give bargaining power to local broadcasters when negotiating the terms of cable carriage—not to serve as a subsidy for major networks. Unfortunately, we will not have the opportunity to fully address the merits of this proposal today.

Counter to what opponents may argue, retransmission consent is a local issue. It affects broadcasters and the public service which they provide to their communities. It is an issue of local stations, carrying local programming and news about local interests.

My first job out of college was with an ABC affiliate. In 1968, I began a 5-year period of reporting and anchoring with KOMO-TV in Seattle. I saw firsthand how valuable news and programming, produced by local broadcasters, is to communities. I also understand the impact that the cable industry has had on local television stations. Programming which serves the needs of a community are being rebroadcast by cable companies without any return to the affiliated or independent station for the effort and cost required to produce that public service.

Without a retransmission consent option, local broadcasters are literally being forced to subsidize their own competition. No industry should be subject to such an inequity. Broadcasters are merely asking to receive a portion of the payments that cable operators are already charging their customers for this service in their basic package rates.

Could you imagine a successful cable company which did not carry local broadcasting to its customers? Could you imagine turning on your television and instead of getting your local news on channel 4, your only news option was a superstation, or even a variety of superstations. I think my colleagues would agree that a great deal would be lost—a sense of community.

Cable operators will argue that they would never elect not to carry local networks. However, if the retransmission consent option is not considered, we may find that local networks are unable to survive the increasing revenue losses. Who then would be left to cover the story on a local high school football team winning a State championship, or the heroics of a little girl whose 911 emergency call saved her mother's life?

Mr. Speaker, this amendment would have provided a practical and reasonable response to one major inequity in today's video marketplace. I urge all of my colleagues to support retransmission consent later in the legislative process.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

(Mr. COOPER asked and was given permission to revise and extend his remarks.)

Mr. COOPER. Mr. Speaker, I would like to alert our colleagues to a very important amendment that is going to be coming up on this very important cable bill. The amendment is the Tauzin amendment. I would like to urge all our colleagues, those on the floor and back in their offices, to focus on that amendment. It is the heart and soul of this bill.

People on both sides of the aisle have said what they really want in cable TV is competition. Competition is the best way to lower prices for cable TV and improve service. Competition is the answer, and the only real way to get competition is through the Tauzin amendment program access. What program access does is allow competitive cable companies, in some cases these are going to be rival cable companies themselves. Sometimes they are going to be satellite dish companies. Sometimes they are going to be wireless cable companies. Lots of technologies are involved.

What the amendment does is give these companies a chance to buy the hot program, a chance to compete in the marketplace to buy the hot shows that people want to watch on TV because you can have cable company A and you can have cable company B, but if cable company B has none of the hot shows, nobody is going to want to subscribe. You are not going to have any

real competition. So program access may sound like a technical amendment, but it is a vitally important amendment.

This bill is not a good bill without the Tauzin amendment.

I would also like to urge my colleagues not to be fooled by the Manton substitute. It looks good on the surface. It does not, however, provide real program access. It does not give these competitive cable companies a chance to go out and really bid on the program.

For example, it may help some satellite dishes, the 10-foot wide dishes, the old-fashioned dishes. It does nothing for the new dishes that everybody wants, the 2-foot wide dishes, the dishes that you can carry home in the trunk of your car, the dishes that you can set up easily where you live, including on your condo balcony or your apartment balcony, the dishes that are going to transform the video marketplace of this great country.

Let us have real competition in the delivery of multichannel video services. To do that, vote "no" on Manton, vote "yes" on Tauzin.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Wisconsin [Mr. KLUG], another of our many television personalities.

(Mr. KLUG asked and was given permission to revise and extend his remarks.)

Mr. KLUG. Mr. Speaker, I was prepared to rise today in support of the amendment which should have been offered by my colleagues, the gentleman from Texas and the gentleman from Ohio. The amendment, as we have just heard several speakers talk about, was retransmission for boardcasters. I am disheartened by the fact that I am not going to have the opportunity to vote for this amendment to support my local broadcasters back in Wisconsin and to grant them the ability to control the use of their signals.

I bring the perspective of somebody who worked in broadcasting for 14 years, in Washington State, like my colleagues, the gentleman from Washington [Mr. CHANDLER] and the gentleman from Washington [Mr. SWIFT], here in Washington, DC, and back in my home State of Wisconsin.

If you look at my home television market of Madison, WI, it is a perfect example. There are three local network affiliates and one independent.

There is no guarantee that the local cable systems have to carry any of those stations, period. They might choose to carry two of them and eliminate the other two, which puts the two not carried at a great competitive disadvantage.

There is absolutely no ability for the local broadcasting stations to be paid for the fact that the cable system reaches out, grabs the signal, repackages it, sells it, and makes money off of it

Finally, and perhaps more importantly, the local stations have no ability whatsoever to reach an agreement with the local cable system about what channel they are going to be replayed on. So a station, such as channel 7 here in Washington, might find itself channel 7 on one cable system, channel 17 on another, 27, 33, 52, 64, and the combinations are endless.

As the gentleman from Washington [Mr. SWIFT] and the gentleman from Washington [Mr. CHANDLER] have said, broadcasters today face a much different economic climate than they did in the past, and it is important that we lay down some fundamental principles, especially because of the new forms of video distribution which shortly will be arriving on the scene.

We have heard about the promise today of telephone company delivery of video, direct satellite broadcasting, and wireless cable. In the future there may be even more technologies. If broadcasters do not have the right to protect their signals and negotiate with these newer technologies, they will find in the future they may not be able to survive at all.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

(Mr. TAUZIN asked and was given permission to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, let me first thank the chairman of the Rules Committee and the Rules Committee for the rule. Unfortunately, it does not contain a rule that will permit the consideration of the retransmission consent amendment that I think should be considered on this floor and hopefully will be considered in the conference. The other body has already adopted such a provision. I think it is terribly important.

But the rule does permit—and we will see a great debate on the floor of this House before this bill is over. We will see a debate between the Tauzin amendments; but more importantly, that debate will be between the ability of the great cable monopolies to insist in this Chamber, as it has insisted in America, that it can raise rates at will and nobody can do anything about it, or whether we in this Chamber will answer consumers' legitimate concerns that they have a chance at a competitive price marketplace.

□ 1620

The Tauzin amendment will give you that competitive price marketplace. What it will do, we will show you, is that, according to the FCC, when competition exists in cable—and it only exists in 5 percent of the cable markets—where competition does exist, cable rates fall by as much as 34 percent. We will demonstrate for you that consumers are losing $4 billion annually to monopoly cable rates because the monopoly cable companies face no competition in 95 percent of the marketplace.

This law will decide between MANTON and TAUZIN, but to get to the Tauzin amendment, to give consumers the chance they got on the other side when the Senate voted 73 to 18 for a similar amendment like Tauzin, to get to that vote we are going to have to defeat the Manton amendment. It is an amendment crafted for the big cable companies, designed for the cable companies, and unless we defeat it we are never going to do anything for the consumers of television in America.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 2 minutes to a gentleman who, unfortunately, is going to be retiring from this body. I refer to our great judge from Tuscaloosa, the gentleman from Alabama [Mr. HARRIS].

(Mr. HARRIS asked and was given permission to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, we have heard a lot of misinformation about an issue that many in this Chamber hoped would be debated here today—retransmission consent.

The cable industry has spent a lot of money and effort at scaring the American people about this concept. They even ran ads on their cable systems and sent out flyers in their cable bills warning customers that if retransmission consent were enacted, they would have to begin charging a 20-percent surcharge on every cable bill to pay the networks for their programming.

Well, as we know now, this campaign of misinformation has been completely discredited. There is no 20 or any other percent surcharge on cable bills that would arise from this change in communications law. And networks would not even be a party to these local negotiations, except in those few instances where they themselves own a local station.

What retransmission consent will do is simply allow local stations to enter into negotiations with local cable operators for the right to use their only product—their broadcast signal. This is a fundamental communications right which has been granted to broadcasters since the Radio Act of 1927, but which an exception for cable was made in 1959, when cable was nothing more than an antenna service.

Today, cable is a $21 billion-a-year industry. It creates and owns much of the programming it provides on its wires. It is the sole gatekeeper for the video choices of over 60 percent of American homes. It no longer needs—and broadcasters can no longer afford—the subsidy which local stations must provide to cable when cable uses those signals without negotiations over the terms and conditions of that usage.

I do not know of any other area of American commerce where one business is allowed to take the product of a competitor for free—sell it to the public at a monopoly price—and then use

the profits from that transaction to create competing products. But that is exactly what we have with cable and local broadcasters. And if it does not get corrected soon, local stations will simply be forced to cut back further and further on their local services, including local news, weather reports, public service, and public affairs programming. That hardly serves the public interest.

Mr. Speaker, I support the effort to include this provision when the House and Senate conferees meet to work out a final version of cable legislation. Such a provision is fair and reasonable. It would not force cable to pay one cent for anything. What it would do is allow there to be a marketplace between broadcasters and cable operators, and that is something all of us should support.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES].

(Mr. HUGHES asked and was given permission to revise and extend his remarks.)

Mr. HUGHES. I have listened, Mr. Speaker, to a lot of my colleagues who have been explaining that they just regret we do not have an opportunity to vote on retransmission consent. Well, the answer is very simple, it is simple: Energy and Commerce basically could not legislate in the copyright area because that is within Judiciary's jurisdiction and they took it out in full committee to try to avoid a sequential referral, simple as that. I regret that because we were prepared to try to deal comprehensively with the entire law. You cannot do that piecemeal.

You know, retransmission consent is a broadcaster's Christmas in July. You know, they are addressing a problem that needs to be addressed. There is no question but that cable should not have a free ride for local signals. That is wrong. They have enjoyed that ride for a long time. But you do not solve that by giving broadcasters $1 billion and more.

The estimate is $1 billion, anywhere between $1 billion and $3 billion for the consumer. That is what you are talking about.

The answer is to try to deal with some of the copyright issues, and we hope to do that. A bill is moving through the Committee on the Judiciary, it is out of subcommittee, that will deal comprehensively with the whole compulsory license issue. That is what we need to do.

We need to provide that second stream of revenue for broadcasters, but, you know, all of a sudden they have gotten greedy. They see that instead of perhaps receiving $200 million or $300 million, there is potentially $1 billion to $3 billion which they will saddle on consumers.

So, before you look yourselves into retransmission consent, read a little bit about what that means to not just telecommunications policy but to your consumers. When you do, you will see that there is another answer. It is not retransmission consent. It is not to give that kind of power to broadcasters, but to develop the kind of mechanism that we need to provide to try to sort this out in the context of copyright, which is where we can deal with those problems.

Mr. DREIER of California. Mr. Speaker, at this time I have no further requests, but I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this rule, and I also rise in support of the bill, H.R. 4850. I am, however, sorry that I was not able to have my sense of the Congress amendment regarding sports blackouts made a part of this rule, but there are other features of H.R. 4850 that I think are very worthy in this piece of legislation.

For example, it allows local governments to regulate program rates charged for any professional championship contests. While season ticketholders are sure to get tickets to the championship games, other supportive fans also deserve a chance to see the games at a reasonable rate.

For the last 2 years, for example, when the Chicago Blackhawks hockey team made it to the Stanley Cup playoffs, fans who had loyally supported the team throughout the season and were unable to get a ticket to the sold-out games found out they could only see the games on television and only on a pay-per-view basis. I think this is unfair, given the fact that in Chicago and other cities, professional teams play in stadiums and arenas partly financed by local government.

For many Blackhawk fans, hockey is a way of life and a needed diversion from the sometimes hard work of providing for their families. Many of these fans helped pay for arenas and stadiums through their taxes. We need to keep the televising of professional sports as accessible as possible.

Although cable and sports executives are quick to say that traditional championship games like the World Series, Super Bowl, and the NBA playoffs are not headed for pay-per-view, it is clear that putting hockey championship games on pay-per-view is the start of a trend. It is only a matter of time before more and more games will be offered only in this way.

When and if pay-per-view becomes the standard for sports, and I hope that it never does become the standard, we need to be sure that the rates are affordable for most fans. The last thing we need is a television system that further divides our country along economic lines. Regulation of pay-per-view is just one reason why I support this bill.

Mr. Speaker, this legislation provides for fair and equitable cable television rate regulation. I am not in favor of unnecessary regulation, but I believe the cable television industry has reached the point where it is necessary for Congress to pass legislation to protect consumers by bringing under control some of the problems we have experienced in the industry in recent years.

Since the Congress adopted the Cable Communications Policy Act 7 years ago, there has been tremendous growth of the cable industry. In 1985, only 37 percent of households had cable television; today cable is in 61 percent of American homes.

While the quality and diversity of programming has greatly increased during this period, subscribers are concerned because cable rates have skyrocketed. Between 1986 and 1991, monthly rates for the most popular basic rates increased by 61 percent, from an average of $11.71 to $18.84 per subscriber, according to the GAO.

This is a proconsumer bill that would ensure reasonable competitive-level rates for cable programming and offer some protection to consumers from unreasonable rate hikes. Unfortunately, many of the low income and fixed-income residents of my district cannot afford cable, and I am concerned that many of those who currently subscribe to cable may be forced to give it up if the rates continue at the current pace.

RATE REGULATION

Rate regulation is the heart of this legislation. One study shows that basic cable rates have risen an average of almost 65 percent in my district over the last 5 years. This bill extends Federal Communications Commission price protection to all tiers of programming. If the FCC finds the basic cable rates are excessive, the local franchising authority can reduce the basic service charge. This bill would limit basic rates to what would be charged in a competitive market, based on a formula established by the FCC. In 97 of the Nation's cable markets, operators face no real competition. Studies have shown that cable rates would be about 50 percent lower if cable companies faced the pricing pressures that come from being in a competitive market.

MULTIPLE FRANCHISES

The provision of the bill which allows for cities to offer multiple franchises offers a chance for the kind of competitive environment that could resolve some of these problems. I wish that perhaps the legislation had gone a step further and mandated multiple franchises so that customers would have a greater choice of programming and other services, but this is a good first step. I have been pushing the cable industry to find new ways of offering consumers a chance to make wider program choices. At some point these additional program choices will be made possible through new technologies and

the eventual entry of telephone companies into the cable television business.

TELCOS

While I am on the subject of telephone companies getting into the cable, let me say that the Bush administration's most recent gambit of getting the FCC to let local phone companies transmit cable television does not negate the need for this legislation.

At some point down the road, competition from the telephone companies and other sources will work to keep cable prices down and offer consumers greater diversity in programming, but that is at least a decade away. Also, there are a number of questions that must be answered, including who is going to pay the billions of dollars needed to develop a video-telephone network.

Let us first attempt to rectify the problems that exist in the current cable structure, then look to expanding the marketplace.

EEO

This bill has provisions that call for continued rigorous enforcement of equal opportunity rules designed to improve opportunities for minorities and women.

Although there has been increased equal employment opportunities in the cable industry since 1984, when the first Cable Act was enacted, there is still room for improvement. A look at the FCC Employment Trend Reports shows that the majority of female and minority employees continue to be clustered in low-paying positions, particularly office and clerical positions.

The percentage of professional positions held by ethnic minorities has not increased significantly since 1985. In fact, in the case of African-American males, there has been a decrease. According to the FCC, in 1985, 4.1 percent of professional positions were held by blacks, compared with 3.6 percent in 1991. This bill requires licensees to establish a program that ensures cable operators hire and promote a workforce that reflects the diversity of the community it serves.

As I said in the beginning, it is not my intent to saddle the cable industry with unneeded regulation. This bill offers consumer protection, encourages competition, and sets much needed rate regulation. I urge my colleagues to vote in favor of this bill. It is time we joined the Senate in approving cable legislation that is proconsumer without being anticable.

I hope that everyone will support the bill and the rule.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. I thank the chairman of the committee for yielding this time to me.

Mr. Speaker, I must reluctantly rise in opposition to this rule today, because it fails to recognize the value of locally oriented broadcasting.

For years, many American TV viewers have come to depend on the local news, weather, public service, sports, and public affairs programming of their local television stations. These broadcasters have served us well as they meet their public interest obligations as FCC licensees.

But they face a grave future unless they can gain a more equal footing with their chief competitors. Given the current situation, where cable can take broadcast signals for free, sell them for a profit, then use those profits to create competing programming, broadcasters are now in the terrible position of having to subsidize a wealthy and successful competitor. If this goes unchecked, we will see local stations having to cut back on those local services which make them unique among video providers.

Mr. Speaker, we cannot afford to let that happen. We need strong, locally-licensed stations to provide that local programming which cannot be produced elsewhere. I had hoped that today, we could have voted on an amendment which my friends, the gentleman from Ohio [Mr. ECKART] and the gentleman from Texas [Mr. FIELDS] wanted to offer. That amendment, known as retransmission consent, would set up an option system for broadcasters.

Local stations could choose either must-carry, which is already a part of the bill, or they could waive must-carry and seek to negotiate the terms and conditions of their cable carriage directly with cable operators. This second option would give broadcasters the opportunity to bargain for the value their signals provide to local cable operators. And given that nearly two-thirds of cable viewing is of these local broadcast signals, it's clear that these stations deserve more than they are currently getting.

A recent survey conducted by the National Association of Broadcasters of 1,000 adults show that nearly 60 percent of those surveyed agree that it is unfair that cable systems do not have to pay broadcasters for the right to use their programming. That finding merely supports the commonsense approach I take, which is that retransmission consent is the only way broadcasters can recoup the value that their signals—their only product—provide to cable.

I share the disappointment of many here that this issue was not made in order as an amendment to the cable bill. The Eckart-Fields amendment has been extensively discussed in the Energy and Commerce Committee, and it absolutely deserves to be a part of today's debate. Since this resolution fails to rule the retransmission consent amendment in order, I cannot support it, and I strongly encourage my colleagues to vote "no."

□ 1630

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. Markey].

The SPEAKER pro tempore (Mr. TORRES). The Chair would advise the gentleman from Massachusetts [Mr. MOAKLEY] that he has 3 minutes remaining.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to my good friend, the gentleman from Massachusetts [Mr. MARKEY], so that he can close the debate here on the rule.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MARKEY] is recognized for 4 minutes.

Mr. MARKEY. Mr. Speaker, I thank the gentlemen very much, the gentleman from California [Mr. DREIER] and my good friend, colleague and leader, the gentleman from Massachusetts [Mr. MOAKLEY].

And I thank the Committee on Rules for their rule, and I think that it has helped to shape this debate so that the major issues, with the exception of the retransmission issue, will be out here on the floor, and I know that many Members are disappointed that the transmission issue will not be out here today. But I think most of us believe that it is absolutely essential that a retransmission consent provision be in the bill that is sent to the President for signature, and I can guarantee the Members that we are going to work toward that effort. I especially say those words to the gentleman from Ohio [Mr. ECKART] and the gentleman from Texas [Mr. FIELDS] who have dedicated a good part of the last year toward that effort.

The gentleman from Michigan [Mr. DINGELL] and I have worked with our staffs over the last year to shape this bill. We have worked as closely as possible with the minority, with my good friend, the gentleman from New Jersey [Mr. RINALDO] and the gentleman from New York [Mr. LENT] to bring a piece of legislation to our colleagues.

Now there are disagreements; there is no question about it. The Lent substitute, to a very large extent, is going to frame those choices for this body. Now whether it be blockage of foreign ownership of the cable system of our country, tougher regulations, tougher consumer protections, increased competition, which this bill has, the must-carry provision which protects television stations against being moved around indiscriminately or just bounced completely off the cable network completely; this bill has a long list of provisions which contrast sharply with the minority substitute which the gentleman from New York [Mr. LENT] will be making. It is my hope that since 1984, Members in this body understand that, although, with the best of intentions, there was a deregulation of the cable industry. It was for the purpose of getting the technology out as quickly as possible, into the hands of as many Americans as possible. Right now cable goes past 90 percent of the homes in America and 65

percent of all Americans subscribe to it. So, the technological benefits are out there now.

Now the question is: Do we return and clean up some of the unintended consequences which have manifested themselves over the last several years? We think that the proposal which we bring to our colleagues here today does that, and it does so in a judicious ways. The issues that were unresolved, primarily this issue of access which the amendment of the gentleman from Louisiana [Mr. TAUZIN] brings out here to the floor, is one which ultimately will be determined in the course of the debate today.

Mr. Speaker, I think the chairman of the Committee on Rules and the members on our committee have done a good job in framing those issues for the body. I think by the close of the day today we will be well on our way to constituting a telecommunications policy for the 1990's, and I would hope that this body would give some respect to the product which came out by a vote of 31 to 12 out of the Committee on Energy and Commerce. We worked long and hard on this bill, and at the end of the day today I think we will be completing the House procedure that will then allow us to go to conference and to put a bill on the desk of the President. It is highly controversial and highly technical, but in the end we are protecting consumers, we have augmented competition, we are protected against the foreign takeover of this vital communications network in our country and, we think, produced a good bill for consideration today.

Mr. DREIER of California. Mr. Speaker, I am not particularly ecstatic about the rule or the bill in its present form, but I hope very much we will be able to craft something that will create a wider range of choices for the American consumer at the lowest possible price.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 525 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4850.

□ 1635

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4850) to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 30 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusets [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I yield myself such time as I may consume, and that would be just briefly, to once again reiterate what a pleasure it has been to work with the gentleman from New Jersey [Mr. RINALDO] at the subcommittee level and with the minority staff, working, of course, in conjunction with the gentleman from Michigan [Mr. DINGELL] and all of the members on the majority side. We have tried to put together a piece of legislation in as collegial a fashion as possible.

Mr. Speaker, the issues out here today are the remaining issues that the full House will have to decide, and, as we reach this point, I would like to say that we really do have an historic moment. We made a big decision here in Congress. It was that we wanted to create a technological revolution back in 1984, and we wanted to get it into the hands of the consumers as quickly as possible. Now that decision was made on a bipartisan basis back 8 years ago, and the fruits of that decision are in the hands of most consumers in the country right now.

But with it came a number of problems, a number of problems that have gone unaddressed, and that includes our ability to be able to protect against rate increases which are happening in many parts of the country without any concern for the impact upon consumers, the lack of competition against an industry that in 99 percent of the communities in which there is a cable system there is no competition, against the threat that, as we move forward, we learn that the purchase of two or three companies that have cable interests would give some foreign entity control over the latter-day, modern telecommunication network of our country, and in our opinion it is time for us to come back and to revisit these issues to ensure that there is protection of consumers, ensure that there is more competition, ensure that there is protection against foreign ownership of this vital network.

On the foreign ownership issue, Mr. Speaker, we do not allow them to own our television stations. We do not allow them to own our radio stations. We do not allow them to own our telephone networks across this country. And for good reason. And that reason is that it is a part of the vital infrastructure of our country, and the cable network has become the modern equivalent of those earlier telecommunications technologies. This piece of legislation ensures that equivalent legal treatment and protection will be given.

I, over the last several years, have requested GAO accounting studies of the cable industry and the rate increases.

□ 1640

We have found since deregulation the cost of basic service has ballooned 61 percent to cable consumers across the country. That is three times the rate of inflation since deregulation. Just this year it has seen the rate of cable TV go up 10 times the rate of inflation in the month of February and 4 times the rate of inflation in the month of April in this country. These dramatic increases have to end.

We are going through this legislation to give the tools to the relevant government agencies and to the consumers which will ensure they are protected against that kind of rate gouging. We are going to protect against the bad actors out there in the cable industry.

I think this is a good time to put out in the RECORD that there are many, many, many good cable operators in this country, but there are too many others who have in fact taken advantage of the lack of regulation and continue to exploit this inability of consumers, of local municipalities, to be able to protect their citizens against the rapacious conduct that has resulted in these dramatic increases in cable rates.

Mr. Chairman, this is a good bill. It is one which I think the full House should endorse today.

Mr. Chairman, I reserve the balance of my time.

Mr. RINALDO. Mr. Chairman, I yield myself such time as I may consume.

(Mr. RINALDO asked and was given permission to revise and extend his remarks.)

Mr. RINALDO. Mr. Chairman, today, the House of Representatives will consider legislation to address concerns about the cable industry that have arisen since the Cable Communications Policy Act was adopted in 1984.

That law was enacted for a simple reason: The industry was being held back by unnecessary, burdensome requirements being imposed upon it. Testimony was given to us that, with deregulation, we would see fuller penetration of cable TV throughout the country. We would see greater consumer choice. And we would see greater investment by the industry in programming.

In short, deregulation was supposed to provide the industry the impetus it needed to reach its potential.

There is no doubt about the actions Congress took in 1984. The Cable Communications Policy Act was a success.

Once that law was passed, cable TV became one of the most talked-about developments in America.

More than 60 percent of American homes now subscribe to cable.

In many areas throughout the country, cable customers have access not

just to dozens but to scores of cable channels.

C–SPAN and CNN have literally changed the way Americans receive information about politics, government, and local, national and international events.

In a word, Mr. Chairman, Congress made an important decision in 1984, and that decision was, and is, a success.

But in the years since 1984, we have also encountered problems.

In some jurisdictions, cable operators took advantage of price deregulation to raise rates above what was justified.

That is clearly wrong.

And unfortunately, in far too many of those instances, cable TV customers have had no other cable company to turn to. It was all-or-nothing with the only franchise in town.

At the same time, far too many cable operators were not ready for the number of homes who signed up.

Customer services was woefully poor in many areas. And it was far below the minimum level that rising cable prices demanded.

There have also been repeated complaints from other industries—including DBS, MMDS, TVRO and others—that the cable industry was refusing to provide programming to potential competitors.

On the one hand, cable operators were given freedom from price regulation, and on the other hand they were stifling any potential competition by locking up programming.

The Telecommunications Subcommittee has carefully examined the cable industry over the last 4 years and has compiled an extensive record on problems in the industry.

Our committee record provides clear evidence that there have been numerous instances of abusively high rates and poor customer service.

But when we have identified those problems, we have acted to deal with them responsively, effectively, and swiftly.

Nearly 3 years ago, I laid out a challenge to leaders of the cable industry. I told them the facts of life in Congress, and I said that if they were unwilling to clean up problems in their industry, Congress would do it for them.

I laid out a six-point plan for customer service, which included a restraint on rises in cable TV rates, hiring more customer service representatives, adding additional telephone lines if necessary. In short, I told them to do the job they should have been doing all along.

Not long after that, Chairman DINGELL, Chairman MARKEY, Congressman LENT and I put together a responsible piece of legislation. It had broad, bipartisan support and it passed the House of Representatives overwhelmingly 3 years ago.

It died in the other body. But earlier this year, the other body tried to pick up where it left off.

I would like to commend my colleagues in the other chamber for attempting to follow our lead, but the fact is the legislation they passed is nothing like the bill the House of Representatives approved 2 years ago.

Frankly, I am distressed at how this issue has evolved in the last several months, for an important reason:

Our goal should not be to bash the cable industry. It should not be to undermine the success of the 1984 Act.

Our goal should not be any different from what it was 2 years ago:

We should pass a solid, effective, practical piece of legislation that addresses real problems in the industry, that protects consumers from excessive rate hikes, and that gives consumers the service they deserve.

We should not pass a wish list of proposals that will only do more harm than good.

I strongly support rate regulation for abusive cable operators, and I will vote for such an approach.

I also support strengthening the Federal law on stimulating competition. We should not allow members of the cable industry to refuse to deal with potential competitors, and that is why I am supporting the Manton amendment.

We must make sure that cable TV customers get the service to which they are entitled, and I support provisions that will improve customer service.

In conclusion, Mr. Chairman, I hope that we will work this afternoon to produce legislation that protects consumers.

As we consider this bill today, and as we continue toward a conference with the Senate, I am going to do everything I can to enact effective consumer safeguards, improve customer service, hold down rate hikes, and prevent unnecessary and unwarranted costs from being passed on to consumers.

I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in full support of this legislation. There is, however, an issue of great importance to me which is not addressed in H.R. 4850.

For several years, major league baseball and other professional sports leagues have repeatedly requested regulatory and legislative changes that would have the affect of hindering or preventing superstations from continuing to carry these sports into millions of homes across the Nation.

Many sports fans can't afford the high cost of taking their families to a professional game. That's why I attempted to have adopted an amendment to the cable bill, H.R. 4850, that would prevent major league baseball from blacking out baseball on superstations.

Across this Nation there are hundreds of thousands of sports fans, many of them senior citizens living on fixed incomes, who can not afford $30 or $40 to go watch a major league baseball game. These fans have watched baseball over superstations for over 15 years. They can't afford to go to the stadium and they will not be able to afford the higher price of viewing games on regional sports networks or pay per view.

Superstation sports have been an important counterbalance to the sports leagues, ensuring viewers inexpensive access to sporting events, particularly in sports short areas of the country. At the same time, it has been proven that sports telecasts over superstations do not have a negative affect on home team attendance. Eliminating superstation sports while the leagues' antitrust immunity continues would be a mistake for American sports fans.

Mr. Chairman, I think this is a good bill for consumers and I sincerely hope that, in conference it will not by allowing ninth inning proposals by baseball to create blackouts.

□ 1650

Mr. RINALDO. Mr. Chairman, I yield 6 minutes to the distinguished ranking member of the full committee, the gentleman from New York [Mr. LENT].

(Mr. LENT asked and was given permission to revise and extend his remarks.)

Mr. LENT. Mr. Chairman, in 1984, Congress deregulated the cable television industry for the express purpose of stimulating growth and diversity in the video marketplace. In large part, that objective has been achieved, and most expectations have even been exceeded.

Prior to deregulation, cable provided essentially an antenna service to those homes that could not receive clear, over-the-air signals. Since the 1984 act, cable has developed into something infinitely more valuable to the American consumer. Today, the average cable system offers 36 channels. One-fifth of the systems offer more than 50 channels. Without a doubt, cable has revolutionized the way Americans watch television. Cable has become a rich source of educational, informational, and cultural programming including CNN, C–SPAN, Nickelodeon, the Discovery Channel, the Learning Channel, Black Entertainment Television, and many others.

The American people, moreover, have responded enthusiastically to the quality, value and diversity of programming provided by cable. The numbers don't lie: Today, over 52 million homes receive cable.

By most measures, the 1984 Cable Act, therefore, has been an overwhelming success. Cable's success has not been achieved without problems. There have been instances of unreasonable increases in cable rates and unacceptable declines in the quality of customer service. These instances, however, have

been the exception rather than the rule.

Mr. Chairman, I am as committed as anyone to taking the necessary steps to ensure that consumers receive the best service at the best possible price. But I am also concerned that we not act with too heavy a hand—because that will ultimately hurt consumers as much as the industry. The heavy handed approach places future industry investment in technology and programming at significant risk.

It was, after all, the investment in technology that brought cable to the American consumer and it is the vast array of innovative and diverse programming developed by cable which continues to attract subscribers to cable today. So we must seek to achieve a balance. The best possible rates and services for consumers brought about through fair and equitable rules on the cable industry, so that continued investment and future growth in the industry is assured.

We began a serious reexamination of the Cable Act in the last Congress. At that time, the members of the Energy and Commerce Committee worked in a bipartisan manner to craft consensus legislation that achieved the very balance I am talking about. Some of you may recall that this House approved such a bill on a voice vote.

Mr. Chairman, I had hoped that the consensus, bipartisan approach approved by the House last Congress would serve as a model for legislation this year. Certainly, the record demonstrates nothing had occurred in the last 2 years to support a dramatic change from the public policy we sought to advance last Congress.

In fact, according to a recent GAO study, commissioned by the chairman of the Subcommittee on Telecommunications and Finance, the evidence demonstrates that cable rates, which undeniably had risen dramatically in the first few years following deregulation, had by 1990 begun to moderate and essentially reflected the rate of inflation.

But something else had changed, Mr. Chairman, something we are all familiar with—politics. Because some believe the cable industry didn't play ball last Congress and consequently the cable bill passed by this House was not enacted into law. Thus, the cable legislation we are being asked to consider this Congress is more punitive in nature than corrective. The public policy considerations behind this bill represent nothing more than an advanced case of regulatory zeal, to regulate for the sake of regulating. This zeal, moreover, is not fueled by genuine concern for the American consumer. Rather, it is aimed merely at punishing an entire industry.

The committee vote on H.R. 4850 was along party lines, hardly a mandate for passage of this legislation. Sadly, I might add that this is the first time since the early eighties that the Energy and Commerce Committee has failed to produce a bipartisan, consensus communications bill.

Mr. Chairman, let me address, for a minute, one of the most onerous and burdensome provisions of the bill—rate regulation. H.R. 4850 would encourage the inclusion of cable programming in the traditional basic over-the-air broadcast tier. Because under the formula for setting rates contained in the bill the cable operator may recover the costs of adding programming to the basic tier, the cost to consumers will undoubtedly increase. Thus, ironically, this proconsumer legislation may result in higher, rather than lower, consumer cable bills.

Nor does H.R. 4850 offer any public policy rationale for regulating a tier which includes cable programming in addition to over-the-air broadcast signals.

It is one thing to regulate a basic tier composed only of local broadcast stations. I support that. In that instance, the cable company is simply providing an antenna service. Clearly, there is a substantial Federal interest in seeing that over-the-air broadcast stations that are licensed by the Government to serve local communities are available to the citizens of those communities by a cable system at reasonable rates.

However, there simply is no Federal interest or public policy rationale, for regulating cable programming such as ESPN or MTV. First, these channels do not use the public spectrum and are not licensed by the Government to serve local communities. Second, Government regulation of these channels amounts to a regulation of the speech of the cable operator and, therefore, probably violates constitutionally protected speech under the first amendment.

Cable television programming is not an entitlement program. It is not telephone service or electric service. It is entertainment programming, pure and simple. The American people are smart enough to know the difference. They are not looking to Congress to place arbitrary controls on their entertainment choices.

Indeed, one can only speculate where this Federal interest over the price of entertainment might end. Will we also regulate the price of movie video rentals, theater tickets, newspapers, and tickets to sporting events?

H.R. 4850 is also overly regulatory with respect to cable service and equipment requirements. Given that the industry spends millions of dollars annually in upgrades and investments in new plants, I am concerned that we risk creating significant financial disincentives for continued investment in new and improved technology.

H.R. 4850 could also discourage investment in new cable programming. Last year alone, the industry spent $3.5 billion on video programming. That spending created new business and roughly 8,000 new jobs in 1 year alone.

As this country struggles to regain a strong economic foothold, clearly the most important consideration in approving any legislation is its impact on the economy and jobs. If in our zeal to regulate the cable industry, we discourage the industry's capacity to invest in new technologies, to invest in the infrastructure and to develop new and innovative programming, all Americans will lose. Not only will we hurt the consumer, who has looked to us for help with rates and services, but we risk a substantial loss of American jobs as well as this country's competitive edge in telecommunications.

Another issue raised by the over-regulatory nature of H.R. 4850 is who is going to pay for this regulation? The American taxpayer. The Congressional Budget Office and the FCC estimate that the cost to taxpayers of implementing the regulation mandated by the bill will be an astounding $22 to $60 million per year.

Finally, if this body is serious about passing legislation to address consumer concerns, it should pass a bill that the President can sign into law. The administration's senior advisers have recommended that the President not sign H.R. 4850, if passed in its present form. H.R. 4850 will be conference against a bill with a similar veto recommendation.

Mr. Chairman, we should not be playing politics when the American consumer has turned to us for help. Instead, we should be passing legislation that makes the necessary corrections in the industry and which can be signed into law.

H.R. 4850 will not accomplish that goal. Consequently, I will be offering an amendment in the nature of a substitute that will. I urge my colleagues, therefore, to join me in opposing H.R. 4850, as reported by the committee, and in supporting the Lent substitute.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, 8 years ago a fledgling industry came before the Congress in need of Government assistance. That industry got its wish, and Congress passed the 1984 Cable Act. That legislation eased regulatory controls on the price of cable television service, and created a compulsory license by which cable could procure quality programming.

The Cable Act has stimulated tremendous investment and growth in the cable industry in the past decade. Today over 60 percent of all Americans receive cable service. The average number of channels on cable menus has increased, and the quality of programming has greatly improved. Today, consumers enjoy an unprecedented diversity of quality cable programming: the Cable News Network, C-SPAN I and II, the Discovery Channel, Arts and Entertainment—outstanding educational, entertainment and news programming.

Unfortunately, this remarkable growth has been accompanied by rate increases that are, in some cases, un-

reasonable and unjustified. The GAO reports that cable rates have increased by 61 percent from November 1986 to April 1991—that's more than 10 percent per year. In some instances, the higher rates are somewhat justified by the increased diversity of excellent cable programming. However, some bad actors in the cable industry have abused their monopoly privilege and abandoned the principle and goal of customer service, fueling consumer anger against the entire industry. Because consumers have nowhere to turn for relief, we must legislate.

The legislation reported by the Energy and Commerce Committee will regulate the basic tier of cable programming. It will empower the FCC to punish bad actors in the industry, and reverse unreasonable rate increases where they occur. It will also require cable operators to meet minimum levels of customer service. These are provisions which will help consumers in the short term before true competition exists in the video marketplace.

In the long term, this market needs more competition. I urge my colleagues to support the amendment which will be offered by Representatives ROSE and MANTON—an amendment which will stimulate competition from alternative providers such as wireless cable and direct broadcast satellite systems by ensuring their access to cable programming. We must address this issue—without a program access section, the cable monopoly will continue to dominate the marketplace in the future.

Mr. Chairman, the Committee on Energy and Commerce has crafted this legislation with great skill, wisdom and balance. Chairman DINGELL and Chairman MARKEY should be commended for their hard work and diligence in this regard. They know, as I do, that it is very difficult to produce a public law to regulate this industry. This bill is our best, and perhaps last chance to do so. It is a bill that the President can, and will sign in this election year. I urge my colleagues to vote for this legislation.

□ 1700

Mr. RINALDO. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. BLILEY].

(Mr. BLILEY asked and was given permission to revise and extend his remarks.)

Mr. BLILEY. Mr. Chairman, H.R. 4850 is overregulatory in every respect. The bill, while promoted as proconsumer legislation, will result in higher, yes, higher rather than lower, cable bills. It has been estimated that it could add as much as $5 billion to the cost.

In addition to failing to accomplish its goals of lower cable bills for consumers, the CBO and the FCC estimate that the cost to taxpayers of implementing the regulations imposed by the bill will be an astounding $22 million to $60 million per year. The bill ignores the needs of small cable systems, and it only pays lipservice to small business by telling the FCC to take into account the administrative burdens.

The provision mandating that a subscriber need not take a programming tier service in order to access premium pay-per-view programming could destroy the programming structure of the cable industry. This provision is an unjustifiable Government intrusion, and there is no Federal interest in mandating how a cable operator must market or structure premium and pay-per-view services.

The New York Times just this week said this bill overreaches. We should adopt the Lent substitute, which we will have a chance to vote on later, which we have already passed, pretty much as it is written, in a previous Congress. That is what we ought to do to protect consumers.

If we pass H.R. 4850 and it goes to conference, then they add retransmission, we are looking at another $1 billion. If we think the cable companies are going to absorb it, we must think that the Moon is made of green cheese.

Mr. MARKEY. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, remarkable work has been done on this legislation. I want to salute and commend the members of the committee, the members of the subcommittee, and the distinguished chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY], for an outstanding job well done.

Mr. Chairman, I rise in strong support of H.R. 4850, the Cable Television Consumer Protection and Competition Act of 1992. This is a comprehensive piece of legislation that was supported by a bipartisan majority in the Committee on Energy and Commerce. I am confident that it will enjoy comparable support when the House votes on final passage.

In 1984, Congress passed legislation that resulted in the deregulation of the cable television industry. Since that time, cable has developed into a dominant player in the media marketplace. Today, nearly 70 percent of American homes watch television that is delivered by a local cable operator.

Since 1984, the number of cable channels has increased dramatically. The proceedings of the House are now available across America via C-SPAN. Millions were able to watch the gulf war live on CNN. Local news channels are proliferating. It appears that there is, or will soon be, a channel for every taste.

But this growth has not been without cost.

Since cable rates were deregulated by the FCC, millions of cable subscribers have been subjected to rate increases that never seem to end. Customer service is poor or nonexistent. Telephones go unanswered. Installation appointments are missed—and, when the installer decides to show up, they frequently do a shoddy job.

In short, cable has been behaving like an unregulated monopoly.

This should not come as any surprise. I was unenthusiastic about the 1984 law because I anticipated precisely these abuses. Thus, I am pleased that Congress has decided finally to reevaluate its decision made in 1984, and impose some meaningful protections for consumers.

H.R. 4850 does that. It provides for a formula that will be developed by the Federal Communications Commission and overseen by local franchising authorities. It requires the FCC to come up with tough customer service standards—and provides for effective enforcement. H.R. 4850 will ensure that cable operators are held accountable to someone other than their stockholders.

I do not pretend that this is a perfect bill. It is a compromise, and like all compromises, it contains provisions that are offensive to some. But it is a bill that deserves the support of the House here today. And I pledge to my colleagues that I will continue my efforts to improve the legislation as it makes its way to the President's desk.

Cable subscribers need the protections this bill contains. They need to have their rates controlled. They need improved customer service. They need to continue to have access to their local broadcast stations—both commercial stations and public stations. They need to be able to obtain remote controls and converter boxes at realistic and reasonable prices. They need to be able to purchase cable-ready TV sets confident in the knowledge that they are, indeed, cable ready.

Curiously, the cable industry needs legislation too. There are many responsible cable operators that have been tarred by the behavior of a few bad actors. In my district in Michigan, we are fortunate to be served by some of the best operators in the country. But many of you, I know, are not so fortunate. In my view, the industry needs the benefits of regulation that will either weed out the bad actors, or force them to clean up their act.

It is my hope that this is the last time we are going to have to bring a cable bill to the floor. I hope that, by the time we have completed the conference, the administration will have softened its stand against reasonable legislation, and that we will be able to have a bill signed into law.

Mr. Chairman, the go-go days of the eighties are over—for stockbrokers, for junk bond salesman, and for cable operators. It is time for the Congress to correct the problems that have been caused by deregulation and vote for this bill. I urge my colleagues to join me in supporting H.R. 4850.

Mr. RINALDO. Mr. Chairman, I yield 3 minutes to the gentleman from Colo-

rado [Mr. SCHAEFER], a member of the committee.

(Mr. SCHAEFER asked and was given permission to revise and extend his remarks.)

Mr. SCHAEFER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, if it is our goal with this legislation to convince the American people that their frustrations with Congress are unfounded, we are about to miss a golden opportunity.

Today we have a chance to put partisan politics aside and work together on behalf of the cable consumer. We could attempt to balance the interests of consumer groups, broadcasters, and the cable industry in a single piece of legislation worthy of nearly unanimous support in the House. Although it may sound too good to be true, that is exactly what we accomplished 2 years ago. All it took was a common objective.

At some point over the course of the last 2 years, that bipartisan objective changed substantially. Consensus gave way to partisanship, rhetoric took the place of reason, and sound public policy fell victim to politics. With it went any real chance of having a sensible cable bill signed into law this Congress.

Although it was they who abandoned the consensus position, proponents of H.R. 4850 will undoubtedly characterize theirs as the consumer approach. Their claim is based on the 1970's belief that greater regulation and Government micromanagement will, by definition, benefit the cable customer. In reality, the opposite is true.

For try as we might, we can't have it both ways. We can't burden a particular industry with excessive regulation and expect it to produce similar results as if it operated in a free and open marketplace. Enactment of H.R. 4850 is certain to dampen reinvestment in cable plant, equipment and programming. Should this legislation prove to be our chosen course, we had better be prepared to explain why the diverse, quality programming to which cable subscribers have become accustomed just is not the same anymore.

Far from the mistake some claim it to be, the Cable Act—on balance—has been a significant success. But that's not to say it can't be improved. As pointed out in the findings section of H.R. 4850, "a minority of cable operators have abused their deregulatory status." Subscribers of these bad actor systems may require additional protections beyond what the Cable Act currently provides. By no means, however, is the kind of regulatory overhaul and overkill put forth by the Markey bill either warranted or appropriate. Nor is it likely to become law.

That is the bottomline for consumers. They are more interested in lower cable rates and improved customer service than they are in who wins a political battle long on rhetoric but short on results. Some have characterized H.R. 4850 as the consumer vote of the 102d Congress. I'm not sure that's true. But I am certain that from a cable subscriber's perspective, a true vote for the consumer—both procedurally and substantively—is one against the Markey bill, and for the Lent substitute. I urge a "no" vote.

□ 1710

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I thank the distinguished chairman of the subcommittee for yielding time to me.

Mr. Chairman, the average household in America today will be watching about 7 hours of television, 7 hours, and 50 to 60 million of those American homes will be watching cable television. Unfortunately, in this great land of free enterprise and capitalism, 95 percent of the communities in this country are only able to choose one cable TV company, there is only one choice for them. They have no alternative. We might as well be living in Eastern Europe as far as 95 percent of the communities are concerned, because they can only sign up with one company. That is all there is.

Fortunately in 5 percent of our communities we know what competition and choice and free enterprise is all about, and in those 5 percent of the communities they have an alternative. If they do not like cable company A they can sign up with cable company B.

Now what are the results of that in the communities with competition? Guess what? Prices are 30 to 40 percent lower and the quality of TV is better. There are more offerings, and cheaper prices. That is what competition can do.

The goal of this body should be to allow all of our great country to enjoy the benefits of competition instead of just 5 percent that enjoy it today.

Allentown, PA, was one of the first communities in America to taste competition and multichannel video programming, and they are still enjoying it. The little communities such as Glasgow, KY, and the larger towns such as Huntsville, AL, there is no reason why their competitive example cannot be spread nationwide. That is the opportunity before this body and before the Senate.

The Senate has passed a very strong procompetition bill. We can do the same if we reject the Manton amendment and support the Tauzin amendment.

Mr. RINALDO. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. RITTER], a member of the committee.

(Mr. RITTER asked and was given permission to revise and extend his remarks.)

Mr. RITTER. Mr. Chairman, there are millions of Americans who rely on cable to provide them with access to a broad range of programming which just a few short years ago was not even to be imagined. And so millions of Americans are deeply concerned with the actions that we will take here today.

Through the legislative and political process we have been called upon to reregulate an industry which some 8 years ago we deregulated. Our vision then was to promote the growth of an alternative video delivery system, and we were remarkably successful in reaching the goal. The majority of cable subscribers now have access to 30 or more program channels and over one-fifth can get more than 50 channels. Cable networks provide consumers with a wide range of quality entertainment and children's programming, CNN, C-SPAN, Nickelodeon, the Discovery Channel, the Learning Channel, and the black entertainment television being prime examples of the program diversity cable has brought to American households.

Do we want in legislation to destroy the energy, the creativity of this emerging high-technology industry? I say "no." But H.R. 4850 has the opportunity to do that.

Cable's explosive growth has also made the industry a major contributor to the economic health of this country. In 1990 cable TV contributed some $42 billion to the GNP. In he same year the industry directly or indirectly provided over 500,000 jobs, generating income of $18.2 billion. They employed some 100,000 people earning nearly $3 billion annually, and suppliers directly or indirectly employ an additional 69,000 persons in cable-related jobs with personal income of $2.5 billion.

The regulatory course that we embarked upon in 1984 led to great success, but our vision then was not without its limitations. There are some egregious examples where customers have been overcharged, where there is only one cable company and they are the bad actors. But are we going to throw out this baby with the bath water for few or some bad actors?

Let us do something reasonable. Let us do something intelligent. We will find out about that possibility through the Lent subetitute which will be offered soon.

We do not want to swing the pendulum from deregulation to overregulation and deliver a knockout blow to the economic well-being and the cultural diversity and entertainment capacity that has been brought on since we deregulated in 1984.

We have been fairly successful. There have been cost increases, it is true, and part of it has to do with the way the cable companies bundle the channels together for billing. And if Members look at the cost increases just in isolated fashion, they look like they have really jumped up well beyond the CPI. But if Members look at cost increases on a per-channel basis, the increase has pretty well kept pace with the CPI. So the answer to this problem is to allow for separate pricing on a basic tier of cable channels. That's what the Lent subetitute would do.

Yes, there are some service problems, and more needs to be done. The Lent substitute addresses this problem appropriately, with a rifle and not a nuclear bomb.

Investment capital is not inexhaustible in this country. We need more long-term investment. That is what the cable industry has in mind for its future. They plan to spend some $18 billion over the next 10 years to upgrade plants and equipment.

Approximately 60 percent of the existing systems will eventually be rebuilt, and a lot of optic fiber is going to be in here, in the trunk, in the feeder cable. There is HDTV out there, there is digital systems linked to computers, increased reliability and channel capacity, and all of these things do require investment.

My urging to my colleagues is to not do something that cripples this kind of long-term high-technology, high-creativity investment. Let us have innovation go forward. We have so little idea as to how a superregulatory bill like H.R. 4850 could impact on this industry and its growth and investment. And what about added FCC costs, up to $60 million in a year of $400 billion budget deficits.

But what concerns me far more than the FCC cost, and this is the bottom line, the main cost of all of this is the cost to the consumer. While some think we will be doing the consumer a favor with H.R. 4850, we will curtail investments, reduce the ability of the industry to produce its value; we don't add competition which is the real force to keep prices down and quality up. We will increase rate regulation litigation and we end up regulating to the point of actually increasing costs to the consumer.

Yes, this bill H.R. 4850 will increase costs to the consumer.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEHMAN].

(Mr. LEHMAN of California asked and was given permission to revise and extend his remarks.)

Mr. LEHMAN of California. Mr. Chairman, I rise in reluctant support of the bill before us. I compliment the gentleman from Massachusetts [Mr. MARKEY] and the chairman of the committee, the gentleman from Michigan [Mr. DINGELL], for getting us this far, and I hope they can successfully conclude this with a bill that can be signed by the President. I intend to support the bill today.

I have three brief reservations about the bill.

One, I think the buy-through provisions that the gentleman from Massachusetts [Mr. MARKEY] has are too restrictive and could be counterproductive. They are not in the Senate bill, however, and that could be cured.

Second, the issue of access today. There will be a disagreement between the gentleman from New York [Mr. MANTON] and the gentleman from Louisiana [Mr. TAUZIN], and I intend to vote with the gentleman from New York. I think there are adequate safeguards in this regard.

Finally, I am disappointed that retransmission is not included in the legislation today. It is in the Senate bill.

Of particular concern to me is a matter that is taken care of in the en bloc amendment to be offered by the gentleman from Michigan [Mr. DINGELL].

□ 1720

That impacts the impact that exclusive contracts between college athletic conferences and regional sports programming networks have on the ability of local broadcasters to air local events for local college football fans. In most instances, college conferences sign exclusive contracts with regional sports broadcasting networks which govern the broadcasting or cablecasting of conference games, often prohibiting those games from being aired in the same time slot as so-called games of the week.

For instance, in my congressional district, a Fresno State University football game against a Pac 10 school was not aired by the regional cable network because the sports network decided to feature a different Pac 10 game. All other conference games were similarly prohibited from being aired at the same time as the featured game.

To make matters worse, this contract also prevented local television broadcasters for securing the rights to broadcast that game. As a result, my local fans were deprived of seeing a game that they should have been able to see.

Similarly, when a Fresno State game against another school was blocked out due to the other conference's contract, local viewers could not see any game because the local system did not carry the network.

My amendment very simply would direct the FCC to consult with the Attorney General to examine and conduct an analysis of the impact of these contracts. The amendment does not solve the problem 100 percent, but it provides for a solution to the problem. It is the first step toward solving the problem.

I urge its adoption.

Mr. RINALDO. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. FIELDS].

(Mr. FIELDS asked and was given permission to revise and extend his remarks.)

Mr. FIELDS. Mr. Chairman, I want to begin by complimenting the chairman, the gentleman from Massachusetts [Mr. MARKEY]. So many times we hear about the gridlock in the House of Representatives and in our respective committees. I want to say in regard to our chairman that I feel like our chairman was always fair to us on the minority side. I cannot say that we always agree, but I can say that I felt he was always fair, and I appreciate that as an individual member.

I say the same thing in regard to our ranking member. I think he has been fair to members on this side and has given us every opportunity to express ourselves.

I have to say continually that I am disappointed that retransmission consent is not in this debate today as a policy question. I think it would be an important part of this debate.

But, regardless, it is important and incumbent upon all of us as Members to look at the legislation that is before us, because we do have some choices.

Mr. Chairman, I am here to say that I think that the Lent alternative that will be coming up later is the best alternative, and I think there are several reasons why we should vote against H.R. 4850, this massive reregulation bill. First of all, I believe that H.R. 4850 in its present form is anticonsumer. Industry investment and programming quintupled, and channels typically available to consumers doubled since 1984. This piece of legislation would raise costs of cable service and limit the availability of programs to consumers.

Second, I think H.R. 4850 increases cost. Massive reregulation would cost, it is estimated, between $1.2 billion and $2.8 billion per year, which is the equivalent to about $23 to $51 per year for each cable subscriber.

A third reason that I think people should vote against H.R. 4850 and for the Lent alternative is the regulatory burden. The FCC is already empowered to permit States to regulate problem areas, and the FCC regulatory standard was recently toughened.

H.R. 4850's reregulatory costs to FCC, to the Federal Communications Commission, would be between 17 and 44 percent of its entire current budget.

I think there are alternatives to create competition in the video marketplace, which is what we want. Competition, not rate or service regulation, best keeps cable rates low and quality high. Competition could result in a $4.4 billion annual benefit, or an $80 per household savings.

I think to increase competition in the video marketplace there should be an outlaw of exclusive cable franchising practices. Personally I think telephone companies should be able to compete in offering cable.

And then, finally, we should look at ways to eliminate regulatory burdens on other competitors to cable.

Mr. MARKEY. Mr. Chairman, I yield 2¼ minutes to the gentleman from Louisiana [Mr. TAUZIN].

(Mr. TAUZIN asked and was given permission to revise and extend his remarks.)

Mr. TAUZIN. Mr. Chairman, Members of the Committee, I think the problem can be stated very simply. Since this Government deregulated the cable industry, something dramatic happened. The cable industry, first of all, concentrated in some very large national companies, and it vertically integrated. It does not only own the

cable in our homes now. It owns the programs that go over those cables.

The second thing that has happened is the very few companies on the national level that control the program now have refused to sell that program to anybody else who would compete with cable, or they have offered it to competitors at excessively high rates.

If you take the C-band satellite industry where they are charging as much as five times as much for a consumer on the C-band satellite, the big dishes, to see the same programming that others might see on a cable somewhere in America, and they are doing the same thing when it comes to nonwire cable, what we call microwave or wireless cable, and they are doing the same thing when it comes to DBS, the new technology in the sky, new satellite technology that will be available to urban consumers as well as rural consumers.

That is the problem, monopoly concentration without regulation, and consumers that are catching it in the neck, no competition.

There are two ways to cure that problem. One is to reregulate, to give to the local communities the power to set rates and terms and conditions again. The other is to provide competition.

Now, our bill provides some regulation, but the real heart and soul of this bill ought to be to create competition.

The gentleman from Tennessee [Mr. COOPER] told us earlier what it brings, a 34-percent reduction in rates. How do we get competition?

The gentleman from New York [Mr. MANTON] will offer a solution, and I will offer now. Mr. MANTON's solution, drafted by the cable companies for the cable companies, will solve only the old problem of the old dishes. It will say to the new technologies, to wireless cable, "The big companies have to deal with you, but they can deal with you under any price and terms and conditions. In other words, they can charge you 10 times as much as anybody else. If you do not like the deal, sorry, no competition." That is the Manton substitute.

The Tauzin amendment is the only one that provides that programs will be available to competitors, that consumers will have choice, and out of choice comes lower prices and a control in this marketplace in the hands of the consumer, not the cable company.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

(Mr. RICHARDSON asked and was given permission to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Chairman, first I wish to commend the chairman for agreeing to the amendment that I offered in full committee that imposes EEO requirements on the broadcasting industry just as we did on cable in the 1984 Cable Act.

Mr. Chairman, I will be vigilant in this effort as we move through conference to ensure that women and minorities have the equal rights in terms of opportunity, in terms of hiring, in terms of professional advancement. This is something that the broadcasting industry, I understand, may try to replace or remove in the conference. We will make sure that that does not happen.

Second, I will be supporting the real consumer amendment in this legislation, and that is the Manton amendment.

Mr. Chairman, I come from a rural area. The Manton provisions will ensure access to home dish owners.

I have a letter in front of me from a major entrepreneur in the DBS business, Mr. Stanley Hubbard, of Hubbard Broadcasting, expressing a preference of the Manton amendment because it will force programmers to negotiate with him in a free, open, and anti-competitive environment. That is why this DBS proponent prefers the Manton amendment.

But today we will deal with cable legislation, and the question is going to be this: We all know that cable needs to be regulated. The issue is now far do we go and at what point Congress imposes too much regulation that results in consumers being hurt over the long run. The Tauzin amendment is a clear example of going too far.

Mr. Chairman, I rise in support of the rule and in support of H.R. 4850, the Cable Television Consumer Protection and Competition Act. I do so not because this bill is perfect; it is not. But H.R. 4850, on the whole, is a balanced measure and the product of 3 years of hard work by subcommittee Chairman ED MARKEY, full committee Chairman JOHN DINGELL, and other Energy and Commerce Committee members. It represents the consensus of the committee, having passed by a 31-to-12 vote. And finally H.R. 4850, as reported by the committee, does accomplish important consumer objectives: It will bring cable rates under control, establish universal customer service standards, ensure that local over-the-air broadcast stations are carried on cable systems, and protect customers from egregious behavior on the part of cable operators.

These provisions are the heart of the bill. After all, the cable bill is supposed to be a response to customer dissatisfaction and complaints, not a vehicle for interindustry fights. Our constituents back home want a cable bill passed because they are angry about arbitrary price increases in their monthly cable bills, because they are tired of receiving lousy customer service, and because they have little control to stop serious abuses being committed by a limited number of cable operations.

As the Congress moves closer, however, to passing a cable bill this year, we also need to preserve a regulatory environment that allows the cable industry and emerging competitors like DBS operations to have the freedom and the incentive to invest in new programming, services, and infrastructure.

The 1984 Cable Act, for all its shortcomings and notwithstanding the need to amend it, was an enormous success. Ninety percent of all households now have access to cable television compared to 60 percent in 1984. The number of subscribers has jumped from 37 million in 1984 to almost 60 million subscribers in 1991. And the average cable system now offers consumers 30 to 53 channels today compared to just 24 channels before the enactment of the 1984 Cable Act. And consumers are clearly getting a better product today than they did in 1984.

Mr. Chairman, there is little disagreement over the need to impose new rules on the cable industry; everyone agrees that is necessary. So the debate today is not about leaving the cable industry completely unregulated. Let me make that clear: The cable industry will be reregulated.

Today's debate will be about how far do you go, and at what point does Congress impose too much regulation that results in consumers being hurt over the long run.

We will face that choice on the issue of program access. An amendment will be offered by Congressman TAUZIN to strip cable program networks of their right to enter into exclusive contract distribution arrangements and require them to sell their products at government-mandated wholesale prices, terms, and conditions. Mr. Chairman, that is an intrusive, unnecessary, and destructive proposal that should be rejected by the full House. I would urge my colleagues to support a more effective and reasonable solution to the program access problem that will be offered later by Congressmen TOM MANTON and CHARLIE ROSE.

I will speak later in the debate on program access when the Manton-Rose amendment is before the House. I will conclude by urging my colleagues to support the rule and to get this bill to conference so that the House can begin working with the Senate on a bill that will receive the President's signature, thereby giving consumers the benefits of this legislation.

Mr. Chairman, I am including for the RECORD a copy of the letter from Mr. Hubbard and copies of two letters as follows:

U.S. CONGRESS,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 23, 1992.

THE MANTON-ROSE PROGRAM ACCESS AMENDMENT PROTECTS THE NEEDS OF RURAL AMERICA

DEAR COLLEAGUE: Before you make a decision on the "program access" issue, you should be aware of the consumer and rural protections in the Manton-Rose Amendment.

The Manton-Rose amendment completely satisfies the unique problems which have been raised by rural Americans who own C-Band, backyard dishes.

It requires cable networks to make their programming available to independent distributors of programming who serve the

backyard dish market, at the same prices, terms, and conditions these networks offer other cable systems.

The debate about program access, therefore, is not as some have suggested, about whether rural America's C-Band home dish owners' needs will be served. The Manton-Rose amendment ensures that these needs are met.

Unlike the Tauzin amendment, however, which Representative Dingell and Lent have said in a Dear Colleague letter "is punitive and goes too far"—the Manton-Rose amendment represents a balanced approach to the issue presented by new technologies like Direct Broadcast Satellite (DBS) systems. It prohibits cable program networks from refusing to deal with new technologies "if such refusal would unreasonably restrain competition" but would not impose a blanket mandate of uniform price terms and conditions—these issues would be left to the marketplace except where violations were found.

The difference between the Tauzin and Manton-Rose amendments is how far the Congress will go in restricting the property rights of cable networks like CNN and Nickelodeon, in a way that unfairly tips the scales in favor of a few special interests. Manton-Rose offers a balanced solution to a limited problem. It is virtually identical to the relevant provisions of the cable bill which the House passed unanimously in 1990.

Sincerely,

BILL RICHARDSON,
Member of Congress.

U.S. CONGRESS,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 23, 1992.

VOTE "YES" FOR THE MANTON-ROSE AMENDMENT TO H.R. 4850 DBS PIONEER SUPPORTS MANTON-ROSE OVER TAUZIN

DEAR COLLEAGUE: As you may be aware, when the House takes up the cable re-regulation bill (H.R. 4850) today, you will be presented with a choice between the Tauzin program access amendment and the Manton-Rose substitute. We urge your support for the Manton-Rose substitute.

Some of the proponents of the Tauzin amendments have argued that the Manton-Rose substitute will not protect the ability of emerging technologies such as Direct Broadcast Satellite (DBS) to compete with cable. They contend that new technologies cannot survive unless cable networks are forced to sell their creative product to all comers at government-mandated wholesale prices, terms, and conditions.

We would like to draw your attention to the position of Stanley S. Hubbard, President of United States Satellite Broadcasting Company, Inc., a DBS company that plans to launch in December 1993. Mr. Hubbard makes clear in a letter to the Energy and Commerce Committee Chairman his preference for the Manton-Rose program access substitute over the Tauzin approach. We intend to insert this letter into the Record during floor debate on H.R. 4850.

Here is what Mr. Hubbard says:

"USSB desires that DBS operators have an opportunity to engage in good faith negotiations with program providers for cable programming. Our preference would be for Section (a) of the Manton Amendment, Competition and Technological Development, because the Manton Amendment does not prescribe terms and conditions."

The proper course for Congress to take in providing a solution to the "program access" issue should be to promote competition and diversity in the delivery of video programming to the American consumer.

In the words of Mr. Hubbard, Congress needs to pass a program access provision that creates "a level playing field whereby we [DBS operators] can bargain in a free and open marketplace" for programming.

It is the Manton-Rose amendment, not the Tauzin amendment, that accomplishes that objective. We hope you will join us in supporting the Manton-Rose Substitute Amendment.

Sincerely,

TOM MANTON,
BILL RICHARDSON,
Members of Congress.

UNITED STATES SATELLITE
BROADCASTING CO., INC.,
St. Paul, MN, July 22, 1992.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN DINGELL: United States Satellite Broadcasting Company, Inc. (USSB) is constructing a Direct Broadcast Satellite (DBS) to be launched in December, 1993, with its programming service to commence in early 1994. USSB will share the satellite with a competitive DBS service to be provided by DirecTV, Inc., a subsidiary of Hughes Communications, Inc., Thus, DBS programming in the United States will become a reality in 1994.

USSB plans to preset new, innovative programming; however, in order to foster the growth of DBS service, we anticipate including some of the programming services presently available on cable television in our programming mix. Separate amendments to H.R. 4850 to provide for program access have been offered by Congressman Manton and Congressman Tauzin. USSB desires that DBS operators have an opportunity to engage in good faith negotiations with program providers for cable programming. Our preference would be for Section (a) of the Manton Amendment, Competition and Technological Development, because the Manton Amendment does not prescribe terms and conditions. Our only interest is that there be a level playing field whereby we can bargain in a free and open marketplace for our programming.

USSB is a subsidiary of Hubbard Broadcasting, Inc., which is also the managing partner of Conus Communications, a satellite news-gathering service. In turn, Conus is a joint venturer with Visocom, Inc. in the All News Channel, which has been primarily developed to provide a news service to C-band home satellite television viewers. A very limited number of cable systems also carry the All News Channel. By legislating the price, terms and conditions of sale to C-band, Section (b), Marketing of Certain Satellite Communications, of the Manton Amendment as well as the Tauzin Amendment would have a strong, adverse economic impact on comparatively new programming services, where cable provides not the primary but only the ancillary market. Accordingly, a relief from this blanket provision should be provided at conference by excluding services such as the All News Channel in order to maximize service available to the public.

If we can provide additional information regarding our positions on this important legislation, please let us know.

Cordially,

STANLEY S. HUBBARD,
President.

□ 1730

Mr. MARKEY. Mr. Chairman, I yield 1¼ minutes to the gentleman from North Carolina [Mr. PRICE].

(Mr. PRICE asked and was given permission to revise and extend his remarks.)

Mr. PRICE. Mr. Chairman, I thank the gentleman for yielding to me at this time for a colleague.

In taking up this cable television bill today, our attention naturally turns to the ways in which television can serve our national purposes and our No. 1 education goal, namely, making certain that our children are ready to learn when they go to school.

By the time a child sets foot in kindergarten, he or she is likely to have spent more than 4,000 hours watching television. We have television channels devoted exclusively to sports, weather, health, rock music, around-the-clock news. It seems reasonable that we ought to have one place on the TV dial that parents could turn to with confidence, a reliable source of enriching programming all day long. That is what Representative WYDEN and I have proposed in our ready to learn legislation.

Mr. WYDEN. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I am glad to yield to my colleague, the gentleman from Oregon.

Mr. WYDEN. Mr. Chairman, I thank my colleague for yielding to me. It has been a pleasure to work with him on this legislation where we can harness the power of television on behalf of preschool kids. It is amazing to think that the commercial television stations are doing less in preschool programming now than they did 30 years ago.

Mr. Chairman, I appreciate the opportunity to work with the gentleman. I also want to thank the gentleman from Massachusetts [Mr. MARKEY] who has been a tremendous advocate for seniors, children, and consumers, and thank the gentleman for his assistance.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I share the views of both gentlemen.

I would say that I as well believe that television should help preschool kids get ready to learn. We will hold hearings on that part of the legislation that is being introduced here and which will come before our jurisdiction in the very near future.

Mr. PRICE. Mr. Chairman, I thank the subcommittee chairman.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES].

(Mr. HUGHES asked and was given permission to revise and extend his remarks.)

Mr. HUGHES. Mr. Chairman, first let me just salute the gentleman from Massachusetts. He has done a remarkably good job, as has the subcommittee and staff in a very difficult area, and while I am not pleased with every aspect of the bill, I am not pleased with many aspects of bills that come out of the Committee on the Judiciary.

I rise in support of H.R. 4850, the Cable Television Consumer Protection Act. I think it is a good bill.

In our economic and political systems, unregulated industries usually work fine when there is real competition. They do not only serve us as well when there is little or no competition.

The cable television industry is one in which there is very little competition, and that, quite simply, is why we need this legislation.

In the absence of real competition, cable systems which too often enjoy local monopolies have jacked up their prices, scaled back service, and demonstrated attitudes toward their captive customers that range from indifference to insolence.

Under the deregulation which we enacted in 1984, there can be no governmental regulation of cable systems in communities where there is so-called effective competition. That might be acceptable if the term meant what it says.

It does not. Under current rules, about 60 percent of the cable systems and more than three-fourths of all customers are deemed to be in areas of effective competition. As a result, local government is prohibited by Federal law from regulating rates charged by these cable operators.

In fact, there is cable competition in only a handful of communities. There are some 13,000 cable systems throughout the country, but only 65 communities are served by more than one cable system. In the few communities where local government is allowed to regulate rates charged for basic cable service, operators resort to a tiering price system to subvert that regulation.

That competition is the solution is revealed in a very telling statistic: In those 65 communities with two cable companies, the average price to consumers is 34 percent lower. That suggests to me that cable companies are overcharging the rest of the country hundreds of millions of dollars a year by virtue of their monopoly situation.

There is another factor, though, and that factor is the cost to cable of the programming that it often charges consumers monopolistic prices for. While I strongly support H.R. 4850, H.R. 4850 only addressed the fees cable charges consumers, it does not and cannot address the fees cable pays program suppliers.

The prices cable pays for programming is governed by the copyright law, and is within jurisdiction of the Subcommittee on Intellectual Property and Judicial Administration of the Judiciary Committee, which I am privileged to chair. Under an antiquated and unfair system of compulsory licensing, the rates cable pays are set by Government regulation at artificially low rates. In two important areas, cable in fact pays nothing. These areas involve local television broadcast stations and distant network stations. As valuable as this programming is, under the copyright law, cable has an absolute right to take the broadcasters' signal for free and then charge consumers.

That is wrong, but it is only part of the picture. Under a ruling by the Copyright Office, competitors to cable, such as wireless cable are not entitled to the same privileges as cable. Along with Judiciary Committee Chairman JACK BROOKS and my distinguished ranking minority member CARLOS MOORHEAD of California, I introduced H.R. 4511, a bill to comprehensively resolve these issues in a fair way. H.R. 4511 will bring effective competition. H.R. 4511 will bring the best programming available, including sports, to the largest number of subscribers, and at the lowest possible cost.

We have been working hard to process our bill through the Judiciary Committee. Chairman JACK BROOKS has stated his intention of acting on the bill forthwith. But, a funny thing happened on the way to the full committee.

Broadcasters saw a pot of gold at the end of the retransmission rainbow. Even though H.R. 4511 for the first time provided a needed second stream of revenue for local broadcasters by requiring cable to pay for retransmitting local signals, broadcasters saw a big—I mean big dollars in something called retransmission consent. Broadcasters want the right to negotiate with cable to retransmit their broadcast day. I agree they should have the ability to negotiate for copyrighted works that they own, and H.R. 4511 give them this right.

But broadcasters do not want copyright owners of the programs they broadcast to have the same right. They want to leave in place the compulsory license for cable to take others' programming so that broadcasters only can negotiate. That is not a free market. This is special interest legislation at its worst: Leave government regulation in place for programming copyright owners, but remove that regulation for broadcasters so that broadcasters can sell the program copyright owners' works to cable at market rates.

Make no mistake, retransmission consent is nothing more than a copyright right in the sheep's clothing of the communications statute. The U.S. Copyright Office has agreed, stating that retransmission consent "alters the fundamental principle of the (copyright) compulsory licensing scheme: Signal availability."

The advocates of retransmission consent try to make a distinction between "signal" and "programming," arguing that retransmission consent only deals with the signal and copyright only deals with the copyrighted programming carried on the signal. This is sophistry. Consumers do not sit around and watch a signal. They watch programming.

The advocates of retransmission consent have also resorted to all sorts of maneuvering to avoid the Judiciary Committee's jurisdiction. They took retransmission consent out at the Energy and Commerce Committee after they learned that the Parliamentarian was going to give Judiciary a sequential referral.

Yesterday the Rules Committee did the right thing. It rejected a last-ditch effort to reinsert retransmission consent back in H.R. 4850.

Why do broadcasters want retransmission consent so much? As I said, money, lots of it. How much? Larry Tisch, president of CBS, and a very knowledgeable industry figure put a tag of $1 billion on retransmission consent. That money will be passed on to consumers.

Retransmission is bad policy and bad for consumers. This is why its advocates have been attempting to circumvent the normal committee process: They're afraid that once Members are aware of the devastating costs of retransmission consent to consumers, it will be rejected.

In conclusion, while I support H.R. 4850 in its current form, I urge rejection of retransmission consent if it is ever raised again.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BARTON], a member of the committee.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, I, too, want to commend the leaders on both sides of the aisle in their misguided and in my opinion unnecessary effort to reregulate cable.

This is the wrong bill at the wrong time for the wrong reasons. If we are worried about holding rates down, we ought to engage in more effective competition.

Congressmen COOPER and OXLEY on the committee have got a bill that will allow telephone companies into cable television. That would definitely provide some competition.

This is an industry that is an entertainment industry. It is not a public necessity. There is absolutely no reason to regulate it. I would hope that we would vote no, no, and then move on to more important things; but again, those who think we need to regulate cable on both sides have been fair in the hearings of the subcommittee and the full committee.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. HARRIS].

(Mr. HARRIS asked and was given permission to revise and extend his remarks.)

Mr. HARRIS. Mr. Chairman and my colleagues, I urge your support for the Tauzin amendment to the Cable Television Consumer Act and ask you to accept no weakening amendments. The Tauzin program access amendment serves two purposes: It promotes competition and makes possible the wider distribution of information, education and entertainment to people in rural

areas who have not fully benefited from this so-called Information Age.

As you probably know, 60 percent of the homes in this country have cable television, but less than 3 percent of these households have any alternative to the local cable monopoly. In the areas, where competition does exist, rates are substantially lower and customer service infinitely better and the cable companies still show a healthy profit. These findings indicate that with real competition in the marketplace, consumers benefit through greater choice and more reasonable prices.

However, rural America, and certainly many communities in Alabama, are not served by the present cable systems because of the cost limitations of cable technology. While many rural residents have invested in satellite dish delivery systems, they still have found themselves at the mercy of cable programmers who have refused to sell their programs to satellite program distributors or who greatly inflate the price of their programs as compared to what they charge their own cable affiliates. There are new and developing technologies which have the potential to deliver the full range of television programs to rural areas at affordable prices. Yet, without access to the programs people really want to watch, these systems may never get off the ground and the real losers are once again the viewing public.

The Tauzin amendment addresses this issue by preventing cable programmers which are vertically integrated with cable system operators from unreasonably refusing to deal with alternative multi-video providers. In other words, cable companies which also own programming cannot refuse to sell their programming to other distribution systems in order to choke off any competition. It also prohibits a vertically integrated cable company from discriminating in price, terms and conditions in offering its programming. The amendment does not set those prices, terms or conditions, but merely encourages good faith negotiations.

The Tauzin amendment is supported by the Alabama Rural Electric Association of Cooperatives, the National Rural Electric Cooperative Association, the U.S. Telephone Association, the National Rural Telecommunications Cooperative, the American Public Power Association, Consumer Federation of America, the U.S. Conference of Mayors, the National League of Cities, and the National Association of Counties among others.

Real competition is the best solution. Limited regulation will merely institutionalize increasing cable rates—they alone will never result in greater diversity or lower charges. While I support the rate provisions of H.R. 4850 as interim measures to protect consumers from abusive practices, I would like to point out that these provisions sunset when effective competition becomes a reality. Let us act now to promote this competition by supporting the Tauzin amendment.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I rise in strong opposition to H.R. 4850.

Since when is it the Federal Government's job to regulate all economic activity, and since when is entertainment and communications an essential economic activity that needs to be regulated?

I have heard today that we have no competition when it comes to this type of communication. Give me a break. What about video cassettes? What about the radio? What about regular TV? What about books? What about CD's? What about audio tapes?

Hey, what about newspapers, and how about just sitting around in the living room talking to one another? Does the Federal Government really have to get in and regulate every single business in this country? When it does it messes things up.

We have some new technologies about to come on line to undercut the cable industry right now. These people have invested so much money, it is going to cause a lack of competition in the future because it is going to drive these people out of business at a time when new competition is coming in because of technology.

Mr. Chairman, let us defeat H.R. 4850.

□ 1740

Mr. MARKEY. Mr. Chairman, I reserve the balance of my time.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from Iowa [Mr. NUSSLE].

Mr. NUSSLE. I thank the gentleman for yielding.

I just wanted to engage the gentleman from New Jersey [Mr. RINALDO] in a colloquy. As the distinguished ranking member knows, I have been pretty vocal in trying to make sure that an important amendment which helps a particular city in my district, the city of Dubuque, is included not only in the Republican substitute but also in H.R. 4850.

This amendment would permit the city of Dubuque to maintain its very unique rate regulation agreement with TCI Cable, which currently serves the Dubuque area. I just wanted to make sure to take this opportunity to verify that this amendment is still part of not only the Republican substitute but also H.R. 4850, the one we are considering today.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. NUSSLE. I yield to the gentleman from New Jersey.

Mr. RINALDO. I thank the gentleman for yielding.

Mr. Chairman, I assure the gentleman from Iowa that his persistence and hard work have paid off and that his amendment, which protects Dubuque from any inadvertent legislative action, is still included in both the Lent substitute and H.R. 4850.

Mr. NUSSLE. I thank the gentleman for his comments. As you know, Congressman Tom Tauke, my predecessor, was a very hard and diligent worker on this particular issue, and I wanted to make sure that it was a part of the bills as a result of the fact that Dubuque has such interesting terrain and makes a difficult for competition. I appreciate the fine work of the committee.

Mr. MARKEY. Mr. Chairman, I yield myself the balance of my time in order to complete debate.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] has 3 minutes remaining.

Mr. MARKEY. I thank the chairman.

Mr. Chairman, the reason this legislation is needed is that the cable industry is a monopoly. When we passed the 1984 act, it was with the promise that cable companies would compete against each other, that if a cable system went into one system, another cable system would also come in and there would be two wires going down the streets of this country, and three or four.

It turns out, 8 years later, that they have an informal agreement not to compete, and in 98 percent of the communities in this country there is no competition.

So, now we must return to the original premise and regulate it not as a competitive industry but as a monopoly. To those who ask why do we regulate it, that is the answer. It is a monoploy.

Competition to cable is not reading a newspaper, competition to cable is not sitting in your living room twiddling your thumbs or going deep-sea diving or walking the dog. Yes, you can do all that as opposed to watching cable TV; but if you want to watch cable TV, there is only one cable TV in town, and it is owned by a monopoly.

That is why this legislation is going to pass tonight. That is why we are debating it.

Eight years later, we were wrong, there is no competition.

Now, the Consumer Federation of America says that because of the lack of competition or regulation—and we have neither—it costs the consumers of this country an extra $6 billion every year more than it should for the product which the cable industry provides on a monopoly basis.

Think of this vote tonight as a $6 billion tax cut for the consumers of America—$6 billion.

That is why it is endorsed by the Consumer Federation of America, that is why it is endorsed by the National League of Consumers, that is why it is endorsed by the National Council of Senior Citizens, that is why it is endorsed by the many members of the AFL–CIO and others who are in the forefront of the protection of the consumers of this country.

That is why we need this legislation.

Now, to those who want to walk the dog, those who do not really care about the consumers of this country, they can vote against protection of the consumer. However, I emphasize the bipartisan nature of this legislation. The bill was reported out of the Committee on Energy and Commerce on a bipartisan vote.

The Senate bill, which goes at least as far as this bill goes, was sponsored by the ranking Republican on the Commerce Committee, Senator DANFORTH, and it was voted out 73 to 18, with a majority of Senate Republicans voting "yes."

The reason for that bipartisan vote is very clear: It protects the consumers of this country. I would hope, as we complete general debate and move on to the amendments, that each and every Member of this body could keep that in the back of their minds, that $6 billion tax cut we are voting tonight for the consumers of this country.

Mr. RINALDO. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. OXLEY] a distinguished member of the committee.

The CHAIRMAN. The gentleman from Ohio [Mr. OXLEY] is recognized for the balance of the time remaining, which is 2 minutes.

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. Mr. Chairman and Members, we really have, I guess, a philosophical difference here. There are those on that side, and I say this with great respect to my friend from Massachusetts, the chairman of the subcommittee, who feel that when something is successful out there in the business world, let us regulate it, and if it is really successful, then let us overregulate it.

That is really what we have got before us right now.

We are trying to kill a fly with a sledge hammer. And that sledge hammer happens to be the overregulatory bill that we have before us today; big, big mistake.

We did not make any mistake in 1984 when we deregulated cable. We saw one of the greatest growth industries in the history of this country, that has brought more entertainment and information to our people and indeed around the globe than any other thing that we could have done. It was a successful piece of legislation. That is not to say there are not some glitches out there. Clearly, there are some problems. We can deal with that.

Mr. Chairman, the Lent substitute, in fact, does deal with that.

I hoped that we could have passed that last session. It did not happen. We all know why it did not happen, but it did not happen.

So we have a choice: Instead of paying lip service, lip service to competition, we could bring up the bill that I have introduced along with Mr. BOUCHER, Mr. COOPER, and others, that would allow the Bell operating companies to get into cable, that would provide real competition to enhance the network, to bring broadband technology to the American public, and we could get off this reregulatory kick that we somehow get on that somehow we are going to protect that poor consumer out there.

Does anybody out there really think this bill is going to drive down the cost of cable to the average consumer? I would argue quite the contrary. Because we are unable to debate today the retransmission consent language for other reasons, we will not be able to get into the fact that it is going to cost the average consumers about $3 per head and some $20 billion more. That is going to be taken care of apparently in conference committee. Too bad; we had a chance, I think, to really do something and we simply did not do it.

Mr. POSHARD. Mr. Chairman, I rise in strong support of this legislation and the consumers it protects.

The General Accounting Office study of the period between November 1986 and April 1991, which shows that cable rates increased nearly 60 percent, is dramatic evidence in support of this bill. During those first 4½ years of deregulation, the cable industry took excessive advantage of its unregulated monopoly status to raise rates. At the same time, those of us in elected public office heard continuing complaints not only about price but about the service which they received from the companies.

In my rural Illinois district, cable television is a popular outlet to the rest of the world. Cable News Network and C-SPAN, the excellent public service offerings of the cable industry, have strong audiences in my district. I say this because I believe there is great promise for the cable television industry, and I know that in some ways the companies in my State and across the Nation have tried to address some of the issues under consideration in this bill. But they have not come far enough, and this legislation is critical to balancing the playing field, protecting consumers, and introducing competition.

I regret that the Rules Committee did not allow an amendment to provide retransmission consent for local broadcasters, and I urge the House conferees to stand up for that provision which is included in the Senate version of this bill.

The bill deserves strong support for the way it otherwise recognizes the needs of over-the-air commercial and public television stations. I was also pleased to support the Tauzin amendment to provide equal access to programming at nondiscriminatory prices by noncable technologies.

For all of those reasons, I strongly support the bill and commend the committee and the House for its excellent work.

Mr. KYL. Mr. Chairman, the cable television legislation before the House today is a mixed bag of some good and some bad proposals.

It includes must carry and channel positioning provisions that I believe are important and should be enacted: must carry to ensure the viability and availability of free, over-the-air broadcast television to the viewing public; and channel positioning to help avoid the confusion to viewers that might otherwise result from the shifting of stations from one channel position to another, not to mention the losses in viewership that local stations might suffer from viewers no longer able to find their favorite station.

The House won't have an opportunity under the rule to debate the retransmission consent issue. I would have supported retransmission consent, which would have allowed local stations the opportunity to negotiate with cable operators over the terms and conditions of their carriage on cable.

Unfortunately, some of these good things in the bill are far outweighed by the bad; namely the massive reregulation of the cable industry which in the end will increase, not decrease or stabilize, cable rates and jeopardize the high quality of service available to most cable subscribers.

Mr. Chairman, according to information I received from the Department of Commerce, regulatory costs imposed by this bill at the Federal, State, and local levels will increase by $22 million to $60 million annually, costs that will ultimately be paid by the taxpayers or by cable subscribers.

Cable operating costs will also increase, by as much as $1 billion annually. Who will pay? Cable subscribers.

Increased competition, not more regulation, is the direction this House should be moving. If the severe regulation is not removed from the bill, I will have to vote no on final passage. If the massive reregulatory approach is not removed, President Bush has vowed to veto the bill, and, if he does, the good things I had mentioned will be threatened along with the bad.

Increased competition, not more regulation, is the answer.

Mr. LEHMAN of California. Mr. Chairman, as a member of the Energy and Commerce Committee, I rise in reluctant support of H.R. 4850, the Cable Television Consumer Protection Act of 1992.

While I acknowledge the hard work of Chairman JOHN DINGELL, ED MARKEY, NORM LENT, MATT RINALDO, and their respective staffs, I would like to take this opportunity to note some of my continuing concerns that I have with the bill under consideration today.

Thanks in large part to this body which approved the Cable Act of 1984, the cable television industry has experienced tremendous growth over the past decade. It now reaches over 90 percent of all homes and is subscribed to by 60 percent of all American households. The cable television industry not only provides a clear picture to many locales that did not have broadcast signals, but now through the miracle of cable, millions of Americans enjoy a steady diet of HBO, ESPN, CNN, MTV, BET, Discovery and dozens of other programs developed by cable. The programming services and picture quality offered by cable and its competitors are here to stay and we owe the industry our gratitude.

However, as with all growth industries, there have been problems and cable has been no exception. Through the years there have been complaints of excessive rate increases, poor customer service, arrogant franchise operators, and incompatible equipment. In many instances, the cable industry has acknowledged its shortcomings and has taken many steps to solve these problems.

Yet, the bad apples do exist and the intent of H.R. 4850 is to rein in these few bad apples that threaten to ruin it for the majority of good

ones. Though several of the concerns that I raised during the subcommittee consideration of the bill have been resolved and while I am generally supportive of the goals of H.R. 4850, I still have reservations of whether or not we will actually accomplish what we originally set out to do.

There is no doubt that the cable television industry is a monopoly. Single franchises dominate the landscape with competition provided in only 5 percent of the marketplace. Vertically integrated cable system and programming entities control the majority of programming currently available. In the absence of market-driven competition, however, it is not clear to me that the basic tier regulatory structure provided in the legislation will in fact reduce subscription rates and in the long term lower cable rates for our constituents.

Of particular concern to me is the impact of the buy-through prohibition in section 3 of H.R. 4850. The industry says that this will cost them and, ultimately, the consumer, $4 billion in additional costs to ensure that the appropriate addressable converter technology is available for consumers. Proponents argue that this provision makes sense, that the industry has been rapidly moving toward this technology, and that this gives the consumer more choices in determining how their discretionary entertainment dollar will be spent. Yet, there is no convincing evidence that the consumer will in fact continue to receive the type of diversified cable programming that is currently available nor at the same affordable rate.

I do, however, appreciate the concessions which were made by Chairman MARKEY in allowing the equipment cost to meet this provision to be passed along to the consumer, and for allowing the FCC to grant an additional 2 years to comply due to technological limitations.

H.R. 4850 unfortunately does not address the issue of access to programming. As a member of the committee, I am familiar with the controversy regarding this issue and it is unfortunate that the committee could not satisfactorily resolve this complex problem. I am, however, in support of the Manton substitute and in reluctant opposition to the proposal offered by my good friend and colleague from Louisiana, Mr. TAUZIN.

At the very heart of this issue is whether or not the alternatives to hard wire cable systems, either microwave or satellite services, have adequate access to video programming sources, much of which is controlled by cable entities. And are these current protections or the ones we are contemplating today sufficient to meet the needs of new DBS technology and possible entry by other competitors such as the telephone companies?

There is no doubt in my mind that the amendment offered by Mr. MANTON is fair and reasonable, and does, in fact, provide for the type of access to programming that the competition, both present and prospective, needs to have in order to foster true market competition. Does it go far enough to anticipate the technological and marketplace demands of tomorrow, of the next decade, that remains to be seen. The Manton substitute does, however, acknowledge the present issues and it is realistic in its approach.

The Manton substitute prohibits vertically integrated cable entities from refusing to deal with multichannel system operators where such refusal would "reasonable restrain competition." This provision provides adequate protection for existing programmers, yet ensures that other video delivery system operators have reasonable access to these programming sources.

Furthermore, the Manton amendment ensures that cable programming remains available to C–Band satellite dish at rates, terms and conditions comparable to cable—this provision is virtually identical to the approach embodied in H.R. 5267, which was approved overwhelmingly in the 101st Congress.

The Manton substitute is reasonable and fair, and it also provides assurance of access to programming sources for the competition.

Let me express my disappointment that H.R. 4850 does not include the so-called retransmission consent provision. Unfortunately, due to jurisdictional concerns, the Energy and Commerce Committee did not include this provision in H.R. 4850 and the rule did not make in order an amendment by my good friends and colleagues Congressmen ECKART and FIELDS. Fortunately, the Senate bill, S. 12, does include retransmission language, and, hopefully, this issue can be resolved in conference.

All of us believe in competition—putting your best product forward and going head to head in the marketplace.

But what has occurred in the cable industry is just the opposite. Instead of cable and its chief competitor, the broadcast industry, playing by the same rules on the same turf, we have a situation where broadcasters must subsidize their competition by being required to give away their programming to cable. No negotiations, no permission required. There is no other business in America which operates this way and it's time that we put a stop to it.

Retransmission consent is simple but effective. For those stations who choose it, this option would allow broadcast stations to retain the right over who may use their signals and under what terms and conditions. This is a simple and fair negotiated contract between two parties.

Furthermore, the negotiations would be strictly between the station and local cable operator—no networks, no outsiders. And it is not a surcharge or tax as has been alleged. The agreement may not be a financial agreement, it could include promotional considerations, channel positioning, or other non-monetary considerations.

Finally, many stations might not even opt for retransmission consent, and instead would simply opt for the "must carry" provisions already included in H.R. 4850.

The concept is simple, rational and fair. It allows competition on open terms and it removes an unfair advantage which the cable industry has had over the local broadcaster.

Finally, Mr. Chairman, let me thank my chairman of the committee for including my two amendments as part of his en bloc package.

Included in this package is my amendment which would amend section 18(b) regarding a study of sports migration. Section 18(b) requires that the Federal Communications Commission conduct a study of the carriage of local, regional and national sports programming by broadcast stations, cable programming networks, and pay-per-view services. The purpose of the study is to develop quantitative data regarding the migration of collegiate and professional sporting events from over-the-air broadcast signals to cable and pay-per-view [PPV] services.

While cable and PPV services may have increased the availability and diversity of televised sporting events, there is clear evidence that the migration of some events from over-the-air signals to pay cable services has been disruptive to both the broadcast industry and the local fan. The study is an important first step in resolving an issue which has been before the committee for several years now.

Of particular concern to me has been the impact which exclusive contracts between college athletic conferences and regional sports programming networks have had on the ability of local broadcasters to air these events and ultimately the impact on the college football fans. In most instance college conferences sign exclusive contracts with regional sports programming networks which govern the broadcasting or cablecasting of conference games, often prohibiting games from being aired during the same time slot as their so-called game of the week.

For instance, in my congressional district, a Fresno State University Bulldog football game against a PAC 10 school was not aired by the regional sports cable network because the sports network decided to feature a different PAC 10 game. All other conference games were similarly prohibited from being aired at the same time as that featured game. To make matters worse, that exclusive contract also prevented a local television broadcaster from securing the rights to broadcast that game. As a result, my local fans were deprived of seeing a game that they normally could have seen on a local television station.

Similarly, a Bulldog game against another conference school which had signed a similar exclusive contract with a regional sports network was not even carried on our local cable system, an effective blackout of the area. Area fans had absolutely no access to this game thanks to the exclusive contract.

This problem is not unique. It has occurred in university communities throughout the country, including California, Washington, Tennessee, Arizona, and Iowa, depriving both local broadcasters and sports fans with the opportunity to view these games live.

Though the report which accompanies H.R. 4850—House Report 102–628—alludes to this problem, my amendment provides some statutory direction. It would very simply direct the FCC to consult with the Attorney General to examine and conduct an analysis of the impact of these exclusive contracts between college athletic conferences and video programming vendors. The amendment provides some statutory guidance for the FCC sports migration study, and asks for a recommendation to solve the problem.

Fresno State fans, more commonly known as the "Red Wave" are among the best fans that any university community could ever want and they deserve to have access to the live broadcast of their hometown college team, whether it is on cable or over the air broadcast signals. Like the Washington Redskins, Bulldog fans fill their stadium every weekend and for every home game, and the hordes of rabid fans that follow the team throughout the West strike fear into the hearts of opposing teams.

If the Bulldogs can compete against the best schools in the West, then their fans deserve to view those games, live. My amend-

ment would help to do just that. The taxpayers and the community of Fresno have built the stadium and the ballpark. They are the ones who support the teams through thick and thin. They deserve and demand the right to watch their hometown athletes shine wherever they play and against whomever, regardless of these artificial and illegalsic restraints.

I have worked closely with both Chairman DINGELL and Congressman MARKEY since this problem first surfaced last fall and I agree with the thousands of Bulldog fans who contacted me then. And though this amendment will not eliminate the problem, my amendment is just the first step in solving this problem. I appreciate Chairman DINGELL and the ranking minority member, Congressman LENT, for including this amendment in their package. I urge the adoption of the amendment. Go 'Dogs!

My second amendment that is included in the en bloc package clarifies the channel positioning requirements contained in section 5 of H.R. 4850. As reported by the committee, the bill affords local television broadcasters protection against having their television channels shifted by cable operators.

H.R. 4850 permits a television broadcaster to be carried on the cable channel it occupied on July 19, 1985 or on its FCC designated channel number, at the option of the television station. In addition, a television broadcaster can be carried on such channel as is mutually agreed upon by the station and cable operator.

This provision was included in the bill to end the unfortunate practice by certain cable operators of unilaterally and sometimes repeatedly moving a broadcast station's channel position. Cable subscribers are accustomed to viewing these stations on their current channel assignments and broadcasters have marketed their stations based on the channel assignment. It should be noted that according to a 1988 FCC report, 974 cable systems had repositioned local stations a total of 3,000 times. The bill rectifies the unilateral repositioning of broadcast channels.

My amendment merely affords this protection to stations which commenced operation after 1985. It should be noted that the July 19, 1985 date is the date of the Quincy decision, which invalidated the FCC's must carry rules, *Quincy Cable TV* v. *FCC*, D.C. Cir.—H. Rept. 102–628, p. 48. Again, this is merely a technical amendment, and I appreciate its inclusion in the chairman's package.

Again, Mr. Chairman, let me reiterate that H.R. 4850 is not a perfect solution to the problems associated with the cable television industry. It is, however, the product of very serious negotiations by the entire Energy and Commerce Committee and is worthy of approval by this body. And while many advocate that the Lent substitute is a far less onerous package and that it more closely mirrors the legislation that this House approved in the previous Congress, the fact remains that the marketplace has evolved since then and H.R. 4850 is a result of that evolution.

This legislation has the broad support of a number of interests, including labor, the U.S. Conference of Mayors, consumer groups, and it does lay the foundation for sound and reasonable regulation of the cable industry. It is a good bill for our constituents, and I urge my colleagues to support H.R. 4850.

Mr. GREEN of New York. Mr. Chairman, alarmed and concerned over the skyrocketing costs of cable since deregulation, I should like to express my support for the cable regulation proposal offered by my friend and colleague from New York, Mr. LENT. However, in the event that the Lent cable substitute is defeated, I shall cast my vote in support of H.R. 4850, the Cable Television Consumer Protection Act of 1992.

At present, my constituents have no choice but to subscribe to one existing cable company. Many New Yorkers—who need cable just to get clear reception of regular network television due to tall building interference—have been forced to subscribe to an unregulated monopoly, which has consistently raised rates and rendered certain high-technology subscriber television and VCR equipment obsolete.

The Lent substitute, which would require that the rates of basic cable service be regulated in areas where there is no effective competition, provides a balanced approach that will protect the interests of cable consumers. The proposal protects the consumer without placing excessive regulatory burdens on existing cable companies that could discourage investment in new programming when the American consumer is looking to the industry for greater programming choices.

Should the Lent substitute be defeated, I shall vote for the Cable Television Consumer Protection Act, which redefines "effective competition" and requires the Federal Communications Commission to regulate rates charged by cable TV operators. The legislation also requires the FCC to establish customer service standards for cable operators and directs the Commission to control rates charged by cable companies for the equipment and installation necessary to receive service. While I am concerned with some of the legislation's more restrictive and burdensome provisions, I remain hopeful that they can be revised when the bill goes to conference with the Senate.

I have never been a proponent of costly and unwarranted regulation. Moreover, I have long advocated and sponsored legislation which would allow for competition in the cable industry by permitting telephone companies, such as NYNEX, to compete with current cable TV operations. However, while reregulation is not the ideal response it is the only alternative that the House has been given to consider that will protect the interests of the cable consumer. I should also like to encourage the leadership to permit the House to vote on legislation that would allow the telephone companies to offer cable services. After all, cable companies, which have been free from regulation since 1984, have also been free of any meaningful competition. If Congress really wants to lower cable costs, let us give the cable industry more competition and the cable consumer some more choices.

Mr. MORRISON. Mr. Chairman, I rise today to say that we should be very careful about regulating an industry which has experienced substantial growth during a recession. Growth is good. The American consumer has undoubtedly benefitted from the growth of the cable industry.

But our job here is to look out for the best interests of that same American consumer. Along with its successes, the cable industry has experienced some significant growing pains. In many areas, cable rates have far exceeded the rate of inflation. Customer service and equipment complaints continue. In an industry which serves as the sole provider of a particular service, the Government has a responsibility to protect the consumer from monopolistic tendencies. In areas where cable has no competitor, it is our duty to ensure that rates are reasonable and service responsive. Passage of legislation today will move us in that direction.

THE IMPORTANCE OF LOCAL BROADCASTERS

Before I get into the specifics of the bill before us today, I would like to speak out for the local broadcasters who continue to be so integral to communities across the country.

When you want to catch up on local news, who do you turn to? Your local television broadcasters. When the national network affiliates don't carry your city's pro football game on Sunday, who do you turn to? Your local television broadcasters. If you want to see talk shows, weekly town meeting shows, and educational programming specific to your region, who do you turn to? Your local television broadcasters.

There is no doubt that the cable companies are slowly improving in this area. Government access channels, local high school sports, and other similar programming are becoming increasingly available on cable. But the local affiliates continue to be the backbone of our community news and information. The action we take today will ensure that those local affiliates remain strong and vital.

At a minimum, we can give those affiliates the must carry protection they need. While the courts have not been kind to must carry, it is a provision of this bill I'm confident nearly every one of my colleagues supports, and that most cable companies do not have a problem with. It ensures that those with cable television won't be deprived of the local programming that keeps them in touch with their community.

The bill before us today does not contain the retransmission consent language which the broadcasters feel is vital to their continued existence. While it made sense 20 years ago for the cable companies to retransmit those signals at no charge, today finds the broadcaster subsidizing their main competitor.

Giving the local broadcaster the option of requesting mandatory carriage or negotiating a carriage agreement, gives them the freedom to be treated like any other cable programmer. In discussions with broadcasters in my district, most would simply ask for mandatory carriage. For those who choose to negotiate a carriage agreement, compensation would not have to be monetary, and joint advertising and promotional arrangements seem likely in many cases.

In short, it is important that we act today in the best interests of the consumer. That means reasonable rates and service. And it also means maintaining the role of the local affiliate as the provider of important news, information, and programming specific to each region and community in this country.

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Because I believe we should be careful about regulating a growth industry, I will support the Lent substitute when it comes to the floor. While it ensures that rates do not rise unfairly, it does not micromanage what has, for the most part, been the successful delivery of this service.

Should the Lent substitute be defeated, however, I will support final passage of H.R. 4850. I have concerns with a number of specific provisions of this bill. But in the best inter-

acts of the consumer. I believe this is a train that we must keep moving. Again, we shouldn't restrict this industry, but ensure that its growth does not do harm to viewers or local broadcasters. In most areas, cable continues to enjoy monopoly status in the delivery of multichannel programming. We must ensure that the consumer is treated fairly by an industry which enjoys these monopoly powers.

There are a number of specific concerns I have with this bill which I hope can be resolved in conference with the Senate. Let me go over a few of those here.

ANTISLIV THROUGH

This bill allows consumers to purchase premium channels without purchasing the basic tier. That may sound innocent and a proconsumer choice. Wait until the bill comes in to make every home addressable. The current legislation means cable companies must have the ability to provide every cable consumer with HBO but not basic services. Most don't currently have that capability. One of the primary purposes of this bill is to keep rates at a reasonable level, and this provision flies in the face of that goal. Let's instead encourage cable companies to reach that goal as soon as they can, without mandates, and without sticking the consumer with the bill.

LACK OF EMPHASIS ON COMPETITION

History has shown us that the best remedy for high rates and poor service is competition. Give folks a choice of their provider. The FCC opened the door for the telephone companies last week. The direct broadcast satellite industry also continues to grow. Let's do more in this bill to prohibit exclusive franchises, to encourage modern communications development through fiber optics, and give consumers the ability to switch providers of multichannel service if they are unhappy.

NO EXEMPTION FOR SMALL SYSTEMS

As a member who represents a rural region of this country, I can tell you that many of those for whom cable was first intended are still waiting. Fewer homes and televisions per mile means less incentive to install cable. Regulating the small companies that provide most rural services hogties them further and endangers service to folks who don't have as many entertainment options as their urban neighbors. They turn on their TV's for their trips to Broadway, and can't afford to have their small cable provider cut them off because that provider can't afford to pay for the increased burdens of regulation.

In short, I will support the concept of curbing unreasonable rates and improving service in the cable industry today, and support final passage of H.R. 4850. I'm hopeful we will see an improved version of this bill come out of conference with the Senate—one which does not micromanage a thriving industry. Our job is to make sure the continued growth of the cable industry does not occur at the expense of the consumer.

Mr. DOWNEY. Mr. Chairman, 3 years ago, dedicated sports fans on Long Island were almost denied the opportunity to watch the New York Rangers and Knicks playoff games because of a dispute between the local cable provider and the programmer. While this dispute was settled, it mobilized Long Islanders to fight for their rights as cable consumers.

For me, this dispute underscored the need to reexamine the cable industry and the negative impact of deregulation. Deregulation has not achieved its goals and the last few years have been a time of frustration for cable consumers. They have been subject to higher rates, a decline in basic programming and a loss of service, including the coverage of favorite sports teams. It has left cable watchers with a sense of helplessness at the hands of this unregulated monopoly.

I believe that the solution is to inject real competition into the cable industry. I am pleased that the FCC has agreed to ease the restrictions on the entry of telecommunications companies into the cable market. But this will take time and cable consumers cannot and should not have to wait any longer.

The Cable Television Consumer Protection and Competitiveness Act will protect consumers, require additional competition, and ensure reasonable rates for cable programming. It will also discourage the movement of championship professional sporting events from free television to pay-per-view. The amendment offered by Mr. TAUZIN to increase program access will further encourage competition.

The rights and interests of cable consumers must be respected and protected. This legislation will accomplish these goals and I urge my colleagues to support it.

The rights and interests of cable consumers must be respected and protected. This legislation will accomplish these goals and I urge my colleagues to support it.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 4850

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cable Television Consumer Protection and Competition Act of 1992".

SEC. 2. FINDINGS; DEFINITION.

(a) FINDINGS.—Section 601 of the Communications Act of 1934 (47 U.S.C. 521) is amended—

(1) by striking the heading of such section and inserting the following:

"PURPOSES; FINDINGS";

(2) by inserting "(a) PURPOSES.—" after "SEC. 601.": and

(3) by adding at the end thereof the following new subsection:

"(b) FINDINGS.—The Congress finds and declares the following:

"(1) Fair competition in the delivery of television programming should foster the greatest possible choice of programming and should result in lower prices for consumers.

"(2) Passage of the Cable Communications Policy Act of 1984 resulted in deregulation of rates for cable television services in approximately 97 percent of all franchises. A minority of cable operators have abused their deregulated status and their market power and have unreasonably raised cable subscriber rates. The Federal Communications Commission's rules governing local rate regulation will not provide any protection for more than two-thirds of the nation's cable subscribers, and will not protect subscribers from unreasonable rates in those communities where the rules apply.

"(3) In order to protect consumers, it is necessary for the Congress to establish a means for local franchising authorities and the Federal Communications Commission to prevent cable operators from imposing rates upon consumers that are unreasonable.

"(4) There is a substantial governmental and first amendment interest in promoting a diversity of views provided through multiple technology media.

"(5) The Federal Government has a compelling 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 between 1972 and 1990 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 between 1969 and 1992; 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.

"(6) The Federal Government also has a compelling interest in having cable systems carry the signals of local commercial television stations because the carriage of such signals—

"(A) promotes localism and provides a significant source of news, public affairs, and educational programming;

"(B) is necessary to serve the goals contained in section 307(b) of this Act of providing a fair, efficient, and equitable distribution of broadcast services; and

"(C) will enhance the access to such signals by Americans living in areas where the quality of reception of broadcast stations is poor.

"(7) Broadcast television programming is supported by revenues generated from advertising. 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.

"(8) Because television broadcasters and cable television operators compete directly for the television viewing audience, for programming material, and for advertising revenue, in order to ensure that such competition is fair and operates to the benefit of consumers, the Federal interest requires that local broadcast stations be made available on cable systems.

"(9) 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.

"(10) Secure carriage and channel positioning on cable television systems are the most effective means through which off-air broadcast television can access cable subscribers. In the absence of rules mandating carriage and channel positioning of broadcast television stations, some cable system operators have denied carriage or repositioned the carriage of some television stations.

"(11) Cable television systems and broadcast television stations increasingly compete for television advertising revenues and audience. A cable system has a direct financial interest in promoting those channels on which it sells advertising or owns programming. As a result, there is an economic incentive for cable systems to deny carriage to local broadcast signals, or to

reposition broadcast signals to disadvantageous channel positions, or both. Absent retransmission of must carry and channel positioning requirements, such activity could occur, thereby threatening diversity, economic competition, and the Federal television broadcast allocation structure in local markets across the country.

"(12) Cable systems provide the most effective access to television households that subscribe to cable. As a result of the cable operator's provision of this access and the operator's economic incentives described in paragraph (11), negotiations between cable operators and local broadcast stations have not been an effective mechanism for securing carriage and channel positioning.

"(13) 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. 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.

"(14) At the same time, broadcast programming has proven to be 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 local broadcast signals. 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 carriage of local broadcast signals which, until now, they have been able to obtain without the consent of the broadcaster. 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, this subsidy may have been appropriate, it is no longer and results in a competitive imbalance between the two industries.".

(b) DEFINITION.—Section 602 of the Communications Act of 1934 (47 U.S.C. 522) is amended—

(1) by redesignating paragraphs (11) through (16) as paragraphs (12) through (17); and

(2) by inserting after paragraph (10) the following new paragraph:

"(11) the term 'multichannel video programming distributor' means a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming;".

SEC. 3. REQUIREMENTS FOR THE PROVISION AND REGULATION OF BASIC SERVICE TIER.

(a) AMENDMENT.—Section 623 of the Communications Act of 1934 is amended to read as follows:

"SEC. 623. REGULATION OF RATES.

"(a) COMPETITION PREFERENCE; LOCAL AND FEDERAL REGULATION.—

"(1) IN GENERAL.—No Federal agency or State may regulate the rates for the provision of cable service except to the extent provided under this section and section 612. Any franchising authority may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section. No Federal agency, State, or franchising authority may regulate the rates for cable service of a cable system that is owned or operated by a local government or franchising authority within whose jurisdiction that cable system is located and that is the only cable system located within such jurisdiction.

"(2) PREFERENCE FOR COMPETITION.—If the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State or franchising authority under this section. If the Commission finds that a cable system is not subject to effective competition—

"(A) the rates for the provision of basic cable service shall be subject to regulation by a franchising authority, or by the Commission if the Commission exercises jurisdiction pursuant to paragraph (6), in accordance with the regulations prescribed by the Commission under subsection (b) of this section; and

"(B) the rates for cable programming services shall be subject to regulation by the Commission under subsection (c) of this section.

"(3) QUALIFICATION OF FRANCHISING AUTHORITY.—A franchising authority that seeks to exercise the regulatory jurisdiction permitted under paragraph (2)(A) shall file with the Commission a written certification that—

"(A) the franchising authority will adopt and administer regulations with respect to the rates subject to regulation under this section that are consistent with the regulations prescribed by the Commission under subsection (b);

"(B) the franchising authority has the legal authority to adopt, and the personnel to administer, such regulations; and

"(C) procedural laws and regulations applicable to rate regulation proceedings by such authority provide a reasonable opportunity for consideration of the views of interested parties.

"(4) APPROVAL BY COMMISSION.—A certification filed by a franchising authority under paragraph (3) shall be effective 30 days after the date on which it is filed unless the Commission finds, after notice to the authority and a reasonable opportunity for the authority to comment, that—

"(A) the franchising authority has adopted or is administering regulations with respect to the rates subject to regulation under this section that are not consistent with the regulations prescribed by the Commission under subsection (b);

"(B) the franchising authority does not have the legal authority to adopt, or the personnel to administer, such regulations; or

"(C) procedural laws and regulations applicable to rate regulation proceedings by such authority do not provide a reasonable opportunity for consideration of the views of interested parties.

If the Commission disapproves a franchising authority's certification, the Commission shall notify the franchising authority of any revisions or modifications necessary to obtain approval.

"(5) REVOCATION OF JURISDICTION.—Upon petition by a cable operator or other interested party, the Commission shall review the regulation of cable system rates by a franchising authority under this subsection. A copy of the petition shall be provided to the franchising authority by the person filing the petition. If the Commission finds that the franchising authority has acted inconsistently with the requirements of this subsection, the Commission shall grant appropriate relief. If the Commission, after the franchising authority has had a reasonable opportunity to comment, determines that the State and local laws and regulations are not in conformance with the regulations prescribed by the Commission under subsection (b), the Commission shall revoke the jurisdiction of such authority.

"(6) EXERCISE OF JURISDICTION BY COMMISSION.—If the Commission disapproves a franchising authority's certification under paragraph (4), or revokes such authority's jurisdiction under paragraph (5), the Commission shall exercise the franchising authority's regulatory jurisdiction under paragraph (2)(A) until the franchising authority has qualified to exercise that jurisdiction by filing a new certification that meets the requirements of paragraph (3). Such new certification shall be effective upon approval by the Commission. The Commission shall act to approve or disapprove any such new certification within 90 days after the date it is filed.

"(b) ESTABLISHMENT OF BASIC SERVICE TIER RATE LIMITATIONS.—

"(1) COMMISSION REGULATION.—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish the following:

"(A) BASIC SERVICE TIER RATES.—A formula to establish the maximum price of the basic service tier, which formula shall take into account—

"(i) the number of signals carried on the basic service tier;

"(ii) the direct costs (if any) of obtaining, transmitting, and otherwise providing such signals, including signals and services carried on the basic service tier pursuant to paragraph (2)(B), and changes in such costs;

"(iii) such portion of the joint and common costs of the cable operator as is determined, in accordance with regulations prescribed by the Commission, to be properly allocable to obtaining, transmitting, and otherwise providing such signals, and changes in such costs;

"(iv) a reasonable profit (as defined by the Commission) on the provision of the basic service tier;

"(v) rates for comparable cable systems, if any, that are subject to effective competition and that offer comparable services, taking into account, among other factors, similarities in facilities, the number of cable channels, the number of cable subscribers, and local conditions;

"(vi) any amount assessed as a franchise fee, tax, or charge of any kind imposed by any State or local authority on the transactions between cable operators and cable subscribers or any other fee, tax, or assessment of general applicability imposed by a governmental entity applied against cable operators or cable subscribers; and

"(vii) any amount required, in accordance with subparagraph (C), to satisfy franchise requirements to support public, educational, or governmental channels or the use of such channels or any other services required under the franchise.

"(B) EQUIPMENT.—A formula to establish, on the basis of actual cost, the price or rate for—

"(i) installation and lease of the equipment necessary for subscribers to receive the basic service tier, including a converter box and a remote control unit and, if requested by the subscriber, such addressable converter box or other equipment as is required to access programming described in paragraph (3); and

"(ii) installation and monthly use of connections for additional television receivers.

"(C) COSTS OF FRANCHISE REQUIREMENTS.—A formula to identify and allocate costs attributable to satisfying franchise requirements to support public, educational, and governmental channels or the use of such channels or any other services required under the franchise.

"(D) IMPLEMENTATION AND ENFORCEMENT.—Additional standards, guidelines, and procedures concerning the implementation and enforcement of the regulations prescribed by the Commission under this subsection, which shall include—

"(i) procedures by which cable operators may implement and franchising authorities may enforce the administration of the formulas, standards, guidelines, and procedures established by the Commission under this subsection;

"(ii) procedures for the expeditious resolution of disputes between cable operators and franchising authorities concerning the administration of such formulas, standards, guidelines, and procedures;

"(iii) standards and procedures to prevent unreasonable charges for changes in the subscriber's selection of services or equipment subject to regulation under this section, which standards shall require that charges for changing the service tier selected shall be based on the cost of such change and shall not exceed nominal

amounts when the system's configuration permits changes in service tier selection to be effected solely by coded entry on a computer terminal or by other similarly simple method; and

"(iv) standards and procedures to assure that subscribers receive notice of the availability of the basic service tier required under this section.

"(E) EFFECTIVE DATES.—An effective date or dates for compliance with the formulas, standards, guidelines, and procedures established under this subsection.

"(2) COMPONENTS OF BASIC TIER SUBJECT TO RATE REGULATION.—

"(A) MINIMUM CONTENTS.—Each cable operator of a cable system shall provide its subscribers a separately available basic service tier to which the rates prescribed under paragraph (1) shall apply and to which subscription is required for access to any other tier of service. Such basic service tier shall, at a minimum, consist of the following:

"(i) All signals carried in fulfillment of the requirements of sections 614 and 615.

"(ii) Any public, educational, and governmental access programming required by the franchise of the cable system to be provided to subscribers.

"(iii) Any signal of any broadcast station that is provided by the cable operator to any subscriber.

"(B) PERMITTED ADDITIONS TO BASIC TIER.—A cable operator may add additional video programming signals or services to the basic service tier. Any such additional signals or services provided on the basic service tier shall be provided to subscribers at rates determined under paragraph (1)(A).

"(3) BUY-THROUGH OF OTHER TIERS PROHIBITED —

"(A) PROHIBITION.—A cable operator may not require the subscription to any tier other than the basic service tier required by paragraph (2) as a condition of access to video programming offered on a per channel or per program basis. A cable operator may not discriminate between subscribers to the basic service tier and other subscribers with regard to the rates charged for video programming offered on a per channel or per program basis.

"(B) EXCEPTION; LIMITATION.—The prohibition in subparagraph (A) shall not apply to a cable system that, by reason of the lack of addressable converter boxes or other technological limitations, does not permit the operator to offer programming on a per channel or per program basis in the same manner required by subparagraph (A). This subparagraph shall not be available to any cable operator after—

"(i) the technology utilized by the cable system is modified or improved in a way that eliminates such technological limitation; or

"(ii) 5 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, subject to subparagraph (C).

"(C) STUDY; EXTENSION OF LIMITATION.—(I) The Commission shall, within 4 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, initiate a proceeding to consider (I) the benefits to consumers of subparagraph (A), (II) whether the cable operators or consumers are being forced (or would be forced) to incur unreasonable costs for complying with subparagraph (A), and (III) the effect of subparagraph (A) on the provision of diverse programming sources to cable subscribers.

"(II) If, in the proceeding required by clause (I), the Commission determines that subparagraph (A) imposes unreasonable costs on cable operators or cable subscribers, the Commission may extend the 5-year period provided in subparagraph (B)(ii) for 2 additional years.

"(4) NOTICE OF FEES, TAXES, AND OTHER CHARGES.—Each cable operator may identify, in accordance with the formulas required by clauses (vi) and (vii) of paragraph (1)(A), as a separate line item on each regular bill of each subscriber, each of the following:

"(A) the amount of the total bill assessed as a franchise fee and the identity of the authority to which the fee is paid;

"(B) the amount of the total bill assessed to satisfy any requirements imposed on the operator by the franchise agreement to support public, educational, or governmental channels or the use of such channels; and

"(C) any other fee, tax, assessment, or charge of any kind imposed on the transaction between the operator and the subscriber.

"(c) REGULATION OF UNREASONABLE RATES.—

"(1) COMMISSION REGULATIONS.—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish the following:

"(A) criteria prescribed in accordance with paragraph (2) for identifying, in individual cases, rates for cable programming services that are unreasonable;

"(B) fair and expeditious procedures for the receipt, consideration, and resolution of complaints from any franchising authority or other relevant State or local government entity alleging that a rate for cable programming services charged by a cable operator violates the criteria prescribed under subparagraph (A), which procedures shall set forth the minimum showing that shall be required for a complaint to establish a prima facie case that the rate in question is unreasonable; and

"(C) the procedures to be used to reduce rates for cable programming services that are determined by the Commission to be unreasonable and to refund such portion of the rates or charges that were paid by subscribers after the filing of such complaint and that are determined to be unreasonable.

"(2) FACTORS TO BE CONSIDERED.—In establishing the criteria for determining in individual cases whether rates for cable programming services are unreasonable under paragraph (1)(A), the Commission shall consider, among other factors—

"(A) the rates for similarly situated cable systems offering comparable cable programming services, taking into account similarities in facilities, regulatory and governmental costs, the number of subscribers, and other relevant factors;

"(B) the rates for comparable cable systems, if any, that are subject to effective competition and that offer comparable services, taking into account, among other factors, similarities in facilities, the number of cable channels, the number of cable subscribers, and local conditions;

"(C) the history of the rates for cable programming services of the system, including the relationship of such rates to changes in general consumer prices;

"(D) the rates, as a whole, for all the cable programming, equipment, and services provided by the system;

"(E) capital and operating costs of the cable system, including costs of obtaining video signals and services;

"(F) the quality and costs of the customer service provided by the cable system; and

"(G) the revenues (if any) received by a cable operator from advertising from programming that is carried as part of the service for which a rate is being established, and changes in such revenues.

"(3) LIMITATION ON COMPLAINTS CONCERNING EXISTING RATES.—On and after 180 days after the effective date of the regulations prescribed by the Commission under paragraph (1), the procedures established under subparagraph (B) of such paragraph shall be available only with respect to complaints filed within a reasonable period of time following a change in rates that is initiated after that effective date.

"(d) REGULATION OF PAY-PER-VIEW CHARGES FOR CHAMPIONSHIP SPORTING EVENTS.—A State or franchising authority may, without regard to the regulations prescribed by the Commission under subsections (b) and (c), regulate any per-program rates charged by a cable operator for any video programming that consists of the national championship game or games between professional teams in baseball, basketball, football, or hockey.

"(e) DISCRIMINATION; SERVICES FOR THE HEARING IMPAIRED.—Nothing in this title shall be construed as prohibiting any Federal agency, State, or a franchising authority from—

"(1) prohibiting discrimination among customers of basic service, except that no Federal agency, State, or franchising authority may prohibit a cable operator from offering reasonable discounts to senior citizens or other economically disadvantaged group discounts; or

"(2) requiring and regulating the installation or rental of equipment which facilitates the reception of basic cable service by hearing impaired individuals.

"(f) NEGATIVE OPTION BILLING PROHIBITED.—A cable operator shall not charge a subscriber for any individually-priced channel of video programming or for any pay-per-view video programming that the subscriber has not affirmatively requested. For purposes of this subsection, a subscriber's failure to refuse a cable operator's proposal to provide such channel or programming shall not be deemed to be an affirmative request for such programming.

"(g) REVIEW OF FINANCIAL INFORMATION.—

"(1) COLLECTION OF INFORMATION.—The Commission shall, by regulation, require cable operators to file, within 60 days after the effective date of the regulations prescribed under subsection (c)(1) and annually thereafter, such financial information as may be needed for purposes of administering and enforcing this section.

"(2) CONGRESSIONAL REPORT.—The Commission shall submit to each House of the Congress, by January 1, 1994, a report on the financial condition, profitability, rates, and performance of the cable industry. Such report shall include such recommendations as the Commission considers appropriate in light of such information. Such report also shall address the availability of discounts for senior citizens and other economically disadvantaged groups.

"(h) PREVENTION OF EVASIONS.—Within 120 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish standards, guidelines, and procedures to prevent evasions of the rates, services, and other requirements of this section and shall, thereafter, periodically review and revise such standards, guidelines, and procedures.

"(i) SMALL SYSTEM BURDENS.—In developing and prescribing regulations pursuant to this section, the Commission shall design such regulations to reduce the administrative burdens and cost of compliance for cable systems that have 500 or fewer subscribers.

"(j) RATE REGULATION AGREEMENTS.—The provisions of this section (and the regulations thereunder) shall not apply to a cable system during the term of an agreement by a cable operator with a franchising authority that was entered into before July 1, 1990, and that authorizes the franchising authority to regulate the rates of such cable system for basic cable service, if such system was not subject to effective competition pursuant to the rules of the Commission in effect on July 1, 1990.

"(k) REPORTS ON AVERAGE PRICES.—The Commission shall publish quarterly statistical reports on the average rates for basic service and other cable programming, and for converter boxes, remote control units, and other equipment, of—

"(1) cable systems that the Commission has found are subject to effective competition under subsection (a)(2), compared with

"(2) cable systems that the Commission has found are not subject to such effective competition.

"(l) DEFINITIONS.—As used in this section—

"(1) The term 'effective competition' means that—

"(A) fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system;

"(B) the franchise area is—

"(i) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and

"(ii) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area; or

"(C) a multichannel video programming distributor operated by the franchising authority for that franchise area offers video programming to at least 50 percent of the households in that franchise area.

"(2) The term 'cable programming service' means any video programming provided over a cable system, regardless of service tier, other than (A) video programming carried on the basic service tier, and (B) video programming offered on a per channel or per program basis.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect 120 days after the date of enactment of this Act, except that the authority of the Federal Communications Commission to prescribe regulations is effective on such date of enactment.

SEC. 4. MULTIPLE FRANCHISES.

(a) UNREASONABLE REFUSALS TO FRANCHISE PROHIBITED.—Section 621(a) of the Communications Act of 1934 (47 U.S.C. 541(a)) is amended by adding at the end thereof the following:

"(4) A franchising authority shall not, in the awarding of franchises within its jurisdiction, grant an exclusive franchise, or unreasonably refuse to award additional franchises because of the previous award of a franchise to another cable operator. For purposes of this paragraph, refusal to award a franchise shall not be unreasonable if, for example, such refusal is on the ground—

"(A) of technical infeasibility;

"(B) of inadequate assurance that the cable operator will provide adequate public, educational and governmental access channel capacity, facilities, or financial support;

"(C) of inadequate assurance that the cable operator will, within a reasonable period of time, provide universal service throughout the entire franchise area under the jurisdiction of the franchising authority;

"(D) that such award would interfere with the right of the franchising authority to deny renewal; or

"(E) of inadequate assurance that the cable operator has the financial, technical, or legal qualifications to provide cable service.

"(5) Nothing in this subsection shall be construed as limiting the authority of local governments to assess fees or taxes for access to public rights of way.".

(b) MUNICIPAL AUTHORITIES PERMITTED TO OPERATE SYSTEMS.—Section 621 of the Communications Act of 1934 (47 U.S.C. 541) is amended—

(1) by inserting "and subsection (j)" before the comma in subsection (b)(1); and

(2) by adding at the end the following new subsection:

"(j) No provision of this Act shall be construed to—

"(1) prohibit a local or municipal authority that is also, or is affiliated with, a franchising authority from operating as a multichannel video programming distributor in the geographic areas within the jurisdiction of such franchising authority, notwithstanding the granting of one or more franchises by such franchising authority, or

"(2) require such local or municipal authority to secure a franchise to operate as a multichannel video programming distributor.".

(c) CLARIFICATION OF LOCAL AUTHORITY TO REGULATE OWNERSHIP.—Section 613(d) of the Communications Act of 1934 (47 U.S.C. 533(d)) is amended—

(1) by striking "any media" and inserting "any other media"; and

(2) by adding after the period at the end thereof the following: "Nothing in this section shall be construed to prevent any State or franchising authority from prohibiting the ownership or control of a cable system in a jurisdiction by any person (1) because of such person's ownership or control of any other cable system in such jurisdiction; or (2) in circumstances in which the State or franchising authority determines that the acquisition of such a cable system may eliminate or reduce competition in the delivery of cable service in such jurisdiction.".

(d) LEASE/BUY-BACK AUTHORITY.—Section 613(b)(2) of the Communications Act of 1934 (47 U.S.C. 533(b)(2)) is amended by adding at the end the following: "This paragraph shall not prohibit a common carrier from providing multiple channels of communication to an entity pursuant to a lease agreement under which the carrier retains, consistent with section 616, an option to purchase such entity upon the taking effect of an amendment to this section that permits common carriers generally to provide video programming directly to subscribers in such carrier's telephone service area.".

SEC. 5. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is amended by inserting after section 613 the following new section:

"SEC. 614. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

"(a) CARRIAGE OBLIGATIONS.—Each cable operator shall carry, on the cable system of that operator, the signals of local commercial television stations as provided by the following provisions of this section. Carriage of additional broadcast television signals on such system shall be at the discretion of such operator.

"(b) SIGNALS REQUIRED.—

"(1) IN GENERAL.—(A) A cable operator of a cable system with 12 or fewer usable activated channels shall carry the signals of at least three local commercial television stations, except that if such a system has 300 or fewer subscribers, it shall not be subject to any requirements under this section so long as such system does not delete from carriage by that system any signal of a broadcast television station.

"(B) A cable operator of a cable system with more than 12 usable activated channels shall carry the signals of local commercial television stations up to one third of the aggregate number of usable activated channels of such system.

"(2) SELECTION OF SIGNALS.—Whenever the number of local commercial television stations exceeds the maximum number of signals a cable system is required to carry under paragraph (1), the cable operator shall have discretion in selecting which such stations shall be carried on its cable system, except that if the cable operator elects to carry on a affiliate of a broadcast network (as such term is defined by the Commission by regulation), such cable operator shall carry the affiliate of such broadcast network whose city of license reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (in effect on January 1, 1991), or any successor regulation thereto, is closest to the principal headend of the cable system.

"(3) CONTENT TO BE CARRIED.—(A) A cable operator shall carry in its entirety, on the cable system of that operator, the primary video, accompanying audio, and line 21 closed caption transmission of each of the local commercial television stations carried on the cable system and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. Retransmission of other material in the vertical blanking internal or other nonprogram-related material (including teletext and other subscription and advertiser-supported information services) shall be at the discretion of the cable operator. Where appropriate and feasible, operators may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the system headend or headends.

"(B) The cable operator shall carry the entirety of the program schedule of any television station carried on the cable system unless carriage of specific programming is prohibited, and other programming authorized to be substituted, under section 76.67 or subpart F of part 76 of title 46, Code of Federal Regulations (as in effect on January 1, 1991), or any successor regulations thereto.

"(4) SIGNAL QUALITY.—

"(A) NONDEGRADATION; TECHNICAL SPECIFICATIONS.—The signals of local commercial television stations that a cable operator carries shall be carried without material degradation. The Commission shall adopt carriage standards to ensure that, to the extent technically feasible, the quality of signal processing and carriage provided by a cable system for the carriage of local commercial television stations will be no less than that provided by the system for carriage of any other type of signal.

"(B) ADVANCED TELEVISION.—At such time as the Commission prescribes modifications of the standards for television broadcast signals, the Commission shall initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure cable carriage of such broadcast signals of local commercial television stations which have been changed to conform with such modified standards.

"(5) DUPLICATION NOT REQUIRED.—Notwithstanding paragraph (1), a cable operator shall not be required to carry the signal of any local commercial television station that substantially duplicates the signal of another local commercial television station which is carried on its cable system, or to carry the signals of more than one local commercial television station affiliated with a particular broadcast network (as such term is defined by regulation). If a cable operator elects to carry on its cable system a signal which substantially duplicates the signal of another local commercial television station carried on the cable system, or to carry on its system the signals of more than one local commercial television station affiliated with a particular broadcast network, all such signals shall be counted toward the number of signals the operator is required to carry under paragraph (1).

"(6) CHANNEL POSITIONING.—Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any dispute regarding the positioning of a local commercial television station shall be resolved by the Commission.

"(7) SIGNAL AVAILABILITY.—Signals carried in fulfillment of the requirements of this section shall be provided to every subscriber of a cable system. Such signals shall be viewable via cable on all television receivers of a subscriber which are connected to a cable system by a cable operator or for which a cable operator provides a connection. If a cable operator authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, or with the equipment and materials for such connections, the operator shall notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box and shall offer to sell or lease such a converter

box to such subscribers at rates in accordance with section 623(b)(1)(B).

"(d) IDENTIFICATION OF SIGNALS CARRIED.—A cable operator shall identify, upon request by any person, the signals carried on its system in fulfillment of the requirements of this section.

"(e) NOTIFICATION.—A cable operator shall provide written notice to a local commercial television station at least 30 days prior to either deleting from carriage or repositioning that station. No deletion or repositioning of a local commercial television station shall occur during a period in which major television ratings services measure the size of audiences of local television stations. The notification provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

"(f) COMPENSATION FOR CARRIAGE.—A cable operator shall not accept or request monetary payment or other valuable consideration in exchange either for carriage of local commercial television stations in fulfillment of the requirements of this section or for the channel positioning rights provided to such stations under this section, except that—

"(A) any such station may be required to bear the costs associated with delivering a good quality signal to the headend of the cable system;

"(B) a cable operator may accept payments from stations which would be considered distant signals under section 111 of title 17, United States Code, as reimbursement for the incremental copyright costs assessed against such cable operator for carriage of such signal; and

"(C) a cable operator may continue to accept monetary payment or other valuable consideration in exchange for carriage or channel positioning of the signal of any local commercial television station carried in fulfillment of the requirements of this section, through, but not beyond, the date of expiration of an agreement thereon between a cable operator and a local commercial television station entered into prior to June 26, 1990.

"(g) REMEDIES.—

"(1) COMPLAINTS BY BROADCAST STATIONS.—Whenever a local commercial television station believes that a cable operator has failed to meet its obligations under this section, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or has otherwise failed to comply with the channel positioning or repositioning or other requirements of this section. The cable operator shall, within 30 days of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning and other requirements of this section. A local commercial television station that is denied carriage or channel positioning or repositioning in accordance with this section by a cable operator may obtain review of such denial by filing a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to meet its obligations and the basis for such allegations.

"(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such cable operator an opportunity to present data and arguments to establish that there has been no failure to meet its obligations under this section.

"(3) REMEDIAL ACTION; DISMISSAL.—Within 120 days after the date a complaint is filed, the Commission shall determine whether the cable operator has met its obligations under this section. If the Commission determines that the cable operator has failed to meet such obligations, the Commission shall order the cable operator to reposition the complaining station or, in the case of an obligation to carry a station, to commence carriage of the station and to continue such carriage for at least 12 months. If the Commission determines that the cable operator has fully met the requirements of this section, it shall dismiss the complaint.

"(4) INPUT SELECTOR SWITCH RULES ABOLISHED.—No cable operator shall be required—

"(1) to provide or make available any input selector switch as defined in section 76.5(mm) of title 47, Code of Federal Regulations, or any comparable device, or

"(2) to provide information to subscribers about input selector switches or comparable devices.

"(h) REGULATIONS BY COMMISSION.—Within 180 days after the date of enactment of this section, the Commission shall, following a rulemaking proceeding, issue regulations implementing the requirements imposed by this section.

"(i) SALES PRESENTATIONS AND PROGRAM LENGTH COMMERCIALS.—Nothing in this Act shall require a cable operator to carry on any tier, or prohibit a cable operator from carrying on any tier, the signal of any commercial television station or video programming service that is predominantly utilized for the transmission of sales presentations or program length commercials.

"(j) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to modify or otherwise affect title 17, United States Code.

"(k) DEFINITION.—

"(1) LOCAL COMMERCIAL TELEVISION STATION.—For purposes of this section, the term 'local commercial television station' means any television broadcast station, determined by the Commission to be a commercial station, licensed and operating on a channel regularly assigned to its community by the Commission that, with respect to a particular cable system, is within the same television market as the cable system. If such a television broadcast station—

"(A) would be considered a distant signal under section 111 of title 17, United States Code, it shall be deemed to be a local commercial television station for purposes of this section upon agreement to indemnify the cable operator for the increased copyright liability as a result of being carried on the cable system; or

"(B) does not deliver to the principal headend of a cable system either a signal level of −45dBm for UHF signals or −49dBm for VHF signals at the input terminals of the signal processing equipment, it shall be responsible for the costs of delivering to the cable system a signal of good quality or a baseband video signal.

"(2) EXCLUSIONS.—The term 'local commercial television station' shall not include low power television stations, television translator stations, and passive repeaters which operate pursuant to part 74 of title 47, Code of Federal Regulations, or any successor regulations thereto.

"(3) MARKET DETERMINATIONS.—(A) For purposes of this section, a broadcasting station's market shall be determined in the manner provided in section 73.3555(d)(3)(i) of title 47, Code of Federal Regulations, as in effect on May 1, 1991, except that, following a written request, the Commission may, with respect to a particular television broadcast station, include additional communities within its television market or exclude communities from such station's television market to better effectuate the purposes of this section. In considering such requests, the Commission may determine that particular communities are part of more than one television market.

"(B) In considering requests filed pursuant to subparagraph (A), the Commission shall afford particular attention to the value of localism by taking into account such factors as—

"(i) whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community;

"(ii) whether the television station provides coverage or other local service to such community;

"(iii) whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community; and

"(iv) evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.

"(C) A cable operator shall not delete from carriage the signal of a commercial television station during the pendency of any proceeding pursuant to this paragraph.

"(D) In the rulemaking proceeding required by subsection (e), the Commission shall provide for expedited consideration of requests filed under this subsection.".

SEC. 4. CARRIAGE OF NONCOMMERCIAL STATIONS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is further amended by inserting after section 614, as added by section 4, the following new section:

"SEC. 615. CARRIAGE OF NONCOMMERCIAL EDUCATIONAL TELEVISION.

"(a) CARRIAGE OBLIGATIONS.—In addition to the carriage requirements set forth in section 614, each cable operator of a cable system shall carry the signals of qualified noncommercial educational television stations in accordance with the provisions of this section.

"(b) REQUIREMENTS TO CARRY QUALIFIED STATIONS.—

"(1) GENERAL REQUIREMENT TO CARRY EACH QUALIFIED STATION.—Subject to paragraphs (2) and (3) and subsection (e), each cable operator shall carry, on the cable system of that cable operator, any qualified local noncommercial educational television station requesting carriage.

"(2)(A) SYSTEMS WITH 12 OR FEWER CHANNELS.—Notwithstanding paragraph (1), a cable operator of a cable system with 12 or fewer usable activated channels shall be required to carry the signal of one qualified local noncommercial educational television station; except that a cable operator of such a system shall comply with subsection (c) and may, in its discretion, carry the signals of other qualified noncommercial educational television stations.

"(B) In the case of a cable system described in subparagraph (A) which operates beyond the presence of any qualified local noncommercial educational television station—

"(i) the cable operator shall carry on that system the signal of one qualified noncommercial educational television station;

"(ii) the selection for carriage of such a signal shall be at the election of the cable operator, and

"(iii) in order to satisfy the requirements for carriage specified in this subsection, the cable operator of the system shall not be required to remove any other programming service actually provided to subscribers on March 29, 1990; except that such cable operator shall use the first channel available to satisfy the requirements of this subparagraph.

"(3) SYSTEMS WITH 13 TO 36 CHANNELS.—(A) Subject to subsection (c), a cable operator of a cable system with 13 to 36 usable activated channels—

"(i) shall carry the signal of at least one qualified local noncommercial educational television station but shall not be required to carry the signals of more than three such stations, and

"(ii) may, in its discretion, carry additional such stations.

"(B) In the case of a cable system described in this paragraph which operates beyond the presence of any qualified local noncommercial educational television station, the cable operator shall import the signal of at least one qualified noncommercial educational television station to comply with subparagraph (A)(i).

"(C) The cable operator of a cable system described in this paragraph which carries the signal of a qualified local noncommercial educational station affiliated with a State public television network shall not be required to carry the signal of any additional qualified local noncommercial educational television stations affiliated with the same network if the programming of such additional stations is substantially duplicated by the programming of the qualified local noncommercial educational television station receiving carriage.

"(D) A cable operator of a system described in this paragraph which increases the usable activated channel capacity of the system to more than 36 channels on or after March 29, 1990, shall, in accordance with the other provisions of this section, carry the signal of each qualified local noncommercial educational television station requesting carriage, subject to subsection (e).

"(c) CONTINUED CARRIAGE OF EXISTING STATIONS.—Notwithstanding any other provision of this section, all cable operators shall continue to provide carriage to all qualified local noncommercial educational television stations whose signals were carried on their systems as of March 29, 1990. The requirements of this subsection may be waived with respect to a particular cable operator and a particular such station, upon the written consent of the cable operator and the station.

"(d) PLACEMENT OF ADDITIONAL SIGNALS.—A cable operator required to add the signals of qualified local noncommercial educational television stations to a cable system under this section may do so, subject to approval by franchising authority pursuant to section 611 of this title, by placing such additional stations on public, educational, or governmental channels not in use for their designated purposes.

"(e) SYSTEMS WITH MORE THAN 36 CHANNELS.—A cable operator of a cable system with a capacity of more than 36 usable activated channels which is required to carry the signals of three qualified local noncommercial educational television stations shall not be required to carry the signals of additional such stations the programming of which substantially duplicates the programming broadcast by another qualified local noncommercial educational television station requesting carriage. Substantial duplication shall be defined by the Commission in a manner that promotes access to distinctive noncommercial educational television services.

"(f) WAIVER OF NONDUPLICATION RIGHTS.—A qualified local noncommercial educational television station whose signal is carried by a cable operator shall not assert any network nonduplication rights it may have pursuant to section 76.92 of title 47, Code of Federal Regulations, to require the deletion of programs aired on other qualified local noncommercial educational television stations whose signals are carried by that cable operator.

"(g) CONDITIONS OF CARRIAGE.—

"(1) CONTENT TO BE CARRIED.—A cable operator shall retransmit in its entirety the primary video, accompanying audio, and line 21 closed caption transmission of each qualified local noncommercial educational television station whose signal is carried on the cable system, and, to the extent technically feasible, program-related material carried in the vertical blanking interval, or on subcarriers, that may be necessary for receipt of programming by handicapped persons or for educational or language purposes. Retransmission of other material in the vertical blanking interval or on subcarriers shall be within the discretion of the cable operator.

"(2) BAND-WIDTH AND TECHNICAL QUALITY.—A cable operator shall provide each qualified local noncommercial educational television station whose signal is carried in accordance with this section with band-width and technical capacity equivalent to that provided to commercial television broadcast stations carried on the cable system and shall carry the signal of each qualified local noncommercial educational television station without material degradation.

"(3) CHANGES IN CARRIAGE.—The signal of a qualified local noncommercial educational television station shall not be repositioned by a cable operator unless the cable operator, at least 30 days in advance of such repositioning, has provided written notice to the station and all subscribers of the cable system. For purposes of this paragraph, repositioning includes (A) assignment of a qualified local noncommercial educational television station to a cable system channel number different from the cable system channel number to which the station was assigned as of March 29, 1990, and (B) deletion of the station from the cable system. The notifications provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

"(4) GOOD QUALITY SIGNAL REQUIRED.—Notwithstanding the other provisions of this section, a cable operator shall not be required to carry the signal of any qualified local noncommercial educational television station which does not deliver to the cable system's principal headend a signal of good quality, as may be defined by the Commission.

"(5) CHANNEL POSITIONING.—Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local noncommercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any dispute regarding the positioning of a local noncommercial television station shall be resolved by the Commission.

"(h) AVAILABILITY OF SIGNALS.—Signals carried in fulfillment of the carriage obligations of a cable operator under this section shall be available to every subscriber as part of the cable system's lowest priced service tier that includes the retransmission of local commercial television broadcast signals.

"(i) PAYMENT FOR CARRIAGE PROHIBITED.—

"(1) IN GENERAL.—A cable operator shall not accept monetary payment or other valuable consideration in exchange for carriage of the signal of any qualified local noncommercial educational television station carried in fulfillment of the requirements of this section, except that such a station may be required to bear the cost associated with delivering a good quality signal to the principal headend of the cable system.

"(2) DISTANT SIGNAL EXCEPTION.—Notwithstanding the provisions of this section, a cable operator shall not be required to add the signal of a qualified local noncommercial educational television station not already carried under the provision of subsection (c), where such signal would be considered a distant signal for copyright purposes unless such station reimburses the cable operator for the incremental copyright costs assessed against such cable operator as a result of such carriage.

"(j) REMEDIES.—

"(1) COMPLAINT.—Whenever a qualified local noncommercial educational television station believes that a cable operator of a cable system has failed to comply with the signal carriage requirements of this section, the station may file a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to comply with such requirements and state the basis for such allegations.

"(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such cable operator an opportunity to present data, views, and arguments to establish that the cable operator has complied with the signal carriage requirements of this section.

"(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed under this subsection, the Commission shall determine whether the cable operator has complied with the requirements of this section. If the Commission determines that the cable operator has failed to comply with such requirements, the Commission shall state with particularity the basis for such findings and order the cable operator to take such remedial action as is necessary to meet such requirements. If the Commission determines that the cable operator has fully complied with such requirements, the Commission shall dismiss the complaint.

"(k) IDENTIFICATION OF SIGNALS.—A cable operator shall identify, upon request by any person, those signals carried in fulfillment of the requirements of this section.

"(l) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified noncommercial educational television station' means any television broadcast station which—

"(A)(i) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational television broadcast station and which is owned and operated by a public agency, nonprofit foundation, corporation, or association; and

"(ii) has as its licensee an entity which is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) (47 U.S.C. 396(k)(6)(B)); or

"(B) is owned and operated by a municipality and transmits predominantly noncommercial programs for educational purposes.

Such term includes (I) the translator of any noncommercial educational television station with five watts or higher power serving the franchise area, (II) a full-service station or translator if such station or translator is licensed to a channel reserved for noncommercial educational use pursuant to section 73.606 of title 47, Code of Federal Regulations, or any successor regulations thereto, and (III) such stations and translators operating on channels not so reserved as the Commission determines are qualified as noncommercial educational stations.

"(2) QUALIFIED LOCAL NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified local noncommercial educational television station' means a qualified noncommercial educational television station—

"(A) which is licensed to a principal community whose reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (as in effect on March 29, 1990), or any successor regulations thereto, is within 50 miles of the principal headend of the cable system; or

"(B) whose Grade B service contour, as defined in section 73.683(a) of such title (as in effect on March 29, 1990), or any successor regulations thereto, encompasses the principal headend of the cable system.".

SEC. 7. CONSUMER PROTECTION AND CUSTOMER SERVICE.

Section 632 of the Communications Act of 1934 (47 U.S.C. 552) is amended to read as follows:

"SEC. 632. CONSUMER PROTECTION AND CUSTOMER SERVICE.

"(a) FRANCHISING AUTHORITY ENFORCEMENT.—A franchising authority may establish and enforce—

"(1) customer service requirements of the cable operator; and

"(2) construction schedules and other construction-related requirements, including construction-related performance requirements, of the cable operator.

"(b) COMMISSION STANDARDS.—The Commission shall, within 180 days of enactment of the Cable Television Consumer Protection and Competition Act of 1992, establish standards by which cable operators may fulfill their customer

service requirements. Such standards shall include, at a minimum, requirements governing—

"(1) cable system office hours and telephone availability;

"(2) installations, outages, and service calls; and

"(3) communications between the cable operator and the subscriber (including standards governing bills and refunds).

"(c) CONSUMER PROTECTION LAWS AND CUSTOMER SERVICE AGREEMENTS.—

"(1) CONSUMER PROTECTION LAWS.—Nothing in this title shall be construed to prohibit any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted by this title.

"(2) CUSTOMER SERVICE REQUIREMENT AGREEMENTS.—Nothing in this section shall be construed to preclude a franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards established by the Commission under subsection (b). Nothing in this title shall be construed to prevent the establishment or enforcement of any municipal law or regulation, or any State law, concerning customer service that imposes customer service requirements that exceed the standards set by the Commission under this section, or that addresses matters not addressed by the standards set by the Commission under this section.".

SEC. 8. CUSTOMER PRIVACY RIGHTS.

Section 631(a)(2) of the Communications Act of 1934 (47 U.S.C. 551(a)(2)) is amended to read as follows:

"(2) For purposes of this section, other than subsection (h)—

"(A) the term 'personally identifiable information' does not include any record of aggregate data which does not identify particular persons;

"(B) the term 'other service' includes any wire or radio communications service provided using any of the facilities of a cable operator that are used in the provision of cable service; and

"(C) the term 'cable operator' includes, in addition to persons within the definition of cable operator in section 602, any person who (i) is owned or controlled by, or under common ownership or control with, a cable operator, and (ii) provides any wire or radio communications service.".

SEC. 9. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding after section 624 the following new section:

"SEC. 624A. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

"(a) FINDINGS.—The Congress finds that—

"(1) new and recent models of television receivers and video cassette recorders often contain premium features and functions that are disabled or inhibited because of cable scrambling, encoding, or encryption technologies and devices, including converter boxes and remote control devices required by cable operators to receive programming;

"(2) if these problems are allowed to persist, consumers will be less likely to purchase, and electronics equipment manufacturers will be less likely to develop, manufacture, or offer for sale, television receivers and video cassette recorders with new and innovative features and functions; and

"(3) cable system operators should use technologies that will prevent signal theft while permitting consumers to benefit from such features and functions in such receivers and recorders.

"(b) COMPATIBLE INTERFACES.—Within 1 year after the date of enactment of this section, the Commission, in consultation with representatives of the cable industry and the consumer electronics industry, shall report to the Congress on means of assuring compatibility between televisions and video cassette recorders and cable systems, consistent with the need to prevent theft of cable service, so that cable subscribers will be able to enjoy the full benefit of both the programming available on cable systems and the functions available on their televisions and video cassette recorders. The Commission shall issue such regulations as may be necessary to assure the use of interfaces that assure such compatibility.

"(c) RULEMAKING REQUIRED.—

"(1) IN GENERAL.—Within 1 year after the date of submission of the report required by subsection (b), the Commission shall prescribe such regulations as are necessary to assure compatibility between television receivers equipped with premium functions and features, video cassette recorders, and cable systems.

"(2) FACTORS TO BE CONSIDERED.—In prescribing the regulations required by this subsection, the Commission shall consider—

"(A) the costs and benefits of requiring cable operators to adhere to technical standards for scrambling or encryption of video programming in a manner that will minimize interference with or nullification of the special functions of subscribers' television receivers or video cassette recorders, while providing effective protection against theft or unauthorized reception of cable service, including functions that permit the subscriber—

"(i) to watch a program on 1 channel while simultaneously using a video cassette recorder to tape a program on another channel;

"(ii) to use a video cassette recorder to tape 2 consecutive programs that appear on different channels; or

"(iii) to use advanced television picture generation and display features;

"(B) the potential for achieving economies of scale by requiring manufacturers of television receivers to incorporate technologies to achieve such compatibility in all television receivers;

"(C) the costs and benefits to consumers of imposing compatibility requirements on cable operators and television manufacturers; and

"(D) the need for cable operators to protect the integrity of the signals transmitted by the cable operator against theft or to protect such signals against unauthorized reception.

"(3) REGULATIONS REQUIRED.—The regulations prescribed by the Commission under this section shall include such regulations as are necessary—

"(A) to establish the technical requirements that permit a television receiver or video cassette recorder to be sold as 'cable ready';

"(B) to establish procedures by which manufacturers may certify television receivers that comply with the technical requirements established under subparagraph (A) of this paragraph in a manner that, at the point of sale is easily understood by potential purchasers of such receivers;

"(C) provide appropriate penalties for willful misrepresentations concerning such certifications;

"(D) to promote the commercial availability, from cable operators and retail vendors that are not affiliated with cable systems, of converters and of remote control devices compatible with converters;

"(E) to require a cable operator who offers subscribers the option of renting a remote control unit—

"(i) to notify subscribers that they may purchase a commercially available remote control device from any source that sells such devices rather than renting it from the cable operator; and

"(ii) to specify the types of remote control units that are compatible with the converter box supplied by the cable operator; and

"(F) to prohibit a cable operator from taking any action that prevents or in any way disables the converter box supplied by the cable operator from operating compatibly with commercially available remote control units.

"(d) REVIEW OF REGULATIONS.—The Commission shall periodically review and, if necessary, modify the regulations issued pursuant to this section in light of any actions taken in response to regulations issued under subsection (c) and to reflect improvements and changes in cable systems, television receivers, video cassette recorders, and similar technology.

"(e) FEASIBILITY AND COST.—The Commission shall adopt standards under this section that are technologically and economically feasible. In determining the feasibility of such standards, the Commission shall take into account the cost and benefit to cable subscribers and purchasers of television receivers of such standards.".

SEC. 10. TECHNICAL STANDARDS; EMERGENCY ANNOUNCEMENTS; PROGRAMMING CHANGES.

(a) TECHNICAL STANDARDS.—Section 624(e) of the Communications Act of 1934 (47 U.S.C. 544(e)) is amended to read as follows:

"(e) Within one year after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall prescribe regulations which establish minimum technical standards relating to cable systems' technical operation and signal quality. The Commission shall update such standards periodically to reflect improvements in technology. A franchising authority may require as part of a franchise (including a modification, renewal, or transfer thereof) provisions for the enforcement of the standards prescribed under this subsection. A franchising authority may apply to the Commission for a waiver to impose standards that are more stringent than the standards prescribed by the Commission under this subsection.".

(b) EMERGENCY ANNOUNCEMENTS.—Section 624 of such Act is further amended by adding at the end the following new subsection:

"(g) Notwithstanding any such rule, regulation, or order, each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations in subpart G of part 73, title 47, Code of Federal Regulations.".

(c) PROGRAMMING CHANGES.—Section 624 of such Act is further amended—

(1) in subsection (b)(1), by inserting ", except as provided in subsection (h)," after "but may not"; and

(2) by adding at the end the following new subsection:

"(h) A franchising authority may require a cable operator to do any one or more of the following:

"(1) to provide 30 days advance written notice of any change in channel assignment or in the video programming service provided over any such channel;

"(2) to inform subscribers, via written notice, that comments on programming and channel position changes are being recorded by a designated office of the franchising authority.".

SEC. 11. REGULATION OF CARRIAGE AGREEMENTS.

Part II of title VI of the Communications Act of 1934 is amended by adding at the end the following new section:

"SEC. 616. REGULATION OF CARRIAGE AGREEMENTS.

"(a) REGULATIONS.—Within one year after the date of enactment of this section, the Commission shall establish regulations governing program carriage agreements and related practices between cable operators or other multichannel video programming distributors and video programming vendors. Such regulations shall—

"(1) include provisions designed to prevent a cable operator or other multichannel video programming distributor from requiring a financial interest in a program service as a condition for carriage on one or more of such operator's systems;

"(2) include provisions designed to prohibit a cable operator or other multichannel video pro-

programming distributor from coercing a video programming vendor to provide, and from retaliating against such a vendor for failing to provide, exclusive rights against other multichannel video programming distributors as a condition of carriage on a system;

"(3) contain provisions designed to prevent a multichannel video programming distributor from engaging in conduct the effect of which is to unreasonably restrain the ability of an unaffiliated video programming vendor to compete fairly by discriminating in video programming distribution on the basis of affiliation or nonaffiliation of vendors in the selection, terms, or conditions for carriage of video programming provided by such vendors;

"(4) provide for expedited review of any complaints made by a video programming vendor pursuant to this section;

"(5) provide for appropriate penalties and remedies for violations of this subsection, including carriage; and

"(6) provide penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(b) DEFINITION.—As used in this section, the term 'video programming vendor' means a person engaged in the production, creation, or wholesale distribution of a video programming service for sale.".

SEC. 12. EQUAL EMPLOYMENT OPPORTUNITY.

(a) FINDINGS.—The Congress finds and declares that—

(1) despite the existence of regulations governing equal employment opportunity, females and minorities are not employed in significant numbers in positions of management authority in the cable television and broadcast industries;

(2) increased numbers of females and minorities in positions of management authority in the cable television and broadcast industries advances the Nation's policy favoring diversity in the expression of views in the electronic media; and

(3) rigorous enforcement of equal employment opportunity rules and regulations is required in order to effectively deter racial and gender discrimination.

(b) STANDARDS.—Section 634(d)(1) of the Communication Act of 1934 (47 U.S.C. 554(d)(1)) is amended to read as follows:

"(d)(1) Not later than 270 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, of this section, and after notice and opportunity for hearing, the Commission shall prescribe revisions in the rules under this section in order to implement the amendments made to this section by such Act. Such revisions shall be designed to promote equality of employment opportunities for females and minorities in each of the job categories itemized in paragraph (3) of this subsection.".

(c) CONTENTS OF ANNUAL STATISTICAL REPORTS.—Section 634(d)(3) of the Communications Act of 1934 (47 U.S.C. 554(d)(3)) is amended to read as follows:

"(3)(A) Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race, sex, and job title the number of employees in each of the following full-time and part-time job categories:

"(i) Corporate officers.
"(ii) General Manager.
"(iii) Chief Technician.
"(iv) Comptroller.
"(v) General Sales Manager.
"(vi) Production Manager.
"(vii) Managers.
"(viii) Professionals.
"(ix) Technicians.
"(x) Sales.
"(xi) Office and Clerical.
"(xii) Skilled Craftspersons.
"(xiii) Semiskilled Operatives.
"(xiv) Unskilled Laborers.
"(xv) Service Workers.

"(B) The report required by subparagraph (A) shall be made on separate forms, provided by the Commission, for full-time and part-time employees. The Commission's rules shall sufficiently define job categories (i) through (vi) of such subparagraph so as to ensure that only employees who are principal decisionmakers and that have supervisory authority are reported for such categories. The Commission shall adopt rules that define job categories (vii) through (xv) in a manner that is consistent with the Commission policies in effect on June 1, 1990. The Commission shall prescribe the method by which entities shall be required to compute and report the number of minorities and women in job categories (i) through (x) and the number of minorities and women in job categories (i) through (xv) in proportion to the total number of qualified minorities and women in the relevant labor market. The report shall include information on hiring, promotion, and recruitment practices necessary for the Commission to evaluate the efforts of entities to comply with the provisions of paragraph (2) of this subsection. The report shall be available for public inspection at the entity's central location and at every location where 5 or more full-time employees are regularly assigned to work. Nothing in this subsection shall be construed as prohibiting the Commission from collecting or continuing to collect statistical or other employment information in a manner that it deems appropriate to carry out this section.".

(d) PENALTIES.—Section 634(f)(2) of such Act is amended by striking "$200" and inserting "$500".

(e) APPLICATION OF REQUIREMENTS.—Section 634(h)(1) of such Act is further amended by inserting before the period the following: "and any multichannel video programming distributor".

(f) STUDY AND REPORT REQUIRED.—Not later than 240 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall submit to the Congress a report pursuant to a proceeding to review and obtain public comment on the effect and operation of its procedures, regulations, policies, standards, and guidelines concerning equal employment opportunity in the broadcasting industry. In conducting such review, the Commission shall consider the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting equality of employment opportunity and promotion opportunity, and particularly the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting the congressional policy favoring increased employment opportunity for women and minorities in positions of management authority. In conducting such proceeding the Commission also shall review the effectiveness of penalties and remedies for violation of existing regulations and policies concerning equality of employment opportunity in the broadcasting industry. The Commission shall forward to the Congress such legislative recommendations to improve equal employment opportunity in the broadcasting industry as it deems necessary.

(g) BROADCASTING EQUAL EMPLOYMENT OPPORTUNITY.—Part II of title VI of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"SEC. 631. EQUAL EMPLOYMENT OPPORTUNITY OBLIGATIONS OF MUST-CARRY STATIONS.

"(a) APPLICATION OF SECTION.—This section shall apply to—

"(1) the licensee for any television broadcasting station that is eligible for carriage under section 614 or 615; and

"(2) any corporation, partnership, association, joint-stock company, trust, or affiliate or subsidiary thereof engaged primarily in the management or operation of any such licensee.

"(b) EQUAL EMPLOYMENT OPPORTUNITY REQUIRED.—Equal opportunity in employment shall be afforded by each entity specified in subsection (a), and no person shall be discriminated against in employment by such entity because of race, color, religion, national origin, age, or sex.

"(c) EMPLOYMENT POLICIES AND PRACTICES REQUIRED.—Any entity specified in subsection (a) shall establish, maintain, and execute a positive continuing program of specific practices designed to ensure equal opportunity in every aspect of its employment policies and practices and to promote the hiring of a workforce that reflects the diversity of its community. Under the terms of its programs, such entity shall—

"(1) define the responsibility of each level of management to ensure a positive application and vigorous enforcement of its policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance;

"(2) inform its employees and recognized employee organizations of the equal employment opportunity policy and program and enlist their cooperation;

"(3) communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, age, or sex, and solicit their recruitment assistance on a continuing basis;

"(4) conduct a continuing program to exclude every form of prejudice or discrimination based on race, color, religion, national origin, age, or sex, from its personnel policies and practices and working conditions; and

"(5) conduct a continuing review of job structure and employment practices and adopt positive recruitment, training, job design, and other measures needed to ensure genuine equality of opportunity to participate fully in all its organizational units, occupations, and levels of responsibility.

"(d) COMMISSION RULES REQUIRED.—

"(1) DEADLINE FOR RULES.—Not later than 270 days after the date of enactment of this section, and after notice and opportunity for hearing, the Commission shall prescribe rules to carry out this section.

"(2) CONTENT OF RULES.—Such rules shall specify the terms under which an entity specified in subsection (a) shall, to the extent possible—

"(A) disseminate its equal opportunity program to job applicants, employees, and those with whom it regularly does business;

"(B) use minority organizations, organizations for women, media, educational institutions, and other potential sources of minority and female applicants, on an ongoing basis as a potential source of referrals for whenever jobs may become available;

"(C) evaluate its employment profile and job turnover against the availability of minorities and women in its service area;

"(D) undertake to offer promotions of minorities and women to positions of greater responsibility;

"(E) encourage minority and female entrepreneurs to conduct business with all parts of its operation; and

"(F) analyze the results of its efforts to recruit, hire, promote, and use the service of minorities and women and explain any difficulties encountered in implementing its equal employment opportunity program.

"(3) REPORTS REQUIRED.—Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race and sex the number of employees in each of the following full-time and part-time job categories—

"(A) Corporate officers.
"(B) General Manager.
"(C) Chief Technician.
"(D) Comptroller.
"(E) General Sales Manager.

"(F) Production Manager.
"(G) Managers.
"(H) Professionals.
"(I) Technicians.
"(J) Sales.
"(K) Office and Clerical.
"(L) Skilled Craftspersons.
"(M) Semiskilled Operatives.
"(N) Unskilled Laborers.
"(O) Service Workers.

"(4) ADDITIONAL CONTENTS OF REPORTS.—In addition, such report shall state the number of job openings occurring during the course of the year and (A) shall certify that the openings were filled in accordance with the program required by subsection (c), or (B) shall contain a statement providing reasons for not filling such positions in accordance with such program. The statistical report shall be available to the public at the central office and at every location where more than 5 full-time employees are regularly assigned to work.

"(5) RULES AMENDMENTS.—The Commission may amend such rules from time to time to the extent necessary to carry out the provisions of this section. Any such amendment shall be made after notice and opportunity for comment.

"(e) ENFORCEMENT.—

"(1) ANNUAL CERTIFICATION.—On an annual basis, the Commission shall certify each entity described in subsection (a) as in compliance with this section if, on the basis of information in the possession of the Commission, including the report filed pursuant to subsection (d)(3), such entity was in compliance, during the annual period involved, with the requirements of subsections (b), (c), and (d).

"(2) LICENSE RENEWAL REVIEWS.—The Commission shall, at the time of license renewal, review the employment practices of each entity described in subsection (a), in the aggregate, as well as in individual job categories, and determine whether such entity is in compliance with the requirements of subsections (b), (c), and (d), including whether such entity's employment practices deny or abridge minorities and women equal opportunities. As part of such investigation, the Commission shall review whether the entity's reports filed pursuant to subsection (d)(3) accurately reflect employee responsibilities in the reported job classifications and accurately reflect compliance with the equal employment opportunity plan in filing its annual reports.

"(f) COMPLAINTS.—Employees or applicants for employment who believe they have been discriminated against in violation of the requirements of this section, or rules under this section, or any other interested person, may file a complaint with the Commission. A complaint by any such person shall be in writing, and shall be signed and sworn to by that person. The rules prescribed under subsection (d)(1) shall specify a program, under authorities otherwise available to the Commission, for the investigation of complaints and violations, and for the enforcement of this section.

"(g) PENALTIES.—

"(1) IN GENERAL.—Any person who is determined by the Commission, through an investigation pursuant to subsection (e) or otherwise, to have failed to meet or failed to make best efforts to meet the requirements of this section, or rules under this section, shall be liable to the United States for a forfeiture penalty of $200 for each violation. Each day of continuing violation shall constitute a separate offense. Any entity defined in subsection (a) shall not be liable for more than 180 days of forfeitures which accrued prior to notification by the Commission of a potential violation. Nothing in this paragraph shall limit the forfeiture imposed on any person as a result of any violation that continues subsequent to such notification. In addition, any person liable for such penalty may also have any license under this Act conditioned, suspended, or revoked. Whoever knowingly makes any false statement or submits documentation which he knows to be false, pursuant to an application for certification under this section shall be in violation of this section.

"(2) ADDITIONAL REMEDIES.—The provisions of paragraphs (2)(D), (3), and (4), of section 503(b) shall apply to forfeitures under this subsection.

"(3) NOTICE OF PENALTIES.—The Commission shall provide for notice to the public of any penalty imposed under this section.

"(h) EFFECT ON OTHER LAWS.—Nothing in this section shall affect the authority of any State or local government—

"(1) to establish or enforce any requirement which is consistent with the requirements of this section, including any requirement which affords equal employment opportunity protection for employees; or

"(2) to establish or enforce any provision requiring or encouraging any entity specified in subsection (a) to conduct business with enterprises which are owned or controlled by members of minority groups (as defined in section 309(j)(3)(C)(ii)) or which have their principal operations located within the local service area of such entity.".

SEC. 12. HOME WIRING.

Section 624 of the Communications Act of 1934 (47 U.S.C. 544) is amended by adding at the end the following new subsection:

"(i) Within 120 days after the date of enactment of this subsection, the Commission shall prescribe rules concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber.".

SEC. 14. SALES OF CABLE SYSTEMS.

Part II of title VI of the Communications Act of 1934 is further amended by adding at the end thereof the following new section:

"SEC. 632. SALES OF CABLE SYSTEMS.

"(a) 3-YEAR HOLDING PERIOD REQUIRED.—Except as provided in this section, no cable operator may sell or otherwise transfer ownership in a cable system within a 36-month period following either the acquisition or initial construction of such system by such operator.

"(b) TREATMENT OF MULTIPLE TRANSFERS.—In the case of a sale of multiple systems, if the terms of the sale require the buyer to subsequently transfer ownership of one or more such systems to one or more third parties, such transfers shall be considered a part of the initial transaction.

"(c) EXCEPTIONS.—Subsection (a) of this section shall not apply to—

"(1) any transfer of ownership interest in any cable system which is not subject to Federal income tax liability;

"(2) any sale required by operation of any law or any act of any Federal agency, any State or political subdivision thereof, or any franchising authority; or

"(3) any sale, assignment, or transfer, to one or more purchasers, assignees, or transferees controlled by, controlling, or under common control with, the seller, assignor, or transferor.

"(d) WAIVER AUTHORITY.—The Commission may, consistent with the public interest, waive the requirement of subsection (a), except that, if the franchise requires franchise authority approval of a transfer, the Commission shall not waive such requirements unless the franchise authority has approved the transfer.

"(e) LIMITATION ON DURATION OF FRANCHISING AUTHORITY POWER TO DISAPPROVE TRANSFERS.—In the case of any sale or transfer of ownership of any cable system after the 36-month period following acquisition of such system, a franchising authority shall, if the franchise requires franchising authority approval of a sale or transfer, have 120 days to act upon any request for approval of such sale or transfer that contains or is accompanied by such information as is required in accordance with Commission regulations and by the franchising authority. If the franchising authority fails to render a final decision on the request within 120 days, such request shall be deemed granted unless the requesting party and the franchising authority agree to an extension of time.".

SEC. 16. CABLE CHANNELS FOR COMMERCIAL USE.

(a) RATES, TERMS, AND CONDITIONS.—Section 612(c) of the Communications Act of 1934 (47 U.S.C. 532(c)) is amended—

(1) in paragraph (1), by striking "consistent with the purpose of this section" and inserting "consistent with regulations prescribed by the Commission under paragraph (4)"; and

(2) by adding at the end thereof the following new paragraph:

"(4) The Commission shall, not later than 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, by regulation establish—

"(A) a formula to determine the maximum rates which a cable operator may establish under paragraph (1) of this subsection;

"(B) standards concerning the terms and conditions which may be so established;

"(C) standards concerning methods for collection and billing for commercial use of channel capacity made available under this section; and

"(D) procedures for the expedited resolution of disputes concerning rates or carriage under this section.".

(b) ACCESS FOR QUALITY MINORITY PROGRAMMING SOURCES AND QUALIFIED EDUCATIONAL PROGRAMMING SOURCES.—Section 612 of such Act is further amended by adding at the end thereof the following new subsection:

"(j)(1) Notwithstanding the provisions of subsections (b) and (c), a cable operator required by this section to designate channel capacity for commercial use may use any such channel capacity for the provision of programming from a qualified minority programming source or from any qualified educational programming source, whether or not such source is affiliated with the cable operator. The channel capacity used to provide programming from a qualified minority programming source or from any qualified educational programming source pursuant to this subsection may not exceed 33 percent of the channel capacity designated pursuant to this section. No programming provided over a cable system on July 1, 1990, may qualify as minority programming or educational programming on that cable system under this subsection.

"(2) For purposes of this subsection, the term 'qualified minority programming source' means a programming source which devotes significantly all of its programming to coverage of minority viewpoints, or to programming directed at members of minority groups, and which is over 50 percent minority-owned, as the term 'minority' is defined in section 309(j)(3)(C)(ii) of this Act.

"(3) For purposes of this subsection, the term 'qualified educational programming source' means a programming source which devotes significantly all of its programming to educational or instructional programming of such a nature that it promotes public understanding of mathematics, the sciences, the humanities, and the arts and has a documented annual expenditure on programming exceeding $15,000,000. Programming expenditures shall mean all annual costs incurred by the channel originator to produce or acquire programs which are scheduled to appear on air, and shall specifically exclude marketing, promotion, satellite transmission and operational costs, and general administrative costs. Nothing in this subsection shall substitute for the requirement to carry qualified noncommercial educational television stations as specified under section 615.".

SEC. 18. CABLE FOREIGN OWNERSHIP RESTRICTIONS.

(a) FINDINGS.—The Congress finds that—

(1) restrictions on alien or foreign ownership of broadcasting and common carriers first were enacted by Congress in the Radio Act of 1912;

(2) cable television service currently is available to more than 90 percent of American households, more than 62 percent of American households subscribe to such services, and the majority of viewers rely on cable as the conduit through which they receive terrestrial broadcast signals;

(3) many Americans receive a significant portion of their daily news, information, and entertainment programming from cable television systems, and such systems should not be controlled by foreign entities; and

(4) the policy justifications underlying restrictions on alien ownership of broadcast or common carrier licenses have equal application to alien ownership of cable television systems, direct broadcast satellite systems, and multipoint distribution services.

(b) AMENDMENT TO COMMUNICATIONS ACT.—Section 310(b) of the Communications Act of 1934 (47 U.S.C. 310(b)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D);

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end thereof the following new paragraphs:

"(2)(A) No cable system (as such term is defined in section 602) in the United States shall be owned or otherwise controlled by any alien, representative, or corporation described in subparagraph (A), (B), (C), or (D) of paragraph (1) of this subsection.

"(B) Subparagraph (A) of this paragraph shall not be applied—

"(i) to require any such alien, representative, or corporation to sell or dispose of any ownership interest held or contracted for on or before June 1, 1990, or acquired in accordance with clause (ii); or

"(ii) to prohibit any such alien, representative, or corporation that owns, has contracted on or before June 1, 1990, to acquire ownership, or otherwise controls, any cable system from acquiring ownership or control of additional cable systems if the total number of households passed by all the cable systems that such alien, representative, or corporation would, as a result of such acquisition, own or control does not exceed 3,000,000.

"(3)(A) For purposes of paragraph (1) of this subsection, a license or authorization for any of the following services shall be deemed to be a broadcast station license:

"(i) cable auxiliary relay services;

"(ii) multipoint distribution services;

"(iii) direct broadcast satellite services; and

"(iv) other services the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

"(B) Subparagraph (A) of this paragraph shall not be applied to any cable operator to the extent that such operator is eligible for the exemptions contained in subparagraph (B) of paragraph (2).".

SEC. 17. THEFT OF CABLE SERVICE.

Section 633(b) of the Communications Act of 1934 (47 U.S.C. 533(b)) is amended—

(1) in paragraph (2)—

(A) by striking "$25,000" and inserting "$50,000";

(B) by striking "1 year" and inserting "2 years";

(C) by striking "$50,000" and inserting "$100,000"; and

(D) by striking "2 years" and inserting "5 years"; and

(2) by adding at the end thereof the following new paragraph:

"(3) For purposes of all penalties and remedies established for violations of subsection (a)(1), the prohibited activity established herein as it applies to each such device shall be deemed a separate violation.".

SEC. 18. STUDIES.

(a) STUDY OF VIDEO PROGRAMMING DIVERSITY AND COMPETITION.—

(1) COMMISSION STUDY AND RULEMAKING.—The Commission shall conduct a rulemaking proceeding to review and study to determine whether it is necessary or appropriate in the public interest to prohibit or constrain acts and practices that may unreasonably restrict diversity and competition in the market for video programming. In conducting such proceeding, the Commission—

(A) shall consider the necessity and appropriateness of imposing limitations on the degree to which multichannel video programming distributors may engage in the creation or production of such programming; and

(B) shall impose limitations on the proportion of the market, at any stage in the distribution of video programming, which may be controlled by any multichannel video programming distributor or other person engaged in such distribution.

(2) REPORT.—Within one year after the date of enactment of this Act, the Commission shall submit a report on the review and study required by paragraph (1) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Thereafter, the Commission shall continue to monitor (and summarize in the Commission's annual reports) the status of diversity and competition in the marketplace for video programming.

(3) PROCEEDING REQUIRED TO REVIEW DBS RESPONSIBILITIES.—The Federal Communications Commission shall, within 180 days after the date of enactment of this Act, initiate a rulemaking proceeding to impose, with respect to any direct broadcast satellite system that is not regulated as a common carrier under title II of the Communications Act of 1934, public interest or other requirements on direct broadcast satellite systems providing video programming. Any regulations prescribed pursuant to such rulemaking shall, at a minimum, apply the access to broadcast time requirement of section 312(a)(7) of the Communications Act of 1934 and the use of facilities requirements of section 315 of such Act to direct broadcast satellite systems providing video programming. Such proceeding also shall examine the opportunities that the establishment of such systems provide for the principle of localism under such Act, and the methods by which such principle may be served through technological and other developments in, or regulation of, such systems.

(4) PUBLIC SERVICE USE REQUIREMENTS.—The Federal Communications Commission shall require, as a condition of any initial authorization, or renewal thereof, for a direct broadcast satellite service providing video programming, that the provider of such service reserve not less than 4 percent or more than 7 percent of the channel capacity of such service exclusively for noncommercial public service uses. A provider of direct broadcast satellite service may use any unused channel capacity designated pursuant to this paragraph until the use of such channel capacity is obtained, pursuant to a written agreement, for public service use. The direct broadcast satellite service provider may recover only the direct costs of transmitting public service programming on the channels reserved under this subsection.

(5) STUDY PANEL.—There is established a study panel which shall be comprised of a representative of the Corporation for Public Broadcasting, the National Telecommunications and Information Administration, and the Office of Technology Assessment selected by the head of each such entity. Such study panel shall within 2 years after the date of enactment of this Act, submit a report to the Congress containing recommendations on—

(A) methods and strategies for promoting the development of programming for transmission over the public use channels reserved pursuant to paragraph (4)(A);

(B) methods and criteria for selecting programming for such channels that avoids conflicts of interest and the exercise of editorial control by the direct broadcast satellite service provider; and

(C) identifying existing and potential sources of funding for administrative and production costs for such public use programming.

(6) DEFINITIONS.—As used in this subsection—

(A) the term "direct broadcast satellite systems" includes (i) satellite systems licensed under Part 100 of the Federal Communications Commission's rules, and (ii) high power Ku-band fixed service satellite systems providing video service directly to the home and licensed under Part 25 of the Federal Communications Commission's rules; and

(B) the term "public service uses" includes—

(i) programming produced by public telecommunications entities, including programming furnished to such entities by independent production services;

(ii) programming produced by public or private educational institutions or entities for educational, instructional, or cultural purposes; and

(iii) programming produced by any entity to serve the disparate needs of specific communities of interest, including linguistically distinct groups, minority and ethnic groups, and other groups.

(b) SPORTS PROGRAMMING MIGRATION STUDY AND REPORT.—

(1) STUDY REQUIRED.—The Federal Communications Commission shall conduct an ongoing study on the carriage of local, regional, and national sports programming by broadcast stations, cable programming networks, and pay-per-view services. The study shall investigate and analyze, on a sport-by-sport basis, trends in the migration of such programming from carriage by broadcast stations to carriage over cable programming networks and pay-per-view systems, including the economic causes and the economic and social consequences of such trends.

(2) REPORT ON STUDY.—The Federal Communications Commission shall, on or before July 1, 1993, and July 1, 1994, submit an interim and a final report, respectively, on the results of the study required by paragraph (1) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Such reports shall include a statement of the results, on a sport-by-sport basis, of the analysis of the trends required by paragraph (1) and such legislative or regulatory recommendations as the Commission considers appropriate.

(c) PROCEEDING WITH RESPECT TO AREAS RECEIVING POOR OVER-THE-AIR SIGNALS.—The Federal Communications Commission shall initiate an inquiry and rulemaking to examine the feasibility of providing access to network and independent broadcasting station signals to persons who subscribe to direct broadcast satellite service and are unable to receive such signals (of grade B quality) over the air from a local licensee or from a cable system. In undertaking such rulemaking, the Commission shall take into consideration pertinent economic and technological factors, including the following:

(1) the extent to which individuals in rural, underserved areas are unable to receive broadcast television transmission; and

(2) potential ways in which operators of satellite-delivered programming services or the manufacturers or distributors of receiving equipment might enhance the ability of such persons to receive and readily access additional video programming, including without limitation, an electronic notching capability as a minimum feature on satellite television receiving equipment.

SEC. 19. ANTITRUST IMMUNITY.

(a) Nothing in the amendments made by this Act shall be construed to create any immunity to any civil or criminal action under any Fed-

eral or State antitrust law, or to alter or restrict in any matter the applicability of any Federal or State antitrust law.

SEC. 3. EFFECTIVE DATE.

Except where otherwise expressly provided, the provisions of this Act and the amendments made thereby shall take effect 60 days after the enactment of this Act.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except those amendments made in order in section 2 of House Resolution 523 or printed in House Report 102-687. Said amendments shall be considered in the order and manner specified in the report, shall be considered as read, and shall not be subject to amendment, except as specified in the report. Debate on each amendment shall be equally divided and controlled by the proponent and an opponent of the amendment.

It shall be in order for the chairman of the Committee on Energy and Commerce, or his designee, to offer amendments in bloc, consisting of amendments and modifications in the text of any amendment which are germane thereto, printed in House Report 102-687. Said amendments en bloc shall be considered as read, shall not be subject to amendment or to a demand for a division of the question, and are debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce.

The original proponents of the amendments offered en bloc shall have permission to insert statements in the CONGRESSIONAL RECORD immediately before the disposition of the amendments en bloc.

It is now in order to consider amendment No. 1 printed in House Report 102-687.

AMENDMENT OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OXLEY: Page 8, beginning on line 1, strike all of section 3 through line 18 on page 28 and insert the following:

SEC. 3. RATE REGULATION.

(a) AMENDMENT.—Section 623 of the Communications Act of 1934 is amended to read as follows:

"REGULATION OF RATES

"SEC. 623. (a) COMPETITION PREFERENCE; STATE COMMISSION REGULATION.—

"(1) IN GENERAL.—No Federal agency or franchising authority may regulate the rates for the provision of cable service except to the extent provided under this section and section 612. Any State commission (as such term is defined in section 3(t) of this Act) may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section.

"(2) PREFERENCE FOR COMPETITION.—If the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State commission under this section. If the Commission finds that a cable system is not subject to effective competition, the rates for the provision of cable service by such system shall be subject to regulation by a State commission pursuant to a law of such State.

"(b) DISCRIMINATION; SERVICES FOR THE HEARING IMPAIRED.—Nothing in this title shall be construed as prohibiting any Federal agency, State, or a franchising authority from—

"(1) prohibiting discrimination among subscribers or potential subscribers with regard to the services offered or the rates charged for such services, or

"(2) requiring and regulating the installation or rental of equipment which facilitates the reception of basic cable service by hearing impaired individuals.

"(c) NEGATIVE OPTION BILLING PROHIBITED.—A cable operator shall not charge a subscriber for any individually-priced channel of video programming or for any pay-per-view video programming that the subscriber has not affirmatively requested. For purposes of this subsection, a subscriber's failure to refuse a cable operator's proposal to provide such channel or programming shall not be deemed to be an affirmative request for such programming.

"(d) REPORTS ON AVERAGE PRICES.—The Commission shall publish quarterly statistical reports on the average rates for basic service and other cable programming, and for converter boxes, remote control units, and other equipment, of—

"(1) cable systems that the Commission has found are subject to effective competition under subsection (a)(2), compared with

"(2) cable systems that the Commission has found are not subject to such effective competition.

"(e) DEFINITION.—As used in this section, the term 'effective competition' means that—

"(1) fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system;

"(2) the franchise area is—

"(A) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and

"(B) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area; or

"(3) a multichannel video programming distributor operated by the franchising authority for that franchise area offers video programming to at least 50 percent of the households in that franchise area.".

The CHAIRMAN. Pursuant to the rule, the gentleman from Ohio [Mr. OXLEY] will be recognized for 7½ minutes, and a Member opposed will be recognized for 7½ minutes.

Does the gentleman from Massachusetts rise in opposition?

Mr. MARKEY. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Ohio [Mr. OXLEY].

□ 1750

Mr. OXLEY. Mr. Chairman, I offer this amendment for the purposes of trying to determine where regulation is going to take place. If we are going aschew the possibility of real competition in this bill, which it appears we are, then the next question arises: Who really does the regulating under this particular provision? The gentleman from Massachusetts, in his bill, would have the Federal Government, essentially the FCC, do the regulating. My amendment puts it back to the States, where I feel it belongs both naturally and from a standpoint of practicality. It allows the public utilities commissions from each State to indeed provide that kind of regulation. It also says that States with systems already in place, and there are 10 or 12 of those, may retain them under my amendment. It also says, if there is competition out there, as determined by the FCC, there is no need for regulation, and that competition is determined by the FCC. It essentially uses the same competition standards as provided by the gentleman's bill, H.R. 4850. This provides for the consumer more expedited and efficient relief because it allows the States to make that decision, and not Washington, DC. The States better understand the problems, I think, of their citizens. They are closer to the action. The voters would be more successful in holding those State officials accountable if they are not happy with what they are doing.

For the States, historically they have wanted to regulate cable. That was a big argument back in the 1960's where there was a rash of legislation. They have hesitated because they are unsure at this point if the Federal Government would preempt. Once assured of no preemption, several States ventured forth. Those States, like Massachusetts and New York, under my amendment the fear of preemption would be eliminated entirely, and they would have authority over those decisions.

NARU, the National Association of Regulatory Utility Commissioners, has supported my amendment, and hopefully those from my colleagues' particular States have contacted them for their support. They represent the utility commissioners from all 50 States, and the States better understand the needs of their consumers in their particular States far better than we do in Washington, DC, and can better address the needs.

The results of the FCC—rate regulation. Rate regulations under the Markey bill will cost the FCC $250 million over 5 years, or 44 percent of their annual budget. That was provided to us in a letter from Chairman Al Sikes just a couple of weeks ago. It will essentially take that responsibility away that they could normally do, providing for such things as modernization of the telecommunications industry, as they did with the video dial tone proceeding just last week. No cable regulatory bills, including H.R. 4850, have addressed the need for more money from the FCC, so it is going to take money out of one pocket of the FCC and put it in another. I just think that makes

common sense in a regulatory scheme, and I would certainly ask that the Members seriously consider this way of regulating.

I say to my colleagues, "If you have got to regulate, it seems to me we are better off at the State level than we are with Uncle Sam here in Washington, DC."

Mr. FIELDS. If the gentleman will yield, Mr. Chairman, I appreciate the gentleman from Ohio [Mr. OXLEY] yielding to me, and I say to the gentleman, "It seems to me your amendment makes a great deal of sense, and I think you said that the National Association of Utilities Commissioners, which is composed of the 50 States' commissioners supports your amendment." You said also that 10 States have cable commissions already. My State of Texas does not, and my question is: "What effect would your amendment have on my State and on the States that do not have cable commissions?"

Mr. OXLEY. They would be in a position to create their own regulatory schemes. That would be the job, obviously, of the people of Texas to make that determination. That gives them a free hand, as it would in Ohio, for example, and I know that in Texas, as well as in Ohio, I have already had discussions with our PUCO in Ohio, and they have clearly indicated that that is their desire.

So, this would facilitate the States actually setting up the regulatory possibilities for cable within their own States, and that is why NARUC and all of the 50 States' commissions have supported my amendment.

Mr. FIELDS. Mr. Chairman, if the gentleman would continue to yield; then, if I understand the gentleman, he is proposing a situation that would allow us to deal with the problems on a State-by-State basis so that we can handle our own problems in my State of Texas in a much more expeditious manner and tailor it in a specific solution for the State.

Mr. OXLEY. Exactly. I think that, first of all, we cannot assume that we have got some monolithic cable system throughout the 50 United States. Obviously each State differs as to how they deal with cable. The gentleman's problems in cable in Texas may be totally different from some of the problems in Ohio. That is what the PUC's are for, to ferret that out and to make those determinations on a localized basis in the 50 States, and that really is what it is all about.

Plus I cannot emphasize enough the accountability factor. Those PUC's that are appointed by the elected governors of the States in most cases are accountable. The governor is accountable. He appoints them. Who is going to be accountable at the FCC level, and are we really going to hold the President of the United States, for example, accountable for the appointment of FCC commissioners that have to rule on these cases? It just makes absolutely no sense. So, the State level is really where to do it, and I appreciate the gentleman's interest and support.

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield myself such time as I may consume, and I rise in strong opposition to the amendment of the gentleman from Ohio [Mr. OXLEY]. I very greatly have respected the gentleman from Ohio for the last decade. He and I have worked together on telecommunications policy in the Committee on Energy and Commerce. But this amendment strikes at the heart of the legislation which we have before us here today because the Oxley amendment allows States not to regulate at all, and in States that do not adopt cable regulations consumers would be entirely unprotected, and that would frustrate Congress' ability in an effort to establish universal protections for all Americans.

The amendment of the gentleman from Ohio [Mr. OXLEY] would also fragment the video marketplace into 50 uncoordinated States with 50 uncoordinated, regulatory programs which would make it hard for us to have a national video marketplace which, after all, was the heart of the 1984 act and something which we worked hard to put together on a bipartisan basis back in 1984.

Third, the State regulators are unlikely to have the resources and the expertise to regulate cable. There is no question that the FCC is the agency of expertise in this country to be able to deal with this issue of the national video marketplace that we created through the 1984 Cable Act, and the complexities of that video marketplace are something that has to remain at that Federal level, and the Oxley amendment would again fragment this into 50 different pieces, shattering that uniformity and also making it difficult for us to have a sense of where this national marketplace is.

As well, Mr. Chairman, the Oxley amendment has never been considered in our committee. We have not had it before the committee, and the implication of transferring all of this power down to the State level is something that has tremendous ramifications for this country and for the video marketplace.

So, Mr. Chairman, it is my hope that the House today will reject the Oxley amendment. It goes to the heart of a bill which was voted out 31 to 12 out of the full committee and, in fact, is going to produce a new era of competition and consumer protection for the viewers of this country.

One of the most common criticisms of the bill heard here today is from Republicans and others who claim it is too regulatory.

I cannot resist pointing out to my colleagues that as originally introduced for markup in the Subcommittee on Telecommunications, this bill included a provision that would have empowered local subscribers to rely on themselves, rather than regulators, to keep their local cable company in check. It was opposed by these same Republicans.

The provision had three universal virtues:

First, it would reduce the need for the Federal intervention in decisions that can best be made by local franchising authorities;

Second, it would encourage local cable subscribers to participate in the regulation of their local cable monopoly; and

Third, it would accomplish these purposes without costing the Federal Government or the taxpayer a dime.

Here is how it would work. Local cable franchising authorities would be authorized to certify a cable subscriber group. The group would have to earn that certification, however, by demonstrating that at least 5 percent of cable subscribers were willing to pay a $10 fee and become a member of the group. The group would be voluntary, democratically run and cost the taxpayer nothing. Cable subscribers would be notified of their ability to join this group through an insert in the billing statement of the local cable operator. The insert would have to be neutrally worded and approved by the local franchise authority.

All incremental costs and expenses of these billing inserts would be reimbursed by the subscriber group to the cable company.

That's it. It is a simple method of keeping cable companies honest by empowering subscribers. The groups are not given any regulatory authority; they are given only the ability to provide an organized, democratic voice when the regulators make decisions affecting cable service and rates.

Now don't misunderstand me. This provision, perhaps more than anything we do here today, would be a serious threat to business-as-usual by cable companies.

At subcommittee, one of my colleagues asserted that these consumer groups are not mandated in any other industry, regulated or unregulated. But the fact is, these groups are tried and true. They have been authorized and overseeing regulated utilities in Wisconsin since 1979, in Illinois since 1983, in San Diego since 1983, and in Oregon since 1984. The State of New York is implementing this system this year.

So it is not the unknown that certain people are afraid of—it is the known, proven success of these consumer groups to save their consumers millions of dollars.

Clearly in the cable industry, where consumers have been subject to obscene rate gouging since 1984, cable subscribers are in desperate need of this kind of organized representation. Right now, cable operators are free to use cable profits to pay for lawyers to represent them in the myriad hearings on franchise renewal, rates and customer service standards that accompany cable regulation. We should rebalance this process by making it easier for cable consumers to get a foot in this regulatory door. That is what my provision would have accomplished.

The elegance of this approach should be obvious in an era of disenchantment with big government, big spending, and micromanagement by Washington. The cost of subscriber groups to the taxpayer is zero, the method of decisionmaking is grassroots democracy, and the quality of oversight is bound to be better than the regulation-by-remote-control on which we currently rely.

Symms Clothing likes to say in its TV advertisements that "an educated consumer is our

best customer." But most businesses subscribe to a more ancient homily which says "Never give a sucker an even break." An educated empowered consumer is someone who cannot be suckered.

Despite its virtues, this provision was struck on the initiative of one of my Republican colleagues. I raise this point now only to remind my colleagues how hypocritical we sound to the voters when we rail against regulation but refuse to empower ordinary citizens. People are sick and tired of a system which is so easily captured by special interest here in Washington. They would prefer to rely on their own good judgment, to run their own lives, to accomplish tough oversight of communications monopolies without new Federal spending.

I urge any of my colleagues who are groping to understand the Perot boom to open their minds to citizens empowerment. The demand for this new approach will only grow.

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LENT], the ranking member of the full committee.

The CHAIRMAN. The gentleman from Ohio [Mr. OXLEY] has 1½ minutes remaining.

Mr. OXLEY. Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. LENT].

(Mr. LENT asked and was given permission to revise and extend his remarks.)

Mr. LENT. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio, [Mr. OXLEY] to transfer rate regulation from the FCC to State public utility commissions.

This amendment could bring faster relief to cable subscribers because a more local authority—the State Utility Commission—will be able to address the cable rate challenge or concern on a more expedited basis.

Many State and local authorities, as well as constituents, are skeptical about the Federal Government's ability to address regulatory issues adequately and efficiently. This amendment obviates that concern.

Several States have already set up cable commissions, and this amendment would just encourage further expansion of that framework to address issues about an industry that is truly local in nature.

The FCC is very concerned about Commission's ability to handle its cable regulation mandate under H.R. 4850 without further appropriations, which probably are not forthcoming in this budget-tight year.

FCC Chairman Sikes strongly supports this. And I urge my colleagues to support it too.

Mr. MOORHEAD. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the gentleman from California.

(Mr. MOORHEAD asked and was given permission to revise and extend his remarks.)

Mr. MOORHEAD. Mr. Chairman, on February 12, 1990, I testified at an FCC field hearing on cable in Los Angeles.

At that time, I said some cable regulation was necessary and that a State agency was best suited to accomplish the task of setting and reviewing rates.

I guessed that the FCC was not interested in that oversight chore and that to return rate regulation to cities was to return to the unworkable system that existed prior to 1984.

I feel the same way today. I believe the amendment from the gentleman from Ohio is an excellent one that should be supported by the House and I thank him for his commitment to sound cable policy.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS].

(Mr. BILIRAKIS asked and was given permission to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Chairman, I rise in reluctant opposition to the amendment offered by my friend and colleague, the gentleman from Ohio [Mr. OXLEY].

I am normally an advocate of State rights. I believe, frankly, that State governments are in a better position to understand the needs of their citizens than the Federal bureaucracy in Washington, DC.

In this particular case, however, I feel compelled by the real world experience of a community in my congressional district to oppose the Oxley amendment. In specific, the city of Dunedin, FL, has experienced several problems with its cable system and seeks to exert more authority over the service provided within its borders.

The Oxley amendment would essentially grant State public service commissions responsibility for regulating cable rates. By this act, the relief that the city of Dunedin seeks would suddenly be transferred from their hands or from the FCC to Tallahassee. The regulatory dance card would shift, leaving Dunedin facing an uncertain future.

Perhaps, under the Oxley amendment, the State of Florida would act in their interest and with enough speed to resolve their concerns before the time for franchise renewal expired. But perhaps not. I do not want to run that risk.

Today, we are altering parts of the 1984 act which many believe accelerated the expansion of cable service and offerings, but which also had an impact on cable rates. While the new regulatory scheme of H.R. 4850 is not without its critics, I do not feel we should suddenly shift to another regulatory venue emanating from 50 State capitols.

We need to seek a balance which will benefit the real world communities like Dunedin, FL; Oldsmar, FL, and the thousands of other small communities which are seeking to provide the best service and the best deal to their citizens. The Oxley amendment will not accomplish this and I must urge its defeat.

Mr. MARKEY. Mr. Chairman, I yield my remaining time to the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee.

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL] is recognized for 2¼ minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. I rise first to pay tribute to my dear friend, the author of the amendment, the gentleman from Ohio [Mr. OXLEY]. The gentleman is a fine and valued member of the committee and a great Member of this body.

However, the gentleman has offered the House a very bad amendment, and I urge the House to reject it. This is essentially a Potemkin Village which is offered to us, all facade and nothing behind.

First of all, what the gentleman does is offer an amendment which does not really afford any requirement that there be any regulations to protect the viewers of cable television. But beyond that, the gentleman very specifically and emphatically strips the bill in a way which is interesting to behold. Some 19 pages of legislation are reduced to 4. The parts which are dropped are interesting.

First, the gentleman eliminates the bill's protection of the viewer with regard to remote controls. The bill requires that remote controls be charged for fairly; the gentleman eliminates that. The same with regard to converter boxes. If this passes, no longer is there a requirement that converter boxes be billed for fairly. The bill's provisions with respect to pay-per-view of local sporting is eliminated.

Beyond that, the protection which would be afforded with regard to basic cable rates is excised by the amendment offered by my dear friend from Ohio.

The bad actor regulation, which addresses the problems of cable operators who are engaged in persistent and continuous misbehavior, is excised by the amendment.

A Potemkin Village? Perhaps worse. A sham? Probably worse. In point of fact, what this really is is essentially something which is done to skin the consumers of this country and to permit bad actors to continue to do so.

What we need here are real protections against serious misbehavior about which the consumers complain. The gentleman offers us something which would be worthy of a Ponzi or an Insull, because what it does is give much illusion, but no substance. In point of fact, if this amendment passes, the consumers of this country are in fact being skinned.

Mr. Chairman, I urge the rejection of the amendment.

The CHAIRMAN. All time for debate has expired.

The question is on the amendment offered by the gentleman from Ohio [Mr. OXLEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OXLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 83, noes 327, not voting 24, as follows:

[Roll No. 308]

AYES—83

Allen	Fawell	Michel
Anderson	Fields	Miller (OH)
Archer	Franks (CT)	Miller (WA)
Armey	Gallegly	Molinari
Baker	Gallo	Moorhead
Barnard	Gilmor	Nichols
Barrett	Green	Orton
Barton	Gunderson	Oxley
Bentley	Hastert	Paxon
Billey	Herger	Regula
Boehner	Hobson	Rhodes
Broomfield	Horton	Riggs
Burton	Houghton	Rinaldo
Campbell (CA)	Hunter	Roberts
Chandler	Inhofe	Roe
Clinger	Johnson (CT)	Rohrabacher
Coble	King	Sarton
Cox (CA)	Kolbe	Shuster
Crane	Kyl	Slatsky
Dannemeyer	Lagomarsino	Smith (OR)
DeLay	Leat	Smith (TX)
Dickinson	Lewis (CA)	Taylor (NC)
Doolittle	Lowery (CA)	Thomas (CA)
Dornan (CA)	Martin	Thornton
Dreier	McCandless	Wylie
Duncan	McCrery	Zeliff
Emerson	McEwen	Zimmer
Ewing	McMillan (NC)	

NOES—327

Abercrombie	Costello	Goss
Ackerman	Cox (IL)	Gradison
Alexander	Coyne	Grandy
Allard	Cramer	Guarini
Andrews (ME)	Cunningham	Hall (OH)
Andrews (NJ)	Darden	Hall (TX)
Andrews (TX)	Davis	Hamilton
Annunzio	de la Garza	Hammerschmidt
Anthony	DeFazio	Hancock
Applegate	DeLauro	Harris
Aspin	Dellums	Hayes (IL)
Atkins	Derrick	Hayes (LA)
AuCoin	Dicks	Hefley
Baccus	Dingell	Hefner
Ballenger	Dixon	Henry
Bateman	Donnelly	Hertel
Bellenson	Dooley	Hoagland
Bennett	Dorgan (ND)	Hochbrueckner
Bereuter	Downey	Holloway
Bevill	Durbin	Hopkins
Bilbray	Dwyer	Horn
Bilirakis	Early	Hoyer
Blackwell	Eckart	Hubbard
Boehlert	Edwards (CA)	Huckaby
Bonior	Edwards (OK)	Hughes
Borski	Edwards (TX)	Hutto
Boucher	Engel	Jacobs
Boxer	English	James
Brewster	Erdreich	Jefferson
Brooks	Espy	Jenkins
Browder	Evans	Johnson (SD)
Brown	Fascell	Johnson (TX)
Bruce	Fazio	Johnston
Bryant	Fish	Jones (GA)
Bunning	Flake	Jones (NC)
Bustamante	Foglietta	Jontz
Byron	Ford (MI)	Kanjorski
Callahan	Ford (TN)	Kaptur
Camp	Frank (MA)	Kastch
Campbell (CO)	Frost	Kennedy
Cardin	Gaydos	Kennelly
Carper	Gejdenson	Kildee
Carr	Gekas	Kleczka
Chapman	Gephardt	Kopetski
Clay	Geren	Kostmayer
Clement	Gibbons	LaFalce
Coleman (MO)	Glickman	Lancaster
Coleman (TX)	Gilmas	Lantos
Collins (IL)	Gingrich	LaRocco
Collins (MI)	Glickman	Leach
Combest	Gonzalez	Lehman (CA)
Conditt	Goodling	Levin (MI)
Cooper	Gordon	Lewis (FL)
Lewis (GA)	Parker	Skeen
Lightfoot	Pastor	Skelton
Lipinski	Patterson	Slattery
Livingston	Payne (NJ)	Slaughter
Lloyd	Payne (VA)	Smith (FL)
Long	Pease	Smith (IA)
Lowey (NY)	Pelosi	Smith (NJ)
Lukas	Penny	Snowe
Machtley	Perkins	Solarz
Manton	Peterson (MN)	Solomon
Markey	Petri	Spence
Marlenee	Pickett	Spratt
Martinez	Pickle	Staggers
Matsui	Porter	Stallings
Mavroules	Poshard	Stark
Mazzoli	Price	Stearns
McCloskey	Pursell	Stenholm
McCollum	Quillen	Stokes
McCurdy	Rahall	Studds
McDermott	Ramstad	Stump
McGrath	Rangel	Sundquist
McHugh	Ravenel	Sweet
McMillen (MD)	Reed	Swift
McNulty	Richardson	Synar
Meyers	Ridge	Tanner
Mfume	Ritter	Tauzin
Miller (CA)	Roemer	Taylor (MS)
Mineta	Rogers	Torres
Mink	Ros-Lehtinen	Torricelli
Moakley	Ross	Towns
Mollohan	Rostenkowski	Traficant
Montgomery	Roth	Traxler
Moody	Roukema	Unsoeld
Moran	Rowland	Upton
Morella	Roybal	Valentine
Morrison	Russo	Vander Jagt
Mrazek	Sabo	Vento
Murphy	Sanders	Visclosky
Murtha	Sangmeister	Volkmer
Myers	Santorum	Vucanovich
Nagle	Sarpalius	Walker
Natcher	Savage	Walsh
Neal (MA)	Sawyer	Waters
Neal (NC)	Schaefer	Waxman
Nowak	Scheuer	Weiss
Nussle	Schiff	Weldon
Oakar	Schroeder	Wheat
Oberstar	Schulze	Whitten
Obey	Schumer	Williams
Olver	Sensenbrenner	Wise
Ortiz	Serrano	Wolf
Owens (NY)	Sharp	Wolpe
Owens (UT)	Shaw	Wyden
Packard	Shays	Yatron
Pallone	Sikorski	Young (AK)
Panetta	Skaggs	Young (FL)

NOT VOTING—24

Berman	Ireland	Ray
Conyers	Kolter	Tallon
Coughlin	Laughlin	Thomas (GA)
Dymally	Lehman (FL)	Thomas (WY)
Feighan	Levine (CA)	Washington
Hansen	McDade	Weber
Hatcher	Olin	Wilson
Hyde	Peterson (FL)	Yates

□ 1827

Mr. PURSELL and Mr. SMITH of New Jersey changed their vote from "aye" to "no."

Mr. ALLEN and Mr. ROBERTS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1830

AMENDMENT OFFERED BY MR. RINALDO

Mr. RINALDO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. RINALDO: Page 18, line 11, insert immediately before the period the following: ", except a signal which is secondarily transmitted by a satellite carrier beyond the local service area of such station".

The CHAIRMAN. Under the rule, the gentleman from New Jersey [Mr. RINALDO] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Does the gentleman from Massachusetts [Mr. MARKEY] stand in opposition to the amendment?

Mr. MARKEY. Yes, Mr. Chairman, I do.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 5 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would make inclusion of super stations on the basic tier permissive rather than mandatory as is currently the case under H.R. 4850.

I would like to enter into a colloquy on this matter with the distinguished chairman of the Subcommittee on Telecommunications and Finance, the gentleman from Massachusetts [Mr. MARKEY]. Would the gentleman pledge to work with me in the forthcoming House-Senate conference on cable legislation to work out this issue to the satisfaction of the minority and other related parties?

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I am pleased to yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I say to the gentleman that yes, I will work with my good friend from New Jersey to assure that this is resolved to our mutual satisfaction in the conference committee.

Mr. RINALDO. Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENTS EN BLOC OFFERED BY MR. SHAYS

Mr. SHAYS. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. SHAYS: Page 24, after line 3, insert the following new subsection (and redesignate the succeeding subsections accordingly):

"(d) ASSUMPTION OF REGULATORY JURISDICTION BY STATE AGENCY.—

"(1) STATE ELECTION.—A State may elect to assume regulatory jurisdiction with respect to any cable system that is not subject to effective competition (as determined under subsection (a)(2)). Any State desiring to make such election shall file with the Commission a statement that—

"(A) the State has enacted a law that authorizes or permits an agency of the State to assume such regulatory jurisdiction; and

"(B) such agency has the legal authority to adopt, and the personnel to administer, regulations consistent with the requirements of this section.

"(2) EFFECT OF ELECTION.—An agency of a State identified in a statement filed under

paragraph (1) shall assume the duties, obligations, and authorities of—

"(A) the Commission under subsections (b) and (c) to prescribe regulations with respect to rates for basic cable service and for cable programming services;

"(B) the franchising authorities in such State under subsection (b) with respect to the administration and implementation of the regulations prescribed with respect to the rates for basic cable service; and

"(C) the Commission under subsection (c) to receive, consider, and resolve complaints concerning the rates for cable programming services.

"(3) WITHDRAWAL OF ELECTION.—A State may withdraw an election under this subsection by filing with the Commission a notice of such withdrawal. Upon receipt of such notice, the authority and jurisdiction assumed under paragraph (2) by the agency of such State shall revert to the Commission and the franchising authorities in such State, respectively.

Page 28, line 13, after "basis" insert the following: ", except that, for purposes of subsection (d), such term may, at the election of the State, include the video programming offered on a per channel or per program basis".

The CHAIRMAN. Under the rule, the gentleman from Connecticut [Mr. SHAYS] will be recognized for 7½ minutes, and the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 7½ minutes in opposition.

The Chair recognizes the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I yield myself such time as I might consume.

Years ago States and local governments gave away cable franchises. They did not sell them. They gave them away and made instant millionaires of those who received the cable franchises.

As a State legislator from Connecticut, I in disbelief, watched as Congress, in 1984 took away the rights of States and local franchising authorities to regulate this monopoly, making multimillionaires out of individuals who owned cable franchise rights.]

Why did Congress do this? The public did not ask for deregulation. They did not ask that cable operators be allowed to set whatever price they wanted to set. The consumers did not ask for it, but the cable operators did. And the cable operators won.

We now have an industry that is not competitive. It is a monopoly and it is not regulated.

I favor competition. That would be my choice. But we do not have it in the cable industry now. And we are not likely to have it in the near future.

Cable operators want it both ways. They want to continue in this environment where they are a monopoly with no competition. And they want to continue to have no regulations.

Congress has a moral responsibility to regulate an industry that is a monopoly, that is setting prices at will, and that is treating the consumer as if he or she does not count.

My amendment would allow States the right to regulate all tiers of service as did in the past. If they choose not to exercise this right, under my amendment the provisions of the bill take precedent and the FCC will regulate the basic tier programs. In either case, we will have some form of regulation.

Since cable deregulation took effect in 1986 we have seen prices increase 56 percent in general, and for the most popular services we have seen a 60 percent increase. In the State of Connecticut we have seen an 82 percent increase in rates since 1988. That to me to just unconscionable.

Mr. Chairman, the Wall Street Journal in 1989 said cable consumers were paying $12 billion, 50 percent more than they should and would pay if there was a competitive market.

I do not understand why Congress thinks deregulation was such a great deal—when the consumers paid $6 billion more than they should have paid.

Congress has made cable operators fabulously wealthy. Before deregulation a cable franchise was worth $600 per subscriber. After deregulation, each franchise is worth $2,000 to $2,800 per subscriber. That means if you have 1 million subscribers your franchise used to be worth $600 million. Nothing to feel sorry about. After deregulation, this same cable franchise is now worth more than $2 billion, courtesy of the U.S. Congress and the White House. Even a small cable franchise of 10,000 subscribers is worth over $20 million.

Before deregulation the Mets' allowed sports channel the right to broadcast their games for the next 30 years for $30 million. After deregulation the Yankees got $500 million by allowing Madison Square Garden [MSG] the right to broadcast its games over a 12-year period. The Yankees got $500 million because [MSG] knew ultimately it could pass the cost on to the consumer.

Please do not tell me that I or anyone else in the State of Connecticut has benefited from deregulation. Before deregulation I paid $6.96 for 25 programs under the basic tier. After deregulation I have over 35 programs but I pay nearly four times as much. I pay $24.96 for this basic tier. I'm getting programs I did not ask for and I'm paying nearly four times as much.

Maybe Members do not know it, but the Cable News Network costs the cable operators 34 cents per subscriber, the Discovery channel costs cable operators 8 cents per subscriber, and MTV costs cable operators 25 cents per subscriber. Sports News Network costs cable operators 8 cents per subscriber. They may have given me 10 more programs, but I do not like paying $18 more for something I never asked for and for something that only costs them a few dollars.

I urge all my colleagues to recognize that the cable industry cannot be allowed to continue to operate as an unregulated monopoly. Without true competition we need to reregulate this industry.

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I would like to begin by saying that the gentleman from Connecticut [Mr. SHAYS] for the last 3 years has testified before our subcommittee on cable bill issues. He has lobbied on behalf of many provisions which are included in the legislation which we bring here tonight. He has given this Member and many other members of our subcommittee insights into isques that he had particular expertise to help us in guiding us in the drafting of this legislation. And I can say that there are very few members of our Telecommunications and Finance Subcommittee that rival the gentleman from Connecticut in terms of his expertise and the impact that he has had upon the drafting of this legislation.

□ 1840

Mr. Chairman, I would like to note that publicly, because he has dedicated an enormous amount of time, and he came out of Connecticut with this issue as something that he wanted to see addressed, and the impetus that he helped to provide us has helped to bring the bill and its many consumer protection provisions before the committee, before the House here tonight.

That is why I rise in reluctant opposition to the amendment to permit States to assume cable regulation for essentially the same reasons that I opposed the amendment offered by the gentleman from Ohio [Mr. OXLEY], and because we just had the debate on the Oxley amendment, I will be brief.

I oppose the amendment despite the fact that the gentleman from Connecticut has gone far to address many of the ills in the amendment of the gentleman from Ohio. The amendment, unlike the earlier amendment, would not gut the rate provisions of the bill, but, instead, would shift authority where those rate regulations are administered and implemented. I appreciate my colleague's efforts throughout the whole cable bill to enact meaningful rate regulation, and I know the goal of this amendment is not to subvert the intent of rate regulation but, in fact, to strengthen, and the spirit of the amendment is appreciated and, in fact, supported.

However, I must oppose the amendment, because it does suffer from two flaws. First, in my opinion, it would be a mistake to disperse the rate-setting powers of the FCC amongst the 50 States. Both consumers and industry would benefit from centralizing this responsibility in a single regulatory agency where the essential expertise was concentrated.

Second, and somewhat ironically, this amendment misses the mark because it takes away regulation from local officials and shifts that power to the more remote State agencies. This approach denies the officials closest to the problem the ability to use their

knowledge and insights to regulate cable effectively.

While I have the greatest respect for the gentleman from Connecticut, and many of the other provisions in the cable bill have been dramatically affected by his interest in those provisions, on this one amendment I must reluctantly oppose.

Mr. ERDREICH. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I am happy to yield to the gentleman from Alabama.

(Mr. ERDREICH asked and was given permission to revise and extend his remarks.)

Mr. ERDREICH. Mr. Chairman, I rise in favor of the legislation and against this amendment.

Mr. Chairman, we all enjoy turning on our television and having the luxury of being able to choose from many different channels to watch. We may watch everything from baseball to home shopping to movies.

Truly these are the best of times in terms of variety. However, these are not the best of times in terms of value. Cable rates are rising at sometimes 5 or 10 times the inflation rate, and service from these companies is too often inadequate

I have heard from folks across the Sixth District over cable service. Many have said they cannot receive cable, even if the house down the street has it.

But even if you have cable, your troubles are not over. Many have called to complain of frequent and lengthy outages. And still, prices are skyrocketing.

In Jefferson County, basic cable rates in some systems increased by 99 percent over the past 5 years. Neighboring Shelby County was hit with close to a 13-percent increase just last year. Cable service in the city of Tuscaloosa rose by about 90 percent in a 12-month period.

Mr. Chairman, that is why I am supporting H.R. 4850. We have to improve programming, service, and cost.

This measure does not make extraordinary demands on cable companies. It is a proconsumer, procompetition measure that simply states, where there is no competition, there must be oversight by the FCC.

Such oversight is needed until competition is in place. Nobody wants unnecessary Government intervention. But, the fact is, that competition has not materialized, yet, in most areas served by cable.

To see a reasonable rate structure and adequate service, this bill is a must.

A vote for this bill is a vote for competition and a vote for the American consumer. I urge my colleagues to support it.

Mr. SHAYS. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. ECKART].

(Mr. ECKART asked and was given permission to revise and extend his remarks.)

Mr. ECKART. Mr. Chairman, very briefly I would like to associate myself with the remarks of my colleague, the gentleman from Connecticut.

Being a former State legislator, I certainly can understand the depth of expertise that frequently exists here. The gentleman's effort, I think, is a noble and appropriate one. I think it would give consumers a larger and more significant voice in the process, particularly because the powermaking would be vested to the folks who are closer to the people.

Ultimately I think it would relieve from the Federal Government a significant regulatory burden, so the gentleman from Connecticut, I think, has brought a very thoughtful initiative here.

I appreciate him and the light in which this was offered, and also to my colleague from Ohio.

Mr. SHAYS. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I hope everyone in this body and this country realizes the gentleman's terrific leadership role in protecting consumers' rights versus abusive cable companies. This gentleman has done so at great personal risk to his own political career. His district is not an easy one to do that in, as I understand there are several leading cable companies that have substantial operations there. He has stood up consistently for the little man, the consumer. I am proud of him for his leadership role.

I support his amendment. If you want regulation, and I think all of us would prefer competition, but if you want regulation, this is an excellent way to do it.

Traditionally States have had the right to regulate monopolies. Electric utilities and other monopolies are regulated by the States. Cable companies are similar sorts of monopolies.

Also, the gentleman has the only approach that will be before this House to regulate the prices on premium channels and pay-per-view channels, and that is what many of our consumers care most about.

If you are worried about overpricing on HBO and other premium channels, you had better support the Shays amendment.

Mr. SHAYS. Mr. Chairman, I yield myself the balance of my time, and thank the Members for their kind words.

In this industry that is not regulated and where there is no competition, the consumer is clearly at the mercy of the cable operators and has paid very dearly for this fact.

In terms of the issue of centralization, there is no compelling reason to have Federal legislation that would prevent the State of Connecticut to regulate State cable operations.

One reason why we had deregulation in 1984 was the fact that local franchise authorities did not do the kind of job they should do. My amendment purposely tries to avoid the abuse and problems we had in the past with local franchising authorities. That's why we give the power to the States to reregulate if they choose.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding. I know that he has taken great leadership in this area.

Mr. Chairman, I reluctantly rise in opposition to his amendment. For those of you who think that we should have some kind of national view of this whole thing and we should not have 50 States regulating 50 different sets, and this mandates the regulation, I think that——

Mr. SHAYS. Mr. Chairman, excuse me, reclaiming my time to correct the gentleman, my amendment allows States to regulate only if they choose to.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding this time.

Mr. Chairman, I just wanted to say that if you are interested in a national system, this gives the States 50 different ways of regulating cable, and not only that, it even goes beyond that, the Markey bill, in terms of regulation, because it would regulate the premium services. Even in the Markey bill, and those of us who are opposed to the Markey bill for being too regulatory, the Shays amendment goes actually beyond Markey to regulate premium services, and I would urge defeat of the amendment offered by my friend, the gentleman from Connecticut.

Mr. MARKEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendments en bloc offered by the gentleman from Connecticut [Mr. SHAYS].

The amendments en bloc were rejected.

AMENDMENT OFFERED BY MR. SLATTERY

Mr. SLATTERY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SLATTERY: Page 28, line 13, strike out "500 or fewer" and insert "1,000 or fewer".

The CHAIRMAN. Under the rule, the gentleman from Kansas [Mr. SLATTERY] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

Does the gentleman from Tennessee [Mr. COOPER] stand in opposition?

Mr. COOPER. Mr. Chairman, I do.

The CHAIRMAN. The gentleman from Tennessee [Mr. COOPER] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I yield myself such time as I may consume.

The amendment I have before us is an amendment that is very simple, and

I will not make a long speech in explaining it.

The amendment deals with the administrative burdens that this legislation would impose on small cable systems. The language in the legislation before us provides, and I quote:

In developing and prescribing regulations pursuant to this section, the Commission shall design such regulations to reduce the administrative burdens and costs of compliance for cable systems that have 500 or fewer subscribers.

The amendment before us, Mr. Chairman, would merely change the 500 to 1,000. The simple justification is that a lot of these small systems do not need this additional regulatory burden.

I would point out to my colleagues that 51 percent of cable systems were identified as having less than 1,000 subscribers in a 1991 survey, and under the bill, there are about 40 percent of the systems that would be in this category, if we had the 500-subscriber limitation.

So let me point out that we are not talking about exempting the systems, the smaller systems from regulation. We are merely saying that when the FCC composes the regulations that they will design, the regulations affecting the smaller systems, in such a way as to reduce their administrative burden and cost.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. SLATTERY. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I endorse the amendment.

I commend the gentleman for offering it. This amendment does nothing whatsoever to diminish the bill's protections of consumers. Second of all, it does a great deal to ease the administrative burdens on the small cable TV systems. It is a good amendment not only from the standpoint of the consumer, but, very frankly, from the standpoint of the small cable operators who are quite often incapable of offering the kind of service that they or the consumer would like.

I commend the gentleman.

□ 1850

Mr. Chairman, as always, I appreciate the support of the chairman of my committee.

Mr. COOPER. Mr. Chairman, I rise in reluctant opposition to the Slattery amendment. On the surface, this is a very simple and commonsense amendment. I think all of us are in favor of small businesses and small business exemptions where necessary to allow small businesses to cope with the terrific paperwork burden that they face; but this amendment is not drafted just to help the independent small businessman who has trouble with paperwork. The way this amendment is drafted, subsidiaries of the largest cable companies in America would benefit. Chains of small cable companies across America, some of which have the worst record of abuses of any cable companies in America would benefit.

We need to focus this amendment on its intended purpose. I hope in conference we will be able to do so, to help the independent small businessman and only the independent small businessman.

I am afraid in this case the small business exemption may well be a euphemism for poor service and high prices. Communities not only in Tennessee, but across the country, they may be small, but they are, as the gentleman pointed out, half of all the cable communities in America.

People there count, too. They should have the same rights as people who live in larger communities.

I would hope that in conference we could focus this amendment on the independent small businessmen and not allow the subsidiaries of the giants, the largest cable companies in America, to get exemptions that they do not deserve. These are companies that are more than capable of doing the paperwork, more than capable of providing topnotch service, and yet in so many cases they have failed to do so. They think that the big newspapers will not notice, because how many media outlets are in communities of this size? They think that the TV stations will not notice. They think they will not be reported; but I happen to represent a nearly all rural district, all small towns in my district, and people in these communities do matter. They should have the same rights.

That is why, even though I have seldom disagreed with my good friend, the gentleman from Kansas, he and I agree on most matters. He is a very capable and common sensical gentleman. I am just worried that the drafting in this particular effort needs to be focused so that we do not benefit the subsidiaries of the giant companies.

Mr. SLATTERY. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I am happy to yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Chairman, I thank my good friend for yielding to me.

The gentleman is absolutely correct. We seldom disagree on anything, but on this matter we do, simply because I think it is very important for us to do what we can to reduce the administrative burden on a lot of these small cable concerns.

The gentleman has raised a legitimate concern. I will say to the gentleman that I hope as we move forward in the process that we may be able to address this; but candidly to this point in the process, I have not been able to figure out how to speak to the legitimate concern of a lot of our small cable operators in this country who do not need this additional administrative burden and who are serving their communities quite well. I do not hear any objection from people in those communities, in all candor, in my part of the country.

I know the gentleman's deep concern and I will try to work with him as we move forward.

Mr. COOPER. Reclaiming my time, Mr. Chairman, the gentleman and I share a concern for the independent small businessman, but when that company is sold to a giant enterprise, when the ownership moves away to another State, another region, local accountability is oftentime lost.

And remember, cable companies when they enjoy a monopoly do not even have to answer the telephone. They do not have to provide any sort of quality consumer service. They tell you that if you do not like it, turn off the service, go to your video store, hook up an antenna, try to watch broadcasts. Even though so many of these communities are so many hundred miles from the broadcast centers, they cannot get quality broadcast reception.

So I hope the gentleman will try his best to exclude the subsidiaries of giants and also the chains of enterprises that may have no large cable subscriber base in one locale, but have tens of thousands of consumers across the country who are not getting the quality service that they deserve.

Mr. SLATTERY. Mr. Chairman, if the gentleman will yield for one point of clarification, we are not talking about exempting them from service regulations. We are talking about the question of rate regulation.

Mr. COOPER. But so often when we start letting them off the hook, when we do not know what the rates are or whether they are reasonable and when we are not making them file their papers, we lose track of what they are really doing and whether they are really serving the community.

Mr. SLATTERY. I understand that. I just wanted to clarify that point.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding to me.

I support the Slattery amendment, but I would like to say to the gentleman from Tennessee that as we move to the conference stage on this legislation, I think we can work amongst ourselves to try to draft language which deals with many of the issues we are concerned about, while preserving the core of the objectives the gentleman from Kansas seeks to support.

Mr. SLATTERY. Mr. Chairman, I appreciate the support of the subcommittee chairman.

The CHAIRMAN. The time of the gentleman from Tennessee [Mr. COOPER] has expired.

The Chair recognizes the author of the amendment, the gentleman from Kansas [Mr. SLATTERY].

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. SLATTERY. I am happy to yield to the gentleman from New Jersey.

Mr. RINALDO. Mr. Chairman, I just want to say to the gentleman that in my view small systems have not caused the problems that we are attempting to correct with this legislation.

The amendment that the gentleman is offering does not weaken any regulation that we seek to put into effect, but what it does is lighten the administrative burden, and with that the administrative costs.

Mr. Chairman, the minority is pleased to accept the amendment. It is a good amendment. It goes in the right direction.

Mr. SLATTERY. Mr. Chairman, I appreciate the gentleman's support.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. SLATTERY. I yield to my friend, the gentleman from Nebraska.

(Mr. BEREUTER asked and was given permission to revise and extend his remarks.)

Mr. BEREUTER. Mr. Chairman, this Member rises in support of the amendment introduced by the gentleman from Kansas to increase from 500 subscribers to 1,000 subscribers the maximum size of small cable systems for which the FCC must design rate regulations that would reduce the administrative burden and cost of compliance.

Mr. Chairman, I thank the gentleman for yielding to me. I thank the gentleman for his initiative. I certainly am supportive of this.

In my State alone, we have 115 communities that have fewer than 1,000 households who are served by the local cable system. They provide an important service to the rural customers. They have not been engaged in abusive practices, so I think the gentleman's amendment is highly appropriate and I thank him for his initiative. I urge my colleagues to support it.

As mentioned, the State of Nebraska has some 115 communities in which fewer than 1,000 households are served by the local cable system. Nearly 15 percent of those communities have more than 500 subscribers and would not be covered by the provisions included in the bill as it came to the floor, or they have nearly 500 subscribers and may soon lose that protection.

Yet, these are still very small communities. Generally, the smallest cable companies have not engaged in abusive practices. They are providing an important service to their rural customers, and we need to encourage them to provide this service in these small communities.

This Member encourages his colleagues to support this amendment and commend my neighbor, the distinguished gentleman from Kansas [Mr. SLATTERY] for his initiative in preparing and offering this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. SLATTERY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. COOPER

Mr. COOPER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows.

Amendment offered by Mr. COOPER: Page 29, line 2, strike "a franchise" and insert "an exclusive or nonexclusive franchise".

The CHAIRMAN. Under the rule, the gentleman from Tennessee [Mr. COOPER] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes. Does any Member stand in opposition to the amendment?

Mr. MARKEY. Mr. Chairman, I rise in opposition.

The CHAIRMAN. The gentleman from Massachusetts will be recognized at the appropriate time in the debate.

The Chair recognizes the author of the amendment, the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I would like to enter into a colloquy with the chairman of the full committee.

I have been working with the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], because I have been very concerned about a provision that is very important to my constituents in Jamestown, TN. The people of Jamestown awarded an exclusive franchise to a cable operator in 1977, long before they knew competition in cable would ever be possible. But in 1984, Congress abrogated the provisions of the franchise to prohibit the city from regulating rates. Soon, rates began to rise, service declined and people got angry. The city got so fed up with the abuses of the cable monopoly that it built a competing system. But a 1991 State court ruling forced the city to shut down its system because it violated the exclusivity system in place, but they cannot enjoy the benefits of it because of a court's narrow reading of the 1984 Cable Act.

However, the purpose of the bill before us today is to foster competition at every turn, in every town and with every franchise. Section 4(a) of the bill provides that,

[a] Franchising authority shall not, in the awarding of franchises within its jurisdiction, grant an exclusive franchise, or unreasonably refuse to award additional franchises because of the previous award of a franchise to another cable operator.

Section 4(b) of H.R. 4850 provides that nothing in this act shall be construed to prohibit a local government from operating a cable system, even if it has already granted one or more franchises to other cable operators. Is it your intent that these and other provisions would act to permit every city and town in America to award additional franchises, including Jamestown?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, first of all, I want to commend the gentleman for raising the question.

Second of all I want to observe that he raises a very legitimate concern and commend him for that.

My reading of the language of the bill before us is that it would enable every city and town to award additional franchises. It is the intent of the bill to remove barriers to competition and to, therefore, make unenforceable any franchise provisions that would thwart competition.

Mr. COOPER. Reclaiming my time, I appreciate the chairman's kindness. As the gentleman knows, very few exclusive franchises exist today, and the ones that do exist were granted in the sixties or seventies or earlier. Consequently, if sections 4 (a) and (b) are to have any real meaning in practice, they must apply to and deal with existing exclusive franchises, including Jamestown, TN. I would hope that the chairman would agree that no provision of an existing franchise, whether it is an exclusive or nonexclusive contract, could be used as a reason for denying additional franchises.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I want to thank the gentleman for yielding to me, and to observe that to me, the language of the bill is general enough to cover every franchise to that effect. I am sensitive to the concern of the gentleman from Tennessee, and again I commend him for raising these questions, but I have been concerned that additional language might cause unintended problems. I intend to work with the gentleman as this issue progresses to resolve any concerns with improvements in the bill's language, should it be necessary.

Mr. COOPER. I appreciate the chairman's clarification and sensitivity to the concerns of the folks in Jamestown. Given this understanding, I would like to work with the chairman and Chairman MARKEY of the subcommittee in the conference to make this even more clear, but at this time I see no reason to push forward for a vote on my amendment. So I will withdraw it with the understanding that the clear congressional intent with regard to the existing language of the bill is that it would allow Jamestown to operate its competitive system again.

I appreciate the honor of working with the chairman of the full committee and the chairman of the subcommittee.

I appreciate the honor of working with the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], and the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY].

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee [Mr. COOPER]?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. DOOLITTLE

Mr. DOOLITTLE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DOOLITTLE: Page 34, strike lines 8 through 11 and insert the following: subpart F of part 76 of title 47, Code of Federal Regulations.

"(C) The Commission shall revise the regulations relating to nonduplication protection and syndicated exclusivity (47 C.F.R. 76.92 et seq.) to permit customers of cable systems in towns, cities, or communities with populations of less than 50,000 to receive network programs for each network from affiliated television stations that are located in the same State as such customers.

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. DOOLITTLE] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

Does the gentleman from Massachusetts [Mr. MARKEY] stand in opposition?

Mr. MARKEY. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Massachusetts will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. I thank the chairman.

Mr. Chairman, on behalf of my colleagues, Messrs. GUNDERSON, BEREUTER, VISCLOSKY, BERGER, and HUNTER, I have an amendment to rectify an ongoing problem resulting from the Federal Communications Commission's syndicated exclusivity of network nonduplication rule.

Mr. Chairman, I would like to engage in a colloquy on this issue with the chairman of the Telecommunications Subcommittee.

Mr. Chairman, as a result of these FCC decisions, certain small communities in some State border areas are forced to watch out-of-state programming, losing valuable news and information relating to their own State. We have attempted to obtain relief from the FCC, to no avail.

I would like to ask if I could have the help of the gentleman from Massachusetts in resolving this matter.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Chairman, I have had several conversations with the gentleman from Wisconsin [Mr. GUNDERSON] over the last several years on this subject, and we have worked hard to try to resolve this issue. What I would say to the gentleman is that I would like to work with him, the gentleman from Wisconsin [Mr. GUNDERSON], and others who are interested in the issue so that we may reach a satisfactory resolution of the issue in this Congress.

Mr. DOOLITTLE. I am delighted to hear the gentleman from Massachusetts mention "in this Congress," because I know that will mean a lot to all of our constituents. There are just relatively speaking a handful across the country, but for the communities that fall into this category it is very important. I would appreciate the gentleman's help, the help of the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], and the ranking members, the gentleman from New York [Mr. LENT], and the gentleman from New Jersey [Mr. RINALDO].

(Mr. BEREUTER asked and was given permission to revise and extend his remarks.)

Mr. BEREUTER. Mr. Chairman, this Member strongly supports the initiative found in the amendment filed by the distinguished gentleman from California [Mr. DOOLITTLE] that would exempt cable systems in communities of under 50,000 residents that are located in a state different from the broadcaster from having to comply with syndicated exclusivity and nonduplication rules. Frankly, this Member wishes the amendment could have been enacted at this point but, of course, I accept the gentleman's judgment that this issue will be resolved during this Congress, given Chairman MARKEY'S stated assurances.

Since January 1990, when the Federal Communications Commission implemented syndex rules, this Member has heard from residents in the northeast most corner of Nebraska, residents of the Siouxland area, the tristate Sioux city Metropolitan area, regarding the inability of their local cable operators to carry programming from an Omaha, NE, station because that programming was being duplicated by a nearby Sioux City, IA, network affiliate.

This means that cable subscribers in that part of Nebraska are not receiving an adequate amount or desired amount of news about Nebraska state government and Nebraska's economic and cultural affairs as television viewers in other parts of Nebraska receive, because, quite naturally, the Iowa television stations tend to focus more on Iowa governmental, economic, and cultural affairs. These Nebraskans are being seriously disadvantaged in crucial daily information because of the FCC's syndex rules.

While the syndex rules were based on a regard for broadcasters' contractual programming rights, in these relatively unusual situations where communities of under 50,000 are not receiving the signal of their nearest instate broadcaster, we should provide an exemption.

This Member urges the committee to adequately address this concern during this Congress by influencing or otherwise demanding this FCC response and solution.

Mr. MARKEY. Mr. Chairman, will the gentleman yield further?

Mr. DOOLITTLE. I am happy to yield further to the gentleman from Massachusetts.

Mr MARKEY. I thank the gentleman for yielding.

If I may say to the gentleman from Nebraska, and also if I may, the gentleman from Indiana [Mr. VISCLOSKY], who has also been talking to me and talking to the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], we will work with them. We will work with them in the next month to try to resolve this issue.

Again, I thank the gentleman, and I especially thank the gentleman from Wisconsin [Mr. GUNDERSON], who has been working with us over the last few years.

Mr FAZIO. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. I thank the gentleman for yielding.

Mr. Chairman, I want to congratulate my friend from California. It seems that this is a problem that does need to be resolved, and it seems that we are going to do so with the support of the committee. I appreciate my friend bringing the issue that I know is very important to his district, but also to my constituents as well, to the floor. I thank the gentleman.

Mr. DOOLITTLE. I thank the gentleman.

Mr. GUNDERSON. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. I thank the gentleman for yielding.

Mr. Chairman, I just want to join everyone in thanking the chairman for his help over the last 2 years in trying to get this resolved, and the staff on both sides of the aisle. And I certainly also thank the gentleman from California [Mr. DOOLITTLE] for working with all of us and for his taking the leadership in getting this resolved in this Congress.

Mr. DOOLITTLE. I thank the gentleman, and I, too, thank the staff.

Mr. Chairman, I ask unanimous consent that I be permitted to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The amendment is considered as withdrawn.

AMENDMENTS EN BLOC OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The texts of the amendments en bloc are as follows:

Amendments en bloc offered by Mr. DINGELL:

AMENDMENT NO. 18. NEAL OF MASSACHUSETTS. NOTICE ON RATE INCREASES

Page 17, after line 12, insert the following new subparagraph (and redesignate the succeeding subparagraph accordingly):

"(E) NOTICE.—The procedures prescribed by the Commission pursuant to subparagraph (D)(i) shall require a cable operator to provide 30 days advance notice to a franchising authority of any increase of more than 5 percent proposed in the price to be charged for the basic service tier.

AMENDMENT NO. 11. NAGLE, RATE REGULATION AGREEMENTS

Page 26, strike out lines 14 through 22, and insert the following:

"(j) RATE REGULATION AGREEMENTS.—During the term of an agreement made before July 1, 1990, by a franchising authority and a cable operator providing for the regulation of basic cable service rates, where there was not effective competition under Commission rules in effect on that date, nothing in this section (or the regulations thereunder) shall abridge the ability of such franchising authority to regulate rates in accordance with such an agreement.

AMENDMENT NO. 12. DINGELL, TECHNICAL AMENDMENTS

Page 34, line 9, strike "title 46" and insert "title 47".

Page 78, line 22, strike "(17" and insert "(47".

Page 94, line 19, strike "(a)".

AMENDMENT NO. 13. LEHMAN OF CALIFORNIA, CHANNEL POSITIONING

Page 36, line 9, after "1965," insert the following: "or on the channel on which it was carried on January 1, 1992,".

AMENDMENT NO. 14. MCEWEN, MUST-CARRY REGULATIONS

Page 41, line 2, after the period insert the following: "Such implementing regulations shall include necessary revisions to update section 76.51 of the Commission's regulations (47 C.F.R. 76.51).".

AMENDMENT NO. 15. SCHUMER, FRANCHISING AUTHORITY LIABILITY

Page 82, after line 6, insert the following new section (and redesignate the succeeding sections accordingly):

SEC. 15. LIMITATION ON FRANCHISING AUTHORITY LIABILITY.

(a) AMENDMENT.—Part IV of title VI of the Communications Act of 1934 is amended by inserting after section 635 (47 U.S.C. 555) the following new section:

"SEC. 635A. LIMITATION OF FRANCHISING AUTHORITY LIABILITY.

"(a) SUITS FOR DAMAGES PROHIBITED.—In any court proceeding pending on or initiated after the date of enactment of this section involving any claim against a franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity, arising from the regulation of cable service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of a franchise, any relief, to the extent such relief is required by any other provision of Federal, State, or local law, shall be limited to injunctive relief and declaratory relief.

"(b) EXCEPTION FOR COMPLETED CASES.—The limitation contained in subsection (a) shall not apply to actions that, prior to such violation, have been determined by a final order of a court of binding jurisdiction, no longer subject to appeal, to be in violation of a cable operator's rights.

"(c) DISCRIMINATION CLAIMS PERMITTED.—Nothing in this section shall be construed as limiting the relief authorized with respect to any claim against a franchising authority, or other governmental entity, or any official, member, employee, or agent of such authority or entity, to the extent such claim involves discrimination on the basis of race, color, sex, age, religion, national origin, or handicap.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as creating or authorizing liability of any kind, under any law, for any action or failure to act relating to cable service or the granting of a franchise by any franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity.".

(b) CONFORMING AMENDMENT.—Section 635(b) of the Communications Act of 1934 (47 U.S.C. 555(b)) is amended by inserting "and with the provisions of section 635(a)" after "subsection (a)".

AMENDMENT NO. 16. LEHMAN OF CALIFORNIA, PRECLUSIVE CONTRACTS

Page 93, after line 20, insert the following new paragraph:

(3) ANALYSIS OF PRECLUSIVE CONTRACTS REQUIRED.—In conducting the study required by paragraph (1), the Commission shall analyze the extent to which preclusive contracts between college athletic conferences and video programming vendors have artificially and unfairly restricted the supply of the sporting events of local colleges for broadcast on local television stations. In conducting such analysis, the Commission shall consult with the Attorney General to determine whether and to what extent such preclusive contracts are prohibited by existing statutes. The report required by paragraph (2) shall include a separate statement of the results of the analysis required by this paragraph, together with such recommendations for legislation as the Commission considers necessary and appropriate. For purposes of the paragraph, the term "preclusive contract" includes any contract that prohibits—

(A) the live broadcast by a local television station of a sporting event of a local college team that is not carried, on a live basis, by any cable system within the local community served by such local television station; or

(B) the delayed broadcast by a local television station of a sporting event of a local college team that is not carried, on a live or delayed basis, by any cable system within the local community served by such local television station.

AMENDMENT NO. 17. BROOMFIELD AMENDMENT, AS MODIFIED, SEXUALLY EXPLICIT PROGRAMS

Page 68, after line 15, insert the following new section (and redesignate the succeeding sections accordingly):

SEC. 16. NOTICE TO CABLE SUBSCRIBERS ON UNSOLICITED SEXUALLY EXPLICIT PROGRAMS.

Section 624(d) of the Communications Act of 1934 (47 U.S.C. 544(d)) is amended by adding at the end the following new paragraph:

"(3)(A) If a cable operator provides a premium channel without charge to cable subscribers who do not subscribe to such premium channel, the cable operator shall, not later than 30 days before such premium channel is provided without charge—

"(i) notify all cable subscribers that the cable operator plans to provide a premium channel without charge,

"(ii) notify all cable subscribers when the cable operator plans to offer a premium channel without charge,

"(iii) notify all cable subscribers that they have a right to request that the channel carrying the premium channel be blocked, and

"(iv) block the channel carrying the premium channel upon the request of a subscriber.

"(B) For the purpose of this section, the term 'premium channel' shall mean any pay service offered on a per channel or per program basis, which offers movies rated by the Motion Picture Association as X, NR-17, or R.".

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan [Mr. DINGELL] will be recognized for 10 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 10 minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will not take the full 10 minutes. My remarks are brief.

These amendments are provided for in the rule. They are offered by agreement between myself, the gentleman from New Jersey [Mr. RINALDO], the gentleman from New York [Mr. LENT] and the distinguished gentleman from Massachusetts [Mr. MARKEY], the chairman of the subcommittee.

Mr. Chairman, pursuant to the rule previously adopted, I rise to offer an en bloc amendment consistent of amendments that were made in order under the rule.

The amendments included in this amendment are as follows:

An amendment offered by Mr. NEAL of Massachusetts, designated as No. 10 in the Rules Committee report.

The Neal amendment provides that cable operators must provide at least 30 days advance notice of any increase in cable rates of over 5 percent.

An amendment offered by Mr. NAGLE of Iowa, designated as No. 11 in the Rules Committee report.

The Nagle amendment clarifies language in the reported bill that protects grandfathered rate regulation agreements between cable operators and franchising authorities.

An amendment offered by myself, designated as No. 12 in the Rules Committee report.

The Dingell amendment contains three technical amendments correcting drafting errors in the reported bill.

An amendment offered by Mr. LEHMAN of California, designated as No. 13 in the Rules Committee report.

The Lehman amendment adds an additional option to commercial broadcasters, by which they may choose to be carried on the channel positions they occupied as of January 1, 1992.

An amendment offered by Mr. MCEWEN of Ohio, designated as No. 14 in the Rules Committee report.

The McEwen amendment requires the FCC to update the list of the Nation's television markets in order to clarify whether a signal of a television station is considered to be local or distant.

An amendment offered by Mr. SCHUMER of New York, designated as No. 15 in the Rules Committee report.

The Schumer amendment indemnifies local franchising authorities against damages claims, except those damages claims based on discrimination of any type.

An amendment offered by Mr. LEHMAN of California, designated as No. 16 in the Rules Committee report.

The Lehman amendment requires that the study of sports migration mandated by the bill include an analysis of preclusive contracts between college athletic conferences and video programming vendors, and whether such con-

tracts may have unduly restricted local college sporting events from being broadcast locally.

An amendment offered by Mr. BROOMFIELD of Michigan, designated as No. 17 in the Rules Committee report.

The Broomfield amendment requires that, when cable operators provide premium channels without charge, and those channels carry movies with an X, R, or NR-17 rating, they must give subscribers 30 days advance warning and enable subscribers to have those channels blocked.

As contained in the en bloc amendment, the 60 day advance warning period has been reduced to 30 days. This change, permitted under the rule, has been agreed to by Mr. BROOMFIELD, the minority, and those of us on this side of the aisle.

Mr. Speaker, these are noncontroversial amendments that have been cleared by the leadership on both sides of the aisle. I am offering them in this form in an effort to limit the amount of time that the House will have to spend on them. I would like to commend my colleagues who submitted these amendments for their willingness to work with us to make sure that the amendments are acceptable.

I know that many Members will want to speak on these amendments, several of which seek to address local problems back home. I urge my colleagues to support this package of amendments, and reserve the balance of my time.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. RINALDO. I thank the gentleman for yielding.

Mr. Chairman, we have had an opportunity to review the numerous amendments presently being offered en bloc. After reviewing them, we have determined that they are good amendments and are not controversial, and they have been cleared on the Republican side, and we are prepared to support them en bloc. And I thank the gentleman for yielding.

Mr. DINGELL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. LENT. Mr. Chairman, I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Chairman, my amendment would restore to parents in this country some measure of control over what their small children see and hear.

It would give cable consumers the right to prevent certain cable channels from being broadcast into their homes.

What I am thinking of, in particular, are certain premium movie channels. HBO and Cinemax come most readily to mind.

These are called premium channels because cable consumers are forced to spend extra money to subscribe to them. The consumers may choose not to subscribe to the premium channels because of the additional cost, or like many American families they may choose not to subscribe to them because many of the movies these channels purvey contain so much violence and sex.

The premium channels have now found a way to circumvent parental choice. The method is called the free weekend.

Premium channels like HBO and Cinemax offer all cable subscribers, even those who originally chose not to subscribe, free access to its movies for one weekend, the so-called free weekend.

My colleague who offered this amendment in the other body has likened this promotional gimmick to a sample bar of soap. Put it in a hotel bathroom, or hand it out on a street corner, and see if someone will like it enough to buy a regular-sized bar. But instead of soap, he says, these merchants are peddling garbage.

To many mothers who are trying to raise their kids in difficult times it must seem like the old image of the street corner merchant of pornography. The one with the rumpled raincoat who stands on the street corner outside the local school and calls on unsuspecting little kids to come over and look at his assortment of dirty pictures.

It used to be that a child who was offended by the kind of stuff purveyed by the man in the rumpled raincoat could get away from him by running home. No longer. Now there is no escape. He's already in the home—on any number of television channels.

In an age when anything goes, this amendment may seem a little quaint to some. But I believe it will provide one small weapon that mothers and fathers can use in the battle to raise their children with a clear-headed respect for moral standards.

Earlier this week I received a call from a mother in my district. She had previously canceled her premium movie service because she didn't want her young children to accidentally turn the dial to an R-rated movie they couldn't handle.

She thought she had taken the necessary precautions to protect her family.

Yet last weekend, during a promotion, she discovered her children viewing some gory scenes from "Silence of the Lambs." Three days later the youngest child is still having nightmares.

The mother thinks this is a terrible irony because she is already so involved in the campaign against sleaze and violence on television. She is Terry Rakolta, director of Americans for Responsible Television. This is a grassroots organization with about 20,000 members who are dedicated to putting a stop to the escalation of random hard violence and exploitative sexual material on television.

R-rated movies are not uncommon during promotional weekends. Fully a third of the movies on both HBO and Cinemax during a promotional weekend in 1990 were rated "R."

The Motion Picture Association assigns movies this rating because they contain violence, graphic language, or sexually explicit scenes that are inappropriate for children.

My amendment will require cable companies to warn their customers well before a free weekend and to give those customers the option of having the service blocked.

It does not end promotional free weekends but it does give families the right to say they don't want sleazy movies shown in their homes.

It is an amendment that will once again put teeth into the sentiment that a family's home is its castle, and I urge my colleagues to vote for it.

Mr. SCHUMER. Mr. Chairman, I rise for the purpose of clarifying the intent of my amendment on franchiser immunity, which has been included in the chairman's en bloc amendment.

My amendment is based on H.R. 506, a bill I introduced to provide immunity to local franchising authorities against damages claims. The amendment is needed to protect local authorities from being pressured into making unmeritorious franchising decisions by the threat of expensive damages litigation by cable companies. This is not just a hypothetical threat: In Los Angeles, a multimillion dollar suit has been filed against the local authority over past franchising decisions, in an attempt to extort a lucrative settlement and to influence future franchising decisions by that and other local authorities.

The amendment's adoption is essential to ensuring that local authorities can negotiate the best contracts possible on behalf of cable consumers, in order to fulfill the consumer protection intent of the underlying cable bill. Accordingly, the amendment has been endorsed by the U.S. Conference of Mayors, the National League of Cities, and the National Association of Counties.

To resolve questions that were raised about an earlier draft of my bill, the amendment makes clear that franchising authorities are not immune from damages claims based on discrimination of any type.

I want to thank Chairman BROOKS, Chairman DINGELL, and Chairman MARKEY for their support and assistance in drafting this amendment.

I would also like to clarify two elements of my amendment:

The only purpose of section 628(b) of the provision is to clarify that the provision does not apply retroactively to completed cases. In other words, neither the cable operator nor the franchising authority involved in a case that is no longer subject to review may argue that this amendment allows them to reopen the case and relitigate the issue of damages. Subsection (b) does not mean that the decision in a case in Los Angeles that is no longer subject to review, for example, is binding on a franchising authority litigating the same issues in New York City. The franchising authority in New York City would be entitled to damages immunity under this section.

Subsection (d) of the amendment clarifies that nothing in this section shall be construed as creating or authorizing liability of any kind under any law, for any action or failure to act relating to cable service or the granting of a franchise—including a decision of approval or disapproval with respect to a grant, renewal, transfer or amendment of a franchise—by a franchising authority or other governmental entity.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Michigan [Mr. DINGELL].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COOPER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 403, noes 2, not voting 29, as follows:

[Roll No. 309]

AYES—403

Abercrombie	Alexander	Allen
Ackerman	Allard	Anderson

Andrews (ME)	Erdreich	Lipinski
Andrews (NJ)	Espy	Livingston
Andrews (TX)	Evans	Lloyd
Annunzio	Ewing	Long
Applegate	Fascell	Lowey (NY)
Archer	Fawell	Luken
Armey	Fazio	MacKay
Aspin	Fields	Manton
Atkins	Fish	Markey
Au Coin	Flake	Marlenee
Bacchus	Foglietta	Martin
Baker	Ford (MI)	Martinez
Ballenger	Ford (TN)	Matsui
Barnard	Frank (MA)	Mavroules
Barrett	Franks (CT)	Mazzoli
Barton	Gallegly	McCandless
Bateman	Gallo	McCloskey
Bennett	Gaydos	McCollum
Bentley	Geidenson	McCrery
Berman	Gekas	McCurdy
Bevill	Geren	McDade
Bilbray	Gibbons	McDermott
Blackwell	Gilchrest	McEwen
Bliley	Gillmor	McGrath
Boehlert	Gilman	McHugh
Boehner	Gingrich	McMillan (NC)
Bonior	Glickman	McMillen (MD)
Borski	Gonzalez	McNulty
Boucher	Goodling	Meyers
Boxer	Gordon	Mfume
Brewster	Goss	Michel
Brooks	Gradison	Miller (CA)
Broomfield	Grandy	Miller (OH)
Browder	Green	Miller (WA)
Brown	Guarini	Mineta
Bruce	Gunderson	Mink
Bryant	Hall (OH)	Moakley
Bunning	Hall (TX)	Molinari
Burton	Hamilton	Mollohan
Bustamante	Hammerschmidt	Montgomery
Byron	Hancock	Moody
Callahan	Harris	Moorhead
Camp	Hastert	Moran
Campbell (CA)	Hayes (IL)	Morella
Campbell (CO)	Hayes (LA)	Morrison
Cardin	Hefner	Mrazek
Carper	Henry	Murphy
Carr	Herger	Murtha
Chandler	Hertel	Myers
Chapman	Hoagland	Nagle
Clay	Hobson	Natcher
Clement	Hochbrueckner	Neal (MA)
Clinger	Holloway	Neal (NC)
Coble	Hopkins	Nichols
Coleman (MO)	Horn	Nowak
Coleman (TX)	Horton	Nussle
Collins (IL)	Houghton	Oakar
Collins (MI)	Hoyer	Oberstar
Combest	Hubbard	Obey
Condit	Huckaby	Olin
Conyers	Hughes	Olver
Cooper	Hutto	Ortiz
Costello	Inhofe	Orton
Cox (CA)	Ireland	Owens (NY)
Cox (IL)	Jacobs	Owens (UT)
Coyne	James	Oxley
Cramer	Jefferson	Packard
Crane	Jenkins	Pallone
Cunningham	Johnson (CT)	Panetta
Dannemeyer	Johnson (SD)	Parker
Darden	Johnson (TX)	Pastor
Davis	Johnston	Patterson
de la Garza	Jones (NC)	Paxon
DeFazio	Jontz	Payne (NJ)
DeLauro	Kanjorski	Payne (VA)
DeLay	Kaptur	Penny
Dellums	Kasich	Pelosi
Derrick	Kennedy	Penny
Dickinson	Kennelly	Perkins
Dicks	Kildee	Peterson (MN)
Dingell	Kleczka	Petri
Dixon	Klug	Pickett
Donnelly	Kolbe	Pickle
Dooley	Kopetski	Porter
Doolittle	Kostmayer	Poshard
Dorgan (ND)	Kyl	Price
Dornan (CA)	LaFalce	Pursell
Downey	Lagomarsino	Quillen
Dreier	Lancaster	Rahall
Duncan	Lantos	Ramstad
Durbin	LaRocco	Ravenel
Early	Leach	Reed
Eckart	Lehman (CA)	Regula
Edwards (CA)	Lent	Rhodes
Edwards (OK)	Levin (MI)	Richardson
Edwards (TX)	Lewis (CA)	Ridge
Emerson	Lewis (FL)	Riggs
Engel	Lewis (GA)	Rinaldo
English	Lightfoot	Ritter

Roberts	Sisisky	Torres
Roe	Skaggs	Torricelli
Roemer	Skeen	Towns
Rogers	Skelton	Traficant
Rohrabacher	Slattery	Unsoeld
Ros-Lehtinen	Slaughter	Upton
Rose	Smith (FL)	Valentine
Rostenkowski	Smith (IA)	Vander Jagt
Roth	Smith (NJ)	Vento
Roukema	Smith (OR)	Visclosky
Rowland	Smith (TX)	Volkmer
Roybal	Snowe	Vucanovich
Russo	Solarz	Walker
Sabo	Solomon	Walsh
Sanders	Spence	Waters
Sangmeister	Spratt	Waxman
Santorum	Stagers	Weber
Sarpalius	Stallings	Weiss
Savage	Stark	Weldon
Sawyer	Stearns	Wheat
Saxton	Stenholm	Whitten
Schaefer	Stokes	Williams
Schiff	Studds	Wise
Schroeder	Stump	Wolf
Schulze	Sundquist	Wolpe
Sensenbrenner	Sweet	Wyden
Serrano	Swift	Wylie
Sharp	Synar	Yates
Shaw	Tallon	Yatron
Shays	Taylor (MS)	Young (AK)
Shuster	Taylor (NC)	Young (FL)
Sikorski	Thomas (CA)	Zeliff
	Thornton	Zimmer

NOES—2

Hefley	Hunter

NOT VOTING—29

Anthony	Hansen	Rangel
Bateman	Hatcher	Ray
Berreuter	Hyde	Tallon
Bilbray	Jones (GA)	Thomas (GA)
Coughlin	Kolter	Thomas (WY)
Dwyer	Laughlin	Traxler
Dymally	Lehman (FL)	Washington
Feighan	Levine (CA)	Wilson
Frost	Lowery (CA)	Yates
Gephardt	Peterson (FL)	

□ 1930

So the amendments en bloc were agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TAUZIN:

Page 68, after line 11, insert the following new section (and redesignate the succeeding sections accordingly):

SEC. 11. DEVELOPMENT OF COMPETITION AND DIVERSITY IN VIDEO PROGRAMMING DISTRIBUTION.

Part III of title VI of the Communications Act of 1934 is amended by inserting after section 627 (47 U.S.C. 547) the following new section:

"SEC. 628. DEVELOPMENT OF COMPETITION AND DIVERSITY IN VIDEO PROGRAMMING DISTRIBUTION.

"(a) PURPOSE.—The purpose of this section is to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market, to increase the availability of satellite cable programming to persons in rural and other areas not currently able to receive such service, and to spur the development of communications technologies.

"(b) PROHIBITION.—It shall be unlawful for a cable operator or a satellite cable programming vendor in which a cable operator has an attributable interest in violation of any regulation prescribed under subsection (c) to engage in unfair methods of competition or unfair or deceptive acts or practices, the purpose or effect of which is to hinder significantly or to prevent any multichannel video programming distributor from providing satellite cable programming to subscribers or consumers.

"(c) REGULATIONS REQUIRED.—

"(1) PROCEEDING REQUIRED.—Within 180 days after the enactment of this Act, the Commission shall, in order to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market and continuing development of communications technologies, prescribe regulations to specify the conduct that is prohibited by subsection (b).

"(2) MINIMUM CONTENTS OF REGULATIONS.—The regulations to be promulgated under this section shall—

"(A) establish effective safeguards to prevent a cable operator which has an attributable interest in a satellite cable programming vendor from unduly or improperly influencing the decision of such vendor to sell, or the price, terms, and conditions of sale of, satellite cable programming to any unaffiliated multichannel video programming distributor;

"(B) prohibit discrimination by a satellite cable programming vendor in which a cable operator has an attributable interest in the price, terms, and conditions in the sale or delivery of satellite cable programming among or between cable systems, cable operators, or their agents or buying groups, or other multichannel video programming distributors; except that such a satellite cable programming vendor in which a cable operator has an attributable interest shall not be prohibited from—

"(i) imposing reasonable requirements for creditworthiness, offering of service, and financial stability and standards regarding character and technical quality;

"(ii) establishing different prices, terms, and conditions to take into account actual and reasonable differences in the cost of creation, sale, delivery, or transmission of satellite cable programming;

"(iii) establishing different price, terms, and conditions which take into account reasonable volume discounts based on the number of subscribers served by the distributor; or

"(iv) entering into an exclusive contract that is permitted under subparagraph (D);

"(C) prohibit practices, understandings, arrangements, or activities, including exclusive contracts for satellite cable programming between a cable operator and a cable satellite programming between a cable operator and a cable satellite programming vendor, which prevent a multichannel video programming distributor from obtaining such programming from any satellite cable programming vendor in which a cable operator has an attributable interest for distribution to persons in areas not served by a cable operator as of the date of enactment of this section; and

"(D) with respect to distribution to persons in areas served by a cable operator, prohibit exclusive contracts for satellite cable programming between a cable operator and a satellite cable programming vendor in which a cable operator has an attributable interest, unless the Commission determines (in accordance with paragraph (4)) that such contract is in the public interest.

"(3) GEOGRAPHIC LIMITATIONS.—Nothing in this section shall require any person who is engaged in the national or regional distribution of video programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution. Nothing in this section shall apply

to the signal of any broadcast affiliate of a national television network or other television signal that is retransmitted by satellite, and shall not apply to any internal satellite communication of any broadcast network or cable network, except that satellite broadcast programming shall be subject to the requirements of this section.

"(4) PUBLIC INTEREST DETERMINATIONS ON EXCLUSIVE CONTRACTS.—In determining whether an exclusive contract is in the public interest for purposes of paragraph (2)(D), the Commission shall consider each of the following factors with respect to the effect of such contract on the distribution of video programming in areas that are served by a cable operator:

"(A) the effect of such exclusive contract on the development of competition in local and national multichannel video programming distribution markets;

"(B) the effect of such exclusive contract on competition from multichannel video programming distribution technologies other than cable;

"(C) the effect of such exclusive contract on the attraction of capital investment in the production and distribution of new satellite cable programming;

"(D) the effect of such exclusive contract on diversity of programming in the multichannel video programming distribution market; and

"(E) the duration of the exclusive contract.

"(5) SUNSET PROVISION.—The prohibition required by paragraph (2)(D) shall cease to be effective 10 years after the date of enactment of this Act.

"(d) ADJUDICATORY PROCEEDING.—Any multichannel video programming distributor aggrieved by conduct that it alleges constitutes a violation of this section, or the implementing regulations of the Commission under this section, may commence an adjudicatory proceeding at the Commission.

"(e) REMEDIES FOR VIOLATIONS.—

"(1) REMEDIES AUTHORIZED.—Upon completion of such adjudicatory proceeding, the Commission shall have the power to order appropriate remedies, including, if necessary, the power to establish price, terms, and conditions of sale of programming to the aggrieved multichannel video programming distributor.

"(2) ADDITIONAL REMEDIES.—The remedies provided in paragraph (1) are in addition to and not in lieu of the remedies available under title V or any other provision of this Act.

"(f) PROCEDURES.—The Commission shall prescribe regulations to implement this section. The Commission's regulations shall—

"(1) provide for an expedited review of any complaints made pursuant to this section;

"(2) establish procedures for the Commission to collect such data, including the right to obtain copies of all contracts and documents reflecting arrangements and understandings alleged to violate this section, as the Commission requires to carry out this section; and

"(3) provide for any penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(g) REPORTS.—The Commission shall, beginning not later than 18 months after promulgation of the regulations required by subsection (c), annually report to Congress on the status of competiton in the market for the delivery of video programming.

"(h) EXEMPTIONS FOR PRIOR CONTRACTS.—

"(1) IN GENERAL.—Nothing in this section shall affect any contract that grants exclusive distribution rights to any person with respect to satellite cable programming and that was entered into on or before June 1, 1990, except that the provisions of subsection (c)(2)(C) shall apply for distribution to persons in areas not served by a cable operator.

"(2) LIMITATION ON RENEWALS.—A contract that was entered into on or before June 1, 1990, but that is renewed or extended after the date of enactment of this section shall not be exempt under paragraph (1) of this subsection.

"(i) APPLICABILITY OF ANTITRUST LAWS; NO ANTITRUST IMMUNITY.—Nothing in this section shall be construed to alter or restrict in any manner the applicability of any Federal or State antitrust law.

"(j) DEFINITIONS.—As used in this section:

"(1) The term 'satellite cable programming vendor' means a person engaged in the production, creation, or wholesale distribution of a satellite cable programming service for sale.

"(2) The terms 'cable system', 'multichannel video programming distributor', and 'video programming' have the meanings provided under section 602 of this Act.

"(3) The term 'satellite cable programming' has the meaning provided under section 705 of the Act.

"(4) The term 'satellite broadcast programming' means broadcast programming, other than programming of an affiliate of a national network, when such programming is retransmitted by satellite and the entity retransmitting such programming is not the broadcaster or an entity performing such retransmission on behalf of and with the specific consent of the broadcaster."

Mr. MANTON. Mr. Chairman, I rise in opposition to the Tauzin amendment and I seek the 15 minutes provided in the rule.

The CHAIRMAN. Pursuant to the rule, the time will be equally divided 15 minutes each.

AMENDMENT OFFERED BY MR. MANTON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. TAUZIN

Mr. MANTON. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The CHAIRMAN. The Clerk will designate the amendment offered as a substitute for the amendment.

The text of the amendment offered as a substitute for the amendment is as follows:

Amendment offered by Mr. MANTON as a substitute for the amendment offered by Mr. TAUZIN: In lieu of the matter proposed to be inserted by the amendment of the Gentleman from Louisiana insert the following:

SEC. 11. COMPETITION AND TECHNOLOGICAL DEVELOPMENT.

(a) PROHIBITION ON UNREASONABLE REFUSALS TO DEAL.—Part III of title VI of the Communications Act of 1934 is amended by inserting after section 627 (47 U.S.C. 547) the following new section:

"SEC. 628. PROGRAMMING ACCESS TO PROMOTE COMPETITION AND CONTINUING TECHNOLOGICAL DEVELOPMENT.

"(a) UNREASONABLE REFUSALS TO DEAL PROHIBITED.—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, in order to promote competition and diversity in the multichannel video programming market and continuing development of communications technologies, prescribe regulations to prohibit any video programming vendor that controls, is controlled by, or is under common control with a multichannel video system operator and that engages in the regional or national distribution of video programming from refusing to deal with any multichannel video system operator with respect to the provision of video programming if such refusal would unreasonably restrain competition. Entering into or abiding by the terms of an exclusive contract that does not have the effect of unreasonably restraining competition shall not be considered an unreasonable refusal to deal. Nothing contained in this subsection shall require any person who licenses video programming for distribution to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(b) REMEDIES FOR VIOLATIONS.—Any multichannel video system operator aggrieved by conduct that it alleges constitutes a violation of the regulations prescribed under this section may commence an adjudicatory proceeding at the Commission. Upon completion of such proceeding, the Commission shall have the power to order appropriate remedies, including, if necessary, the power to establish price, terms, and conditions of sale of programming to the aggrieved multichannel video system operator.

"(c) PROCEDURES.—The Commission shall prescribe regulations to implement this section. The Commission's regulations shall—

"(1) provide for an expedited review of any complaints made pursuant to this section;

"(2) establish procedures for the Commission to collect such data as the Commission requires to carry out this section with respect to exclusive contracts or other practices and their effects on competitors, competition, or the video programming distribution market or on the development of new video distribution technologies; and

"(3) provide for penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(d) SUNSET.—The regulations prescribed under subsection (a)(1) of this section shall cease to be effective 9 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, or on such earlier date as the Commission determines that a competitive national market for the delivery of video programming exists. Such regulations shall cease to be effective for any local market on such earlier date as the Commission determines that a competitive market for the delivery of such programming exists in such local market.

"(e) REPORTS.—The Commission shall, beginning not later than 18 months after promulgation of the regulations required by subsection (a), annually report to Congress on the status of competition in the market for the delivery of video programming.

"(f) EXEMPTIONS FOR PRIOR CONTRACTS.—Nothing in this section shall affect any contract (or renewal or extension of any contract) that grants exclusive distribution rights to any person with respect to video programming and that was entered into on or before June 1, 1990.

"(g) DEFINITIONS.—

"(1) The term 'multichannel video system operator' includes an operator of any cable system, multichannel multipoint distribution service, direct broadcast satellite distribution service, television receive-only satellite distribution service, or other comparable system for the distribution of video programming.

"(2) The term 'video programming vendor'—

"(A) means any person who licenses video programming for distribution by any multichannel video system operator;

"(B) includes satellite delivered video programming networks and other programming networks and services;

"(C) does not include a network or service distributing video programming intended for broadcast by a television station affiliated with a broadcasting network; and

"(D) does not include a network or service distributing video programming that is carried as a secondary transmission of a signal broadcast by a television station.

"(3) The terms 'cable system' and 'video programming' have the meanings provided by section 602 of this Act.".

(b) MARKETING OF CERTAIN SATELLITE COMMUNICATIONS.—

(1) FINDINGS.—The Congress finds that—

(A) many satellite-delivered programming services have unnecessarily restricted options for consumers wishing to choose between competing television programming distributors;

(B) presently 3,000,000 Americans own C-band home satellite television systems and the number is growing at a rate of 350,000 to 400,000 each year;

(C) there is disparity in wholesale pricing between programming services offered to cable operators and to satellite programming distributors;

(D) independent, noncable third-party packaging of C-band direct broadcast satellite delivered programming will encourage the availability of programming to C-band direct broadcast home satellite television systems; and

(E) in order to promote the development of direct-to-home satellite service, Congress must act to ensure that video programming vendors provide access on fair and nondiscriminatory terms.

(2) AMENDMENTS.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by striking subsection (f) as added by section 204 of the Satellite Home Viewer Act of 1988;

(2) by striking "subsection (d)" each place it appears in subsections (d)(6) and (e)(3)(A) and inserting "subsection (f)";

(3) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively;

(4) by inserting after subsection (b) the following new subsection:

"(c)(1) Any person who encrypts any satellite delivered programming shall—

"(A) make such programming available for private viewing by home satellite antenna users;

"(B) when making such programming available through any other person for distribution through any medium, establish reasonable and nondiscriminatory financial, character, technical, and service criteria and requirements under which noncable distributors shall qualify to distribute such programming for private viewing by home satellite antenna users; and

"(C) when making such programming available through any other person for distribution through any medium, establish by the effective date of this subparagraph or January 1, 1992, whichever is later, price, terms, and conditions for the wholesale distribution of such programming which do not discriminate between the distribution of such programming to distributors for cable television subscribers and distributors to home satellite antenna users, nor among different distributors to home satellite antenna users, except that this subparagraph shall not prohibit rate differentials which are—

"(i) attributable to actual and reasonable differences in the costs of the creation, sale, delivery, or transmission of such programming as between different delivery media;

"(ii) attributable to reasonable volume discounts; or

"(iii) attributable to bona fide agreements for the distribution of such programming which were in effect prior to the enactment date of this subparagraph.

"(2) Where a person who encrypts satellite delivered programming has established a separate subsidiary for distribution to satellite antenna users, such person shall not be required to establish or license any entity on the same terms and conditions as such separate subsidiary; except that for purposes of any claim of discrimination under this section, a party aggrieved may, as evidence of discrimination, compare the prices, terms, and conditions established by the person who encrypts.

"(3) Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to authorize or license any distributor for a secondary satellite retransmission of such programming, but, if any person who encrypts satellite delivered programming authorizes or licenses such a distributor, such person shall, consistent with the provisions of paragraph (1)(B) and (1)(C), establish criteria to qualify to distribute such programming through such secondary satellite retransmissions, and further establish nondiscriminatory price, terms, and conditions for such distribution. Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(4) Any person aggrieved by any violation of paragraph (1)(A) of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction. Such court may grant temporary and final injunctions or other equitable relief on such terms as it may deem reasonable and appropriate to prevent or restrain such violations.

"(5) Any person aggrieved by any violation of paragraph (1)(B), (1)(C), or (2) of this subsection may bring a civil action in the United States district court or other court of competent jurisdiction. Such court may grant temporary and final injunctions on such terms as it may deem reasonable and appropriate to prevent or restrain such violations; and (i) direct the recovery of damages to a prevailing plaintiff, including actual damages, or statutory damages for all violations in a sum of not more than $500,000, as the court considers just; and (ii) direct the recovery of full costs, including reasonable attorney's fees, to a prevailing party.

"(6) As used in this subsection—

"(A) the term 'satellite delivered programming' means video programming transmitted by a domestic C-band direct broadcast communications satellite intended for reception by cable television systems or home satellite antenna users and does not include any satellite communication of any broadcaster or broadcast network;

"(B) the term 'home satellite antenna users' means individuals who own or operate C-band direct broadcast satellite television receive-only equipment for the reception of satellite delivered programming for viewing in such individual's single family dwelling unit; and

"(C) the term 'person who encrypts' means the party who holds the rights to the satellite delivered programming or who establishes the prices, terms, and conditions for the wholesale distribution thereof.

"(7) This subsection shall cease to be effective 7 years after the date of enactment of this subsection."; and

(5) in subsection (h) (as redesignated) by striking ", based on the information gathered from the inquiry required by subsection (f),".

(3) EFFECTIVE DATE.—The amendments made by paragraph (2) of this subsection shall take effect 90 days after the date of enactment of this Act.

The CHAIRMAN. The Chair announces that the time for the debate on both the amendment and the substitute will be fungible and that the gentleman from Louisiana [Mr. TAUZIN] will be recognized for 30 minutes, and the gentleman from New York [Mr. MANTON] will be recognized for 30 minutes.

Mr. MANTON. Mr. Chairman, I ask unanimous consent that I be permitted to yield 15 minutes to the gentleman from New Jersey [Mr. RINALDO] under these 2 amendments and that he be permitted to yield slots of time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TAUZIN. Mr. Chairman, I yield myself such time as I may consume.

(Mr. TAUZIN asked and was given permission to revise and extend his remarks.)

Mr. TAUZIN. Mr. Chairman, we are about to debate what I believe and what many believe in this Chamber and certainly on the subcommittee and committee to be the heart and soul of this legislation. There are many on both sides of the aisle who have complained during this debate that regulation, reregulation of the cable industry was not the way to go, that the best way to go was to create competition for the cable industry in America.

I happen to believe that that is correct. I happen to believe that whatever regulation we include in this bill will only have a modest effect upon cable rates. In fact, I believe that the regulations contained in this bill will do little more than control, regulate upward the price of cable of Americans.

Very little in this cable bill will do anything to create competition and, thus, drive prices down, unless the Tauzin amendment is adopted.

The other body saw the wisdom of that argument by a vote of 73 to 14. They adopted a similar amendment to their cable bill.

The Tauzin amendment, very simply put, requires the cable monopoly to stop refusing to deal, to stop refusing to sell its products to other distributors of television programs.

In effect, this bill says to the cable industry, "You have to stop what you have been doing, and that is killing off your competition by denying it products."

It will do us little good to struggle with the C-band dish industry. It will do us little good to hope in vain for the advent of a DBS, direct broadcast satellite, industry or for the expansion of wireless cable in America as competition to this monopoly if none of it can get programming. Programming is the key.

Why did cable need network programming to get going? Why did cable need this Government to give it network programming free of charge to get going? Because without programming, cable could not get off the ground. Without programming, com-

petitors of cable are equally stymied and who is the big loser? The big loser is everyone in America who pays a cable bill.

Listen, election day is shortly coming. There is a cynicism in the land. There is a belief in America that this Congress can no longer deliver for the American people. There is a belief that we are beholden to special interests. There is a belief that the big cable monopolies in this country are going to run this House tonight, are going to force this House to adopt a sham amendment instead of the true consumer amendment.

The choices we will have tonight will be between the Tauzin amendment, which guarantees that the cable cannot refuse to deal, must deal in fair and equitable terms with others who distribute television programs, which will give to consumers choice in the marketplace and which will bring rates down.

The FCC recently did a study on 1989 and 1990 rates. Those of my colleagues watching this tonight in their offices, those in the Chamber, I hope they will pay attention to these charts. These charts illustrate what the FCC discovered.

What the FCC discovered is that in the few communities, 65 in America, where there is competition to cable, guess what happens? Rates fall dramatically.

In 1989, a 23.5-percent reduction: in 1990, a 34-percent reduction in rates were achieved in the communities that had competition. In 96 percent of the communities that did not have competition, rates went up 61 percent.

What does that mean to Americans? It means that everybody's cable bill could come down if the Tauzin amendment is adopted. It means if we refuse to adopt the Tauzin amendment, if we accept the sham Manton amendment drafted for and by the cable companies, rates will not only continue to go up but we will never see the benefit of reduced rates in American homes across this country.

Let me show my colleagues what it means in dollars. The next chart illustrates what America could be saving according to not my figures but the Federal Communications Commission of this administration. These are their numbers.

If America chose to adopt the Tauzin amendment in this House tonight, rather than to be beholden to the big few cable companies who run this show, Americans could have saved in 1989 some $2.4 billion. Americans could have saved in 1990, $4 billion. And the chart likely goes up.

We are not talking about peanuts here. We are talking about a major impact upon middle America. We cannot deliver a middle income tax cut this year, but we could give every American savings on his cable bill if we just had the decency to end this monopoly and to create some competition in television services.

How do we do it? We do it very simply. We prohibit the cable companies, those who control programming, from doing what they have been doing ever since we deregulated them.

Let me show my colleagues the graph and what they are currently doing to satellite services. In satellite services alone, we are not talking about what is happening in wireless services or what could happen in direct broadcast satellite. In C-band, that is a big dish industry alone, cable prices versus satellite dish prices are reflected on this chart. The average price per a subscriber for basic cable in the country is 17.34. Under this analysis, it is topped by 27.95 for a similar program package for those who dare to buy the dish, those who dare to buy some competitive system.

What does it mean? It means that cable is jacking the price upon its competitors so high that they can never get off the ground. In some cases they deny programs completely to those competitors to make sure they cannot sell a full package of services. So the hot shows are controlled by cable. The good shows, the good programs only come to you on the cable. And if you complain, you are told, like a constituent of mine in Homer, LA, recently, when she complained about having to buy a box and a controller, all of which she could have bought at Radio Shack very cheaply. Instead she had to rent it every month at 10 times its value from the cable company. She said, "Why do I have to do that?" She said, "They said 'That is our rule, ma'am.'"

She said, "What can I do about it?" They said, "you can move, if you don't like it. We are the only cable company in town."

I do not want her to have to move. And where would she move to except the 65 communities out of the 11,000 in America that have a little competition going on.

Folks, this is it in a nutshell. We either create competition for the American television viewing audience out there or we leave them strangled, in fact, raped by cable monopolies who can charge them what they want, force them to buy what they want in tiers they create and add to those services rental fees on equipment that could be easily purchased at Radio Shack, if we had the decency to think about the American consumer out there instead of big cable interests that control the situation.

It is this simple. There are only five big cable integrated companies that control it all. My amendment says to those big five, "You cannot refuse to deal anymore."

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You have to offer your programs to other competitors, and you cannot refuse to deal by saying 'We will only give it to you at a much higher price.' Prices need to be comparable and fair.

There is an argument against our amendment someone made. The argument is that we no longer allow for exclusive type programs that are important to people who develop a product. Not so. Read the DSG report on our bill. The DSG report clarifies it very well. It says and our amendment says that exclusive programming that is not designed to kill the competition is still permitted. The FCC can grant exclusive programming rights under our amendment.

Why is our amendment preferable to the amendment of the gentleman from New York [Mr. MANTON]? The gentleman from New York is offering a substitute amendment. I have called it an amendment drafted for and by the cable industry. Let me tell the Members why. It is weaker, it is weaker than the bill we passed 2 years ago. Not only is it weaker in terms of who it covers, because it sets a new legal standard on what companies are covered, a legal standard that will tie a company up in courts for years, a standard of control rather than affiliation, and it is much weaker in who it covers, so that more of the big companies can escape its coverage.

It also sets an almost impossible proposition for all the other competitors other than the C-band dish. What it says to them is that cable has to deal with you, but the terms and conditions can be as discriminatory as they want. They can say, in effect, law by Congress tells me I have to deal with you, but here is my deal. You either pay me 10 times what my program is worth to other cable systems, or you cannot have it. Under the Manton amendment that is the kind of effect it has.

Are we going to have any competition under those terms? I suggest that we will get more of the status quo. It is this simple. If we want to support the cable monopolies tonight, the gentleman from New York [Mr. MANTON] will give us the chance. The gentleman from New York [Mr. LENT] will give us his chance with a subetitute bill. If we want to stand for American consumers for a change, if we want to end this year of political cynicism out there, do something real for America. Give them a break on something critical in their lives, their television. Give them a break on what they pay for their cable rights and create for the millions of Americans who cannot get cable because they live in the hinterlands of our country, in the country lands, create for them a chance to get it from direct broadcast satellite, to get it from wireless cable, to get it from other systems that will come across as technology develops.

None of that will be possible unless we stand up tonight to the big interests out there. I know it is tough sometimes. It is an election year and they make contributions. They stand tall. However, I think it is time we stand tall. I think it is time the American public counts on us and we deliver.

Their cynicism is deep. We can either prove their cynicism tonight or we can

do something right for America. We can give America something that this free enterprise system has promised us and delivered in so many other places. We can give them competition in television, and we can give them lower prices.

We can give them choice. What do Americans want most in a free enterprise system? Two stores in town, so if one store treats you badly, charges you too much, refuses to answer the phone, tells you to move if you don't like the service you are getting, you can go to the next store and get treated fairly. Two stories in town, that is what this debate is all about.

With the Tauzin amendment we will create two stores in the television marketplace. With the Manton amendment we are stuck with one, we are stuck with monopoly, we are stuck with high prices, and we are stuck with the cynical argument that this Congress cannot do anything right for the American people.

Stand up for them tonight. Break the cable monopoly. Let us create some competition. Let us adopt the Tauzin amendment.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I hope my colleagues are listening to the gentleman in the well who is the sponsor of the amendment. Let me tell the Members what is happening out West, as one who represents both rural areas and people who live in small cities.

My rural families, whether they own their own dish or not and draw their signals from a satellite, because of monopolistic practices by big conglomerate cable companies, the people who live in rural Montana pay 500 percent more rates than do their neighbors who live just down the road in cities.

The gentleman is absolutely right about the unfair, arbitrary, anti-free market prices of the cable conglomerates, and I commend him.

Mr. TAUZIN. Mr. Chairman, I reserve the balance of my time.

Mr. MANTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am offering this substitute amendment with my good friend and colleague, the gentleman from North Carolina [Mr. ROSE], who has been at the forefront in the figt to protect the rights of rural Americans to receive quality video programming at reasonable rates.

Mr. Chairman, the Manton-Rose amendment offers the House a clear choice between our reasonable and balanced approach to program access and the far reaching, radical approach taken by my friend, the gentleman from Louisiana, [Mr. TAUZIN].

The Manton-Rose amendment is a strong but reasonable access to programming amendment that recognizes the need to promote competition in the multichannel video marketplace without abusing the legitimate rights of video programmers.

Our amendment is virtually identical to the program access provision contained in the cable reregulation legislation that unanimously passed the House during the 101st Congress.

This language was also included as a provision in H.R. 1303, cable reregulation legislation introduced earlier this Congress by the chairman of the Telecommunications Subcommittee, Mr. MARKEY.

Specifically, the Manton-Rose amendment would do the following:

First, it would prohibit vertically integrated video program suppliers from refusing to deal with any multichannel video system operator where such refusal to deal would unreasonably restrain competition.

In other words, a cable network, like CNN or Nickelodeon, could not refuse to deal with a cable competitor, such as a DBS operator or a wireless cable operator, in a manner that unreasonably restrains competition.

Second, the amendment expressly recognizes the validity of exclusive contracts between a programmer and a distributor that do not have the effect of unreasonably restraining competition.

Complaints alleging violations of this section would be resolved by the FCC in an expedited adjudicatory proceeding.

Furthermore, the FCC would be authorized to grant appropriate relief for violations of this section, including the power to establish price, terms and conditions of sale.

Finally, the amendment contains strong protections for the C-band home dish industry to make certain that cable programming remains available to dish owners at rates comparable to cable. The amendment would prohibit programmers from discriminating in wholesale price, terms and conditions between cable operators, and C-band home dish distributors.

Mr. Chairman, our amendment strikes a balance between the need to promote competition in the multichannel video marketplace and the need to protect the legitimate intellectual property rights of video programmers. It is the product of bipartisan negotiation and compromise.

The Manton-Rose amendment is supported by the chairman of the Energy and Commerce Committee, Mr. DINGELL, and the ranking minority member of the committee, Mr. LENT. The amendment is truly a bipartisan effort.

Proponents of the Tauzin amendment lament that competition is being stifled by cable programmers who are refusing to make their product available to alternative technologies. However, the facts simply do not support these contentions. Indeed, cable's competitors have access to almost all of the popular programming produced by cable companies.

In fact, in many areas of the country, wireless cable operators and direct broadcast satellites are successfully engaging in direct competition with cable companies.

Mr. Chairman, the Tauzin amendment would require that all video distributors obtain programming at a Government regulated wholesale price. The Tauzin amendment is not about access, it's about wholesale price regulation.

The Tauzin amendment is an unprecedented and unwarranted abridgement of intellectual property rights that would effectively prohibit all exclusive contracts between a video programmer and a cable operator.

Mr. Chairman, exclusive contractual arrangements play an important and beneficial role in the multichannel video marketplace. The recognition of exclusive rights gives programmers and cable operators an incentive to invest in new and improved programming, thereby increasing the quality of diversity of programming available to consumers. Barring exclusive arrangements will have a chilling effect on the development of new products.

Mr. Chairman, the gentleman from Louisiana has repeatedly claimed that his amendment is designed to foster the growth of alternative multichannel video technologies, specifically high power direct broadcast satellites. However, a leading force in the DBS industry, the U.S. Satellite Broadcasting Co., believes the Tauzin amendment goes too far, and they have endorsed the approach taken in the Manton-Rose amendment.

In a letter to the Energy and Commerce Committee chairman, Mr. Stanley Hubbard, the president of the U.S. Satellite Broadcasting Co., stated the following:

> USSB desires that DBS operators have an opportunity to engage in good faith negotiations with program providers for cable programming. Our preference would be for section (a) of the Manton amendment, * * * because the Manton amendment does not prescribe terms and conditions. Our only interest is that there be a level playing field whereby we can bargain in a free and open marketplace for our programming.

Clearly, this DBS operator understands that the Manton-Rose amendment takes a balanced approach to program access that affords all distributors an opportunity to negotiate on a level playing field and does not tip the scales in favor of any one company or industry.

Finally, Mr. TAUZIN has called the Manton-Rose substitute a phony amendment. Let me take this opportunity to share with my colleagues what Mr. TAUZIN had to say about this phony amendment when it was part of the bill that passed the House 2 years ago. Here's what Mr. TAUZIN said:

> Finally, this bill really addresses the issue of competition. When services in video are delivered not simply by wire but through the air, through the advances in satellite technology and eventually the new KU-band satellites that will deliver services on a dish no bigger than the size of a table napkin. When those things are possible under this bill, the

full-blown effects of competition will be realised, and I think consumers in America will greatly benefit.

And here is what the leading industry proponents of the Tauzin access language had to say in testimony before the Telecommunications Subcommittee just 1 year ago about the access provisions of H.R. 1303, which are virtually identical to the Manton-Rose substitute:

From Robert Bilodeau, Director of the Wireless Cable Association:

We are willing to take up the challenge to prove ourselves in the market, but without the meaningful program access provisions in H.R. 1303 becoming law, we may never have the chance.

From Bob Bergland, vice president, National Rural Electric Cooperative Association:

We can prove that we are being disadvantaged in pricing, and we think legislation like H.R. 1303 will give us the remedies we need so that we are not forced to pay more than cable companies would pay, and that is really the essence.

And from Charles C. Hewitt, president, Satellite Broadcasting and Communications Association:

We're here to support H.R. 1303 * * * as it relates to access to programming; we want to point out that it will be very difficult for us to develop K-band systems and the high powered capability unless we have a jumpstart, and that jumpstart requires access to programming and the ability to provide competitive programming to the customer.

Mr. Chairman, now they apparently want more than a jumpstart—they want a free ride.

Mr. Chairman, there have been no dramatic changes in the marketplace over the past year that would warrant the radical and unprecedented abridgement of property rights proposed by Congressman TAUZIN.

I urge my colleagues to stick with the balanced, bipartisan and rational approach embodied in the Manton-Rose substitute. I urge a vote for the substitute.

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Mr. Chairman, I reserve the balance of my time.

Mr. TAUZIN. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. SYNAR].

(Mr. SYNAR asked and was given permission to revise and extend his remarks.)

Mr. SYNAR. Mr. Chairman, there are almost 12,000 cable systems serving the American public. Of these, only 65 face head-to-head competition.

The Tauzin amendment is a positive step toward changing those numbers. It would prevent vertically integrated cable programmers—programmers, HBO or TNT for example, that are owned all or in part by cable system operators—from arbitrarily denying access to cable programming services to potential competitors.

At present 7 of the top 10 programming services on cable television are owned by cable operator parent companies.

As a result, when alternative systems seek out programming, often they are in effect buying it from the competition, a situation that is not conducive to competition.

In areas unserved by cable, home satellite dish owners often are charged five times more by cable programmers—CNN, HBO, etc.—for programs than are cable operators. The consumers have to bear the additional costs.

The Tauzin amendment, while it does not mandate access, does force programmers to negotiate with competitors.

There are those who argue that this amendment is unnecessary because the present antitrust laws can be used if there is truly no competition. That is a fine, but worthless, argument. Courts have consistently interpreted Robinson-Patman and other antitrust laws to exclude cable from the coverage of these laws as a "service" and not a "commodity" as is required.

[Satellite T. Associates v. Continental Cable Vision of VA., 586 F.Supp. 973 (VA 1983); aff'd 714 F.2d 351 (4th Cir. 1983); cert denied, 465 U.S. 1027; HRM Inc. v. Telecommunications Inc., 653 F. Supp. 645 (Col. 1987); Rankin Co. Cablevision v. Pearl River Valley Water Supply District, 692 F. Supp. 691 (Miss. 1988); T.V. Communication Network v. ESPN, 767 F. Supp. 1062 (Col. 1991)]

Moreover, the Tauzin amendment prevents programmers that are vertically integrated with cable system operators from discriminating in the price, terms, and conditions that they offer to competing cable system operators or alternative program distribution technologies.

The Manton-Rose amendment offers no such protection to the competing technologies. Moreover, Manton-Rose would allow exclusive contracts between a cable operator and a cable programmer. Further, it allows cable to charge exorbitant prices, and destroys the ability of the new technologies to compete.

The rights of the video programmers must be balanced with the interest of the public in receiving access to video programming.

In 1976 Congress took steps to aid the development of the infant cable industry.

With Congress' help, the industry has been able to maintain unprecedented growth.

In 1984 Congress deregulated cable. As a result cable has been able to raise rates, and use the proceeds to fund an extraordinary array of video programming choices.

Consumers have footed the bill, now it's time that they get a fair return on their investment.

The industry is now strong enough to stand on its own, and face a little competition.

Just as Congress aided the infant cable industry to grow, it now should give the same consideration to fledgling technologies.

Without access to programming, new program distribution services will not be able to compete against entrenched cable monopolies.

Areas currently unserved by cable, such as rural Oklahoma, will not be able to take advantage of new technologies, such as satellite dishes and wireless cable, that would make programming choices available to them.

Oppose Manton-Rose. Support the Tauzin amendment. Ensure competition in the cable industry and access to cable TV for all Americans.

Mr. RINALDO. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. FIELDS].

(Mr. FIELDS asked and was given permission to revise and extend his remarks.)

Mr. FIELDS. Mr. Chairman, I want to say to my good friend, the gentleman from Louisiana, I think he is one of the bright lights of Congress. I am proud to serve with him on the Merchant Marine and Fisheries Committee and on the Coast Guard Subcommittee. I believe with him in the concept of competition and diversity, so I agree with his goals, but I just disagree with the work product before us tonight.

Mr. Chairman, the Tauzin amendment is regulatory overkill. It would force cable programmers to sell their product to any competitor at a Government-regulated price.

The result would be a litigation nightmare for cable programmers, operators, and competing delivery systems. Every programming contract would be subject to court scrutiny. The FCC does not have the manpower or the resources to address all the claims that would potentially be made under this bill.

It is not Congress' role to dictate how a cable company must distribute its product to competing delivery systems.

Cable programmers have certain proprietary rights and should be able to exercise control over their own material and to decide who should distribute it.

The Tauzin amendment would deny cable programmers the right to differentiate their wholesale price based on each distributors capital costs, marketing commitments, and financial stability.

Many competitors, like DBS, who want mandated programming are underwritten by large-scale companies like GE and Hughes Aerospace. These businesses have the financial resources to develop their own programming—they do not need any special treatment.

The Tauzin amendment is so restrictive on the issue of program exclusivity it would essentially deny these types of arrangements. If exclusive contracts were prohibited, a cable network like TNT would have never gotten off the ground. In order to gain commitments from cable operators to carry and pay for TNT, Turner had to

offer exclusive distribution rights. Therefore, the Tauzin amendment would discourage programmers from investing in new products and would vastly diminish the diversity and quality of programming available to consumers.

REASONS TO SUPPORT THE PROGRAM ACCESS PROVISIONS IN MANTON SUBSTITUTE

The substitute ensures that cable's competitors have reasonable access to popular cable programming. It prohibits vertically integrated cable programmers from refusing to deal with any competitors to cable if such refusal would unreasonably restrain competition.

The provisions of the Manton substitute are virtually identical to those contained in the cable legislation that passed the House by unanimous voice vote in 1990. Moreover, the White House has indicated that the Manton language is acceptable while the Tauzin amendment would invite a veto.

The language allows exclusive contracts as long as those contracts do not impede competition.

□ 2000

Mr. MANTON. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. ROSE].

(Mr. ROSE asked and was given permission to revise and extend his remarks.)

Mr. ROSE. Mr. Chairman, I rise today in support of the program access amendment offered by Mr. MANTON and myself. Our amendment completely satisfies the concerns which have been raised by rural Americans who own C-Band, backyard dishes.

Specifically, the Manton-Rose amendment requires cable networks to make their programming available to independent distributors who serve the C-Band backyard dish market at the same prices, terms, and conditions as are offered to cable operators. It thus protects the millions of rural Americans who depend on C-Band satellite dishes for their television.

Some of the supporters of the Tauzin program access amendment have contended that the Manton-Rose amendment will not protect rural America. This simply is not the case. In fact, the C-Band provisions of the Manton-Rose substitute amendment are identical to H.R. 3420, the C-Band satellite program access legislation introduced by Mr. TAUZIN earlier this Congress.

In conclusion, Mr. Chairman, the debate about program access is not about whether rural America's C-Band home dish owner's needs will be served. The Manton-Rose substitute amendment ensures that these needs will be met.

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON].

(Mr. HOUGHTON asked and was given permission to revise and extend his remarks.)

Mr. HOUGHTON. Mr. Chairman, I would like to speak on behalf of the Tauzin amendment for two reasons.

First of all, the amendment is good in itself, and, second, it is a bit of damage control.

I am aware that many of you have already made up your minds, but I am also reminded of that wonderful admonition of Wilbur Mills that said that more votes have been changed at the House chapel than on the House floor. But I go ahead anyway.

Let me explain, 4850 is short of the mark. The reason is it puts a wet blanket over a particularly explosive industry.

In 1984, as you all have heard, cable was deregulated, but it really was not. Only the prices were. The access was not.

It was not possible for others to get in as they would like in most other businesses.

So what happened? Prices went up. There was no downward offsetting force to counteract that, and that means obviously competition.

So now we ask ourselves: What do we do? Do we free up competition as we did the prices, or do we go back to the old bureaucratic way, which is to regulate and reregulate and re-reregulate?

Sadly we have gone that second route, and this year when we face a Government deficit, and we put the Government into the equation where it was not before and we also charge the electorate for that privilege $25 million. The other route would have been to allow the competition to work. As you might have noticed, it does in other fields rather successfully. But enough of that. That is the philosophic stuff which is already sadly behind us.

We now face the issue: What can we do to make a porous bill livable? And that is the Tauzin amendment. Specifically it gives an even break to people who want to get in the business, and it does not jump-start, but it fairly helps other people get into the business. It helps the rural satellite people who need to get in here and who would not be wired anyway by the cable companies.

So this amendment, combined with an FCC decision on something called video dialtone, would help to put a semblance of good old American competition back into the process. It saves money, and it builds the business, and there are lots of jobs involved.

Mr. RINALDO. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SCHAEFER], a member of the committee.

(Mr. SCHAEFER asked and was given permission to revise and extend his remarks.)

Mr. SCHAEFER. Mr. Chairman, I rise in support of the Manton amendment.

I do so, but would first like to commend the gentleman from Louisiana [Mr. TAUZIN] for seeking a competitive solution to the problems faced by a minority of cable consumers. In this respect, it is a far better approach than that taken by the underlying bill.

But in our rush to greater competition in the multichannel video marketplace—a goal we all support—we can't ignore the simple matter of fairness. The quality programming which has made cable such a desirable commodity didn't come by accident, but through the investment of millions of dollars in untested programming. Last year alone, the cable industry reinvested $3¼ billion in programming, nearly half of which went to basic.

In return for this investment, the cable industry has an understandable interest in protecting the identity and character of its product. Exclusivity has long been recognized as a legitimate means of not only guarding intellectual property, but as a way of encouraging program diversity as well. In this respect, exclusive rights actually work for, not against, competition.

I honestly cannot say I blame cable's current and future competitors for wanting access to that which has made cable television an enormous success. Nor could I fault the Colorado Rockies baseball team for wanting to pick and choose among the major league's best players rather than investing in their own untested rookies. It may make them more competitive sooner; it would undoubtedly sell more tickets; but it is anything but fair to the existing franchisee.

The Manton amendment, on the other hand, recognizes the benefits of exclusive distribution arrangements—not only for the cable industry, but for consumers who appreciate diverse programming as well. It is a balanced and reasonable approach far more worthy of our support, and I urge its adoption.

Mr. RINALDO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Manton amendment anticipates and offers a balanced solution to potential future problems, occurring when new technologies like direct broadcast satellites [DBS] transmit to smaller dishes in direct competition to cable operators. It prohibits cable companies that own programming from refusing to sell it to any competitors to cable if that would violate antitrust principles.

By providing these new competitors to cable with access to cable programming, a competitive environment is created. Competition will force consumer price for quality video programming to be driven down, while increasing the quality of service to consumers.

Moreover, by promoting access for these new competitors, consumers will be given a wider variety of choices in terms of the type of programming they want to receive in the manner they want to receive it.

The provisions of the Manton amendment are virtually identical to those contained in the cable legislation that passed the House by unanimous voice vote in September 1990. The Manton amendment represents a bipartisan approach to a delicate and far-reaching concern.

The Manton-Rose amendment is a balanced proposal to the controversial

topic of program access. It ensures that the video marketplace is not unfairly monopolized by requiring cable operators that own or have an interest in cable programming to make such programming available to competitors. In this manner new technologies are given access to the programming needed to compete with cable, without placing cable at an unreasonable competitive disadvantage.

Moreover, the White House has indicated that the Manton amendment is acceptable, whereas the Tauzin amendment would invite a veto. Therefore, in order to create a piece of legislation which will ultimately become law, it is necessary to vote in favor of a programming access provision which promotes competition without giving an unfair advantage to any one side.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I am happy to yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I just want to underscore what the gentleman has said and subscribe to his views entirely.

I am also very much opposed to the Tauzin amendment and think certainly that the Manton amendment is clearly preferable. The amendment offered by the gentleman from Louisiana is actually punitive in nature, and we know that it is going to invite and elicit a veto from the White House, and the potential harm to the cable industry by overregulation in the area of program access far outweighs any savings the amendment could shave from the cost of $20 service, which is the average across the country for basic today.

□ 2010

The result could be a severe decrease in the type of educational, entertainment, and informational programming that the American consumer today enjoys across the United States.

Mr. RINALDO. Mr. Chairman, I want to thank my good friend, the ranking minority member of the full committee, for his support and for the approach that he just outlined.

Let me say in line with what Congressman LENT has said that the White House has indicated very strongly that the Manton amendment is acceptable, whereas the Tauzin amendment would invite the veto that the gentleman from New York [Mr. LENT] mentioned.

Therefore, if we really want to create a piece of legislation, if we want a piece of legislation that is acceptable, if we want a piece of legislation that is conferencable, if we want a piece of legislation that can get enacted and probably will be signed into law, then we should vote for the Manton amendment and let us create a piece of legislation that will ultimately become law and vote in favor of a programming access provision which promotes competition without giving an unfair advantage to any one side and without inviting a veto that will kill the entire bill.

Mr. Chairman, I reserve the balance of my time.

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY], the distinguished chairman of the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding this time to me, and I rise in support of the Tauzin amendment.

The gentleman from Louisiana [Mr. TAUZIN] and the Senator from Tennessee, Senator GORE, and the House and Senate proponents of this approach to ensuring that there is a more vigorous advance in the development of technology in our country.

Now, to many who are listening to this debate, there is a bit of haziness in terms of what it is that we are discussing. In much the same way that in 1983 and 1984 when we were discussing the cable bill, most of the Members in the House did not know what we were talking about since we had yet to deregulate cable, so they were voting on technologies that they had yet to in fact enjoy in their own homes as of 1984.

Well, that bill helped to telescope the timeframe that it would take to get that technology into everyone's home. That is what this debate is about here today, but it is a debate about another technology which is also in its nascent stage.

Now, the gentleman from Louisiana [Mr. TAUZIN], the gentleman from Tennessee [Mr. COOPER], the gentleman from Alabama [Mr. HARRIS] and others, made reference to something called C-Band. We all say in Boston or Baltimore or New York, what is C-Band? Well, C-Band is those giant dishes about 8 feet wide that you see in people's backyards when you drive out there into the country—with their pickup trucks and their shotguns up against the back porch. It is those C-Band dishes. They cost about three to five grand and you got to get a zoning variance to put them in.

Now, there will not be many of us in Boston or in Baltimore or in Cleveland or other major cities in America that will be seeing too many of these 8-foot dishes in our backyards, not if we want to keep our neighbors as our friends.

So the C-Band technology is a nice technology and it has access to programming, but limited.

The K-Band technology, which is what this debate is all about, is about 12-inch dishes, dishes you can put between the petunias out in the backyard. No one will even know that it is there, but it cannot grow unless it has access.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

Mr. TAUZIN. Mr. Chairman, I yield 1 additional minute to the gentleman from Massachusetts.

Mr. MARKEY. This dish, Mr. Chairman, out there in the backyard, this is the new revolution. This is the competition to the cable industry. It is clear they are not going to compete against each other. In 99 percent of the communities that have cable, no other cable company competes against them. They have got some kind of nonaggression pact that they put together.

Well, the satellite industry solves that problem by bringing in the 12-inch dish that will cost you $300. You put it out in the backyard, point it up in the air, and you are in business.

Now, we have got to make sure they have access to programming, and that is all this amendment does is just make sure that there is a sale of the video programming from the cable industry for a reasonable price over to the satellite industry, plain and simple competition, the same thing we did when we forced the broadcasters to give their signals for free over to the cable industry back in the mid-seventies so that we could give birth to that industry.

It is a very simple proposition, and by the way, by the year 2,000 it would obviate the need for any further rate regulation because you will have real competition out in the marketplace, which is at least a mantra which is being uttered on a constant basis by all Members on both sides of the aisle.

This is the way to get there. Support the Tauzin amendment.

Mr. TAUZIN. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. LANCASTER].

(Mr. LANCASTER asked and was given permission to revise and extend his remarks.)

Mr. LANCASTER. Mr. Chairman, I am pleased to rise in support of H.R. 4850, the Cable Television Consumer Protection and Competitiveness Act of 1992 and the Tauzin amendment. As a long time proponent of cable reform, I hope that the American consumer, especially rural Americans, will benefit from this initiative.

Since Congress deregulated the cable industry in 1984, the American consumer has been the victim of unrelenting rate increases. In less than 5 years, cable rates have increased 60 percent during a time when inflation has been negligible. This legislation responds strongly to unjustified rate increases through regulation in the short term and, more importantly, by making competition within the cable industry possible.

America was founded on free market principles—the belief that quality products at reasonable prices can best be delivered to the consumer through competition. Today, only 3 percent of Americans have a choice between cable companies. How can this be when the cable industry serves more than 51 million subscribers with annual revenues of $20 billion—almost two times that of ABC, CBS, and NBC combined? There's obviously enough money in cable to be shared by many competitors.

New technologies, such as wireless cable and direct broadcast satellite, are ready to compete with cable. These competing technologies want to offer similar channel selections at competitive prices. But the cable industry has done everything in its power to keep these competitors from getting off the ground. Cable programmers, who also own local cable companies, have denied competing technologies access to their programming—either by refusing to sell or by charging ridiculously high prices. For example, C-SPAN charges cable competitors 500 percent more for the same programming received by current cable companies. H.R. 4850 and the Tauzin amendment would require that cable programmers sell their channels to cable competitors at fair prices.

As a result, competition will flourish, consumers will have a choice, prices will go down and quality of service will go up. In addition, the new technologies will provide cable services to rural areas which today do not have cable.

I commend the committee for giving Congress the opportunity to pass legislation which will restore basic competitive fairness to the Nation's cable industry. In the short term, consumers will be protected from further unfair cable rates. And in the long term, cable rates and service will be regulated by the marketplace. Most importantly, the American consumer will finally have a choice.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEHMAN], a member of the committee.

Mr. LEHMAN of California. Mr. Chairman, I thank my colleague, the gentleman from New York, for yielding me this time.

Mr. Chairman, there is no doubt in my mind that the amendment offered by the gentleman from New York [Mr. MANTON] is fair and reasonable and does in fact provide for the type of access to programming that the competition, both present and prospective, needs to have in order to foster true market competition.

Does it go far enough to anticipate the technological and marketplace demands of tomorrow or the next decade? That remains to be seen.

The Manton substitute does, however, acknowledge the present issues and it is realistic in its approach.

The Manton substitute prohibits vertically integrated cable entities from refusing to deal with multichannel system operators where such refusal would reasonably restrain competition.

This provision provides adequate protection for existing programmers, yet it insures that other video delivery system operators have reasonable access to these programming courses.

Further, the manton amendment insures that cable programming remains available to C-Band Satellite dishes at rates, terms and conditions comparable to cable.

This provision is virtually identical to one included in the bill that overwhelmingly passed this Congress.

Mr. Chairman, the substitute is reasonable and fair.

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding me this time.

The best way to provide lower rates and better service is through competition. That is my preference. In spite of the fact that I had an amendment to reregulate the cable industry, my preference, is to have competition.

The cable operators tell me that is their preference, too; but then they do everything they can to prevent competition.

To start with, cable operators do not want telephone companies to provide cable services, but they also oppose the Tauzin amendment which will allow satellite cable companies, wireless cable companies, and telephone companies access to the same programs the cable companies have access to. It does not make sense.

There will not be any competition if these companies cannot offer programs that the consumer wants.

So what are we left with? A monopolistic industry that will continue to set its own price with nothing to restrain it. Any way you look at it, the consumer is being ripped off, because the consumer is having to pay too much. With no competition, they are paying a monopolistic price. They are paying billions of dollars they should not have to pay for.

Mr. Chairman, I urge all my colleagues to open the door to true competition and support the Tauzin amendment.

Mr. MANTON. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

I understand that the gentleman from New Jersey [Mr. RINALDO] may also yield the gentleman some time.

Mr. RINALDO. Yes Mr. Chairman, I yield 2 additional minutes to the gentleman from New Mexico [Mr. RICHARDSON].

The CHAIRMAN. The gentleman from New Mexico [Mr. RICHARDSON] is recognized for a total of 4 minutes.

(Mr. RICHARDSON asked and was given permission to revise and extend his remarks.)

□ 2020

Mr. RICHARDSON. Mr. Chairman, I come from a rural State. Per capita I have as many satellite dishes as anybody in this Chamber, and I will match my consumer rating with anybody on the other side of this issue.

I am supporting the Manton amendment for four reasons. First, it satisfies the problems raised by rural Americans who own backyard dishes; second, it guarantees access to programming in a reasonably balanced way; third, it promotes diversity and increases the choices available to consumers; and last, it protects the legitimate intellectual property rights of video programming creators.

Mr. Chairman, I am supporting the Manton-Rose amendment because it provides an effective and sufficient remedy for anticompetitive behavior. Cable programming networks will not be permitted to unreasonably refuse to deal with their competitors and cable programming must be made available to the C-Band home satellite dish industry on nondiscriminatory prices, terms, and conditions. That is a sufficient and proper solution to the problems on program access.

The Tauzin amendment will take away a right from cable programmers that is given to everyone else in the entertainment industry: the right to control the use of their intellectual property.

Backers of the Tauzin amendment must really believe that money grows on trees, and programmers just go into the orchard to collect money when they have a programming idea. Let me remind my colleagues that money does not grow on trees—it is provided by entrepreneurs who are willing to take a risk in the marketplace and invest in a programming idea with the hope that if that program becomes a success, then they will have the legitimate right to exercise control over the pricing and distribution of that product.

If the Tauzin amendment passes, who in their right mind is going to risk their money in a programming idea. Because in the world envisioned by the gentleman from Louisiana, if your programming idea turns out to be a flop—too bad. And if it turns out to be a success, well then the Federal Government will step in and mandate that you sell it on certain terms, conditions, and prices. Now that is not an exciting investment opportunity, and it will starve the programming community of the investment needed for new program ventures.

The Manton-Rose amendment, by contrast, recognizes the benefits of exclusive distribution arrangements so long as they do not stifle competition. This is not some theoretical finepoint—this has real meaning for programmers in the marketplace. It has real meaning for someone like Mr. Robert Johnson, the president of Black Entertainment Television [BET]. Years ago, nobody wanted to invest in his programming idea for a black entertainment network—nobody would put up the financing for him. A cable operator did and with that investment, today Bob Johnson's BET is an enormous success. And if the Tauzin amendment passes, the Federal Government will reward Bob Johnson's success by forcing him to sell his product at Government-mandated wholesale prices, terms, and conditions. I urge my colleagues to reject Mr. TAUZIN'S extreme approach on this issue.

The story of Bob Johnson and BET is not that uncommon in the cable industry. In fact, cable operators have provided much of the financing for cable networks like CNN, Nickelodeon, and the Discovery Channel. Cable operators' investment was $1.5 billion for programming in 1991. It is this investment that is creating the programming everyone likes.

So let us be clear on what the Tauzin amendment is really about: it is not about access. Why is it not about access: Because alternative distribution technologies do indeed have access to popular cable programming. Forty-two cable program services are sold to MMDS wireless cable operators. The Wireless Cable Association has reported that all but one major cable program service is available to its members. So they do have access to cable programming.

What is this debate about: it is about wholesale pricing. It is not about the prices being charged to customers in rural areas. The National Rural Telecommunications Cooperative [NRTC] offers home satellite dish owners a package of 47 services; satellite dish owners can receive a package of programming comparable in retail price to basic cable packages.

Are rural dish owners paying more than cable customers? Let's look at the facts: A typical satellite dish owner pays a retail price of $16.93 and the price paid by cable customers for a comparable package is $18.84.

So if satellite dish distributors and wireless cable operators already have access to programming, which they do, and can provide popular programs to customers at competitive prices, which they can, what is the purpose of the Tauzin amendment? It is clearly an effort pushed by a few companies to get Congress to pass a law that will give a bigger margin of profit to wholesale distributors of cable programming. That is not in the public interest and it should be rejected by the House.

The Tauzin amendment allows MMDS operators and DBS operators to enter into exclusive contract arrangements, and there is no reason why they should not be allowed to do so. Why is it then that cable programmers cannot enter into the same lawful exclusive contract arrangements as their competitors can for future programming investments. That is simply unfair, and represents nothing more than a punitive attack on the cable industry.

Finally, I will conclude by saying that the program access issue has deeply divided the committee. Each side has very strong views on this subject and on how Congress should go about establishing a policy that provides consumers with the greatest diversity of programming.

But we should not kid ourselves about what passage of the Tauzin amendments means. The Tauzin amendment is a cable bill-buster. It is a killer amendment that will prompt an absolute and certain veto from the White House and that veto will be sustained. So if the Tauzin amendment is adopted, the cable bill will not become law. And for consumers, that means no rate regulation, no customer service standards, and zero protection. I urge my colleagues not to lead us down the road of a certain veto and jeopardize for consumers the benefits of this bill.

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART].

(Mr. ECKART asked and was given permission to revise and extend his remarks.)

Mr. ECKART. I thank the gentleman for yielding this time to me.

Mr. Chairman, a great philosopher once said, "Let me speak tender words because I may have to eat them."

Mr. MANTON was trying to force Mr. TAUZIN to eat his words, referring to the 1990 previous debate.

Well, the fact of the matter is that what BILLY said—the gentleman from Louisiana [Mr. TAUZIN]—said 2 years ago about 1303 was true. But the tragic thing is that what is unfair is that what we have before us is not what the gentleman had spoke about several years ago.

The amendment before us is not what Mr. TAUZIN praised 2 years ago. It covers fewer programmers. It is not what Mr. TAUZIN praised 3 years ago; it covers fewer technologies. And it is not what we all agreed was good policy 2 years ago perhaps, because Mr. MANTON now wants to lower the standard.

In fact, it lowers the standard so much that what was a permanent law proposal in 1990 and which BILLY TAUZIN praised several years ago, is now only temporary law. Worse yet, the Manton substitute would sunset after only 7 years.

So to re-read the words back, let us do it in the context of understanding that what we have here is a very poor imitation, a very weak carbon copy.

Let me try to place this in some Members' contexts. Think about your word processor, your computer in your office. IBM, if they controlled the hardware for that unit, think what it would be like if you could only buy the word processing program from IBM. And that is what is at stake here. There is one single channel of programming, a choke point, a Straits of Hormuz through which the cable companies want to control the entire flow, not of oil, as happens in the Middle East, but of the programs that we use on our computers.

Until we fully understand that unless we open up that choke point, unless we allow more people to have access to that programming, it would be like the computer in your office where you are forced to go to IBM to buy only their programs because only their programs worked in our computers.

This is not what we should want for a true, free, democratic society. If you want real competition, you want more. More is Mr. TAUZIN's amendment and the programming access provision; it is not the cheap imitation of the Manton substitute.

Mr. Chairman, I rise in support of the Tauzin amendment.

Although it is absolutely vital that we protect consumers from rate gouging in the near term, the long-term key to stopping runaway rate increases and improve cable service is to promote competition.

There have been many irresponsible and inaccurate statements about this amendment that must be corrected. It is not extreme. It is not regulatory overkill. Mr. TAUZIN has altered his language numerous times to respond to complaints by the cable industry—to no avail. They have not taken one step toward the middle.

The cable industry has never been accused of being dumb. They are throwing every false accusation and misrepresentation at this amendment to defeat it. They know that if they maintain their stranglehold on this programming, they can shut down competition—even the deep pockets of the telephone companies for a decade or more.

This is the Straits of Hormuz; this is the choke point. Mr. TAUZIN's amendment is the only way that free and fair commerce will be possible in this industry.

If we don't pass the Tauzin amendment, we consign ourselves to returning to this issue in the next few years. We will be certain to hear an unending stream of complaints from our constituents asking "Why didn't we do our job?" "Why did we listen to the cable special interests instead of our constituents?"

RETRANSMISSION CONSENT

This debate also impacts on retransmission consent. I find it disingenuous that cable is arguing ferociously against being required not to arbitrarily refuse to sell cable programming when at the same time, day after day, year in and year out, they are walking away with broadcasters. I guess it is the old adage "we stole it fair and square." As we head into conference with the other house, I sincerely hope we can count on all those who would protect cable programmer rights to fight equally hard to protect broadcasters' programmer's rights with retransmission consent.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BERMAN].

Mr. SCHEUER. Mr. Chairman, will the gentleman yield to me?

Mr. BERMAN. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, I rise in support of the Manton amendment.

Mr. Chairman, this legislation must address the issue of program access, assuring that alternative video systems can procure quality video programming, and thus compete with the cable industry. Without a program access section, this legislation will not stimulate real competition to the cable monopoly.

However, we must protect program access while also preserving the right of programmers to control their product. The Rose-Manton amendment will achieve both goals; the Tauzin amendment will not.

The Rose-Manton amendment would prevent programmers from unreasonably refusing to deal with alternative providers, such as wireless cable or direct broadcast satellite systems.

It would require programmers to make their products available to the home satellite dish

industry on nondiscriminatory prices, terms, and conditions.

Last, it would provide an expedited review process by the FCC for any program access complaints.

This amendment is modeled after language approved by the entire House in 1990. Since that time, the availability of cable programming to alternative providers has increased; not decreased. In fact, these same alternative providers, such as wireless cable, endorsed the Rose-Manton amendment only 2 years ago. Why do they oppose it now? Because they know a handout when they see it, and the Tauzin amendment is a handout like none other.

The Tauzin amendment is unnecessary, and it will be a disincentive for future investment in quality cable programming. Only the Rose-Manton amendment will stimulate innovation and competition. I urge my colleagues to support Rose-Manton, and oppose the heavy-handed price controls offered by Mr. TAUZIN.

(Mr. BERMAN asked and was given permission to revise and extend his remarks.)

Mr. BERMAN. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the Tauzin program access amendment and in support of the Manton substitute.

To my colleagues who represent areas that are unserved or underserved by existing cable systems, I want to say that as a matter of equity, I share your concern that your constituents have access to cable programming. That is why I do support a solution to the problem you have articulated.

But the fair solution is the Manton substitute, not the Tauzin amendment.

The amendment of the gentleman from Louisiana goes well beyond what is necessary to protect against anticompetitive behavior which may deprive alternative distribution technologies of popular programming. By barring exclusive distribution agreements even absent a showing of anticompetitive conduct, and by forcing the sale of programming at, in essence, uniform national prices, the amendment creates enormous new problems while purporting to solve others.

It is legitimate to consider what is fair to the competing commercial interests involved; certainly the interests of the C-band home satellite dish industry and the burgeoning direct broadcast satellite industry have been weighed in the debate today.

But by the same token, it is essential that we consider the impact of mandated program access at uniform prices on the commercial interests of program owners.

Program owners devote enormous creative powers and invest significant financial resources in their products. In marketing those products, it is only fair that they seek to get the best price they can. Denying them the ability to enter into exclusive contracts necessarily means that they cannot get top dollar from their customers.

Consider that there is no shortage of programming. Believe me, there is a proliferation of studios, large and small, which create television programming. Program owners seeking to sell their product in a highly competitive market often must guarantee exclusivity, and why not so long as they have not engaged in the anticompetitive behavior which the Manton substitute would proscribe?

In the name of fairness to consumers and commercial interests who have been the victims in those cases of demonstrable anticompetitive conduct by programmers who have flatout refused to deal, the Tauzin amendment would deprive program owners of a fair return on their creative and financial investment.

That is not fair. The Manton substitute solves a problem. The Tauzin amendment creates new ones, and urge my colleagues to reject it.

Mr. MANTON. Mr. Chairman, I reserve the balance of my time.

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. HARRIS].

(Mr. HARRIS asked and was given permission to revise and extend his remarks.)

Mr. HARRIS. I thank the gentleman for yielding time to me.

Mr. Chairman, many rural residents are not served by cable and because of the cost of laying the wire may never be. In order to get news, educational programs, and entertainment other than over-the-air broadcasts, they now must invest in satellite dishes at substantial expense. However, some cable programmers have chosen not to make available the very programming that rural viewers bought these dishes for or sell it at such grossly inflated charges that it prices rural citizens out of the information age.

There are new technologies that may soon be able to deliver programming to all american homes and businesses. However, without access to quality and diverse programs, these technologies may never get off the ground. Vertically integrated cable companies have the ability to choke off these potential competitors by keeping a stranglehold over programming.

The Tauzin amendment addresses these issues by preventing these cable programmers from unreasonably refusing to deal with alternative multivideo providers. It will also prohibit these programmers from discriminating in price terms and conditions in offering its programming. It does not set those prices, terms or conditions at its detractors claim, but rather encourages good faith negotiations.

It is important to remember that unlike the bill that the house passed during the 101st Congress, the Tauzin amendment includes all existing technologies—C-band satellite—as well developing technologies. If the Tauzin language is adopted, the house will not be mandating which distribution systems will make it and which ones won't.

The Tauzin amendment is supported by the Alabama Rural Electric Association of Cooperatives, the National Rural Electric Cooperative Association, U.S. Telephone Association, the Consumer Federation of America, among others.

The Manton amendment is a weakened version of the program access section contained in H.R. 1303. It is so cable friendly as to raise suspicions and rightly so.

The exclusive contract language in the Manton amendment guts any real chance for competition by giving vertically integrated cable programmers a loophole big enough to drive a transfer truck through.

The Manton amendment will continue to allow cable companies to strangle at birth the development of any new multi-video distributions systems by failing to provide fair access with very limited exceptions to any other technology but C-band satellite service.

Vote "no" on Manton. It is a transparent attempt to include meaningful access to all americans to the abundance of news, education and entertainment that we have come to rely on.

□ 2030

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

(Mr. COOPER asked and was given permission to revise and extend his remarks.)

Mr. COOPER. Mr. Chairman, tonight some 50 to 60 million American households will be watching some form of cable television. Those watching C-Span will know that in short and simple terms the amendment of the gentleman from Louisiana [Mr. TAUZIN] offers them the chance to cut their monthly cable bills by one-third, 34 percent to be exact. The amendment of the gentleman from New York [Mr. MANTON], on the other hand, holds out the prospect of higher and higher monthly cable bills.

Mr. Chairman, I would urge all Members of this House to vote against the Manton amendment. They have to do that in order to have a chance to vote on the Tauzin amendment so that we can lower consumer bills all over American.

The Tauzin approach gives competition a chance. The Manton approach gives competition the runaround. This is proven by the groups that support these different bills. The Tauzin bill is supported by every competitor group that is out there: the satellite dish people, the telephone people, the wireless cable people, the other folks who want to have a chance to give us a choice in cable programming. The Manton approach, on the other hand, is supported by the giant monopolists.

"Look at the map of the country," I say to my colleagues, "and you'll see that almost all of America wants the Tauzin approach. They want their bills

lowered, but in a few spots, a few spots with all the money, a few spots that own the cable companies and own the programming, they don't mind if prices go to the Moon."

Do not be fooled by this amendment, the primary force behind which is the second largest cable company in America, Time Warner, the company that has not only given us cop killer lyrics, but the company that wants to give us competitioner killer amendments. The Manton amendment is a step backward. It is weaker than the current bill that passed with a 3 to 1 majority in the Senate. It is weaker than 1303, which we passed here last year.

They are not virtually identical. It is true there may be a few words difference, but these words are all important. They amount to a $4 billion a year difference, 4 billion dollars' worth of consumers' money that we should and could be saving with the Tauzin amendment.

Mr. MANTON. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. DINGELL].

Mr. RINALDO. Mr. Chairman, I also yield my remaining 1 minute to the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce.

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL] is recognized for 4 minutes.

Mr. DINGELL. Mr. Chairman, the character of this debate in the amendment shows that good men and honorable men dedicated to public interest can differ. There are no two better men on the committee, or anywhere, than the gentleman from New York [Mr. MANTON] and the gentleman from Louisiana [Mr. TAUZIN]. They are fine Members, and their differences, I believe, are honest and honorable.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from New York [Mr. MANTON]. The Manton substitute provides a balanced approach to the contentious issue of program access. Moreover, it does so in a form that is acceptable to the administration. If you are interested in enacting a cable bill into law, I urge you to support the Manton substitute because the Tauzin amendment will produce a veto that cannot be overridden.

Access to programming is an extremely complicated issue, with compelling arguments on both sides. With all respect to my dear friend, the gentleman from Louisiana [Mr. TAUZIN], however, in my view the Manton substitute provides a far more balanced approach.

The reasons are really quite simple.

First, the Manton substitute provides an effective remedy for the problems faced by independent distributors of programming. It requires video programming vendors to sell into the backyard dish market at the same rates, terms, and conditions as they sell to cable distributors of their product.

This is the relief they have sought for many years. It will provide real relief that ought to be reflected in lower prices. Those of our constituents who have invested in backyard Earth stations should realize real benefits as a result of the adoption of the Manton amendment.

With respect to the new, higher power satellites, the Manton substitute recognizes that a balanced approach to potential problems is in order. It prohibits cable program networks from refusing to deal with new technologies "if such refusal would unreasonably restrain competition."

Unlike the Tauzin amendment, it does not impose Government price controls. It does not micromanage an industry that doesn't yet exist. Its balanced approach will give the new technologies the opportunity to compete, without skewing the outcome of that competition to favor a particular competitor.

A lot has been said here today about exclusive distribution contracts. If this term is used in a pejorative fashion, it sounds most pernicious.

But exclusive distribution contracts are a fact of life in the video distribution business, and have been for more than 40 years. They are not evil. The CBS Television Network has exclusive distribution contracts—with the more than 200 CBS affiliates around the country. Likewise with NBC, ABC, and Fox.

Program syndicators enter into exclusive distribution contracts as well. Only one station per market can show programs like "Wheel of Fortune," or "Cosby" reruns, or any of the other shows that are syndicated.

Sports leagues do it too. ABC has an exclusive arrangement with the NFL to show "Monday Night Football."

Not only are exclusive distribution contracts a fact of life in the video marketplace. Exclusivity provides the mechanism to achieve diversity—an important policy goal that benefits the public. With access to more choices, the public has an increased opportunity to select what they want to see on television. Diversity helps to preserve our democracy, and is essential to enlightened self-governance.

The Manton substitute will promote diversity in media programming by preserving incentives for the new technologies to develop new programming products. The Tauzin amendment not only removes these incentives for the future. It also will make the artists who now create these programs less willing to enter the video marketplace by removing their ability to control who exhibits their creative works.

Mr. Chairman, I urge the House to reject the excesses of the Tauzin amendment, and support the Manton substitute. The Manton substitute is acceptable to the administration. The Tauzin amendment is veto bait.

The balanced approach of the Manton substitute offers Members the opportunity to support meaningful program access provisions that have a chance of being signed into law. I urge my colleagues to support this substitute, and provide real relief to the backyard Earth station marketplace.

Mr. TAUZIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. HUBBARD].

(Mr. HUBBARD asked and was given permission to revise and extend his remarks.)

Mr. HUBBARD. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Louisiana [Mr. TAUZIN] and in opposition to the amendment offered by the gentleman from New York [Mr. MANTON], and I urge my colleagues to vote likewise.

Mr. Chairman, on behalf of my constituents in Kentucky I urge my colleagues to vote "no" on the Manton amendment and "yes" on the Tauzin amendment.

I urge my colleagues to remember you must vote "no" on the Manton amendment in order to vote on the Tauzin amendment.

Let us vote for the millions of Americans who deserve fairness as to the cost of cable television.

Mr. TAUZIN. Mr. Chairman, I say to the members of the committee, "You ought to ask yourself why Senators from 46 States in America voted for the Tauzin amendment when it was offered to the Senate by Senator AL GORE. You ought to ask yourself why, why if it's such a bad amendment as it was just described to you."

Mr. Chairman, I will tell my colleagues why. Here is a map of the United States that shows the congressional districts where the sellers of programs are located, the big cable companies that sell programs, and control those programs and sell them at monopoly prices to American citizens. My colleagues should look for their district on that map, and, if they do not find their districts in red, if their district is in white, as is most of the United States of America under this map, I will understand why 46 States had Senators who voted for the Tauzin amendment when it was offered on the Senate side.

□ 2040

This is your chance to stand up for consumers. If you want to go back to your districts, your town hall meetings, and your campaign trails, and tell your constituents back home you like their cable rates, you like the monopoly cable companies, you understand cable did not want Tauzin to pass so you voted against it, you want to explain that to them, then vote for the Manton substitute.

If you want to lower cable rates in America, if you want competition in television, if you want to give consumers a break for a change, if you want to end this ugly cynicism in America that Congress cannot help the ordinary American citizen any more, you vote down Manton and vote for the Tauzin amendment. We will have competition

and we will have lower cable rates for America.

Mr. THOMAS of Wyoming. Mr. Chairman, I want to thank Mr. TAUZIN for his leadership on this issue throughout this entire process. Mr. Chairman, I rise in support of the Tauzin amendment, and I do so for two simple reasons: To ensure rural access to cable programming and to encourage competition.

Of primary importance to me is the issue of access to programming. In Wyoming, as in rural areas throughout the country, many folks live in small, sparsely populated communities that are unserved by cable television. If this important group of Americans wants to receive the programming you and I take for granted, they must do it through other, sometimes costly technologies, such as satellite dish. I worked with these folks on a daily basis when I was with the Wyoming Rural Electric Association, and I hear from them today about the unfair prices they pay for programs, sometimes 500-percent more than cable subscribers, or their inability to even receive certain programs. The Tauzin amendment simply and justly ensures that satellite dish owners will have access to these programs at a fair price. Rural people are not asking to receive this programming for free, which, frankly, is the deal the cable companies have enjoyed. They simply want fair access.

This set up is a perfect example of how monopolies work. Certain cable companies have unfairly raised their rates, used these monopoly profits to purchase and create programming, then denied that product to their competitors. If that is not tightening the monopoly grip, I do not know what is. The Tauzin amendment would see that this monopoly practice is brought to an end. There are emerging technologies that can provide competition to cable. We all know what has happened in those communities lucky enough to have competing systems—rates have come down. The only thing standing in the way of fully developing these emerging technologies is access to programming. Cable should understand this better than anyone. We all prefer competition to regulation, and we ought to give emerging technologies this foot in the door that will allow competition to develop. If you are for competition, you should be for this amendment.

So, again, I thank Mr. TAUZIN for his leadership on this issue so important to folks in Wyoming's rural areas, and I urge adoption of the Tauzin amendment, and adoption of H.R. 4850.

The CHAIRMAN. All time for debate has expired. The question is on the amendment offered by the gentleman from New York [Mr. MANTON] as a substitute for the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MANTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announced that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The vote was taken by electronic device, and there were—ayes 162, noes 241, answered "present" 1, not voting 24, as follows:

[Roll No. 310]

AYES—162

Ackerman	Hancock	Oxley
Allard	Hastert	Panetta
Allen	Hefley	Parker
Andrews (NJ)	Henry	Pastor
Annunzio	Herger	Paxon
Archer	Hertel	Pelosi
Aspin	Hobson	Pickle
Barnard	Holloway	Price
Barnes	Hopkins	Purcell
Bilirakis	Horton	Ramstad
Billey	Hoyer	Rangel
Boehlert	Hunter	Regula
Boehner	James	Rhodes
Bonior	Jenkins	Richardson
Borski	Johnson (CT)	Ridge
Boxer	Johnson (TX)	Rinaldo
Broomfield	Johnston	Ritter
Burton	Kanjorski	Rohrabacher
Campbell (CO)	Kildee	Rose
Carper	King	Roukema
Carr	Kolbe	Russo
Chandler	Kopetski	Sangmeister
Coble	Kostmayer	Santorum
Collins (MI)	Kyl	Sarpalius
Conyers	Lagomarsino	Schaefer
Cunningham	Lehman (CA)	Scheuer
Dannemeyer	Lent	Schiff
Darden	Levin (MI)	Schroeder
Dingell	Lewis (CA)	Serrano
Dooley	Lewis (FL)	Sharp
Doolittle	Livingston	Shaw
Dornan (CA)	Lowery (CA)	Shuster
Edwards (OK)	Lowey (NY)	Skaggs
Engel	Lukens	Smith (NJ)
Espy	Manton	Smith (OR)
Farrell	Martin	Solomon
Fazio	Matsui	Stearns
Fields	McCollum	Stump
Fish	McGrath	Sweet
Ford (TN)	McHugh	Swift
Frank (OT)	McMillen (MD)	Taylor (NC)
Gallegly	McNulty	Thornton
Gallo	Miller (CA)	Torres
Gekas	Miller (OH)	Towns
Gephardt	Miller (WA)	Upton
Gilchrest	Molinari	Vander Jagt
Gillmor	Moorhead	Walker
Gingrich	Morella	Waxman
Goodling	Morrison	Weber
Gradison	Murphy	Weldon
Green	Nowak	Wolpe
Hall (OH)	Otta	Young (FL)
Hamilton	Orton	Zeliff
Hammerschmidt	Owens (NY)	Zimmer

NOES—247

Abercrombie	Callahan	Dreier
Alexander	Camp	Duncan
Anderson	Campbell (CA)	Durbin
Andrews (ME)	Cardin	Dwyer
Andrews (TX)	Chapman	Early
Applegate	Clay	Eckart
Armey	Clement	Edwards (CA)
Atkins	Clinger	Edwards (TX)
AuCoin	Coleman (MO)	Emerson
Bacchus	Coleman (TX)	English
Baker	Collins (IL)	Erdreich
Ballenger	Combest	Evans
Barrett	Condit	Ewing
Barton	Cooper	Fascell
Bateman	Costello	Fiala
Bellenson	Coat (CA)	Fuqua
Bennett	Coat (IL)	Frank (MA)
Bentley	Coyne	Gaydos
Bereuter	Cramer	Geidenson
Berman	Crane	Gerry
Bevill	Davis	Gibbons
Bilbray	de la Garza	Gilman
Blackwell	DeFazio	Glickman
Boucher	DeLauro	Gonzalez
Brewster	DeLay	Gordon
Brooks	Derrick	Goss
Browder	Dickinson	Grandy
Brown	Dicks	Guarini
Bruce	Dixon	Gunderson
Bryant	Donnelly	Hall (TX)
Bunning	Dorgan (ND)	Harris
Buchanan	Downey	Hayes (IL)
Byron		

Hayes (LA)	Moakley	Sawyer
Hefner	Mollohan	Schulze
Hoagland	Montgomery	Schumer
Hochbrueckner	Moody	Sensenbrenner
Horn	Moran	Shays
Houghton	Mrazek	Sikorski
Hubbard	Murtha	Sisisky
Huckaby	Myers	Skeen
Hughes	Nagle	Skelton
Hutto	Natcher	Slattery
Inhofe	Neal (MA)	Slaughter
Ireland	Neal (NC)	Smith (FL)
Jacobs	Nichols	Smith (IA)
Jefferson	Nussle	Smith (TX)
Johnson (SD)	Oakar	Snowe
Jones (GA)	Oberstar	Spence
Jones	Obey	Spratt
Kanjorski	Olver	Stagers
Kaptur	Ortiz	Stallings
Kennedy	Owens (UT)	Stark
Kennelly	Packard	Stenholm
Kleczka	Pallone	Stokes
LaFalce	Patterson	Studds
Lancaster	Payne (NJ)	Sundquist
Laston	Payne (VA)	Synar
LaRocco	Pease	Tanner
Leach	Penny	Tauzin
Lewis (GA)	Perkins	Taylor (MS)
Lightfoot	Peterson (MN)	Thomas (CA)
Lipinski	Petri	Torricelli
Lloyd	Pickett	Traficant
Long	Porter	Unsoeld
Machtley	Poshard	Valentine
Markey	Quillen	Vento
Marlenee	Rahall	Visclosky
Martinez	Ravenel	Volkmer
Mavroules	Reed	Vucanovich
Mazzoli	Riggs	Walsh
McCandless	Roberts	Washington
McCloskey	Roe	Waters
McCrery	Roemer	Wheat
McCurdy	Rogers	Whitten
McDade	Ros-Lehtinen	Williams
McDermott	Rostenkowski	Wise
McEwen	Roth	Wolf
McMillan (NC)	Rowland	Wyden
Meyers	Roybal	Wylie
Mfume	Saba	Yatron
Michel	Sanders	Young (AK)
Mineta	Sarpalius	
Mink	Savage	

ANSWERED "PRESENT"—1

Weiss

NOT VOTING—24

Anthony	Hatcher	Ray
Coughlin	Hyde	Solarz
Dellums	Jones (NC)	Tallon
Dymally	Kolter	Thomas (GA)
Feighan	Laughlin	Thomas (WY)
Ford (MI)	Lehman (FL)	Trazler
Frost	Levine (CA)	Wilson
Hansen	Peterson (FL)	Yates

□ 2100

Mr. McDADE and Mr. EDWARDS of California changed their vote from "aye" to "no."

Mr. HENRY changed his vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MURPHY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will advise Members that this vote will be 5 minutes in duration.

The vote was taken by electronic device, and there were—ayes 338, noes 68,

answered "present" 1, not voting 27, as follows:

[Roll No. 311]

AYES—338

Abercrombie	Gallegly	McMillan (NC)
Ackerman	Gallo	McMillen (MD)
Alexander	Gaydos	McNulty
Allen	Gejdenson	Meyers
Anderson	Gekas	Mfume
Andrews (ME)	Gephardt	Michel
Andrews (TX)	Geren	Miller (CA)
Annunzio	Gibbons	Mineta
Applegate	Gilchrest	Moakley
Archer	Gillmor	Mollohan
AuCoin	Gilman	Montgomery
Bacchus	Gingrich	Moody
Baker	Glickman	Moorhead
Ballenger	Gonzalez	Morella
Barrett	Gordon	Morrison
Bateman	Goss	Mrazek
Bellenson	Grandy	Murphy
Bennett	Green	Murtha
Bentley	Gunderson	Nagle
Berman	Hall (TX)	Natcher
Bevill	Hamilton	Neal (MA)
Bilbray	Hammerschmidt	Neal (NC)
Boehlert	Harris	Nichols
Boehner	Hastert	Nowak
Bonior	Hayes (IL)	Nussle
Borski	Hayes (LA)	Oakar
Boucher	Hefner	Oberstar
Boxer	Henry	Obey
Brewster	Herger	Olin
Brooks	Hertel	Olver
Broomfield	Hoagland	Ortiz
Browder	Hochbrueckner	Owens (NY)
Brown	Hopkins	Owens (UT)
Bruce	Horn	Pallone
Bryant	Houghton	Panetta
Bunning	Hoyer	Patterson
Bustamante	Hubbard	Paxon
Byron	Huckaby	Payne (NJ)
Callahan	Hughes	Payne (VA)
Camp	Hunter	Penny
Campbell (CA)	Hutto	Pelosi
Cardin	Inhofe	Perkins
Carper	Ireland	Peterson (MN)
Carr	Jacobs	Petri
Chandler	James	Pickle
Chapman	Jefferson	Porter
Clay	Jenkins	Poshard
Clement	Johnson (CT)	Price
Clinger	Johnson (SD)	Purcell
Coble	Johnston	Quillen
Coleman (MO)	Jones (GA)	Rahall
Collins (MI)	Jones (NC)	Ramstad
Combest	Jontz	Rangel
Condit	Kanjorski	Ravenel
Cooper	Kaptur	Reed
Costello	Kasich	Regula
Cox (IL)	Kennedy	Richardson
Coyne	Kennelly	Ridge
Cramer	Kildee	Riggs
Cunningham	Kleczka	Ritter
Darden	LaFalce	Roberts
Davis	Lancaster	Roe
de la Garza	Lantos	Roemer
DeFazio	Laroco	Rogers
DeLauro	LaRocco	Roe-Lehtinen
Dellums	Leach	Rose
Derrick	Levin (MI)	Rostenkowski
Dickinson	Lewis (CA)	Roth
Dicks	Lewis (FL)	Rowland
Dingell	Lewis (GA)	Roybal
Donnelly	Lightfoot	Russo
Dooley	Lipinski	Sabo
Dorgan (ND)	Livingston	Sanders
Downey	Lloyd	Sangmeister
Dreier	Long	Sarpalius
Duncan	Lowery (CA)	Sasscer
Durbin	Lowey (NY)	Savage
Dwyer	Machtley	Sawyer
Eckart	Manton	Saxton
Edwards (CA)	Markey	Schaefer
Edwards (OK)	Martinez	Schiff
Edwards (TX)	Martin	Schroeder
Emerson	Matsui	Schuette
Engel	Mavroules	Schulze
English	Mazzoli	Schumer
Erdreich	McCandless	Sensenbrenner
Espy	McCloskey	Serrano
Evans	McCollum	Sharp
Ewing	McCrery	Shaw
Fascell	McCurdy	Shays
Fazio	McDade	Shuster
Feighan	McDermott	Sikorski
Fish	McEwen	Sisisky
Flake	McGrath	Skaggs
Foglietta	McHugh	Skeen
Ford (TN)	McInnis	Skelton
Frank (MA)	McKinney	Slattery
Franks (CT)	McMillan (NC)	Slaughter
Gallegly	McMillen (MD)	Smith (FL)
Gallo	McNulty	Smith (IA)
Gaydos	Meyers	Smith (NJ)
Gejdenson	Mfume	Smith (OR)
Gekas	Michel	Smith (TX)
Gephardt	Miller (CA)	Snowe
Geren	Mineta	Solomon
Gibbons	Moakley	Spence
Gilchrest	Mollohan	Spratt
Gillmor	Montgomery	Staggers
Gilman	Moody	Stallings
Gingrich	Moorhead	Stark
Glickman	Morella	Stearns
Gonzalez	Morrison	Stenholm
Gordon	Mrazek	Stokes
Goss	Murphy	Studds
Grandy	Murtha	Sundquist
Green	Nagle	Sweet
Gunderson	Natcher	Swift
Hall (TX)	Neal (MA)	Synar
Hamilton	Neal (NC)	Tanner
Hammerschmidt	Nichols	Taucin
Harris	Nowak	Taylor (MS)
Hastert	Nussle	Taylor (NC)
Hayes (IL)	Oakar	Thomas (CA)
Hayes (LA)	Oberstar	Thornton
Hefner	Obey	Torricelli
Henry	Olin	Towns
Herger	Olver	Traficant
Hertel	Ortiz	Unsoeld
Hoagland	Owens (NY)	Upton
Hochbrueckner	Owens (UT)	Valentine
Hopkins	Pallone	Vander Jagt
Horn	Panetta	Vento
Houghton	Patterson	Visclosky
Hoyer	Paxon	Volkmer
Hubbard	Payne (NJ)	Vucanovich
Huckaby	Payne (VA)	Walker
Hughes	Penny	Walsh
Hunter	Pelosi	Washington
Hutto	Perkins	Waters
Inhofe	Peterson (MN)	Waxman
Ireland	Petri	Weber
Jacobs	Pickle	Weldon
James	Porter	Wheat
Jefferson	Poshard	Whitten
Jenkins	Price	Williams
Johnson (CT)	Purcell	Wise
Johnson (SD)	Quillen	Wolf
Johnston	Rahall	Wolpe
Jones (GA)	Ramstad	Wyden
Jones (NC)	Rangel	Wylie
Jontz	Ravenel	Yatron
Kanjorski	Reed	Young (AK)
Kaptur	Regula	Young (FL)
Kasich	Richardson	Zimmer
Kennedy	Ridge	
Kennelly	Riggs	
Kildee	Ritter	
Kleczka	Roberts	
LaFalce	Roe	
Lancaster	Roemer	
Lantos	Rogers	
LaRocco	Roe-Lehtinen	
Leach	Rose	
Levin (MI)	Rostenkowski	
Lewis (CA)	Roth	
Lewis (FL)	Rowland	
Lewis (GA)	Roybal	
Lightfoot	Russo	
Lipinski	Sabo	
Livingston	Sanders	
Lloyd	Sangmeister	
Long	Sarpalius	
Lowery (CA)	Sasscer	
Lowey (NY)	Savage	
Machtley	Sawyer	
Manton	Saxton	
Markey	Schaefer	
Martinez	Schiff	
Martin	Schroeder	
Matsui	Schuette	
Mavroules	Schulze	
Mazzoli	Schumer	
McCandless	Sensenbrenner	
McCloskey	Serrano	
McCollum	Sharp	
McCrery	Shaw	
McCurdy	Shays	
McDade	Shuster	
McDermott	Sikorski	
McEwen	Sisisky	
McGrath	Skaggs	
McHugh	Skeen	
McInnis	Skelton	
McKinney	Slattery	

NOES—68

Allard	Fields	Miller (OH)
Andrews (NJ)	Fish	Miller (WA)
Archer	Franks (CT)	Mink
Armey	Goodling	Molinari
Aspin	Gradison	Myers
Barnard	Hall (OH)	Ortiz
Barton	Hancock	Orton
Barnes	Hefley	Oxley
Billrakis	Herger	Packard
Billey	Hobson	Parker
Boehner	Hopkins	Pastor
Bonior	Horton	Pickett
Burton	Johnson (TX)	Rhodes
Campbell (CO)	Klug	Rinaldo
Coleman (TX)	Kolbe	Rohrabacher
Collins (IL)	Kopetski	Roukema
Cox (CA)	Kostmayer	Schaefer
Crane	Kyl	Schroeder
Dannemeyer	Lagomarsino	Skaggs
Dixon	Lehman (CA)	Stump
Doolittle	Lent	Torres
Dornan (CA)	Luken	Zeliff
Fawell	McGrath	

ANSWERED "PRESENT"—1

Weiss

NOT VOTING—27

Anthony	Frost	Peterson (FL)
Blackwell	Hansen	Ray
Conyers	Hatcher	Solarz
Coughlin	Hyde	Tallon
DeLay	Jones (NC)	Thomas (GA)
Dymally	Kolter	Thomas (WY)
Early	Laughlin	Traxler
Feighan	Lehman (FL)	Wilson
Ford (MI)	Levine (CA)	Yates

□ 2108

Mr. RINALDO changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. MARKEY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

□ 2110

Accordingly the Committee rose; and the Speaker pro tempore (Mr. OBERSTAR) having assumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4850) to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5620, URGENT SUPPLEMENTAL APPROPRIATIONS, 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-707) on the resolution (H. Res. 527) providing for the consideration of the bill (H.R. 5620) making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON H.R. 5677, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. NATCHER, from the Committee on Appropriations, submitted a privileged report (Rept. No. 102-708), on the bill (H.R. 5677), making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. PURSELL reserved all points of order on the bill.

REPORT ON H.R. 5678, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. NATCHER, from the Committee on Appropriations, submitted a privileged report (Rept. No. 102-709), on the bill (H.R. 5678), making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. PURSELL reserved all points of order on the bill.

REPORT ON H.R. 5679, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS ACT 1993

Mr. NATCHER, from the Committee on Rules, submitted a privileged report (Rept. 102-710) on the bill (H.R. 5679), making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. PURSELL reserved all points of order on the bill.

CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 523 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4850.

□ 2113

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4850) to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Louisiana [Mr. TAUZIN] had been disposed of.

It is now in order to consider amendment No. 9 printed in House Report 102-667.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LENT

Mr. LENT. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. LENT: Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cable Television Consumer Protection and Competition Act of 1992".

SEC. 2. FINDINGS.

Section 601 of the Communications Act of 1934 (47 U.S.C. 521) is amended—

(1) by striking the heading of such section and inserting the following:

"PURPOSES; FINDINGS";

(2) by inserting "(a) PURPOSES.—" after "SEC. 601."; and

(3) by adding at the end thereof the following new subsection:

"(b) FINDINGS.—The Congress finds and declares the following:

"(1) Fair competition in the delivery of television programming should foster the greatest possible choice of programming and should result in lower prices for consumers.

"(2) Between the passage of the Cable Communications Policy Act of 1984 and July 1990, rates for cable television services have been deregulated in 97 percent of all franchises. The deregulation has resulted in the provision of diverse and quality programming to over 52,000,000 Americans. A minority of cable operators, however, have abused their deregulated status and their market power and have unreasonably raised cable subscriber rates.

"(3) In order to protect consumers, it is necessary for the Congress to establish a means for the Federal Communications Commission to ensure that, where there is no effective competition, cable operators provide basic service at reasonable rates.

"(4) There is a substantial governmental and first amendment interest in promoting a diversity of views provided through multiple technology media.

"(5) The Federal Government has a compelling 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 between 1972 and 1990 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 between 1969 and 1990; 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.

"(6) The Federal Government also has a compelling interest in having cable systems carry the signals of local commercial television stations because the carriage of such signals—

"(A) promotes localism and provides a significant source of news, public affairs, and educational programming;

"(B) is necessary to serve the goals contained in section 307(b) of this Act of providing a fair, efficient, and equitable distribution of broadcast services; and

"(C) will enhance the access to such signals by Americans living in areas where the quality of reception of broadcast stations is poor.

"(7) Broadcast television programming is supported by revenues generated from advertising. 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.

"(8) Because television broadcasters and cable television operators compete directly for the television viewing audience, for programming material, and for advertising revenue, in order to ensure that such competition is fair and operates to the benefit of consumers, the Federal interest requires that local broadcast stations be made available on cable systems as a separate and distinct purchase option for subscribers.

"(9) 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. 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.

"(10) 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.

"(11) Secure carriage and channel positioning on cable television systems are the most effective means through which off-air broadcast television can access cable subscribers. In the absence of rules mandating carriage and channel positioning of broadcast television stations, some cable system operators have denied carriage or repositioned the carriage of some television stations.

"(12) Cable television systems and broadcast television stations increasingly compete for television advertising revenues and audience. A cable system has a direct financial interest in promoting those channels on which it sells advertising or owns programming. As a result, there is an economic incentive for cable systems to deny carriage to local broadcast signals, or to reposition broadcast signals to disadvantageous channel positions, or both. Absent reimposition of must carry and channel positioning requirements, such activity could occur, thereby threatening diversity, economic competition, and the Federal television broadcast allocation structure in local markets across the country.

"(13) Cable systems provide the most effective access to television households that subscribe to cable. As a result of the cable operators' provision of this access and the operator's economic incentives described in paragraph (12), negotiations between cable operators and local broadcast stations have not been an effective mechanism for securing carriage and channel positioning.

"(14) The public interest will be served by the development of competition in the marketplace for video programming and by encouraging new multichannel video programming distribution technologies. Prohibiting video program vendors in which a multichannel video system operator has controlling interest from unreasonably refusing to deal with other multichannel video system operators with respect to provision of video programming is necessary to help establish a competitive marketplace.

"(15) It is necessary and appropriate to promote competition between cable operators and other multichannel video system operators by facilitating access of such other multichannel video system operators to video programming, subject to exclusive contractual arrangements between programmers and cable operators that do not have the effect of significantly impeding competition.".

SEC. 3. REQUIREMENTS FOR THE PROVISION AND REGULATION OF BASIC SERVICE TIER.

(a) AMENDMENT.—Section 623 of the Communications Act of 1934 is amended to read as follows:

"SEC. 623. REGULATION OF RATES.

"(a) IN GENERAL; LIMITATIONS.—No Federal agency or State may regulate the rates for the provision of cable service except to the extent provided under this section. Any franchising authority may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section.

"(b) PREFERENCE FOR COMPETITION.—If the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State or franchising authority under this section. If the Commission finds that a cable system is not subject to effective competition, the rates for the provision of basic cable service shall be subject to regulation under subsection (c) of this section.

"(c) ESTABLISHMENT OF BASIC SERVICE TIER RATE LIMITATIONS.—

"(1) COMMISSION REGULATIONS.—Within 120 days after the date of enactment of the Cable

Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish the following:

"(A) BASIC SERVICE TIER RATES.—A formula to establish the maximum price of the basic service tier, which formula—

"(i) shall take into account only—

"(I) the number of signals required to be carried on the basic service tier pursuant to paragraph (2);

"(II) the direct costs of obtaining, transmitting, and otherwise providing such signals, and changes in such costs;

"(III) such portion of the joint and common costs of the cable operator as is determined, in accordance with regulations prescribed by the Commission, to be properly allocable to obtaining, transmitting, and otherwise providing such signals, and changes in such costs; and

"(IV) a reasonable profit (as defined by the Commission) on the provision of the basic service tier; and

"(ii) shall not take into account—

"(I) any additional video programming services carried on the basic service tier pursuant to paragraph (4);

"(II) any costs of obtaining, transmitting, marketing, or otherwise providing any such additional video programming services or any other signal not required to be carried on the basic service tier pursuant to paragraph (2);

"(III) any amount assessed as a franchise fee, tax, or charge of any kind imposed by any State or local authority on the transactions between cable operators and cable subscribers or any fee, tax, or assessment of general applicability which is applied in an unduly discriminatory manner against cable operators or cable subscribers; or

"(IV) any amount required to satisfy franchise requirements to support public, educational, or governmental channels or the use of such channels.

"(B) EQUIPMENT.—A formula to establish the price for installation and lease of the equipment necessary for subscribers to receive the basic service tier, including a converter box and a remote control. Such formula shall not apply unless the franchising authority certifies that compatible converter boxes or remote control units are not available locally from retail equipment vendors not affiliated with the cable system.

"(C) CONVERTER BOXES AND REMOTES.—Standards concerning the availability for lease or purchase and pricing of converter boxes and remote controls.

"(D) COSTS OF FRANCHISE REQUIREMENTS.—(i) A formula to identify and allocate costs attributable to satisfying franchise requirements to support public, educational, and governmental channels or the use of such channels or any other services required under the franchise, and (ii) procedures by which the cable operator will recover from subscribers—

"(I) the costs described in clause (i) of this subparagraph, and

"(II) the costs of any amounts assessed as a franchise fee, tax, or charge of any kind imposed by any State or local authority on the transactions between cable operators and cable subscribers and any fee, tax, or assessment of general applicability which is applied in an unduly discriminatory manner against cable operators or cable subscribers.

"(E) IMPLEMENTATION AND ENFORCEMENT.—Additional standards, guidelines, and procedures concerning the implementation and enforcement of the regulations prescribed by the Commission under this subsection, which shall include—

"(i) procedures by which cable operators may implement and franchising authorities may oversee the administration of the formulas, standards, guidelines, and procedures established by the Commission under this subsection; and

"(ii) standards and procedures to prevent unreasonable charges for changes in the subscriber's selection of services or equipment subject to regulation under this section, which standards shall require that charges for changing the service tier selected shall not exceed nominal amounts when the system's configuration permits changes in service tier selection to be effected solely by coded entry on a computer terminal or by other similarly simple method.

"(F) EFFECTIVE DATES.—An effective date or dates for compliance with the formulas, standards, guidelines, and procedures established under this subsection.

"(2) COMPONENTS OF BASIC TIER SUBJECT TO RATE REGULATION.—Each cable operator of a cable system shall provide its subscribers a separately available basic service tier to which the rates prescribed under paragraph (1) shall apply and to which subscription is required for access to all other tiers of service. Such basic service tier shall, except as provided in paragraphs (3), (4), (5), and (6), consist only of the following:

"(A) All signals carried in fulfillment of the requirements of sections 614 and 615.

"(B) Any public, educational, and governmental access programming required by the franchise of the cable system to be provided to subscribers.

"(3) SMALL SYSTEM EXCEPTION.—The requirements of this subsection shall not apply to—

"(A) any cable system with 12 or fewer usable activated channels that has 300 or fewer subscribers, or

"(B) if the Commission grants a waiver to the system upon a showing that the system lacks the technical or economic means to create a separately available basic tier,

so long as such system does not delete any signal of a broadcast television station from carriage by that system.

"(4) ADDITIONS TO BASIC TIER PROHIBITED.—

"(A) PROHIBITION.—No cable operator may add any video programming to the basic tier that is not a signal or programming required to be included in such tier pursuant to paragraph (2). Any obligation imposed by a franchise that is inconsistent with this paragraph is preempted and may not be enforced. A contract or other agreement that requires carriage on the basic service tier, or that establishes a rate for carriage (as part of the basic service tier), of a signal or programming that is not required to be included in such tier pursuant to paragraph (2) may not be enforced by a video programming vendor (as such term is defined in section 706A(g) of this Act) unless such contract or agreement is applied to require carriage of such signal or programming on the next most widely subscribed level of service.

"(B) EXCEPTION.—Subparagraph (A) of this paragraph and paragraph (2) shall not prohibit a cable operator that does not have available for carriage pursuant to section 614 a qualified local commercial affiliate of a commercial broadcast network (as defined by the Commission regulation 73.3613(a)(1) (47 C.F.R. 73.3613(a)(1))), from carrying on the basic tier a channel that includes the video programming of that network.

"(5) RATE REGULATION AGREEMENTS.—During the term of an agreement made before July 1, 1990, by a franchising authority and a cable operator providing for the regulation of basic cable service rates, where there was not effective competition under Commission rules in effect on that date, nothing in this section (or the regulations thereunder) shall abridge the ability of such franchising authority to regulate rates in accordance with such an agreement.

"(6) TREATMENT OF EXISTING BROADCAST TIERS.—

"(A) CONTINUED CARRIAGE PERMITTED.—In the case of any cable operator that offered to subscribers a tier of programming as of January 1, 1992, consisting of not more than—

"(i) the signals of any broadcast television station carried on the system; and

"(ii) any public, educational, or governmental access or local origination programming;

the provisions of paragraphs (2) and (4) of this subsection shall not prohibit such operator from continuing to provide such tier.

"(B) RATE FORMULA ADJUSTMENT; RETIERING.—Any cable operator providing a tier of programming described in subparagraph (A) may—

"(i) continue to provide such tier to subscribers, subject to a formula for a maximum price established by the Commission, which formula shall comply with the requirements of paragraph (1), except that the Commission shall take into account additional costs described in subclauses (II) and (III) of paragraph (1)(A)(i) with respect to the signal of any broadcast television station not required by paragraph (2) to be offered on the basic service tier; or

"(ii) delete such programming from the tier described in subparagraph (A) as may be necessary to comply with the requirements of this subsection.

"(d) DISCRIMINATION; SERVICES FOR THE HEARING IMPAIRED.—Nothing in this title shall be construed as prohibiting any Federal agency, State, or a franchising authority from—

"(1) prohibiting discrimination among customers of basic cable service, or

"(2) requiring and regulating the installation or rental of equipment which facilitates the reception of basic cable service by hearing impaired individuals.

"(e) REVIEW OF FINANCIAL INFORMATION.—

"(1) COLLECTION OF INFORMATION.—The Commission shall, by regulation, require cable operators to file, within 60 days after the effective date of the regulations prescribed under subsection (c)(1) and annually thereafter, such financial information as may be needed for purposes of administering and enforcing this section.

"(2) CONGRESSIONAL REPORT.—The Commission shall submit to each House of the Congress, by January 1, 1994, a report on the financial condition, profitability, rates, and performance of the cable industry and making such recommendations as the Commission considers appropriate in light of such information.

"(f) DEFINITIONS.—As used in this section—

"(1) The term 'effective competition' means that—

"(A) fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system; or

"(B) the franchise area is—

"(i) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and

"(ii) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area.

"(2) The term 'cable programming service' means any video programming provided over a cable system, regardless of service tier, other than video programming required to be carried under subsection (c)(2) and video programming offered on a per channel or per program basis.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect 120 days after the date of enactment of this Act.

SEC. 4. UNREASONABLE REFUSALS TO FRANCHISE PROHIBITED.

Section 621(a) of the Communications Act of 1934 (47 U.S.C. 541(a)) is amended by adding at the end thereof the following:

"(4) A franchising authority shall not, in the awarding of franchises within its jurisdiction, grant an exclusive franchise, or unreasonably refuse to award additional franchises because of the previous award of a franchise to another cable operator. For purposes of this paragraph, refusal to award a franchise shall not be unreasonable if, for example, such refusal is on the ground—

"(A) of technical infeasibility;

"(B) of inadequate assurance that the cable operator will provide adequate public, educational and governmental access channel capacity, facilities, or financial support;

"(C) of inadequate assurance that the cable operator will, within a reasonable period of time, provide universal service throughout the entire franchise area under the jurisdiction of the franchising authority;

"(D) that such award would interfere with the right of the franchising authority to deny renewal; or

"(E) of inadequate assurance that the cable operator has the financial, technical, or legal qualifications to provide cable service.

"(5) Nothing in this subsection shall be construed as limiting the authority of local governments to assess fees or taxes for access to public rights of way.".

SEC. 5. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 521 et seq.) is amended by inserting after section 613 the following new section:

"SEC. 614. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

"(a) CARRIAGE OBLIGATIONS.—Each cable operator shall carry, on the cable system of that operator, the signals of local commercial television stations as provided by the following provisions of this section. Carriage of additional broadcast television signals on such system shall be at the discretion of such operator, subject to section 325(b).

"(b) SIGNALS REQUIRED.—

"(1) IN GENERAL.—(A) A cable operator of a cable system with 12 or fewer usable activated channels shall carry the signals of at least three local commercial television stations, except that if such a system has 300 or fewer subscribers, it shall not be subject to any requirements under this section so long as such system does not delete from carriage by that system any signal of a broadcast television station.

"(B) A cable operator of a cable system with more than 12 usable activated channels shall carry the signals of local commercial television stations up to 33 percent of the aggregate number of usable activated channels of such system.

"(2) SELECTION OF SIGNALS.—Whenever the number of local commercial television stations exceeds the maximum number of signals a cable system is required to carry under paragraph (1), the cable operator shall have discretion in selecting which such signals shall be carried on its cable system, except that if the cable operator elects to carry an affiliate of a broadcast network (as such term is defined by the Commission by regulation), such cable operator shall carry the affiliate of such broadcast network whose city of license reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (in effect on January 1, 1991), or any successor regulation thereto, is closest to the principal headend of the cable system.

"(3) CONTENT TO BE CARRIED.—(A) A cable operator shall carry in its entirety, on the cable system of that operator, the primary video, accompanying audio transmission, and line 21 closed caption of each of the local commercial television stations carried on the cable system and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. Retransmission of other material in the vertical blanking interval or other nonprogram-related material (including teletext and other subscription and advertiser-supported information services) shall be at the discretion of the cable operator. Where appropriate and feasible, operators may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the system headend or headends.

"(B) The cable operator shall carry the entirety of the program schedule of any television station carried on the cable system unless carriage of specific programming is prohibited, and other programming authorized to be substituted, under section 76.67 or subpart F of part 76 of title 47, Code of Federal Regulations (as in effect on January 1, 1991), or any successor regulations thereto.

"(4) SIGNAL QUALITY.—

"(A) NONDEGRADATION; TECHNICAL SPECIFICATIONS.—The signals of local commercial television stations that a cable operator carries shall be carried without material degradation. The Commission shall adopt carriage standards to ensure that, to the extent technically feasible, the quality of signal processing and carriage provided by a cable system for the carriage of local commercial television stations will be no less than that provided by the system for carriage of any other type of signal.

"(B) ADVANCED TELEVISION.—At such time as the Commission prescribes modifications of the standards for television broadcast signals, the Commission shall initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure cable carriage of such broadcast signals of local commercial television stations which have been changed to conform with such modified standards.

"(C) SIGNAL QUALITY RESPONSIBILITIES OF STATION.—Notwithstanding any other provisions of this section, a cable operator shall not be required to carry any qualified local noncommercial television station which does not deliver to the cable system's principal headend a signal of good quality, as may be defined by the Commission by regulation.

"(5) DUPLICATION NOT REQUIRED.—Notwithstanding paragraph (1), a cable operator shall not be required to carry the signal of any local commercial television station that substantially duplicates the signal of another local commercial television station which is carried on its cable system, or to carry the signals of more than one local commercial television station affiliated with a particular broadcast network (as such term is defined by regulation). If a cable operator elects to carry on its cable system a signal which substantially duplicates the signal of another local commercial television station carried on the cable system, or to carry on its system the signals of more than one local commercial television station affiliated with a particular broadcast network, all such signals shall be counted toward the number of signals the operator is required to carry under paragraph (1).

"(6) CHANNEL POSITIONING.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, or on the channel on which it was carried on January 2, 1992, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator.

"(B) EXCEPTION.—A cable operator may make a single election to carry all the signals of qualified local commercial television stations carried in fulfillment of the requirements of this section on channel numbers 2 through 13, inclusive. The channel position of any qualified local commercial television station carried on channels 2 through 13, inclusive, on July 19, 1985, or January 2, 1990, shall not be changed under this subparagraph without the consent of the station.

"(C) DISPUTES.—Any dispute regarding the positioning of a local commercial television station shall be resolved by the Commission.

"(7) SIGNAL AVAILABILITY.—Signals carried in fulfillment of the requirements of this section shall be provided to every subscriber of a cable system. Such signals shall be viewable via cable on all television receivers of a subscriber which are connected to a cable system by a cable operator or for which a cable operator provides a connection. If a cable operator authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, or with the equipment and materials for such connections, the operator shall notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box and shall offer to sell or lease such a converter box to such subscribers at reasonable rates.

"(8) IDENTIFICATION OF SIGNALS CARRIED.—A cable operator shall identify, upon request by any person, the signals carried on its system in fulfillment of the requirements of this section.

"(9) NOTIFICATION.—A cable operator shall provide written notice to a local commercial television station at least 30 days prior to either deleting from carriage or repositioning that station. No deletion or repositioning of a local commercial television station shall occur during a period in which major television ratings services measure the size of audiences of local television stations. The notifications provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

"(10) COMPENSATION FOR CARRIAGE.—A cable operator shall not accept or request monetary payment or other valuable consideration in exchange either for carriage of local commercial television stations in fulfillment of the requirements of this section or for the channel positioning rights provided to such stations under this section, except that—

"(A) any such station may be required to bear the costs associated with delivering a good quality signal to the headend of the cable system;

"(B) a cable operator may accept payments from stations which would be considered distant signals under section 111 of title 17, United States Code, as reimbursement for the incremental copyright costs assessed against such cable operator for carriage of such signal; and

"(C) a cable operator may continue to accept monetary payment or other valuable consideration in exchange for carriage or channel positioning of the signal of any local commercial television station carried in fulfillment of the requirements of this section, through, but not beyond, the date of expiration of an agreement thereon between a

cable operator and a local commercial television station entered into prior to June 26, 1990.

"(c) REMEDIES.—

"(1) COMPLAINTS BY BROADCAST STATIONS.—Whenever a local commercial television station believes that a cable operator has failed to meet its obligations under this section, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or has otherwise failed to comply with the channel positioning or repositioning or other requirements of this section. The cable operator shall, within 30 days of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning requirements of this section. A local commercial television station that is denied carriage or channel positioning or repositioning in accordance with this section by a cable operator may obtain review of such denial by filing a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to meet its obligations and the basis for such allegations.

"(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such cable operator an opportunity to present data and arguments to establish that there has been no failure to meet its obligations under this section.

"(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed, the Commission shall determine whether the cable operator has met its obligations under this section. If the Commission determines that the cable operator has failed to meet such obligations, the Commission shall order the cable operator to reposition the complaining station or, in the case of an obligation to carry a station, to commence carriage of the station and to continue such carriage for at least 12 months. If the Commission determines that the cable operator has fully met the requirements of this section, it shall dismiss the complaint.

"(d) INPUT SELECTOR SWITCH RULES ABOLISHED.—No cable operator shall be required—

"(1) to provide or make available any input selector switch as defined in section 76.5(mm) of title 47, Code of Federal Regulations, or any comparable device, or

"(2) to provide information to subscribers about input selector switches or comparable devices.

"(e) REGULATIONS BY COMMISSION.—Within 180 days after the date of enactment of this Act, the Commission shall, following a rulemaking proceeding, issue regulations implementing the requirements imposed by this section.

"(f) DEFINITION.—(1) For purposes of this section, the term 'local commercial television station' means any television broadcast station, determined by the Commission to be a commercial station, licensed and operating on a channel regularly assigned to its community by the Commission that, with respect to a particular cable system, is within the same television market as the cable system. If such a television broadcast station—

"(A) would be considered a distant signal under section 111 of title 17, United States Code, it shall be deemed to be a local commercial television station upon agreement to reimburse the cable operator for the incremental copyright costs assessed against such operator as a result of being carried on the cable system; or

"(B) does not deliver to the principal headend of a cable system either a signal level of −45dBm for UHF signals or −49dBm for VHF signals at the input terminals of the signal processing equipment, it shall be responsible for the costs of delivering to the cable system a signal of good quality or a baseband video signal.

"(2) The term 'local commercial television station' shall not include low power television stations, television translator stations, and passive repeaters which operate pursuant to part 74 of title 47, Code of Federal Regulations, or any successor regulations thereto.

"(3) For purposes of this section, a broadcasting station's market shall be defined as specified in section 73.3555 of title 47, Code of Federal Regulations as in effect on May 1, 1991, except that, following a written request, the Commission may, with respect to a particular television broadcast station, include or exclude communities from such station's television market to better effectuate the purposes of this section.".

SEC. 4. CARRIAGE OF NONCOMMERCIAL STATIONS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is further amended by inserting after section 614, as added by section 4, the following new section:

"SEC. 614. CARRIAGE OF NONCOMMERCIAL EDUCATIONAL TELEVISION

"(a) CARRIAGE OBLIGATIONS.—In addition to the carriage requirements set forth in section 614, each operator of a cable system (hereinafter in this section referred to as an 'operator') shall carry the signals of qualified noncommercial educational television stations in accordance with the provisions of this section.

"(b) REQUIREMENTS TO CARRY QUALIFIED STATIONS.—

"(1) GENERAL REQUIREMENT TO CARRY EACH QUALIFIED STATION.—Subject to paragraphs (2) and (3) and subsection (e), each operator shall carry, on the cable system of that operator, each qualified local noncommercial educational television station requesting carriage.

"(2)(A) SYSTEMS WITH 12 OR FEWER CHANNELS.—Notwithstanding paragraph (1), an operator of a cable system with 12 or fewer usable activated channels shall be required to carry the signal of one qualified local noncommercial educational television station; except that an operator of such a system shall comply with subsection (c) and may, in its discretion, carry the signals of other qualified noncommercial educational television stations.

"(B) In the case of a cable system described in subparagraph (A) which operates beyond the presence of any qualified local noncommercial educational television station—

"(i) the operator shall carry on that system the signal of one qualified noncommercial educational television station;

"(ii) the selection for carriage of such a signal shall be at the election of the operator; and

"(iii) in order to satisfy the requirements for carriage specified in this subsection, the operator of the system shall not be required to remove any other programming service actually provided to subscribers on March 29, 1990; except that such operator shall use the first channel available to satisfy the requirements of this subparagraph.

"(3) SYSTEMS WITH 13 TO 36 CHANNELS.—(A) Subject to subsection (c), an operator of a cable system with 13 to 36 usable activated channels—

"(i) shall carry the signal of at least one qualified local noncommercial educational television station but shall not be required to carry the signals of more than three such stations, and

"(ii) may, in its discretion, carry additional such stations.

"(B) In the case of a cable system described in this paragraph which operates beyond the presence of any qualified local noncommercial educational television station, the operator shall import the signal of at least one qualified noncommercial educational television station to comply with subparagraph (A)(i).

"(C) The operator of a cable system described in this paragraph which carries the signal of a qualified local noncommercial educational station affiliated with a State public television network shall not be required to carry the signal of any additional qualified local noncommercial educational television stations affiliated with the same network if the programming of such additional stations is substantially duplicated by the programming of the qualified local noncommercial educational television station receiving carriage.

"(D) An operator of a system described in subparagraph (A) which increases the usable activated channel capacity of the system to more than 36 channels on or after March 29, 1990 shall, in accordance with the other provisions of this section, carry the signal of each qualified local noncommercial educational television station requesting carriage, subject to subsection (e).

"(c) CONTINUED CARRIAGE OF EXISTING STATIONS.—Notwithstanding any other provision of this section, all operators shall continue to provide carriage to all qualified local noncommercial educational television stations whose signals were carried on their systems as of March 29, 1990. The requirements of this subsection may be waived with respect to a particular operator and a particular such station, upon the written consent of the operator and the station.

"(d) PLACEMENT OF ADDITIONAL SIGNALS.—An operator required to add the signals of qualified local noncommercial educational television stations to a cable system under this section may do so by placing such additional stations on public, educational, or governmental channels not in use for their designated purposes.

"(e) SYSTEMS WITH MORE THAN 36 CHANNELS.—An operator of a cable system with a capacity of more than 36 usable activated channels which is required to carry the signals of three qualified local noncommercial educational television stations shall not be required to carry the signals of additional such stations the programming of which substantially duplicates the programming broadcast by another qualified local noncommercial educational television station requesting carriage. Substantial duplication shall be defined by the Commission in a manner that promotes access to distinctive noncommercial educational television services.

"(f) WAIVER OF NONDUPLICATION RIGHTS.—A qualified local noncommercial educational television station whose signal is carried by an operator shall not assert any network nonduplication rights it may have pursuant to section 76.92 of title 47, Code of Federal Regulations, to require the deletion of programs aired on other qualified local noncommercial educational television stations whose signals are carried by that operator.

"(g) CONDITIONS OF CARRIAGE.—

"(1) CONTENT TO BE CARRIED.—An operator shall retransmit in its entirety the primary video and accompanying audio transmission of each qualified local noncommercial educational television station whose signal is carried on the cable system, and, to the extent technically feasible, program-related material carried in the vertical blanking interval, or on subcarriers, that may be necessary for receipt of programming by handicapped persons or for educational or lan-

guage purposes. Retransmission of other material in the vertical blanking interval or on subcarriers shall be within the discretion of the operator.

"(2) An operator shall provide each qualified local noncommercial educational television station whose signal is carried in accordance with this section with bank-width and technical capacity equivalent to that provided to commercial television broadcast stations carried on the cable system and shall carry the signal of each qualified local noncommercial educational television station without material degradation.

"(3) CHANGES IN CARRIAGE.—The signal of a qualified local noncommercial educational television station shall not be repositioned by an operator unless the operator, at least 30 days in advance of such repositioning, has provided written notice to the station and all subscribers of the cable system. For purposes of this paragraph, repositioning includes (A) assignment of a qualified local noncommercial educational television station to a cable system channel number different from the cable system channel number to which the station was assigned as of March 29, 1990, and (B) deletion of the station from the cable system.

"(4) GOOD QUALITY SIGNAL REQUIRED.—Notwithstanding the other provisions of this section, an operator shall not be required to carry the signal of any qualified local noncommercial educational television station which does not deliver to the cable system's principal headend a signal of good quality, as may be defined by the Commission.

"(5) CHANNEL POSITIONING.—Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any dispute regarding the positioning of a local commercial television station shall be resolved by the Commission.

"(h) AVAILABILITY OF SIGNALS.—Signals carried in fulfillment of the carriage obligations of an operator under this section shall be available to every subscriber as part of the cable system's lowest priced service tier that includes the retransmission of local television broadcast signals.

"(i) PAYMENT FOR CARRIAGE.—

"(1) An operator shall not accept monetary payment or other valuable consideration in exchange for carriage of the signal of any qualified local noncommercial educational television station carried in fulfillment of the requirements of this section, except that such a station may be required to bear the cost associated with delivering a good quality signal to the principal headend of the cable system.

"(2) Notwithstanding the provisions of this section, an operator shall not be required to add the signal of a qualified local noncommercial educational television station not already carried under the provision of subsection (c), where such signal would be considered a distant signal for copyright purposes unless such station reimburses the operator for the incremental copyright costs assessed against such operator as a result of such carriage.

"(j) REMEDIES.—

"(1) COMPLAINT.—Whenever a qualified local noncommercial educational television station believes that an operator of a cable system has failed to comply with the signal carriage requirements of this section, the station may file a complaint with the Commission. Such complaint shall allege the manner in which such operator has failed to comply with such requirements and state the basis for such allegations.

"(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such operator an opportunity to present data, views, and arguments to establish that the operator has complied with the signal carriage requirements of this section.

"(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed under this subsection, the Commission shall determine whether the operator has complied with the requirements of this section. If the Commission determines that the operator has failed to comply with such requirements, the Commission shall state with particularity the basis for such findings and order the operator to take such remedial action as is necessary to meet such requirements. If the Commission determines that the operator has fully complied with such requirements, the Commission shall dismiss the complaint.

"(k) IDENTIFICATION OF SIGNALS.—An operator shall identify, upon request by any person, those signals carried in fulfillment of the requirements of this section.

"(l) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified noncommercial educational television station' means any television broadcast station which—

"(A)(i) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational television broadcast station and which is owned and operated by a public agency, nonprofit foundation, corporation, or association; or

"(ii) is owned and operated by a municipality and transmits only noncommercial programs for educational purposes; and

"(B) has as its licensee an entity which is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) (47 U.S.C. 396(k)(6)(B));

such term includes (I) the translator of any noncommercial educational television station with five watts or higher power serving the franchise area, (II) a full-service station or translator if such station or translator is licensed to a channel reserved for noncommercial educational use pursuant to section 73.606 of title 47, Code of Federal Regulations, or any successor regulations thereto, and (III) such stations and translators operating on channels not so reserved as the Commission determines are qualified as noncommercial educational stations.

"(2) QUALIFIED LOCAL NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified local noncommercial educational television station' means a qualified noncommercial educational television station—

"(A) which is licensed to a principal community whose reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (as in effect on March 29, 1990), or any successor regulations thereto, is within 50 miles of the principal headend of the cable system; or

"(B) whose Grade B service contour, as defined in section 73.683(a) of such title (as in effect on March 29, 1990), or any successor regulations thereto, encompasses the principal headend of the cable system.".

SEC. 7. EXPANSION OF THE RURAL EXEMPTION TO THE CABLE-TELEPHONE CROSS-OWNERSHIP PROHIBITION.

Section 613(b)(3) of the Communications Act of 1934 (47 U.S.C. 533(b)(3)) is amended—

(1) by inserting "(A)" after "(3)";

(2) by striking "(as defined by the Commission)"; and

(3) by adding at the end the following:

"(B) For the purposes of subparagraph (A), the term 'rural area' means a geographic area that does not include either—

"(i) any incorporated or unincorporated place of 10,000 inhabitants or more, or any part thereof; or

"(ii) any territory, incorporated or unincorporated, included in an urbanized area (as defined by the Bureau of Census as of the date of the enactment of this subparagraph).".

SEC. 8. CONSUMER PROTECTION AND CUSTOMER SERVICE.

Section 632 of the Communications Act of 1934 (47 U.S.C. 552) is amended to read as follows:

"SEC. 632. CONSUMER PROTECTION AND CUSTOMER SERVICE.

"(a) FRANCHISING AUTHORITY ENFORCEMENT.—A franchising authority may require, as part of a franchise (including a modification, renewal, or transfer thereof), provisions for enforcement of—

"(1) customer service requirements of the cable operator; and

"(2) construction schedules and other construction-related requirements, including construction-related performance requirements, of the cable operator.

"(b) COMMISSION STANDARDS.—The Commission shall, within 180 days of enactment of the Cable Television Consumer Protection and Competition Act of 1992, establish standards by which cable operators may fulfill their customer service requirements. The Commission, in establishing such standards, shall take into account differences in cable system size. Such standards shall include, at a minimum, requirements governing—

"(1) cable system office hours and telephone availability;

"(2) installations, outages, and service calls; and

"(3) communications between the cable operator and the customer (including standards governing bills and refunds).

"(c) AVAILABILITY OF TECHNOLOGY; PROCEEDING REQUIRED.—The Federal Communications Commission shall—

"(1) within 60 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, initiate a proceeding to determine—

"(A) whether equipment standards are necessary to permit the commercial availability, from cable operators or retail vendors that are not affiliated with cable systems, of converter boxes and remote controls compatible with cable systems; and

"(B) the feasibility of including converter and addressability technology for cable systems and other multichannel video systems in television receivers shipped in interstate commerce or imported from any foreign country into the United States for sale or resale to the public, taking into account (i) the impact on domestic manufacturers of including such technology in such television receivers, and (ii) the need for cable operators and other multichannel video systems to protect their signals against unauthorized reception; and

"(2) prescribe any standards determined to be necessary under paragraph (1).

"(d) CONSUMER PROTECTION LAWS AND CUSTOMER SERVICE AGREEMENTS.—

"(1) CONSUMER PROTECTION LAWS.—Nothing in this title shall be construed to prohibit any State or any franchising authority from enacting or enforcing any consumer protection law of general applicability, to the extent not specifically preempted by this title.

"(2) CUSTOMER SERVICE REQUIREMENT AGREEMENTS.—Nothing in this section shall

be construed to preclude a franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards established by the Commission under subsection (b).".

SEC. 8. TECHNICAL STANDARDS.

Section 624(e) of the Communications Act of 1934 (47 U.S.C. 544(e)) is amended to read as follows:

"(e) Within one year after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall prescribe regulations which establish minimum technical standards relating to cable systems' technical operation and signal quality. The Commission periodically shall update such standards to reflect improvements in technology. A franchising authority may require as part of a franchise (including a modification, renewal, or transfer thereof) provisions for the enforcement of the standards prescribed under this subsection. A franchising authority may apply to the Commission for a waiver to impose standards that are more stringent than the standards prescribed by the Commission under this subsection.".

SEC. 10. COMPETITION AND TECHNOLOGICAL DEVELOPMENT.

(a) PROHIBITION ON UNREASONABLE REFUSALS TO DEAL WITH MULTICHANNEL VIDEO SYSTEM OPERATORS.—Title VII of the Communications Act of 1934 is amended by inserting after section 706 (47 U.S.C. 606) the following new section:

"SEC. 708A. PROGRAMMING ACCESS TO PROMOTE COMPETITION AND CONTINUING TECHNOLOGICAL DEVELOPMENT.

"(a) UNREASONABLE REFUSALS TO DEAL PROHIBITED.—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, in order to promote competition and diversity in the multichannel video programming market and continuing development of communications technologies, prescribe regulations to prohibit any video programming vendor that controls, is controlled by, or is under common control with a multichannel video system operator and that engages in the regional or national distribution of video programming from refusing to deal with any multichannel video system operator with respect to the provision of video programming if such refusal would unreasonably restrain competition. Entering into or abiding by the terms of an exclusive contract that does not have the effect of unreasonably restraining competition shall not be considered an unreasonable refusal to deal. Nothing contained in this subsection shall require any person who licenses video programming for distribution to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(b) REMEDIES FOR VIOLATIONS.—Any multichannel video system operator aggrieved by conduct that it alleges constitutes a violation of the regulations prescribed under this section may commence an adjudicatory proceeding at the Commission. Upon completion of such proceeding, the Commission shall have the power to order appropriate remedies, including, if necessary, the power to establish price, terms, and conditions of sale of programming to the aggrieved multichannel video system operator.

"(c) PROCEDURES.—The Commission shall prescribe regulations to implement this section. The Commission's regulations shall—

"(1) provide for an expedited review of any complaints made pursuant to this section;

"(2) establish procedures for the Commission to collect such data as the Commission requires to carry out this section with respect to exclusive contracts or other practices and their effects on competitors, competition, or the video programming distribution market or on the development of new video distribution technologies; and

"(3) provide for penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(d) SUNSET.—The regulations prescribed under subsection (a)(1) of this section shall cease to be effective 9 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, or on such earlier date as the Commission determines that a competitive national market for the delivery of video programming exists. Such regulations shall cease to be effective for any local market on such earlier date as the Commission determines that a competitive market for the delivery of such programming exists in such local market.

"(e) REPORTS.—The Commission shall, beginning not later than 18 months after promulgation of the regulations required by subsection (a), annually report to Congress on the status of competition in the market for the delivery of video programming.

"(f) EXEMPTIONS FOR PRIOR CONTRACTS.—Nothing in this section shall affect any contract (or the renewal or extension of any contract) that grants exclusive distribution rights to any person with respect to video programming and that was entered into on or before June 1, 1990.

"(g) DEFINITIONS.—

"(1) The term 'multichannel video system operator' includes an operator of any cable system, multichannel multipoint distribution service, direct broadcast satellite distribution service, television receive-only satellite distribution service, or other comparable system for the distribution of video programming.

"(2) The term 'video programming vendor'—

"(A) means any person who licenses video programming for distribution by any multichannel video system operator;

"(B) includes satellite delivered video programming networks and other programming networks and services;

"(C) does not include a network or service distributing video programming intended for broadcast by a television station affiliated with a broadcasting network; and

"(D) does not include a network or service distributing video programming that is carried as a secondary transmission of a signal broadcast by a television station.

"(3) The terms 'cable system' and 'video programming' have the meanings provided by section 602 of this Act.".

(b) REGULATION OF CARRIAGE AGREEMENTS.—Part II of title VI of the Communications Act of 1934 is amended by adding at the end the following new section:

"SEC. 614. REGULATION OF CARRIAGE AGREEMENTS.

"(a) REGULATIONS REQUIRED.—Within one year after the date of enactment of this Act, the Commission shall establish regulations governing program carriage agreements and related practices between cable operators and video programming vendors.

"(b) PREVENTION OF UNREASONABLE RESTRAINTS ON COMPETITION.—The regulations required by subsection (a) shall, to the extent necessary to prevent conduct that unreasonably restrains competiton, prohibit—

"(1) a cable operator or other multichannel video system operator from coercing a financial interest in a program service as a condition for carriage on one or more of such operator's systems;

"(2) a cable operator or other multichannel video system operator from coercing a video programming vendor to provide exclusive rights against other multichannel video system operators as a condition of carriage on a system; and

"(3) a multichannel video system operator from engaging in conduct the effect of which is to unreasonably restrain the ability of an unaffiliated video programming vendor to compete fairly by discriminating in video programming distribution on the basis of affiliation or nonaffiliation in the selection, terms, or conditions for carriage of video programming vendors.

"(c) ADDITIONAL CONTENTS OF REGULATIONS.—The regulations required by subsection (a) shall also—

"(1) provide for expedited review of any complaints made by a video programming vendor pursuant to this section;

"(2) provide for appropriate penalties and remedies for violations of this subsection, including carriage; and

"(3) provide penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(d) DEFINITIONS.—As used in this section, the terms 'video programming vendor' and 'multichannel video system operator' have the meanings provided by section 706A(g) of this Act.".

SEC. 11. MARKETING OF CERTAIN SATELLITE COMMUNICATIONS.

(a) FINDINGS.—The Congress finds that—

(1) many satellite-delivered programming services have unnecessarily restricted options for consumers wishing to choose between competing television programming distributors;

(2) presently 3,000,000 Americans own C-band home satellite television systems and the number is growing at a rate of 350,000 to 400,000 each year;

(3) there is disparity in wholesale pricing between programming services offered to cable operators and to satellite programming distributors;

(4) independent, noncable third-party packaging of C-band direct broadcast satellite delivered programming will encourage the availability of programming to C-band direct broadcast home satellite television systems; and

(5) in order to promote the development of direct-to-home satellite service, Congress must act to ensure that video programming vendors provide access on fair and nondiscriminatory terms.

(b) AMENDMENTS.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by striking subsection (f) as added by section 204 of the Satellite Home Viewer Act of 1988;

(2) by striking "subsection (d)" each place it appears in subsections (d)(6) and (e)(3)(A) and inserting "subsection (f)";

(3) by redesignating subsections (e) through (g) as subsections (d) through (h), respectively;

(4) by inserting after subsection (b) the following new subsection:

"(c)(1) Any person who encrypts any satellite delivered programming shall—

"(A) make such programming available for private viewing by home satellite antenna users;

"(B) when making such programming available through any other person for distribution through any medium, establish reasonable and nondiscriminatory financial, character, technical, and service criteria and requirements under which noncable distributors shall qualify to distribute such programming for private viewing by home satellite antenna users; and

"(C) when making such programming available through any other person for distribution through any medium, establish by the effective date of this subparagraph or January 1, 1992, whichever is later, price,

terms, and conditions for the wholesale distribution of such programming which do not discriminate between the distribution of such programming to distributors for cable television subscribers and distributors to home satellite antenna users, nor among different distributors to home satellite antenna users, except that this subparagraph shall not prohibit rate differentials which are—

"(i) attributable to actual and reasonable differences in the costs of the creation, sale, delivery, or transmission of such programming as between different delivery media;

"(ii) attributable to reasonable volume discounts; or

"(iii) attributable to bona fide agreements for the distribution of such programming which were in effect prior to the enactment date of this subparagraph.

"(2) Where a person who encrypts satellite delivered programming has established a separate subsidiary for distribution to satellite antenna users, such person shall not be required to establish or license any entity on the same terms and conditions as such separate subsidiary; except that for purposes of any claim of discrimination under this section, a party aggrieved may, as evidence of discrimination, compare the prices, terms, and conditions established by the person who encrypts.

"(3) Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to authorize or license any distributor for a secondary satellite retransmission of such programming, but, if any person who encrypts satellite delivered programming authorizes or licenses such a distributor, such person shall, consistent with the provisions of paragraphs (1)(B) and (1)(C), establish criteria to qualify to distribute such programming through such secondary satellite retransmissions, and further establish nondiscriminatory price, terms, and conditions for such distribution. Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(4) Any person aggrieved by any violation of paragraph (1)(A) of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction. Such court may grant temporary and final injunctions or other equitable relief on such terms as it may deem reasonable and appropriate to prevent or restrain such violations.

"(5) Any person aggrieved by any violation of paragraph (1)(B), (1)(C), or (2) of this subsection may bring a civil action in the United States district court or other court of competent jurisdiction. Such court may grant temporary and final injunctions on such terms as it may deem reasonable and appropriate to prevent or restrain such violations; and (i) direct the recovery of damages to a prevailing plaintiff, including actual damages, or statutory damages for all violations in a sum of not more than $500,000, as the court considers just; and (ii) direct the recovery of full costs, including reasonable attorney's fees, to a prevailing party.

"(6) As used in this subsection—

"(A) the term 'satellite delivered programming' means video programming transmitted by a domestic C-band direct broadcast communications satellite intended for reception by cable television systems or home satellite antenna users and does not include any satellite communication of any broadcaster or broadcast network;

"(B) the term 'home satellite antenna users' means individuals who own or operate C-band direct broadcast satellite television receive-only equipment for the reception of satellite delivered programming for viewing in such individual's single family dwelling unit; and

"(C) the term 'person who encrypts' means the party who holds the rights to the satellite delivered programming or who establishes the prices, terms, and conditions for the wholesale distribution thereof.

"(7) This subsection shall cease to be effective 7 years after the date of enactment of this subsection."; and

(5) in subsection (h) (as redesignated) by striking ", based on the information gathered from the inquiry required by subsection (f),".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) of this section shall take effect 90 days after the date of enactment of this Act.

SEC. 13. EQUAL EMPLOYMENT OPPORTUNITY.

(a) FINDINGS.—The Congress finds and declares that—

(1) despite the existence of present legislation governing equal employment opportunity, females and minorities are not employed in significant numbers in positions of management authority in the cable television and broadcast industries;

(2) increased numbers of females and minorities in positions of management authority in the cable television and broadcast industries advances the Nation's policy favoring diversity in the expression of views in the electronic media; and

(3) rigorous enforcement of equal employment opportunity rules and regulations is required in order to effectively deter racial and gender discrimination.

(b) STANDARDS.—Section 634(d)(1) of the Communication Act of 1934 (47 U.S.C. 554(d)(1)) is amended to read as follows:

"(d)(1) Not later than 270 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, of this section, and after notice and opportunity for hearing, the Commission shall prescribe revisions in the rules under this section in order to implement the amendments made to this section by such Act. Such revisions shall be designed to promote equality of employment opportunities for females and minorities in each of the job categories itemized in paragraph (3) of this subsection.".

(c) CONTENTS OF ANNUAL STATISTICAL REPORTS.—Section 634(d)(3) of the Communications Act of 1934 (47 U.S.C. 554(d)(3)) is amended to read as follows:

"(3)(A) Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race, sex, and job title the number of employees in each of the following full-time and part-time job categories:

"(i) Corporate officers.

"(ii) General Manager.

"(iii) Chief Technician.

"(iv) Comptroller.

"(v) General Sales Manager.

"(vi) Production Manager.

"(vii) Managers.

"(viii) Professionals.

"(ix) Technicians.

"(x) Sales.

"(xi) Office and Clerical.

"(xii) Skilled Craftspersons.

"(xiii) Semiskilled Operatives.

"(xiv) Unskilled Laborers.

"(xv) Service Workers.

"(B) The report required by subparagraph (A) shall be made on separate forms, provided by the Commission, for full-time and part-time employees. The Commission's rules shall sufficiently define job categories (i) through (vi) of such subparagraph so as to ensure that only employees who are principal decisionmakers and that have supervisory authority are reported for such categories. The Commission shall adopt rules that define job categories (vii) through (xv) in a manner that is consistent with the Commission policies in effect on June 1, 1990. The Commission shall prescribe the method by which entities shall be required to compute and report the number of minorities and women in job categories (i) through (x) and the number of minorities and women in job categories (i) through (xv) in proportion to the total number of qualified minorities and women in the relevant labor market. The report shall include information on hiring, promotion, and recruitment practices necessary for the Commission to evaluate the efforts of entities to comply with the provisions of paragraph (2) of this subsection. The report shall be available for public inspection at the entity's central location and at every location where 5 or more full-time employees are regularly assigned to work. Nothing in this subsection shall be construed as prohibiting the Commission from collecting or continuing to collect statistical or other employment information in a manner that it deems appropriate to carry out this section.".

(d) PENALTIES.—Section 634(f)(2) of such Act is amended by striking "$200" and inserting "$500".

(e) APPLICATION OF REQUIREMENTS.—Section 634(h)(1) of such Act is further amended by inserting before the period the following: "and any multichannel video system operator (as that term is defined in section 706A(g) of this Act)".

(f) STUDY AND REPORT REQUIRED.—Not later than 240 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall submit to the Congress a report pursuant to a proceeding to review and obtain public comment on the effect and operation of its procedures, regulations, policies, standards, and guidelines concerning equal employment opportunity in the broadcasting industry. In conducting such review, the Commission shall consider the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting equality of employment opportunity and promotion opportunity, and particularly the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting the congressional policy favoring increased employment opportunity for women and minorities in positions of management authority. In conducting such proceeding the Commission also shall review the effectiveness of penalties and remedies for violation of existing regulations and policies concerning equality of employment opportunity in the broadcasting industry. The Commission shall forward to the Congress such legislative recommendations to improve equal employment opportunity in the broadcasting industry as it deems necessary.

SEC. 14. HOME WIRING.

Section 624 of the Communications Act of 1934 (47 U.S.C. 544) is amended by adding at the end the following new subsection:

"(g) Within 120 days after the date of enactment of this subsection, the Commission shall prescribe rules and regulations concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber.".

SEC. 15. CABLE CHANNELS FOR COMMERCIAL USE.

(a) RATES, TERMS, AND CONDITIONS.—Section 612(c) of the Communications Act of 1934 (47 U.S.C. 532(c)) is amended—

(1) by striking "consistent with the purpose of this section" in paragraph (1) and in-

serting "consistent with regulations prescribed by the Commission under paragraph (4)"; and

(2) by adding at the end thereof the following new paragraph:

"(4) The Commission shall, not later than 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, by regulation establish—

"(A) a formula to determine the maximum rates which a cable operator may establish under paragraph (1) of this subsection;

"(B) standards concerning the terms and conditions which may be so established; and

"(C) standards concerning methods for collection and billing for commercial use of channel capacity made available under this section.".

(b) ACCESS FOR MINORITY PROGRAMMING SOURCES.—Section 612 of such Act is further amended by adding at the end thereof the following new subsection:

"(1)(1) Notwithstanding the provisions of subsections (b) and (c), a cable operator required by this section to designate channel capacity for commercial use may use any such channel capacity for the provision of programming from a qualified minority programming source, whether or not such source is affiliated with the cable operator. The channel capacity used to provide programming from a qualified minority programming source pursuant to this subsection may not exceed 33 percent of the channel capacity designated pursuant to this section. No programming provided over a cable system on July 1, 1990, may qualify as minority programming on that cable system under this subsection.

"(2) For purposes of this subsection, the term 'qualified minority programming source' means a programming source which devotes significantly all of its programming to coverage of minority viewpoints, or to programming directed at members of minority groups, and which is over 50 percent minority-owned, as the term 'minority' is defined in section 309(i)(3)(C)(ii) of this Act.".

SEC. 18. THEFT OF CABLE SERVICE.

Section 633(b) of the Communications Act of 1934 (47 U.S.C. 553(b)) is amended—

(1) in paragraph (2)—

(A) by striking "$25,000" and inserting "$50,000";

(B) by striking "1 year" and inserting "2 years";

(C) by striking "$50,000" and inserting "$100,000"; and

(D) by striking "2 years" and inserting "5 years"; and

(2) by adding at the end thereof the following new paragraph:

"(3) For purposes of all penalties and remedies established for violations of subsection (a)(1), the prohibited activity established herein as it applies to each such device shall be deemed a separate violation.".

SEC. 19. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding after section 624 the following new section:

"SEC. 624A. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

"(a) FINDINGS.—The Congress finds that—

"(1) new and recent models of television receivers and video cassette recorders often contain premium features and functions that are disabled or inhibited because of cable scrambling, encoding, or encryption technologies and devices, including converter boxes and remote control devices required by cable operators to receive programming;

"(2) if this incompatibility is not resolved, consumers will be less likely to purchase, and electronics equipment manufacturers will be less likely to develop, manufacture, or offer for sale, television receivers and video cassette recorders with new and innovative features and functions; and

"(3) cable system operators and electronics equipment manufacturers should, to the extent possible, develop technologies that will prevent signal theft while permitting consumers to benefit from premium features and functions in such receivers and recorders.

"(b) RULEMAKING REQUIRED.—Within one year after the date of enactment of this section, the Commission shall prescribe such regulations as are necessary—

"(1) to ensure that the signals a cable system transmits to subscribers are compatible with all operational functions of cable-ready television receivers and video cassette recorders, taking into account the need for cable operators to protect their signals against unauthorized reception;

"(2) to prohibit cable operators from scrambling or otherwise encrypting any local broadcast signal in any manner that interferes with or nullifies the special functions of subscribers' televisions or video cassette recorders, including functions that permit the subscriber—

"(A) to watch a program on one channel while simultaneously using a video cassette recorder to tape a different program on another channel;

"(B) to use a video cassette recorder to tape two consecutive programs that appear on different channels; or

"(C) to use advanced television picture generation and display feature;

"(3) to promote the commercial availability, from cable operators and retail vendors that are not affiliated with cable systems, of converters and of remote control devices compatible with converters;

"(4) to require a cable operator who offers subscribers the option of renting a remote control unit—

"(A) to notify subscribers that they may purchase a commercially available remote control device from any source that sells such devices rather than renting it from the cable operator; and

"(B) to specify the types of remote control units that are compatible with the converter box supplied by the cable operator;

"(5) to prohibit a cable operator from taking any action that prevents or in any way disables the converter box supplied by the cable operator from operating compatibly with commercially available remote control units; and

"(6) to establish technical standards and labeling requirements for television receivers and video cassette recorders that are marketed as 'cable-ready', such standards and labeling requirements to include information disclosing that all features of 'cable ready' television receivers and video cassette recorders may not be compatible with all cable systems.

"(c) EXCEPTION.—The regulations required by subsection (b)(1) may, if necessary to protect against the theft of cable service, permit a cable operator to scramble or otherwise encrypt video programming in accordance with such standards as the Commission shall prescribe consistent with the findings contained in subsection (a) of this section.

"(d) REVIEW OF REGULATIONS.—The Commission shall periodically review and, if necessary, modify the regulations issued pursuant to this section in light of any actions taken in response to regulations issued under subsection (c) and to reflect improvements and changes in cable systems, television receivers, video cassette recorders, and similar technology.

"(e) COMPATIBLE INTERFACES.—Within one year after the date of enactment of this section, the Commission, in consultation with representatives of the cable industry and the consumer electronics industry, shall report to the Congress on means of assuring compatibility between televisions and video cassette recorders and cable systems so that cable subscribers will be able to enjoy the full benefit of both the programming available on cable systems and the functions available on their televisions and video cassette recorders. Within 2 years after the date of enactment of this section, the Commission shall issue regulations as may be necessary to require the use of interfaces that assure such compatibility.

"(f) FEASIBILITY AND COST.—The Commission shall adopt standards under this section that are technologically and economically feasible. In determining the feasibility of such standards, the Commission shall take into account the cost and benefit to cable subscribers of such standards.".

SEC. 17. STUDIES.

(a) STUDY OF VIDEO PROGRAMMING DIVERSITY AND COMPETITION.—

(1) COMMISSION STUDY.—The Commission shall conduct a review and study to determine whether it is necessary or appropriate in the public interest to prohibit or constrain acts and practices that may unreasonably restrict diversity and competition in the market for video programming. In conducting such review and study, the Commission shall consider the necessity and appropriateness of—

(A) imposing limitations on the degree to which multichannel video programming distributors may engage in the creation or production of such programming; and

(B) imposing limitations on the proportion of the market, at any stage in the distribution of video programming, which may be controlled by any multichannel video programming distributor or other person engaged in such distribution.

(2) REPORT.—Within one year after the date of enactment of this Act, the Commission shall submit a report on the review and study required by paragraph (1) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Thereafter, the Commission shall continue to monitor (and summarize in the Commission's annual reports) the status of diversity and competition in the marketplace for video programming.

(b) STUDY OF PROGRAMMING MARKET.—On or before January 1, 1993, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report concerning the effects of exclusive licensing arrangements for video programming on competition between classes of multichannel video system operators. The Commission shall evaluate whether grantors or holders of exclusive licensing arrangements for video programming discriminate against classes of multichannel video system operators in a manner that deprives the public of access to diverse sources of programming. Such report shall include such recommendations for legislation as the Commission deems appropriate.

(c) PROCEEDING WITH RESPECT TO AREAS RECEIVING POOR OVER-THE-AIR SIGNALS.—The Federal Communications Commission shall initiate an inquiry and rulemaking to examine the feasibility of providing access to network and independent broadcasting station signals to persons who subscribe to direct broadcast satellite service and are unable to receive such signals (of grade B quality) over the air from a local licensee, or from a cable system. In undertaking such rulemaking, the

Commission shall take into consideration pertinent economic and technological factors, including the following:

(1) the extent to which individuals in rural, underserved areas are unable to receive broadcast television transmission; and

(2) potential ways in which operators of satellite-delivered programming services or the manufacturers or distributors of receiving equipment might enhance the ability of such persons to receive and readily access additional video distribution, including without limitation, an electronic switching capability as a minimum feature on satellite television receiving equipment.

(d) STUDY OF LOW-POWER TELEVISION.—

(1) STUDY REQUIRED.—Within 12 months after enactment of this Act, the Federal Communications Commission shall prepare and submit to the Congress a report on whether, and under what conditions, low power television stations (as defined in section 74.701(f) of title 47, Code of Federal Regulations, or any successor regulations thereto) which provide local origination programming should be entitled to carriage on cable systems whose service area encompasses the service area to which a low power television station is licensed.

(2) PUBLIC COMMENT; FACTORS FOR CONSIDERATION.—In preparing its report, the Commission shall provide an opportunity for public comment and take into account—

(A) whether and how many low power television stations provide local program services which serve the public interest, convenience and necessity;

(B) the status of low power television as a secondary service;

(C) the impact of carriage of low power television stations on the availability of channels for future communications needs;

(D) the burden on cable systems of carriage of low power television stations, the propriety of imposing such a burden, and any technical considerations relating to providing carriage limited only to the low power television station's community of license; and

(E) the extent of the burden presently imposed upon low power television stations as a result of charges for carriage imposed on stations by cable systems.

SEC. 16. EFFECTIVE DATE.

Except where otherwise expressly provided, the provisions of this Act and the amendments made thereby shall take effect 60 days after the enactment of this Act.

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. LENT] will be recognized for 20 minutes and the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes in opposition.

The Chair recognizes the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

(Mr. LENT asked and was given permission to revise and extend his remarks.)

Mr. LENT. Mr. Chairman, this substitute amendment is similar to the major provisions of an amendment I offered in committee which was modeled on the bipartisan bill which passed this House on a voice vote just 2 years ago. That bill, H.R. 5267, reflected a balanced and reasonable approach to responding consumers' concerns about rates and services.

It was the hope of the Republican members of the Energy and Commerce Committee, that the bipartisan, cooperative approach which resulted in consensus legislation 2 years ago would guide our deliberations and actions this year. Unfortunately, given the nature of this very political year, that was not to be.

Energy and Commerce Committee Republicans sought to respond to the consumer's requests that Congress solve the specific problems with rates and services that our constituents have written and called about in recent years. Unfortunately, the committee chose to advance a bill which overregulates the cable industry and goes far beyond the clearly articulated concerns of our constituents.

This amendment focuses narrowly on the specific cable subscriber concerns. First, my substitute addresses the problems of rates. The amendment requires that all local, over-the-air broadcast signals and Government access channels be offered through a separate basic tier. Whenever there is no effective competition to the local cable companies, this tier must be regulated.

By regulating a separate and distinct basic tier composed only of over-the-air broadcast and Government access signals, my amendment gives all cable subscribers access to the system—and to the over-the-air broadcast signals they want—at the lowest possible rate. Regulation of this tier, moreover, would also serve to discipline the pricing of other cable programming offered by the cable operator.

I believe that this approach to rate regulation is a reasonable one. It is responsive to consumer needs. It is not overly intrusive, and it promotes the Communication Act's key principles of promoting localism and diversity. Finally, it reflects the approach overwhelmingly adopted 2 years ago.

In the area of programming access, my amendment again takes a balanced approach. It prohibits unreasonable refusals to deal, but recognizes the legitimate right of private parties to enter into exclusive contracts. This approach will ensure that cable competitors have a reasonable, and legally protected, opportunity to purchase programming. It also protects the intellectual property rights of copyright holders from unreasonable government intrusion. Consequently, my substitute does not create disincentives for future investment in the creation of new programming that might result from Federal interference.

My amendment also contains several other provisions designed to promote competition. The substitute would expand the rural exemption to the telephone cable cross-ownership restriction from an area serving 2,500 residents to an area serving 10,000 residents. Another provision would permit franchising authorities from granting exclusive franchises.

Overall, Mr. Chairman, I believe that my amendment is an appropriate and carefully measured response to the problems American consumers are confronted with today. Rather than simply regulating for the sake of regulating, I believe my amendment addresses today's problems without adversely impacting future investment in new cable programming and providing greater consumer choice.

Finally, let me say that the American consumer will be best served by this Congress passing legislation that will become law.

Unlike H.R. 4850, my amendment could become law and thus achieve the goal of resolving those concerns the American consumer has asked this Congress to address.

I urge my colleagues to support my substitute.

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. MCMILLEN].

(Mr. MCMILLEN of Maryland asked and was given permission to revise and extend his remarks.)

Mr. MCMILLEN of Maryland. Mr. Chairman, I rise in support of H.R. 4850, and commend both Chairman MARKEY and Chairman DINGELL for their efforts on this legislation. Obviously, the issues addressed in the bill are contentious. While it will not please everyone, it draws an extremely fine line between addressing the problems of an industry and assuring the industry's continued viability.

The bill we pass today provides protection for cable consumers. The bill gives greater power to local authorities to ensure that service is responsive and prices reasonable. While I have my concerns over any increases in regulation, the bill only regulates the cable operator in the absence of effective competition. This means that when an alternate provider—be that satellites or telephone companies or other cable providers—gives some choice to consumers, then regulation will no longer be applicable or needed. This is particularly relevant in light of the recent FCC decision to allow telephone companies carry video signals on a common carrier basis and own up to 5 percent of video programmers.

Specifically, H.R. 4850 will provide consumer protection by: first, setting customer service standards; second, requiring regulation in the absence of competition; third, establishing a formula for setting maximum price for basic cable service; and fourth, helping preserve local broadcasting through its must carry provisions. These are needed changes, and, again, apply only in areas where there is no competition.

Let us be clear. Monopolistic tendencies in any business are inherently self-destructive. Consumers do not benefit, and the complaints engendered by a few abusive operators, who have no competition, have brought on today's legislative efforts. It is an unfortunate reality that in the absence of competition, regulation is necessary to prevent such abuses. As the New York Times editorial stated earlier this week, "until the day that customers can pick and choose among multi-

channel providers, reregulation is needed."

The Lent substitute amendment undermines the pro-consumer steps of H.R. 4850, and does not address the fundamental issues of reform which are needed. Cable rates have jumped three times the rate of inflation since 1987, and in 1991 alone, cable rates rose at a rate 250 percent higher than other goods and services.

The primary problem with the Lent substitute is that it will provide relief for less than 10 percent of cable subscribers. The substitute proposal allows for regulation of a closed basic tier which consists solely of local over-the-air broadcast stations and the public access channels. Less than 10 percent of existing cable consumers subscribe to this tier. Furthermore, the Lent substitute rolls back customer service standards to levels even less stringent than under current law. The amendment requires the FCC's minimum standards of customer service to be the highest permissible level of regulation, and prohibits municipalities from imposing stricter customer service requirements on cable operators. These provisions are even weaker than the language in H.R. 1303, the measure passed two years ago. Clearly, if you want to help the consumer, the substitute amendment does not suffice.

While the Eckart amendment on retransmission consent was not made in order, I would like to add my voice of support for this measure. The amendment will allow local broadcasters greater control over their signal, and will go a long way toward helping maintain the viability of local broadcasters.

Regarding the program access amendments, I have always felt that we need non-discriminatory language which recognizes exclusive contracts. Similar to my support for retransmission consent, there is a fundamental property right which needs to be respected when making policy decisions. While I felt the language in H.R. 4850, as reported out of subcommittee, did a fairly good job of avoiding the creation of a uniform pricing mechanism, I feel that the Manton amendment before us today does a better job of preventing discrimination while ensuring a fair degree of control over one's product.

I would briefly like to comment on two amendments which I sponsored during committee consideration and which were adopted. The first amendment increases the amount of education and public programming offered by cable companies. The second amendment calls for a study to review the number of local sporting events which are no longer being offered on broadcast television.

The first amendment will increase the amount of educational and public programming offered by cable companies. The amendment allows cable companies to substitute high-quality educational programming on channels which are currently set aside for public access programming. The original draft of H.R. 4850 allowed cable operators to reduce their leased access and public, educational and government [PEG] access obligations on a one to one basis, up to one-third, for minority programming. My amendment, which was adopted in committee, extends this exception to high quality educational programming.

Many of the access channels are underutilized. My amendment will ensure that there is sufficient access to national networks devoted to educational programming, while at the same time alleviating the problem of wasted channel space. It is important that positive, educational programming is available to everyone and be as accessible as possible. Television has been described as a vast wasteland—this amendment was designed to try and fill that void.

The amendment would ensure that only those channels which make sufficient programming investments to achieve quality could be substituted for channels that are currently dedicated to local public, educational, governmental and leased access purposes. Furthermore, while it would be at the operators discretion whether or not to utilize this option, such substitution could not exceed one third of the local and public access requirements. The amendment also would not alleviate any must-carry requirements defined in H.R. 4850.

The second amendment which I offered during full committee consideration dealt with the migration of sporting events from broadcast stations to cable and pay-per-view systems. The amendment requires the FCC to study the migration of programming, taking into consideration the economic and social consequences of this movement. The study will determine the effect of pay-per-view sports programming on the consumer as well as the various sports organizations. This study is an important first step toward assuring the accessibility of televised sports—especially local sports on broadcast stations. The commission will submit a sport by sport preliminary report by July 1, 1993, with their final report being due by July 1, 1994.

I would also like to briefly mention my support for the Lehman amendment to the sports migration study. This is a good amendment and I urge its adoption.

In conclusion, let me reiterate what I said during the committee consideration of this legislation. While I support the need for reform, we should strive to ensure that this is not a punitive bill. While many may wish to stick it to the cable industry, we shouldn't let a few bad actors bring disaster upon an industry. Cable TV has demonstrated that it has great potential. We shouldn't be quick to pass burdensome measures on a viable industry, and we should not allow a melt down to occur which would create a particularly onerous bill. I trust the conferees will heed this advice.

Again, I commend both the chairman of the full committee and the chairman of the subcommittee for their efforts on this legislation.

□ 2120

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. RINALDO], the distinguished ranking member of the Subcommittee on Telecommunications.

Mr. RINALDO. Mr. Chairman, I rise in support of the substitute amendment offered by my good friend, the gentleman from New York who has contributed so much to this body and unfortunately is retiring at the end of the year.

This amendment that he is offering this evening effectively regulates the problem areas of the cable industry, maybe not enough for some people, but I think it does the job, and it does the job as far as excessive rates are concerned, it does the job as far as poor customer service, must-carry, and programming access.

The substitute seeks to improve upon the 1984 Cable Act without retreating to the burdensome regulatory regime that stifled the cable industry prior to the 1984 legislation.

The substitute offers a balanced approach to cable regulation which addresses those areas which need to be addressed, rates and services, without providing disincentives for investment and growth of the cable industry in general.

While some may argue, as my good friend from Maryland just did, that the substitute does not go far enough in its regulatory measures, the fact is that it reasonably balances the concerns of the broadcast industry, cable operators, cable video programmers, new competitors of cable, and most importantly, the consumer. Moreover, the substitute reflects the consensus that members of the committee, and House, reached just 2 years ago.

Finally, and I think most importantly, the substitute represents legislation which could become law.

I know there are some people here who say, "Put a bill on the President's desk that he will not sign and it gives certain people a political advantage," and it is a campaign year, and I recognize that, but this particular substitute is a fair and balanced piece of legislation which could be realistically implemented, and not simply a proposal that runs the risk that it will be vetoed and therefore be of no benefit to anyone.

If we want to protect consumers, if we are really sincere in our desire to do that, then we will pass a bill that can be signed into law, and we will forget about politics and do the job that the consumer demands. That is the main reason I am supporting this substitute.

Mr. MARKEY. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Chairman, I rise in support of H.R. 4850, and I am in reluctant opposition to the amendment offered by my friend, the gentleman from New York [Mr. LENT].

We have been asked to vote today for this substitute as a moderate alternative to H.R. 4850 that will protect consumers without stifling the growth of the cable industry. In fact, the Lent substitute protects cable operators at consumers' expense.

The Lent substitute only regulates a basic tier consisting solely of over-the-air broadcast stations; no regulation of cable programming is permitted. Popular programming services such as CNN, C-SPAN, ESPN, and Arts and Entertainment would be put beyond the reach of Federal, State, or local regulators. However outrageous the price they charge or poor the service they offer, and we have seen much of both, cable operators would be exempt from all regulation of cable offerings.

Further, the Lent substitute regulates a service that few consumers want. According to the Wall Street Journal, only 10 percent of cable consumers nationwide subscribe to the basic broadcast service. The Lent substitute would, therefore, protect a handful of subscribers who use cable as an antenna service and leave the vast majority of consumers, especially on Long Island, powerless to fight skyrocketing rates for popular programming services.

Please, vote "no" on the Lent amendment and provide consumers with real protection.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SCHAEFER], a member of the committee.

(Mr. SCHAEFER asked and was given permission to revise and extend his remarks.)

Mr. SCHAEFER. Mr. Chairman, what a difference 2 years make. It was just that long ago that we in the House last considered legislation designed to address the concerns of the cable consumer. I vividly remember voting for legislation—H.R. 5267—which the National Association of Broadcasters claimed "goes a long way toward resolving many of the problems consumers and broadcasters face in the video marketplace." What made the occasion particularly memorable was receiving a press release from the Consumer Federation of America praising my vote cast for the good of the cable consumer.

Although the Lent substitute is substantially similar to the House-passed legislation of 2 years ago, I doubt my vote in its favor will produce similar commendations. In fact, one interest groups has creatively characterized the modest re-regulatory provisions of the Lent amendment as "a serious blow to the interests of cable consumers." This leads me to wonder what has changed so significantly since the closing months of the 101st Congress to warrant such a change of heart.

The fact is, having participated in subcommittee and full committee consideration of H.R. 4850, I have yet to hear a compelling reason as to why the legislation of 2 years ago is not every bit as appropriate today. Even so, the Lent amendment goes farther than the landmark agreement between broadcasters and cable on must-carry. It includes program access language which satisfies many of the concerns of the satellite dish owners. And it ensures the availability of an affordable "lifeline" tier while requiring compliance with customer service standards.

The most appealing quality of the Lent amendment from a cable consumer's perspective, however, may well be its future. Passage of this substitute will make it more likely that amendments to the Cable Act will be signed into law and less likely that we will be debating this issue two years from now. For as much as I know our constituents enjoy hearing us discussing issues of importance to them, they would probably prefer results.

I urge adoption of the Lent substitute.

Mr. MARKEY. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. NEAL].

(Mr. NEAL of Massachusetts asked and was given permission to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Chairman, I rise to express my strong support for this vital cable television bill. For several years I have been concerned about the increase in cable rates and the service problems consumers are facing. I would also like to express my appreciation to Chairman MARKEY and Chairman DINGELL for their hard work in getting this bill before us today.

One of the prime motivations behind the passage of the Cable Communications Policy Act of 1984 was a desire to foster the development of a healthy cable television industry. By any standard, that goal has been achieved. Everything connected with cable television is up—profits, number of subscribers, value of individual cable systems, and of course, rates. The average price for cable service rose by nearly 20 percent in 1987 and 12.6 percent in 1988. This increase has far outdistanced increases in the Consumer Price Index. I think we can all agree that the performance of the cable industry has not lived up to the promise.

Cable television now reaches 60 percent of U.S. households. In most service areas, no meaningful competition exists for the local cable provider. When Congress deregulated cable prices in 1984, most of the leverage State and local franchising authorities had over cable companies was also removed. We are now faced with a situation in which cable operators can raise rates and the local authorities have no control over the increases.

Rates have been rising at an unreasonable rate that has surpassed inflation. In my hometown of Springfield, the rate for basic service has increased 73 percent since 1986. One rate increase was as high as 15 percent. These increases are not fair to the consumer.

The number of stations has increased, but many customers believe they are spending more money and receiving less programming in return.

None of this is news to many of you—our mail has included one letter after another complaining about cable service. Before 1984, there was local input into major cable television decisions in each community. With deregulation, that community involvement was lost. This bill restores a measure of local control over service and rates.

I am also greatly concerned over the loss of free television. The Olympics begin in less than a week. Many Olympic events this year are available only on pay cable channels. Many other sporting events are moving over to pay channels. It is a trend that threatens to lead to the day when major sporting events—including those involving teams and leagues that have greatly benefitted from tax breaks and other Government assistance—are available only to those who can pay to see them.

Mr. Chairman, in 1989 the House approved a cable television re-regulation measure that did not make it to the President's desk. Since that time the situation has only gotten worse. Cable rates are up, service has not improved and the consumers of America are clamoring for some commonsense regulations for this industry. The cable industry benefits from the use of public right-of-way and is—in most communities—a monopoly. The industry has not been responsive to local communities and these regulations are the result of their misuse of 8 years of deregulation and their grab for unreasonable profits. I urge passage of H.R. 4850.

□ 2130

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER], a member of the committee.

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, in our zeal to re-regulate and get rates under control, let us not squander the opportunity we have to pass meaningful and workable cable legislation.

H.R. 4850 goes way beyond simple rate regulation of the basic tier of the kind we passed in bipartisan fashion just a couple years ago.

I guarantee you this legislation will result in rate increases. Clearly, the $5 billion or so investment for addressable converters that are going to be needed to comply with H.R. 4850 is recoverable from consumers under the rate regulations of the bill. Consumers will pay.

But I ask you, is the Government-mandated investment the right investment in this growth industry?

Also, let us not forget the largest cost of regulation will not be borne by the cable companies. Do you think all this regulation comes free? It will ultimately be paid in the billions of dollars in costs for lawyers and consultants. It will be paid by the consumers, and all these lawyers and consultants will be involving themselves in cable rate reregulation proceedings required under H.R. 4850 at the Federal court level, at the State court level.

In the last analysis, what will the consumer receive? Lower rates? I emphatically say "no." Rather, the consumer will experience higher rates and the thing that will gall him or her the most is that they will have received no value for their money. They will not have received new programming, not better technology, not better service, not protection.

No, but they will be burdened by a new and unseen bureaucracy.

The Lent substitute is modest. It is workable. It protects against rate increases at a basic tier. It does not get into the whole enchilada.

Vote for the Lent substitute.

Mr. MARKEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon [Mr. AUCOIN].

(Mr. AUCOIN asked and was given permission to revise and extend his remarks.)

Mr. AUCOIN. Mr. Chairman, I rise in opposition to the Lent substitute. The deregulated cable TV industry was supposed to create competition and increase consumer choice. But it did not.

Instead, what consumers got are price-gouging cable monopolies. According to a leading consumer group, those monopolies are overcharging American consumers more than $6 billion a year. Six billion dollars.

You know, cable deregulation is a snapshot of the Reagan-Bush economic debacle.

The big cable companies have been made into a cash cow—and consumers are the goat. Cable monopolies have seen their revenues soar since 1986; consumers have seen cable rates skyrocket at more than twice the rate of inflation.

But that is only the national average. In places in Oregon—and other spots around the country—prices have hit the stratosphere, because there is no way to stop price gouging. Let me give you the example of Salem, OR.

In 6 years, cable costs in Salem skyrocketed 134 percent—with no end in sight.

That is not a license to do business. That is a license to steal.

Let us dump the failed Reagan-Bush experiment in deregulation—and put people first for a change. Oregon cable customers are sick and tired of paying more for less. It is time we revoke the cable monopolies' license—and put the American consumer back in the drivers seat.

The way to do that is to defeat this substitute. It is a wolf in sheep's clothing that would gut the consumer protections of the committee's bill.

The Senate defeated a similar measure offered by the junior Senator from Oregon, and the House should do the same today.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I would like to engage in a colloquy with the chairman of the subcommittee.

Section 618(e) of H.R. 4850 governs the time period that a franchising authority may consider a cable operator's transfer request. The subsection states that a franchising authority has 120 days to act on such a request that, and I quote, "contains or is accompanied by such information as is required in accordance with Commission regulations and by the franchising authority." By this statement, is it the committee's intent that the time period not begin until the transfer request is accompanied by information required by both the FCC and the franchising authority?

Mr. MARKEY. Mr. Chairman, if the gentleman will yield, yes, the committee does not intend for the 120-day period to begin until the transfer request is accompanied by information required by both the franchising authority and the FCC.

Mr. SCHUMER. I raise this issue because there is some confusion caused by the committee report accompanying H.R. 4850. The report language would indicate, consistent with the clear consistent language, that the 120-day period does not begin until the franchising authority has such information. Is that the committee's intent?

Mr. MARKEY. Mr. Chairman, if the gentleman will yield again, yes. The franchising authority has the right to request information in addition to the information that is requested by FCC regulation.

Mr. SCHUMER. And one more question in this colloquy on consumer electronics equipment compatibility.

Section 624A(b) of H.R. 4850 requires that the Federal Communications Commission, in consultation with representatives of the cable industry and the consumer electronics industry, report to Congress on the means of assuring compatibility between televisions and video cassette recorders and cable systems.

Does the committee intend for the Commission to consult with such representatives in preparing the report to Congress and in drafting regulations?

Mr. MARKEY. Mr. Chairman, if the gentleman will yield further, yes. The committee fully expects the Commission to consult representatives of franchising authorities and consumers in drafting the congressional report and regulations. In addition to such consultations, we expect the Commission, as it often does in creating congressional reports and implementing regulations, will institute rulemaking and inquiry proceedings that give all interested parties an opportunity to be heard.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for this colloquy and for his leadership on this issue.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MOORHEAD], a Member who is rapidly rising in seniority on the committee.

Mr. MOORHEAD. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Lent substitute and I want to thank the gentleman from New York for his continuing efforts on behalf of sound and workable national cable policy.

I believe the Lent substitute is the proper balance between over-regulation and not enough regulation. I think it will control the excesses of cable while still allowing cable the latitude to grow and enhance its product.

It has an opportunity of being supported by the administration and becoming public law.

Most importantly, I think the Lent substitute will better serve the interests of our constituents who are cable customers.

It is very, very important that this bill not become a political exercise, but it be in such form that it can be enacted into law.

I think the Lent substitute makes it such that it will become law and give cable the proper amount of control that has been sadly lacking over the past few years.

I want to see a bill put into law and I think the substitute will do the job. I urge a yes vote on the Lent substitute.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

(Mr. TAUZIN asked and was given permission to revise and extend his remarks.)

Mr. TAUZIN. Mr. Chairman, I rise in opposition to the Lent substitute.

I think it is important that we set down precisely what is occurring here. We just adopted a proconsumer amendment that establishes access to programming for competitive video systems. The House adopted that by a wide margin.

Were we to adopt the Lent substitute, we would be returning to the Manton proposal in essence.

Second, the Lent substitute is not even what we passed several years ago. The bad actor provisions are gone. It is less of a regulatory restrain on the cable companies being bad actors than even the modest bill we passed several years ago. An awful lot of bad acting has occurred, as we know, in the last 2 years.

But let me give a reason to those of you who have concerns about the regulatory features of the Markey bill, why you should vote against the Lent substitute and vote eventually for the bill as the House has now amended it with the Tauzin amendment.

You see, under the Markey bill, the regulations that are designed to prevent bad actor cable companies, the regulations that are designed to protect those communities where there is no competition, those regulations

automatically disappear the moment that effective competition comes to your community.

The good news is that with the adoption of the Tauzin amendment just a little while ago, you have provided a mechanism for competition to come to your community I think very rapidly. When that competition arrives, when effective competitive occurs, you will not only see cable rates drop in your community so that regulations do not really become necessary, but under the Markey provisions those regulations are not even effective anymore.

□ 2140

The Tauzin amendment cures any concern that you ought to have if you had any about overregulation.

I urge you to reject Lent and support the Markey bill.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HASTERT], a member of the committee.

Mr. HASTERT. I thank the gentleman for yielding.

Mr. Chairman, it is interesting that the gentleman from Louisiana just comes up and talks about competition. Let me tell you, ladies and gentlemen, this bill is not a competition bill, it is a regulation bill. What does that mean? Let us talk about common sense. This bill says the FCC shall regulate. It does not say how it shall regulate, it does not say that it is going to regulate rate of return, it does not say it is going to regulate on a fixed-rate basis, it does not say it is going to regulate on a variable-rate basis, it just says "regulate."

It says to regulate every cable television station in this country, thousands of them.

Where do we need to be, and what does this do? If you regulate, you limit people's choice. When you regulate any entity that is not a monopoly or could not be or may evolve out of monopolism, what you do is you say you limit people's choice, you give them the very least menu of alternatives. What you also do is say that you, as the operator, get a fixed rate of return. You do not offer the new technologies, you do not offer the new ideas.

What do we have coming for us and toward us? We have new technologies. We have wireless cable, we talked about that. We have micro dishes. We have telecom entry. We have low-powered TV. Those are new technologies.

If you allow them to compete and give them the ability to compete—and that is what the Lent bill is, it is less regulatory, it opens up the future to new technology, and that is certainly the path that we ought to take, not heavy-handed regulation.

It does not work, the consumer does not win. This world and this country does not stay up with the technological base of the world.

Mr. MARKEY. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. ECKART].

(Mr. ECKART asked and was given permission to revise and extend his remarks.)

Mr. ECKART. Mr. Chairman, my colleagues, since the mid-1980's, cable has enjoyed the best of both worlds: no competition and no regulation.

Unfortunately, Mr. LENT only restores one-half of that equation here. He does not give them any competition, and he persists in ignoring the regulatory problems that the legislation we have before us seeks to address.

Everyone understands what the real problems are with the cable industry. Rapidly rising rates, miserable customer service, and little or no competition.

If you like the status quo, if you honestly believe that the consumers of America, who now find that cable TV has for better or for worse become a necessity to them—witness Americans glued to CNN during the war in the Middle East just 1 year ago—then go ahead and turn the clock back, because the reality is if you believe we made a mistake in 1984 by surrendering the authority of local government to participate in an important granting of a franchise for consumers, then you realize that we needed to correct that mistake today.

Let me draw my colleagues' attention to one other point: Over 330 of you joined us in supporting Mr. TAUZIN's amendment, which would truly lower rates by providing more alternatives, real competition.

If you voted for the Tauzin amendment, you cannot now vote for the Lent substitute. It would be the height of hypocrisy; we would marvel at the gymnastic routines on the floor of this House by voting for Lent after having voted for Tauzin that would earn you a gold medal in Barcelona in just 1 week.

The fact of the matter is that the most master contortionists cannot have it both ways. Having adopted the Tauzin substitute, we have now told our constituents that we want real competition in a regulatory framework that guarantees better customer service, lower rates and real opportunities in the future to insure real innovative competition.

Now, if you care about sports, I think you ought to care an awful lot about the Lent substitute because there is a little kicker in here that is real interesting. It takes out from the regulatory penumbra envisioned under the Markey legislation that we have before us a popular little item known as ESPN. If you want to move basic sports programming such as ESPN from the regulated tier to the unregulated tier, and thus pay-per-view, go ahead and vote for the Lent substitute. But be fully prepared to tell your constituents that the Discovery Channel, Arts and Entertainment, C-SPAN and CNN, which have now become part of the staple of television service in America, now, go to pay-per-view.

I am not prepared to do that. The reality is that the Lent substitute will prevent cable operators from offering popular cable programming; it will reduce customer service standards to a simple wish and hope over the telephone.

The Lent substitute is not much more than what we have enjoyed in the past, and that is business as usual, a business that has gotten too expensive for all our constituents.

The CHAIRMAN. The Chair wishes to advise Members controlling the debate that the author of the amendment has 6 minutes remaining and the Member in opposition has 6½ minutes remaining.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS], a member of the committee.

(Mr. FIELDS asked and was given permission to revise and extend his remarks.)

Mr. FIELDS. Mr. Chairman, I rise in strong support of the substitute offered today by the ranking Republican member of the Energy and Commerce Committee, NORM LENT. The Lent substitute is a commonsense approach to the perceived problems in the cable industry.

As many of my colleagues are aware, this substitute is almost identical to cable legislation the House overwhelmingly approved 2 years ago. This measure provides the best solution to the problem of escalating cable rates by combining reasonable regulatory constraints on the cable industry with incentives such as improved market access to cable programming for competing video delivery systems such as satellite, DBS, and microwave services.

Those people who are standing up saying that you cannot vote for Lent if you voted for Tauzin, Tauzin is only one part, a small part of the bill.

I will admit that while the debate today lacks the important, procompetitive elements of retransmission consent and allowing the telephone companies to compete with cable, the Lent proposal is the only approach which has the potential of being enacted this year.

That's why, I urge my colleagues to support the Lent substitute.

So, if you want to see a cable bill, you had better vote for the Lent substitute. The administration has vowed to veto H.R. 4850 in its current form. Additionally, the FCC has warned that the costs of regulating cable rates under this legislation would be unduly burdensome. While the heavy-handed regulatory approach embodied in H.R. 4850 will do absolutely nothing to solve the problems of high cable rates and poor customer service, it will stifle cable's ability to offer new and innovative programming and services. That is why I urge my colleagues to vote for the only alternative that has a chance

of being enacted, and that is that Lent substitute.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

(Mr. MAZZOLI asked and was given permission to revise and extend his remarks.)

Mr. MAZZOLI. I thank the chairman of the subcommittee.

Let me thank the gentleman from Massachusetts for yielding this time and commend him on a job very well done.

Mr. Chairman, I rise in support of his bill and in opposition to the substitute offered by the gentleman from New York. The bill before us, which I hope we retain tonight, is procompetitive, it is pro-consumer, it is a good bill.

The Lent substitute is better than today's situation, but it lacks the reforms that are in the Markey approach, particularly in rate-setting, in which under the bill before us tonight local governments will have a role to play in rate-setting. That is a big issue in my community of Louisville.

There is also additional consumer and customer service regulation, which is involved. This bill promotes cable competition, and it does include the Tauzin amendment, which I think is very important because it limits the ability of cable-affiliated programming from being somehow monopolized or put aside or have high rates charged to it.

□ 2150

So, all in all the substitute offered by the gentleman from New York [Mr. LENT] is an advance on today's situation, but the real bill before us, and we have to vote for it, is the Markey approach.

Oppose Lent. Support Markey.

Mr. LENT. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. OXLEY], a member of the committee.

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXELY. Mr. Chairman, I rise in support of the substitute offered by the gentleman from New York [Mr. LENT].

I have before me three editorials, the first from the Boston Globe, the second one from the New York Times, and the third one from the Cleveland Plain Dealer, all saying that the Markey approach is overregulation, it is one that would kill competition, would set up a regulatory, regulatory, scheme and is the wrong way to go. Essentially the substitute is the alternative and, indeed, the only viable alternative to this overregulatory scheme that is proposed in the Markey approach. These three newspapers do not have a lot of friends in the cable industry, but they recognize, they recognize, how important it is to provide competition in this industry, and this bill simply does not do it. At least we can open the door to some competition with the Lent substitute, and it is the only bill that has a chance of passing in this legislative session.

I say to my colleagues, "I urge you to support the Lent amendment as the only real alternative to competition in the cable industry."

Mr. MARKEY. Mr. Chairman, I yield myself the balance of my time in opposition, and I will complete debate for our side.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] has 5½ minutes remaining and is recognized to close debate on his side.

Mr. MARKEY. Mr. Chairman, I rise in strong opposition to the amendment in the nature of a substitute to H.R. 4850 by the ranking minority member of the Committee on Energy and Commerce, the gentleman from New York [Mr. LENT].

This is billed as a moderate alternative to H.R. 4850. The substitute, however, is a mere figleaf of protection for consumers beleaguered by skyrocketing cable rates.

The gentleman from Michigan [Mr. DINGELL] and I, working over the last year, have tried to construct a bill here for presentation out on the floor that would reflect the need for consumer protection across this country and a dramatic increase in rates for consumers over the last 8 years. That is what this bill does, and that is why we are proud of it from the Committee on Energy and Commerce, and the full committee chairman, and I and all of the members of our committee have tried hard to construct that piece of legislation for our colleagues.

Now my colleagues will hear that the Lent substitute closely resembles H.R. 1303, which contains provisions identical to cable legislation that passed the House 2 years ago and, therefore, should be acceptable today. Nothing could be further from the truth. H.R. 1303, which was a bill which we did produce last year, is a bill which I know. I know H.R. 1303 because I wrote H.R. 1303. H.R. 1303 was a friend of mine. And, Mr. Chairman, the Lent substitute is no H.R. 1303. It in no manner, shape or form resembles the work which the gentleman from Michigan [Mr. DINGELL] and I brought out to this floor 2 years ago, nor that passed unanimously on this floor. In fact, the bill which we are talking about here tonight is about as opposite of 1303 as any bill could be. It is not the son of 1303; it is not even a distant cousin to 1303. In fact, the Lent substitute and H.R. 1303 do not even share a common strand of DNA. On every significant procconsumer and procompetition provision, the Lent substitute is weaker—far weaker—than H.R. 1303.

First of all, Mr. Chairman, the Lent substitute prohibits any regulation of rates for cable programming. Let me repeat, under the Lent substitute, no local, State, or Federal authority would be permitted to regulate the rate charged for any cable offering, including popular advertiser-supported channels like CNN and ESPN, and premium cable channels like HBO. No matter how high the rates charged or how meager the services offered by a cable operator, every cable operator would be free from regulation by any regulatory body whatsoever.

This amendment is a license for mischief—worse for consumers than the way things are today.

The only tier of service that would be regulated under the Lent substitute is a tier of channels that most consumers can get for free today—a tier consisting only of local, over-the-air television stations and public access channels. The Wall Street Journal reports that less than 10 percent of cable subscribers nationwide purchase this basic tier. By its own terms, therefore, the Lent substitute promises to protect only 10 percent of Americans. And no one can seriously say that helping 10 percent of our constituents is consumer protection.

Second, the Lent substitute waters down the customer service protections of both H.R. 1303 and H.R. 4850. Under the Lent substitute, the minimum standard for customer service set by the Federal Communications Commission is the only permissible standard. State and local authorities are prohibited from enacting or enforcing any sort of tougher customer service standards to protect their own local consumers.

Third, the Lent substitute leaves cable systems vulnerable to takeover by foreign entities. It preserves a giant loophole in our existing telecommunications law that permits foreign ownership of cable television systems, direct broadcast satellite systems, and other new video distribution technologies while prohibiting foreign ownership of telephone and broadcasting companies. There is surely no reason for us to invite a breakdown of nearly 60 years of sound and consistent telecommunications policy, or to permit foreign ownership or domination of the next generation of telecommunications technologies.

Fourth, the Lent substitute forestalls the development of a competitive video marketplace. By enabling programmers—even vertically integrated ones—to enter into exclusive contracts with cable operators, the Lent substitute sanctions anticompetitive practices of cable operators that have the effect of denying access to programming to their would-be competitors.

Finally, the Lent substitute allows speculators to flip cable systems like flapjacks. It permits investors to trade cable systems anytime at will, to overextend their debt loads, and then to send cable subscribers the bill.

Voters say they want a change in our country. If the amendment offered by the gentleman from New York [Mr. LENT] is passed, the only thing consumers will have is spare change. There will be nothing left after they pay their cable bills.

The Lent amendment is bad for cable consumers. Vote "no" on the Lent substitute.

Mr. LENT. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from New York [Mr. LENT] is recognized for 3 minutes.

(Mr. LENT asked and was given permission to revise and extend his remarks.)

Mr. LENT. Mr. Chairman, it is seldom that I agree with my distinguished colleague, the gentleman from Massachusetts [Mr. MARKEY], but I have to agree with him tonight when he said this bill is not the bill he authored 2 years ago which passed this House, H.R. 1303. This bill is better. This substitute is leaner. This substitute is cleaner. And one very, very important difference: The Lent substitute will be signed into law, will be signed into law.

H.R. 1303 was a bipartisan bill, although it was authored by the gentleman from Massachusetts [Mr. MARKEY] initially, and let me say this for that legislation: It reflected a calmer and more balanced approach to responding to consumers' concerns about rates and services. When the Committee on Energy and Commerce this year began deliberating the cable issue, we Republicans thought that we could return, at least, to H.R. 1303 with all its imperfections as a starting point, but I do not need to remind anybody here tonight that this is an election year, and politics is what this is all about.

The cable landscape has not changed much in the past 2 years. As a matter of fact, if my colleagues look at the GAO report that the gentleman from Massachusetts, the distinguished subcommittee chairman, ordered about pricing of cable, it points out that nobody in pricing has changed in the last 2 years in terms of cable rates for basic service.

□ 2200

According to that study, prices have actually moderated over the past 2 years, and today essentially cable rates reflect the rate of inflation. But the political landscape has changed, with the result that we have a bill before us tonight, which, as my colleague from Ohio indicated, the gentleman's hometown newspaper, the Boston Globe, the Cleveland Plain Dealer, and even that bastion of liberalism, the New York Times, have criticized as going over the line in terms of overregulation and micromanagement.

Mr. Chairman, that ought to give every Member here who has any idea of voting for the underlying bill a question. This bill, this bill that underlies us here tonight, will never become law. We all know that as we sit here tonight. Yesterday, and we have all seen it, the administration issued a statement clearly signaling a veto.

Mr. Chairman, let me say in conclusion that if you are truly in favor of real legislation, I mean thoughtful, meaningful, measured controls on the cable industry, you should vote for this Lent substitute. This substitute is a measure that will be signed into law by the President. This is a measure that will resolve the concerns of constituents about cable. This is a measure that Members pretty much voted for 2 years ago. I urge Members to forego the meager political triumph they may be trumpeting here tonight and vote for the substitute and against the Markey bill.

The CHAIRMAN. All time for debate has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from New York [Mr. LENT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LENT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 144, noes 268, not voting 24, as follows:

[Roll No. 317]

AYES—144

Allard
Allen
Andrews (NJ)
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Bentley
Bilirakis
Billey
Boehner
Broomfield
Burton
Callahan
Camp
Campbell (CA)
Campbell (CO)
Chandler
Clinger
Coble
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
Darden
Davis
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gillmor
Gingrich
Goodling
Gunderson
Hall (OH)
Hammerschmidt
Hancock
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Inhofe
Ireland
Jones
Johnson (CT)
Johnson (TX)
Johnston
Kasich
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Livingston
Lowery (CA)
Lukens
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison
Myers
Nichols
Nussle
Olin
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Penny
Pickett
Porter
Purcell
Quillen
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Sarpalius
Schaefer
Schiff
Schroeder
Shaw
Shepherd
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Spence
Stearns
Stump
Taylor (NC)
Thomas (GA)
Torres
Upton
Vander Jagt
Walker
Weldon
Young (AK)
Zeliff
Zimmer

NOES—268

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barton
Bateman
Bellenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gaydos
Geidenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Grandy
Guarini
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Jones (GA)
Jontz
Kanjorski
Kaptur
Kastch
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Levin (MI)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mink
Moakley
Mollohan
Montgomery
Moody
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastorus
Payne (NJ)
Penny
Pelosi
Perkins
Peterson (MN)
Peeri
Pickle
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Reed
Richardson
Roberts
Roe
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Schaefer
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Snowe
Solomon
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (FL)

NOT VOTING—24

Coughlin
Dymally
Feighan
Frost
Hansen
Hatcher
Hyde
Jones (NC)
Kolter
Langhlin
Lehman (FL)
Levine (CA)
Mineta
Morrison
Peterson (FL)
Ray
Solarz
Tallon
Thomas (GA)
Thomas (WY)
Traxler
Weber
Wilson
Yates

□ 2228

The Clerk announced the following pair:

On this vote:

Mr. Thomas of Wyoming for, with Mr. Yates against.

Mr. SKAGGS changed his vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. GEPHARDT) having assumed the chair, Mr. MFUME, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4850) to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes, pursuant to House Resolution 523, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MARKEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 340, nays 73, not voting 21, as follows:

[Roll No. 313]

YEAS—340

Abercrombie	Blackwell	Coleman (MO)
Ackerman	Boehlert	Coleman (TX)
Alexander	Boehner	Collins (IL)
Allen	Borski	Collins (MI)
Anderson	Boucher	Condit
Andrews (ME)	Boxer	Conyers
Andrews (NJ)	Brewster	Cooper
Andrews (TX)	Brooks	Costello
Annunzio	Broomfield	Cox (IL)
Anthony	Browder	Coyne
Applegate	Brown	Cramer
Aspin	Bruce	Danneemeyer
Atkins	Bryant	Darden
AuCoin	Bunning	Davis
Bacchus	Bustamante	de la Garza
Ballenger	Byron	DeFazio
Bateman	Callahan	DeLauro
Bellenson	Camp	Dellums
Bennett	Cardin	Derrick
Bentley	Carper	Dickinson
Bereuter	Carr	Dicks
Berman	Chapman	Dingell
Bevill	Clay	Dixon
Bilbray	Clement	Donnelly
Bilirakis	Coble	Dooley
Boolittle	LaRocco	Roe
Borgan (ND)	Leach	Roemer
Downey	Lehman (CA)	Rogers
Duncan	Levin (MI)	Ros-Lehtinen
Durbin	Lewis (FL)	Rose
Dwyer	Lewis (GA)	Rostenkowski
Early	Lightfoot	Roth
Eckart	Lipinski	Rowland
Edwards (CA)	Livingston	Roybal
Edwards (OK)	Lloyd	Russo
Edwards (TX)	Long	Sabo
Emerson	Lowey (NY)	Sanders
Engel	Machtley	Sangmeister
English	Manton	Sansorum
Erdreich	Markey	Sarpalius
Espy	Martin	Savage
Evans	Martinez	Sawyer
Ewing	Matsui	Saxton
Fascell	Mavroules	Schaefer
Fazio	Mazzoli	Schiff
Fish	McCloskey	Schulze
Flake	McCollum	Schumer
Foglietta	McCurdy	Sensenbrenner
Ford (MI)	McDade	Serrano
Ford (TN)	McDermott	Sharp
Frank (MA)	McEwen	Shaw
Gallegly	McGrath	Shays
Gallo	McHugh	Shikorski
Gaydos	McMillan (NC)	Slattery
Geidenson	McMillen (MD)	Skeen
Gekas	McNulty	Skelton
Gephardt	Meyers	Slattery
Geren	Mfume	Slaughter
Gibbons	Miller (CA)	Smith (FL)
Gilchrest	Mineta	Smith (IA)
Gilman	Mink	Smith (NJ)
Glickman	Moakley	Snowe
Gonzalez	Mollohan	Solomon
Gordon	Montgomery	Spence
Goss	Moody	Spratt
Gradison	Moorhead	Staggers
Grandy	Morella	Stallings
Green	Morrison	Stark
Gunderson	Mrazek	Stearns
Hall (OH)	Murphy	Stenholm
Hall (TX)	Murtha	Stokes
Hamilton	Nagle	Studds
Hammerschmidt	Natcher	Sundquist
Hancock	Neal (MA)	Sweet
Harris	Neal (NC)	Swift
Hayes (IL)	Nichols	Synar
Hayes (LA)	Nowak	Tanner
Hefner	Nussle	Tauzin
Henry	Oakar	Taylor (MS)
Herrel	Oberstar	Taylor (NC)
Hoagland	Obey	Thornton
Hobson	Olver	Torres
Hochbrueckner	Ortiz	Torricelli
Horn	Owens (NY)	Towns
Houghton	Owens (UT)	Traficant
Hoyer	Pallone	Unsoeld
Hubbard	Panetta	Upton
Huckaby	Pastor	Valentine
Hughes	Patterson	Vander Jagt
Hutto	Paxon	Vento
Inhofe	Payne (NJ)	Visclosky
Jacobs	Payne (VA)	Volkmer
James	Pease	Vucanovich
Jefferson	Pelosi	Walsh
Jenkins	Perkins	Washington
Johnson (CT)	Peterson (MN)	Waters
Johnson (SD)	Petri	Waxman
Johnston	Pickle	Weiss
Jones (GA)	Porter	Weldon
Jontz	Poshard	Wheat
Kanjorski	Price	Whitten
Kaptur	Quillen	Williams
Kasich	Rahall	Wilson
Kennedy	Ramstad	Wise
Kennelly	Rangel	Wolf
Kildee	Ravenel	Wolpe
Kleczka	Reed	Wyden
Klug	Regula	Wylie
Kopetski	Richardson	Yatron
Kostmayer	Ridge	Young (AK)
LaFalce	Riggs	Young (FL)
Lancaster	Rinaldo	Zimmer
Lantos	Roberts	

NAYS—73

Allard	Boehner	Crane
Archer	Burton	Cunningham
Armey	Campbell (CA)	DeLay
Baker	Campbell (CO)	Dornan (CA)
Barnard	Chandler	Dreier
Barrett	Clinger	Fawell
Barton	Combest	Fields
Billey	Cox (CA)	Franks (CT)
Gillmor	Lowery (CA)	Pursell
Gingrich	Lukes	Rhodes
Goodling	Marlenee	Ritter
Hastert	McCandless	Rohrabacher
Hefley	McCrery	Roukema
Herger	Michel	Schaefer
Holloway	Miller (OH)	Schroeder
Hopkins	Miller (WA)	Shuster
Horton	Molinari	Skaggs
Hunter	Myers	Smith (OR)
Ireland	Olin	Smith (TX)
Johnson (TX)	Orton	Stump
Kolbe	Oxley	Thomas (CA)
Kyl	Packard	Walker
Lagomarsino	Parker	Zeliff
Lent	Penny	
Lewis (CA)	Pickett	

NOT VOTING—21

Coughlin	Jones (NC)	Solarz
Dymally	Kolter	Tallon
Feighan	Laughlin	Thomas (GA)
Frost	Lehman (FL)	Thomas (WY)
Hansen	Levine (CA)	Traxler
Hatcher	Peterson (FL)	Weber
Hyde	Ray	Yates

□ 2242

Mr. SKELTON changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MARKEY. Mr. Speaker, pursuant to the rule, I move to take from the Speaker's table the Senate bill (S. 12) to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY].

The motion was agreed to.

MOTION OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MARKEY moves to strike out all after the enacting clause of S. 12 and insert in lieu thereof the text of H.R. 4850, as passed by the House, as follows:

H.R. 4850

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cable Television Consumer Protection and Competition Act of 1992".

SEC. 2. FINDINGS; DEFINITION.

(a) FINDINGS.—Section 601 of the Communications Act of 1934 (47 U.S.C. 521) is amended—

(1) by striking the heading of such section and inserting the following:

"PURPOSES; FINDINGS";

(2) by inserting "(a) PURPOSES.—" after "SEC. 601."; and

(3) by adding at the end thereof the following new subsection:

"(b) FINDINGS.—The Congress finds and declares the following:

"(1) Fair competition in the delivery of television programming should foster the greatest possible choice of programming and should result in lower prices for consumers.

"(2) Passage of the Cable Communications Policy Act of 1984 resulted in deregulation of

rates for cable television services in approximately 97 percent of all franchises. A minority of cable operators have abused their deregulated status and their market power and have unreasonably raised cable subscriber rates. The Federal Communications Commission's rules governing local rate regulation will not provide any protection for more than two-thirds of the nation's cable subscribers, and will not protect subscribers from unreasonable rates in those communities where the rules apply.

"(3) In order to protect consumers, it is necessary for the Congress to establish a means for local franchising authorities and the Federal Communications Commission to prevent cable operators from imposing rates upon consumers that are unreasonable.

"(4) There is a substantial governmental and first amendment interest in promoting a diversity of views provided through multiple technology media.

"(5) The Federal Government has a compelling 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 between 1972 and 1990 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 between 1969 and 1992; 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.

"(6) The Federal Government also has a compelling interest in having cable systems carry the signals of local commercial television stations because the carriage of such signals—

"(A) promotes localism and provides a significant source of news, public affairs, and educational programming;

"(B) is necessary to serve the goals contained in section 307(b) of this Act of providing a fair, efficient, and equitable distribution of broadcast services; and

"(C) will enhance the access to such signals by Americans living in areas where the quality of reception of broadcast stations is poor.

"(7) Broadcast television programming is supported by revenues generated from advertising. 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.

"(8) Because television broadcasters and cable television operators compete directly for the television viewing audience, for programming material, and for advertising revenue, in order to ensure that such competition is fair and operates to the benefit of consumers, the Federal interest requires that local broadcast stations be made available on cable systems.

"(9) 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.

"(10) Secure carriage and channel positioning on cable television systems are the most effective means through which off-air broadcast television can access cable subscribers. In the absence of rules mandating carriage and channel positioning of broadcast television stations, some cable system operators have denied carriage or repositioned the carriage of some television stations.

"(11) Cable television systems and broadcast television stations increasingly compete for television advertising revenues and audience. A cable system has a direct financial interest in promoting those channels on which it sells advertising or owns programming. As a result, there is an economic incentive for cable systems to deny carriage to local broadcast signals, or to reposition broadcast signals to disadvantageous channel positions, or both. Absent retransmission of must carry and channel positioning requirements, such activity could occur, thereby threatening diversity, economic competition, and the Federal television broadcast allocation structure in local markets across the country.

"(12) Cable systems provide the most effective access to television households that subscribe to cable. As a result of the cable operator's provision of this access and the operator's economic incentives described in paragraph (11), negotiations between cable operators and local broadcast stations have not been an effective mechanism for securing carriage and channel positioning.

"(13) 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. 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.

"(14) At the same time, broadcast programming has proven to be 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 local broadcast signals. 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 carriage of local broadcast signals which, until now, they have been able to obtain without the consent of the broadcaster. 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, this subsidy may have been appropriate, it is no longer and results in a competitive imbalance between the two industries.".

(b) DEFINITION.—Section 602 of the Communications Act of 1934 (47 U.S.C. 522) is amended—

(1) by redesignating paragraphs (11) through (16) as paragraphs (12) through (17); and

(2) by inserting after paragraph (10) the following new paragraph:

"(11) the term 'multichannel video programming distributor' means a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming;".

SEC. 3. REQUIREMENTS FOR THE PROVISION AND REGULATION OF BASIC SERVICE TIER.

(a) AMENDMENT.—Section 623 of the Communications Act of 1934 is amended to read as follows:

"SEC. 623. REGULATION OF RATES.

"(a) COMPETITION PREFERENCE; LOCAL AND FEDERAL REGULATION.—

"(1) IN GENERAL.—No Federal agency or State may regulate the rates for the provision of cable service except to the extent provided under this section and section 612. Any franchising authority may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section. No Federal agency, State, or franchising authority may regulate the rates for cable service of a cable system that is owned or operated by a local government or franchising authority within whose jurisdiction that cable system is located and that is the only cable system located within such jurisdiction.

"(2) PREFERENCE FOR COMPETITION.—If the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State or franchising authority under this section. If the Commission finds that a cable system is not subject to effective competition—

"(A) the rates for the provision of basic cable service shall be subject to regulation by a franchising authority, or by the Commission if the Commission exercises jurisdiction pursuant to paragraph (6), in accordance with the regulations prescribed by the Commission under subsection (b) of this section; and

"(B) the rates for cable programming services shall be subject to regulation by the Commission under subsection (c) of this section.

"(3) QUALIFICATION OF FRANCHISING AUTHORITY.—A franchising authority that seeks to exercise the regulatory jurisdiction permitted under paragraph (2)(A) shall file with the Commission a written certification that—

"(A) the franchising authority will adopt and administer regulations with respect to the rates subject to regulation under this section that are consistent with the regulations prescribed by the Commission under subsection (b);

"(B) the franchising authority has the legal authority to adopt, and the personnel to administer, such regulations; and

"(C) procedural laws and regulations applicable to rate regulation proceedings by such authority provide a reasonable opportunity for consideration of the views of interested parties.

"(4) APPROVAL BY COMMISSION.—A certification filed by a franchising authority under paragraph (3) shall be effective 30 days after the date on which it is filed unless the Commission finds, after notice to the authority and a reasonable opportunity for the authority to comment, that—

"(A) the franchising authority has adopted or is administering regulations with respect to the rates subject to regulation under this section that are not consistent with the regulations prescribed by the Commission under subsection (b);

"(B) the franchising authority does not have the legal authority to adopt, or the personnel to administer, such regulations; or

"(C) procedural laws and regulations applicable to rate regulation proceedings by such authority do not provide a reasonable opportunity for consideration of the views of interested parties.

If the Commission disapproves a franchising authority's certification, the Commission shall notify the franchising authority of any revisions or modifications necessary to obtain approval.

"(5) REVOCATION OF JURISDICTION.—Upon petition by a cable operator or other interested party, the Commission shall review the regulation of cable system rates by a franchising authority under this subsection. A copy of the petition shall be provided to the franchising authority by the person filing the petition. If the Commission finds that the franchising authority has acted inconsistently with the requirements of this subsection, the Commission shall grant appropriate relief. If the Commission, after the franchising authority has had a reasonable opportunity to comment, determines that the State and local laws and regulations are not in conformance with the regulations prescribed by the Commission under subsection (b), the Commis-

sion shall revoke the jurisdiction of such authority.

"(6) EXERCISE OF JURISDICTION BY COMMISSION.—If the Commission disapproves a franchising authority's certification under paragraph (4), or revokes such authority's jurisdiction under paragraph (5), the Commission shall exercise the franchising authority's regulatory jurisdiction under paragraph (2)(A) until the franchising authority has qualified to exercise that jurisdiction by filing a new certification that meets the requirements of paragraph (3). Such new certification shall be effective upon approval by the Commission. The Commission shall act to approve or disapprove any such new certification within 90 days after the date it is filed.

"(b) ESTABLISHMENT OF BASIC SERVICE TIER RATE LIMITATIONS.—

"(1) COMMISSION REGULATIONS.—Within 120 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish the following:

"(A) BASIC SERVICE TIER RATES.—A formula to establish the maximum price of the basic service tier, which formula shall take into account—

"(i) the number of signals carried on the basic service tier;

"(ii) the direct costs (if any) of obtaining, transmitting, and otherwise providing such signals, including signals and services carried on the basic service tier pursuant to paragraph (2)(B), and changes in such costs;

"(iii) such portion of the joint and common costs of the cable operator as is determined, in accordance with regulations prescribed by the Commission, to be properly allocable to obtaining, transmitting, and otherwise providing such signals, and changes in such costs;

"(iv) a reasonable profit (as defined by the Commission) on the provision of the basic service tier;

"(v) rates for comparable cable systems, if any, that are subject to effective competition and that offer comparable services, taking into account, among other factors, similarities in facilities, the number of cable channels, the number of cable subscribers, and local conditions;

"(vi) any amount assessed as a franchise fee, tax, or charge of any kind imposed by any State or local authority on the transactions between cable operators and cable subscribers or any other fee, tax, or assessment of general applicability imposed by a governmental entity applied against cable operators or cable subscribers; and

"(vii) any amount required, in accordance with subparagraph (C), to satisfy franchise requirements to support public, educational, or governmental channels or the use of such channels or any other services required under the franchise.

"(B) EQUIPMENT.—A formula to establish, on the basis of actual cost, the price or rate for—

"(i) installation and lease of the equipment necessary for subscribers to receive the basic service tier, including a converter box and a remote control unit and, if requested by the subscriber, such addressable converter box or other equipment as is required to access programming described in paragraph (3); and

"(ii) installation and monthly use of connections for additional television receivers.

"(C) COSTS OF FRANCHISE REQUIREMENTS.—A formula to identify and allocate costs attributable to satisfying franchise requirements to support public, educational, and governmental channels or the use of such channels or any other services required under the franchise.

"(D) IMPLEMENTATION AND ENFORCEMENT.—Additional standards, guidelines, and procedures concerning the implementation and enforcement of the regulations prescribed by the Commission under this subsection, which shall include—

"(i) procedures by which cable operators may implement and franchising authorities may enforce the administration of the formulas, standards, guidelines, and procedures established by the Commission under this subsection;

"(ii) procedures for the expeditious resolution of disputes between cable operators and franchising authorities concerning the administration of such formulas, standards, guidelines, and procedures;

"(iii) standards and procedures to prevent unreasonable charges for changes in the subscriber's selection of services or equipment subject to regulation under this section, which standards shall require that charges for changing the service tier selected shall be based on the cost of such change and shall not exceed nominal amounts when the system's configuration permits changes in service tier selection to be effected solely by coded entry on a computer terminal or by other similarly simple method; and

"(iv) standards and procedures to assure that subscribers receive notice of the availability of the basic service tier required under this section.

"(E) NOTICE.—The procedures prescribed by the Commission pursuant to subparagraph (D)(i) shall require a cable operator to provide 30 days advance notice to a franchising authority of any increase of more than 5 percent proposed in the price to be charged for the basic service tier.

"(F) EFFECTIVE DATES.—An effective date or dates for compliance with the formulas, standards, guidelines, and procedures established under this subsection.

"(2) COMPONENTS OF BASIC TIER SUBJECT TO RATE REGULATION.—

"(A) MINIMUM CONTENTS.—Each cable operator of a cable system shall provide its subscribers a separately available basic service tier to which the rates prescribed under paragraph (1) shall apply and to which subscription is required for access to any other tier of service. Such basic service tier shall, at a minimum, consist of the following:

"(i) All signals carried in fulfillment of the requirements of sections 614 and 615.

"(ii) Any public, educational, and governmental access programming required by the franchise of the cable system to be provided to subscribers.

"(iii) Any signal of any broadcast station that is provided by the cable operator to any subscriber.

"(B) PERMITTED ADDITIONS TO BASIC TIER.—A cable operator may add additional video programming signals or services to the basic service tier. Any such additional signals or services provided on the basic service tier shall be provided to subscribers at rates determined under paragraph (1)(A).

"(3) BUY-THROUGH OF OTHER TIERS PROHIBITED.—

"(A) PROHIBITION.—A cable operator may not require the subscription to any tier other than the basic service tier required by paragraph (2) as a condition of access to video programming offered on a per channel or per program basis. A cable operator may not discriminate between subscribers to the basic service tier and other subscribers with regard to the rates charged for video programming offered on a per channel or per program basis.

"(B) EXCEPTION; LIMITATION.—The prohibition in subparagraph (A) shall not apply to a cable system that, by reason of the lack of addressable converter boxes or other technological limitations, does not permit the operator to offer programming on a per channel or per program basis in the same manner required by subparagraph (A). This subparagraph shall not be available to any cable operator after—

"(i) the technology utilized by the cable system is modified or improved in a way that eliminates such technological limitation; or

"(ii) 5 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, subject to subparagraph (C).

"(C) STUDY; EXTENSION OF LIMITATION.—(i) The Commission shall, within 4 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, initiate a proceeding to consider (I) the benefits to consumers of subparagraph (A), (II) whether the cable operators or consumers are being forced (or would be forced) to incur unreasonable costs for complying with subparagraph (A), and (III) the effect of subparagraph (A) on the provision of diverse programming sources to cable subscribers.

"(ii) If, in the proceeding required by clause (i), the Commission determines that subparagraph (A) imposes unreasonable costs on cable operators or cable subscribers, the Commission may extend the 5-year period provided in subparagraph (B)(ii) for 2 additional years.

"(4) NOTICE OF FEES, TAXES, AND OTHER CHARGES.—Each cable operator may identify, in accordance with the formulas required by clauses (vi) and (vii) of paragraph (1)(A), as a separate line item on each regular bill of each subscriber, each of the following:

"(A) the amount of the total bill assessed as a franchise fee and the identity of the authority to which the fee is paid;

"(B) the amount of the total bill assessed to satisfy any requirements imposed on the operator by the franchise agreement to support public, educational, or governmental channels or the use of such channels; and

"(C) any other fee, tax, assessment, or charge of any kind imposed on the transaction between the operator and the subscriber.

"(c) REGULATION OF UNREASONABLE RATES.—

"(1) COMMISSION REGULATIONS.—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish the following:

"(A) criteria prescribed in accordance with paragraph (2) for identifying, in individual cases, rates for cable programming services that are unreasonable;

"(B) fair and expeditious procedures for the receipt, consideration, and resolution of complaints from any franchising authority or other relevant State or local government entity alleging that a rate for cable programming services charged by a cable operator violates the criteria prescribed under subparagraph (A), which procedures shall set forth the minimum showing that shall be required for a complaint to establish a prima facie case that the rate in question is unreasonable; and

"(C) the procedures to be used to reduce rates for cable programming services that are determined by the Commission to be unreasonable and to refund such portion of the rates or charges that were paid by subscribers after the filing of such complaint and that are determined to be unreasonable.

"(2) FACTORS TO BE CONSIDERED.—In establishing the criteria for determining in individual cases whether rates for cable programming services are unreasonable under paragraph (1)(A), the Commission shall consider, among other factors—

"(A) the rates for similarly situated cable systems offering comparable cable programming services, taking into account similarities in facilities, regulatory and governmental costs, the number of subscribers, and other relevant factors;

"(B) the rates for comparable cable systems, if any, that are subject to effective competition and that offer comparable services, taking into account, among other factors, similarities in facilities, the number of cable channels, the number of cable subscribers, and local conditions;

"(C) the history of the rates for cable programming services of the system, including the relationship of such rates to changes in general consumer prices;

"(D) the rates, as a whole, for all the cable programming, equipment, and services provided by the system;

"(E) capital and operating costs of the cable system, including costs of obtaining video signals and services;

"(F) the quality and costs of the customer service provided by the cable system; and

"(G) the revenues (if any) received by a cable operator from advertising from programming that is carried as part of the service for which a rate is being established, and changes in such revenues.

"(3) LIMITATION ON COMPLAINTS CONCERNING EXISTING RATES.—On and after 180 days after the effective date of the regulations prescribed by the Commission under paragraph (1), the procedures established under subparagraph (B) of such paragraph shall be available only with respect to complaints filed within a reasonable period of time following a change in rates that is initiated after that effective date.

"(d) REGULATION OF PAY-PER-VIEW CHARGES FOR CHAMPIONSHIP SPORTING EVENTS.—A State or franchising authority may, without regard to the regulations prescribed by the Commission under subsections (b) and (c), regulate any per-program rates charged by a cable operator for any video programming that consists of the national championship game or games between professional teams in baseball, basketball, football, or hockey.

"(e) DISCRIMINATION; SERVICES FOR THE HEARING IMPAIRED.—Nothing in this title shall be construed as prohibiting any Federal agency, State, or a franchising authority from—

"(1) prohibiting discrimination among customers of basic service, except that no Federal agency, State, or franchising authority may prohibit a cable operator from offering reasonable discounts to senior citizens or other economically disadvantaged group discounts; or

"(2) requiring and regulating the installation or rental of equipment which facilitates the reception of basic cable service by hearing impaired individuals.

"(f) NEGATIVE OPTION BILLING PROHIBITED.—A cable operator shall not charge a subscriber for any individually-priced channel of video programming or for any pay-per-view video programming that the subscriber has not affirmatively requested. For purposes of this subsection, a subscriber's failure to refuse a cable operator's proposal to provide such channel or programming shall not be deemed to be an affirmative request for such programming.

"(g) REVIEW OF FINANCIAL INFORMATION.—

"(1) COLLECTION OF INFORMATION.—The Commission shall, by regulation, require cable operators to file, within 60 days after the effective date of the regulations prescribed under subsection (c)(1) and annually thereafter, such financial information as may be needed for purposes of administering and enforcing this section.

"(2) CONGRESSIONAL REPORT.—The Commission shall submit to each House of the Congress, by January 1, 1994, a report on the financial condition, profitability, rates, and performance of the cable industry. Such report shall include such recommendations as the Commission considers appropriate in light of such information. Such report also shall address the availability of discounts for senior citizens and other economically disadvantaged groups.

"(h) PREVENTION OF EVASIONS.—Within 120 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish standards, guidelines, and procedures to prevent evasions of the rates, services, and other requirements of this section and shall, thereafter, periodically review and revise such standards, guidelines, and procedures.

"(i) SMALL SYSTEM BURDENS.—In developing and prescribing regulations pursuant to this section, the Commission shall design such regulations to reduce the administrative burdens and cost of compliance for cable systems that have 1,000 or fewer subscribers.

"(j) RATE REGULATION AGREEMENTS.—During the term of an agreement made before July 1, 1990, by a franchising authority and a cable operator providing for the regulation of basic cable service rates, where there was not effective competition under Commission rules in effect on that date, nothing in this section (or the regulations thereunder) shall abridge the ability of such franchising authority to regulate rates in accordance with such an agreement.

"(k) REPORTS ON AVERAGE PRICES.—The Commission shall publish quarterly statistical reports on the average rates for basic service and other cable programming, and for converter boxes, remote control units, and other equipment, of—

"(1) cable systems that the Commission has found are subject to effective competition under subsection (a)(2), compared with

"(2) cable systems that the Commission has found are not subject to such effective competition.

"(l) DEFINITIONS.—As used in this section—

"(1) The term 'effective competition' means that—

"(A) fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system;

"(B) the franchise area is—

"(i) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and

"(ii) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area; or

"(C) a multichannel video programming distributor operated by the franchising authority for that franchise area offers video programming to at least 50 percent of the households in that franchise area.

"(2) The term 'cable programming service' means any video programming provided over a cable system, regardless of service tier, other than (A) video programming carried on the basic service tier, and (B) video programming offered on a per channel or per program basis.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect 120 days after the date of enactment of this Act, except that the authority of the Federal Communications Commission to prescribe regulations is effective on such date of enactment.

SEC. 4. MULTIPLE FRANCHISES.

(a) UNREASONABLE REFUSALS TO FRANCHISE PROHIBITED.—Section 621(a) of the Communications Act of 1934 (47 U.S.C. 541(a)) is amended by adding at the end thereof the following:

"(4) A franchising authority shall not, in the awarding of franchises within its jurisdiction, grant an exclusive franchise, or unreasonably refuse to award additional franchises because of the previous award of a franchise to another cable operator. For purposes of this paragraph, refusal to award a franchise shall not be unreasonable if, for example, such refusal is on the ground—

"(A) of technical infeasibility;

"(B) of inadequate assurance that the cable operator will provide adequate public, educational and governmental access channel capacity, facilities, or financial support;

"(C) of inadequate assurance that the cable operator will, within a reasonable period of time, provide universal service throughout the entire franchise area under the jurisdiction of the franchising authority;

"(D) that such award would interfere with the rights of the franchising authority to deny renewal; or

"(E) of inadequate assurance that the cable operator has the financial, technical, or legal qualifications to provide cable service.

"(5) Nothing in this subsection shall be construed as limiting the authority of local governments to assess fees or taxes for access to public rights of way.".

(b) MUNICIPAL AUTHORITIES PERMITTED TO OPERATE SYSTEMS.—Section 621 of the Communications Act of 1934 (47 U.S.C. 541) is amended—

(1) by inserting "and subsection (f)" before the comma in subsection (b)(1); and

(2) by adding at the end the following new subsection:

"(f) No provision of this Act shall be construed to—

"(1) prohibit a local or municipal authority that is also, or is affiliated with, a franchising authority from operating as a multichannel video programming distributor in the geographic areas within the jurisdiction of such franchising authority, notwithstanding the granting of one or more franchises by such franchising authority, or

"(2) require such local or municipal authority to secure a franchise to operate as a multichannel video programming distributor.".

(c) CLARIFICATION OF LOCAL AUTHORITY TO REGULATE OWNERSHIP.—Section 613(d) of the Communications Act of 1934 (47 U.S.C. 533(d)) is amended—

(1) by striking "any media" and inserting "any other media"; and

(2) by adding after the period at the end thereof the following: "Nothing in this section shall be construed to prevent any State or franchising authority from prohibiting the ownership or control of a cable system in a jurisdiction by any person (1) because of such person's ownership or control of any other cable system in such jurisdiction; or (2) in circumstances in which the State or franchising authority determines that the acquisition of such a cable system may eliminate or reduce competition in the delivery of cable service in such jurisdiction.".

(d) LEASE/BUY-BACK AUTHORITY.—Section 613(b)(2) of the Communications Act of 1934 (47 U.S.C. 533(b)(2)) is amended by adding at the end the following: "This paragraph shall not prohibit a common carrier from providing multiple channels of communication to an entity pursuant to a lease agreement under which the carrier retains, consistent with section 616, an option to purchase such entity upon the taking effect of an amendment to this section that permits common carriers generally to provide video programming directly to subscribers in such carrier's telephone service area.".

SEC. 5. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is amended by inserting after section 613 the following new section:

"SEC. 614. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

"(a) CARRIAGE OBLIGATIONS.—Each cable operator shall carry, on the cable system of that operator, the signals of local commercial television stations as provided by the following provisions of this section. Carriage of additional broadcast television signals on such system shall be at the discretion of such operator.

"(b) SIGNALS REQUIRED.—

"(1) IN GENERAL.—(A) A cable operator of a cable system with 12 or fewer usable activated channels shall carry the signals of at least three local commercial television stations, except that if such a system has 300 or fewer subscribers, it shall not be subject to any requirements under this section so long as such system does not delete from carriage by that system any signal of a broadcast television station.

"(B) A cable operator of a cable system with more than 12 usable activated channels shall carry the signals of local commercial television stations up to one third of the aggregate number of usable activated channels of such system.

"(2) SELECTION OF SIGNALS.—Whenever the number of local commercial television stations exceeds the maximum number of signals a cable system is required to carry under paragraph (1), the cable operator shall have discretion in se-

lecting which such stations shall be carried on its cable system, except that if the cable operator elects to carry an affiliate of a broadcast network (as such term is defined by the Commission by regulation), such cable operator shall carry the affiliate of such broadcast network whose city of license reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (in effect on January 1, 1991), or any successor regulation thereto, is closest to the principal headend of the cable system.

"(3) CONTENT TO BE CARRIED.—(A) A cable operator shall carry in its entirety, on the cable system of that operator, the primary video, accompanying audio, and line 21 closed caption transmission of each of the local commercial television stations carried on the cable system and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. Retransmission of other material in the vertical blanking interval or other nonprogram-related material (including teletext and other subscription and advertiser-supported information services) shall be at the discretion of the cable operator. Where appropriate and feasible, operators may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the system headend or headends.

"(B) The cable operator shall carry the entirety of the program schedule of any television station carried on the cable system unless carriage of specific programming is prohibited, and other programming authorized to be substituted, under section 76.67 or subpart F of part 76 of title 47, Code of Federal Regulations (as in effect on January 1, 1991), or any successor regulations thereto.

"(4) SIGNAL QUALITY.—

"(A) NONDEGRADATION; TECHNICAL SPECIFICATIONS.—The signals of local commercial television stations that a cable operator carries shall be carried without material degradation. The Commission shall adopt carriage standards to ensure that, to the extent technically feasible, the quality of signal processing and carriage provided by a cable system for the carriage of local commercial television stations will be no less than that provided by the system for carriage of any other type of signal.

"(B) ADVANCED TELEVISION.—At such time as the Commission prescribes modifications of the standards for television broadcast signals, the Commission shall initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure cable carriage of such broadcast signals of local commercial television stations which have been changed to conform with such modified standards.

"(5) DUPLICATION NOT REQUIRED.—Notwithstanding paragraph (1), a cable operator shall not be required to carry the signal of any local commercial television station that substantially duplicates the signal of another local commercial television station which is carried on its cable system, or to carry the signals of more than one local commercial television station affiliated with a particular broadcast network (as such term is defined by regulation). If a cable operator elects to carry on its cable system a signal which substantially duplicates the signal of another local commercial television station carried on the cable system, or to carry on its system the signals of more than one local commercial television station affiliated with a particular broadcast network, all such signals shall be counted toward the number of signals the operator is required to carry under paragraph (1).

"(6) CHANNEL POSITIONING.—Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, or on the channel on which it was carried on January 1, 1992, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any disputes regarding the positioning of a local commercial television station shall be resolved by the Commission.

"(7) SIGNAL AVAILABILITY.—Signals carried in fulfillment of the requirements of this section shall be provided to every subscriber of a cable system. Such signals shall be viewable via cable on all television receivers of a subscriber which are connected to a cable system by a cable operator or for which a cable operator provides a connection. If a cable operator authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, or with the equipment and materials for such connections, the operator shall notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box and shall offer to sell or lease such a converter box to such subscribers at rates in accordance with section 623(b)(1)(B).

"(8) IDENTIFICATION OF SIGNALS CARRIED.—A cable operator shall identify, upon request by any person, the signals carried on its system in fulfillment of the requirements of this section.

"(9) NOTIFICATION.—A cable operator shall provide written notice to a local commercial television station at least 30 days prior to either deleting from carriage or repositioning that station. No deletion or repositioning of a local commercial television station shall occur during a period in which major television ratings services measure the size of audiences of local television stations. The notification provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

"(10) COMPENSATION FOR CARRIAGE.—A cable operator shall not accept or request monetary payment or other valuable consideration in exchange either for carriage of local commercial television stations in fulfillment of the requirements of this section or for the channel positioning rights provided to such stations under this section, except that—

"(A) any such station may be required to bear the costs associated with delivering a good quality signal to the headend of the cable system;

"(B) a cable operator may accept payments from stations which would be considered distant signals under section 111 of title 17, United States Code, as reimbursement for the incremental copyright costs assessed against such cable operator for carriage of such signal; and

"(C) a cable operator may continue to accept monetary payment or other valuable consideration in exchange for carriage or channel positioning of the signal of any local commercial television station carried in fulfillment of the requirements of this section, through, but not beyond, the date of expiration of an agreement thereon between a cable operator and a local commercial television station entered into prior to June 26, 1990.

"(c) REMEDIES.—

"(1) COMPLAINTS BY BROADCAST STATIONS.—Whenever a local commercial television station believes that a cable operator has failed to meet its obligations under this section, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or has otherwise failed to comply with the channel positioning or repositioning or other requirements of this section. The cable operator shall, within 30 days of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning and other requirements of this section. A local commercial television station that is denied carriage or channel positioning or repositioning in accordance with this section by a cable operator may obtain review of such denial by filing a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to meet its obligations and the basis for such allegations.

"(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such cable operator an opportunity to present data and arguments to establish that there has been no failure to meet its obligations under this section.

"(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed, the Commission shall determine whether the cable operator has met its obligations under this section. If the Commission determines that the cable operator has failed to meet such obligations, the Commission shall order the cable operator to reposition the complaining station or, in the case of an obligation to carry a station, to commence carriage of the station and to continue such carriage for at least 12 months. If the Commission determines that the cable operator has fully met the requirements of this section, it shall dismiss the complaint.

"(d) INPUT SELECTOR SWITCH RULES ABOLISHED.—No cable operator shall be required—

"(1) to provide or make available any input selector switch as defined in section 76.5(mm) of title 47, Code of Federal Regulations, or any comparable device, or

"(2) to provide information to subscribers about input selector switches or comparable devices.

"(e) REGULATIONS BY COMMISSION.—Within 180 days after the date of enactment of this section, the Commission shall, following a rulemaking proceeding, issue regulations implementing the requirements imposed by this section. Such implementing regulations shall include necessary revisions to update section 76.51 of the Commission's regulations (47 C.F.R. 76.51).

"(f) SALES PRESENTATIONS AND PROGRAM LENGTH COMMERCIALS.—Nothing in this Act shall require a cable operator to carry on any tier, or prohibit a cable operator from carrying on any tier, the signal of any commercial television station or video programming service that is predominantly utilized for the transmission of sales presentations or program length commercials.

"(g) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to modify or otherwise affect title 17, United States Code.

"(h) DEFINITION.—

"(1) LOCAL COMMERCIAL TELEVISION STATION.—For purposes of this section, the term 'local commercial television station' means any television broadcast station, determined by the Commission to be a commercial station, licensed and operating on a channel regularly assigned to its community by the Commission that, with respect to a particular cable system, is within the same television market as the cable system. If such a television broadcast station—

"(A) would be considered a distant signal under section 111 of title 17, United States Code, it shall be deemed to be a local commercial television station for purposes of this section upon agreement to indemnify the cable operator for the increased copyright liability as a result of being carried on the cable system; or

"(B) does not deliver to the principal headend of a cable system either a signal level of −45dBm for UHF signals or −49dBm for VHF signals at the input terminals of the signal processing equipment, it shall be responsible for the costs of delivering to the cable system a signal of good quality or a baseband video signal.

"(2) EXCLUSIONS.—The term 'local commercial television station' shall not include low power television stations, television translator stations, and passive repeaters which operate pursuant to part 74 of title 47, Code of Federal Regulations, or any successor regulations thereto.

"(3) MARKET DETERMINATIONS.—(A) For purposes of this section, a broadcasting station's

market shall be determined in the manner provided in section 73.3555(d)(3)(i) of title 47, Code of Federal Regulations, as in effect on May 1, 1991, except that, following a written request, the Commission may, with respect to a particular television broadcast station, include additional communities within its television market or exclude communities from such station's television market to better effectuate the purposes of this section. In considering such requests, the Commission may determine that particular communities are part of more than one television market.

"(B) In considering requests filed pursuant to subparagraph (A), the Commission shall afford particular attention to the value of localism by taking into account such factors as—

"(i) whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community;

"(ii) whether the television station provides coverage or other local service to such community;

"(iii) whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community; and

"(iv) evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.

"(C) A cable operator shall not delete from carriage the signal of a commercial television station during the pendency of any proceeding pursuant to this paragraph.

"(D) In the rulemaking proceeding required by subsection (a), the Commission shall provide for expedited consideration of requests filed under this subsection.".

SEC. 6. CARRIAGE OF NONCOMMERCIAL STATIONS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is further amended by inserting after section 614, as added by section 4, the following new section:

"SEC. 615. CARRIAGE OF NONCOMMERCIAL EDUCATIONAL TELEVISION.

"(a) CARRIAGE OBLIGATIONS.—In addition to the carriage requirements set forth in section 614, each cable operator of a cable system shall carry the signals of qualified noncommercial educational television stations in accordance with the provisions of this section.

"(b) REQUIREMENTS TO CARRY QUALIFIED STATIONS.—

"(1) GENERAL REQUIREMENT TO CARRY EACH QUALIFIED STATION.—Subject to paragraphs (2) and (3) and subsection (e), each cable operator shall carry, on the cable system of that cable operator, any qualified local noncommercial educational television station requesting carriage.

"(2)(A) SYSTEMS WITH 12 OR FEWER CHANNELS.—Notwithstanding paragraph (1), a cable operator of a cable system with 12 or fewer usable activated channels shall be required to carry the signal of one qualified local noncommercial educational television station; except that a cable operator of such a system shall comply with subsection (c) and may, in its discretion, carry the signals of other qualified noncommercial educational television stations.

"(B) In the case of a cable system described in subparagraph (A) which operates beyond the presence of any qualified local noncommercial educational television station—

"(i) the cable operator shall carry on that system the signal of one qualified noncommercial educational television station;

"(ii) the selection for carriage of such a signal shall be at the election of the cable operator; and

"(iii) in order to satisfy the requirements for carriage specified in this subsection, the cable operator of the system shall not be required to remove any other programming service actually provided to subscribers on March 29, 1990; except that such cable operator shall use the first channel available to satisfy the requirements of this subparagraph.

"(3) SYSTEMS WITH 13 TO 36 CHANNELS.—(A) Subject to subsection (c), a cable operator of a cable system with 13 to 36 usable activated channels—

"(i) shall carry the signal of at least one qualified local noncommercial educational television station but shall not be required to carry the signals of more than three such stations, and

"(ii) may, in its discretion, carry additional such stations.

"(B) In the case of a cable system described in this paragraph which operates beyond the presence of any qualified local noncommercial educational television station, the cable operator shall import the signal of at least one qualified noncommercial educational television station to comply with subparagraph (A)(i).

"(C) The cable operator of a cable system described in this paragraph which carries the signal of a qualified local noncommercial educational station affiliated with a State public television network shall not be required to carry the signal of any additional qualified local noncommercial educational television stations affiliated with the same network if the programming of such additional stations is substantially duplicated by the programming of the qualified local noncommercial educational television station receiving carriage.

"(D) A cable operator of a system described in this paragraph which increases the usable activated channel capacity of the system to more than 36 channels on or after March 29, 1990, shall, in accordance with the other provisions of this section, carry the signal of each qualified local noncommercial educational television station requesting carriage, subject to subsection (e).

"(c) CONTINUED CARRIAGE OF EXISTING STATIONS.—Notwithstanding any other provision of this section, all cable operators shall continue to provide carriage to all qualified local noncommercial educational television stations whose signals were carried on their systems as of March 29, 1990. The requirements of this subsection may be waived with respect to a particular cable operator and a particular such station, upon the written consent of the cable operator and the station.

"(d) PLACEMENT OF ADDITIONAL SIGNALS.—A cable operator required to add the signals of qualified local noncommercial educational television stations to a cable system under this section may do so, subject to approval by franchising authority pursuant to section 611 of this title, by placing such additional stations on public, educational, or governmental channels not in use for their designated purposes.

"(e) SYSTEMS WITH MORE THAN 36 CHANNELS.—A cable operator of a cable system with a capacity of more than 36 usable activated channels which is required to carry the signals of three qualified local noncommercial educational television stations shall not be required to carry the signals of additional such stations the programming of which substantially duplicates the programming broadcast by another qualified local noncommercial educational television station requesting carriage. Substantial duplication shall be defined by the Commission in a manner that promotes access to distinctive noncommercial educational television services.

"(f) WAIVER OF NONDUPLICATION RIGHTS.—A qualified local noncommercial educational television station whose signal is carried by a cable operator shall not assert any network nonduplication rights it may have pursuant to section 76.92 of title 47, Code of Federal Regulations, to require the deletion of programs aired on other qualified local noncommercial educational television stations whose signals are carried by that cable operator.

"(g) CONDITIONS OF CARRIAGE.—

"(1) CONTENT TO BE CARRIED.—A cable operator shall retransmit in its entirety the primary video, accompanying audio, and line 21 closed caption transmission of each qualified local noncommercial educational television station whose signal is carried on the cable system, and, to the extent technically feasible, program-related material carried in the vertical blanking interval, or on subcarriers, that may be necessary for receipt of programming by handicapped persons or for educational or language purposes. Retransmission of other material in the vertical blanking interval or on subcarriers shall be within the discretion of the cable operator.

"(2) BAND-WIDTH AND TECHNICAL QUALITY.—A cable operator shall provide each qualified local noncommercial educational television station whose signal is carried in accordance with this section with band-width and technical capacity equivalent to that provided to commercial television broadcast stations carried on the cable system and shall carry the signal of each qualified local noncommercial educational television station without material degradation.

"(3) CHANGES IN CARRIAGE.—The signal of a qualified local noncommercial educational television station shall not be repositioned by a cable operator unless the cable operator, at least 30 days in advance of such repositioning, has provided written notice to the station and all subscribers of the cable system. For purposes of this paragraph, repositioning includes (A) assignment of a qualified local noncommercial educational television station to a cable system channel number different from the cable system channel number to which the station was assigned as of March 29, 1990, and (B) deletion of the station from the cable system. The notifications provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

"(4) GOOD QUALITY SIGNAL REQUIRED.—Notwithstanding the other provisions of this section, a cable operator shall not be required to carry the signal of any qualified local noncommercial educational television station which does not deliver to the cable system's principal headend a signal of good quality, as may be defined by the Commission.

"(5) CHANNEL POSITIONING.—Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local noncommercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any dispute regarding the positioning of a local noncommercial television station shall be resolved by the Commission.

"(h) AVAILABILITY OF SIGNALS.—Signals carried in fulfillment of the carriage obligations of a cable operator under this section shall be available to every subscriber as part of the cable system's lowest priced service tier that includes the retransmission of local commercial television broadcast signals.

"(i) PAYMENT FOR CARRIAGE PROHIBITED.—

"(1) IN GENERAL.—A cable operator shall not accept monetary payment or other valuable consideration in exchange for carriage of the signal of any qualified local noncommercial educational television station carried in fulfillment of the requirements of this section, except that such a station may be required to bear the cost associated with delivering a good quality signal to the principal headend of the cable system.

"(2) DISTANT SIGNAL EXCEPTION.—Notwithstanding the provisions of this section, a cable operator shall not be required to add the signal of a qualified local noncommercial educational television station not already carried under the provision of subsection (c), where such signal would be considered a distant signal

for copyright purposes unless such station reimburses the cable operator for the incremental copyright costs assessed against such cable operator as a result of such carriage.

"(j) REMEDIES.—

"(1) COMPLAINT.—Whenever a qualified local noncommercial educational television station believes that a cable operator of a cable system has failed to comply with the signal carriage requirements of this section, the station may file a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to comply with such requirements and state the basis for such allegations.

"(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such cable operator an opportunity to present data, views, and arguments to establish that the cable operator has complied with the signal carriage requirements of this section.

"(3) REMEDIAL ACTION; DISMISSAL.—Within 120 days after the date a complaint is filed under this subsection, the Commission shall determine whether the cable operator has complied with the requirements of this section. If the Commission determines that the cable operator has failed to comply with such requirements, the Commission shall state with particularity the basis for such findings and order the cable operator to take such remedial action as is necessary to meet such requirements. If the Commission determines that the cable operator has fully complied with such requirements, the Commission shall dismiss the complaint.

"(k) IDENTIFICATION OF SIGNALS.—A cable operator shall identify, upon request by any person, those signals carried in fulfillment of the requirements of this section.

"(l) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified noncommercial educational television station' means any television broadcast station which—

"(A)(i) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational television broadcast station and which is owned and operated by a public agency, nonprofit foundation, corporation, or association; and

"(ii) has as its licensee an entity which is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) (47 U.S.C. 396(k)(6)(B)); or

"(B) is owned and operated by a municipality and transmits predominantly noncommercial programs for educational purposes.

Such term includes (I) the translator of any noncommercial educational television station with five watts or higher power serving the franchise area, (II) a full-service station or translator if such station or translator is licensed to a channel reserved for noncommercial educational use pursuant to section 73.606 of title 47, Code of Federal Regulations, or any successor regulations thereto, and (III) such stations and translators operating on channels not so reserved as the Commission determines are qualified as noncommercial educational stations.

"(2) QUALIFIED LOCAL NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified local noncommercial educational television station' means a qualified noncommercial educational television station—

"(A) which is licensed to a principal community whose reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (as in effect on March 29, 1990), or any successor regulations thereto, is within 50 miles of the principal headend of the cable system; or

"(B) whose Grade B service contour, as defined in section 73.683(a) of such title (as in effect on March 29, 1990), or any successor regulations thereto, encompasses the principal headend of the cable system.".

SEC. 7. CONSUMER PROTECTION AND CUSTOMER SERVICE.

Section 632 of the Communications Act of 1934 (47 U.S.C. 552) is amended to read as follows:

"SEC. 632. CONSUMER PROTECTION AND CUSTOMER SERVICE.

"(a) FRANCHISING AUTHORITY ENFORCEMENT.—A franchising authority may establish and enforce—

"(1) customer service requirements of the cable operator; and

"(2) construction schedules and other construction-related requirements, including construction-related performance requirements, of the cable operator.

"(b) COMMISSION STANDARDS.—The Commission shall, within 180 days of enactment of the Cable Television Consumer Protection and Competition Act of 1992, establish standards by which cable operators may fulfill their customer service requirements. Such standards shall include, at a minimum, requirements governing—

"(1) cable system office hours and telephone availability;

"(2) installations, outages, and service calls; and

"(3) communications between the cable operator and the subscriber (including standards governing bills and refunds).

"(c) CONSUMER PROTECTION LAWS AND CUSTOMER SERVICE AGREEMENTS.—

"(1) CONSUMER PROTECTION LAWS.—Nothing in this title shall be construed to prohibit any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted by this title.

"(2) CUSTOMER SERVICE REQUIREMENT AGREEMENTS.—Nothing in this section shall be construed to preclude a franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards established by the Commission under subsection (b). Nothing in this title shall be construed to prevent the establishment or enforcement of any municipal law or regulation, or any State law, concerning customer service that imposes customer service requirements that exceed the standards set by the Commission under this section, or that addresses matters not addressed by the standards set by the Commission under this section.".

SEC. 8. CUSTOMER PRIVACY RIGHTS.

Section 631(a)(2) of the Communications Act of 1934 (47 U.S.C. 551(a)(2)) is amended to read as follows:

"(2) For purposes of this section, other than subsection (h)—

"(A) the term 'personally identifiable information' does not include any record of aggregate data which does not identify particular persons;

"(B) the term 'other service' includes any wire or radio communications service provided using any of the facilities of a cable operator that are used in the provision of cable service; and

"(C) the term 'cable operator' includes, in addition to persons within the definition of cable operator in section 602, any person who (i) is owned or controlled by, or under common ownership or control with, a cable operator, and (ii) provides any wire or radio communications service.".

SEC. 9. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding after section 624 the following new section:

"SEC. 624A. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

"(a) FINDINGS.—The Congress finds that—

"(1) new and recent models of television receivers and video cassette recorders often contain premium features and functions that are disabled or inhibited because of cable scrambling, encoding, or encryption technologies and devices, including converter boxes and remote control devices required by cable operators to receive programming;

"(2) if these problems are allowed to persist, consumers will be less likely to purchase, and electronics equipment manufacturers will be less likely to develop, manufacture, or offer for sale, television receivers and video cassette recorders with new and innovative features and functions; and

"(3) cable system operators should use technologies that will prevent signal thefts while permitting consumers to benefit from such features and functions in such receivers and recorders.

"(b) COMPATIBLE INTERFACES.—Within 1 year after the date of enactment of this section, the Commission, in consultation with representatives of the cable industry and the consumer electronics industry, shall report to the Congress on means of assuring compatibility between televisions and video cassette recorders and cable systems, consistent with the need to prevent theft of cable service, so that cable subscribers will be able to enjoy the full benefit of both the programming available on cable systems and the functions available on their televisions and video cassette recorders. The Commission shall issue such regulations as may be necessary to require the use of interfaces that assure such compatibility.

"(c) RULEMAKING REQUIRED.—

"(1) IN GENERAL.—Within 1 year after the date of submission of the report required by subsection (b), the Commission shall prescribe such regulations as are necessary to increase compatibility between television receivers equipped with premium functions and features, video cassette recorders, and cable systems.

"(2) FACTORS TO BE CONSIDERED.—In prescribing the regulations required by this subsection, the Commission shall consider—

"(A) the costs and benefits of requiring cable operators to adhere to technical standards for scrambling or encryption of video programming in a manner that will minimize interference with or nullification of the special functions of subscribers' television receivers or video cassette recorders, while providing effective protection against theft or unauthorized reception of cable service, including functions that permit the subscriber—

"(i) to watch a program on 1 channel while simultaneously using a video cassette recorder to tape a program on another channel;

"(ii) to use a video cassette recorder to tape 2 consecutive programs that appear on different channels; or

"(iii) to use advanced television picture generation and display features;

"(B) the potential for achieving economies of scale by requiring manufacturers of television receivers to incorporate technologies to achieve such compatibility in all television receivers;

"(C) the costs and benefits to consumers of imposing compatibility requirements on cable operators and television manufacturers; and

"(D) the need for cable operators to protect the integrity of the signals transmitted by the cable operator against theft or to protect such signals against unauthorized reception.

"(3) REGULATIONS REQUIRED.—The regulations prescribed by the Commission under this section shall include such regulations as are necessary—

"(A) to establish the technical requirements that permit a television receiver or video cassette recorder to be sold as 'cable ready';

"(B) to establish procedures by which manufacturers may certify television receivers that comply with the technical requirements established under subparagraph (A) of this paragraph in a manner that, at the point of sale is easily understood by potential purchasers of such receivers;

"(C) provide appropriate penalties for willful misrepresentations concerning such certifications;

"(D) to promote the commercial availability, from cable operators and retail vendors that are not affiliated with cable systems, of converters and of remote control devices compatible with converters;

"(E) to require a cable operator who offers subscribers the option of renting a remote control unit—

"(i) to notify subscribers that they may purchase a commercially available remote control device from any source that sells such devices rather than renting it from the cable operator; and

"(ii) to specify the types of remote control units that are compatible with the converter box supplied by the cable operator; and

"(F) to prohibit a cable operator from taking any action that prevents or in any way disables the converter box supplied by the cable operator from operating compatibly with commercially available remote control units.

"(d) REVIEW OF REGULATIONS.—The Commission shall periodically review and, if necessary, modify the regulations issued pursuant to this section in light of any actions taken in response to regulations issued under subsection (c) and to reflect improvements and changes in cable systems, television receivers, video cassette recorders, and similar technology.

"(e) FEASIBILITY AND COST.—The Commission shall adopt standards under this section that are technologically and economically feasible. In determining the feasibility of such standards, the Commission shall take into account the cost and benefit to cable subscribers and purchasers of television receivers of such standards.".

SEC. 10. NOTICE TO CABLE SUBSCRIBERS ON UNSOLICITED SEXUALLY EXPLICIT PROGRAMS.

Section 624(d) of the Communications Act of 1934 (47 U.S.C. 544(d)) is amended by adding at the end the following new paragraph:

"(3)(A) If a cable operator provides a premium channel without charge to cable subscribers who do not subscribe to such premium channel, the cable operator shall, not later than 30 days before such premium channel is provided without charge—

"(i) notify all cable subscribers that the cable operator plans to provide a premium channel without charge,

"(ii) notify all cable subscribers when the cable operator plans to offer a premium channel without charge,

"(iii) notify all cable subscribers that they have a right to request that the channel carrying the premium channel be blocked, and

"(iv) block the channel carrying the premium channel upon the request of a subscriber.

"(B) For the purpose of this section, the term 'premium channel' shall mean any pay service offered on a per channel or per program basis, which offers movies rated by the Motion Picture Association as X, NR–17, or R.".

SEC. 11. TECHNICAL STANDARDS; EMERGENCY ANNOUNCEMENTS; PROGRAMMING CHANGES.

(a) TECHNICAL STANDARDS.—Section 624(e) of the Communications Act of 1934 (47 U.S.C. 544(e)) is amended to read as follows:

"(e) Within one year after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall prescribe regulations which establish minimum technical standards relating to cable systems' technical operation and signal quality. The Commission shall update such standards periodically to reflect improvements in technology. A franchising authority may require as part of a franchise (including a modification, renewal, or transfer thereof) provisions for the enforcement of the standards prescribed under this subsection. A franchising authority may apply to the Commission for a waiver to impose standards that are more stringent than the standards prescribed by the Commission under this subsection.".

(b) EMERGENCY ANNOUNCEMENTS.—Section 624 of such Act is further amended by adding at the end the following new subsection:

"(g) Notwithstanding any such rule, regulation, or order, each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations in subpart G of part 73, title 47, Code of Federal Regulations.".

(c) PROGRAMMING CHANGES.—Section 624 of such Act is further amended—

(1) in subsection (b)(1), by inserting ", except as provided in subsection (h)," after "but may not"; and

(2) by adding at the end the following new subsection:

"(h) A franchising authority may require a cable operator to do any one or more of the following:

"(1) to provide 30 days advance written notice of any change in channel assignment or in the video programming service provided over any such channel;

"(2) to inform subscribers, via written notice, that comments on programming and channel position changes are being recorded by a designated office of the franchising authority.".

SEC. 12. DEVELOPMENT OF COMPETITION AND DIVERSITY IN VIDEO PROGRAMMING DISTRIBUTION.

Part III of title VI of the Communications Act of 1934 is amended by inserting after section 627 (47 U.S.C. 547) the following new section:

"SEC. 628. DEVELOPMENT OF COMPETITION AND DIVERSITY IN VIDEO PROGRAMMING DISTRIBUTION.

"(a) PURPOSE.—The purpose of this section is to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market, to increase the availability of satellite cable programming to persons in rural and other areas not currently able to receive such service, and to spur the development of communications technologies.

"(b) PROHIBITION.—It shall be unlawful for a cable operator or a satellite cable programming vendor in which a cable operator has an attributable interest in violation of any regulation prescribed under subsection (c) to engage in unfair methods of competition or unfair or deceptive acts or practices, the purpose or effect of which is to hinder significantly or to prevent any multichannel video programming distributor from providing satellite cable programming to subscribers or consumers.

"(c) REGULATIONS REQUIRED.—

"(1) PROCEEDING REQUIRED.—Within 180 days after the enactment of this Act, the Commission shall, in order to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market and the continuing development of communications technologies, prescribe regulations to specify the conduct that is prohibited by subsection (b).

"(2) MINIMUM CONTENTS OF REGULATIONS.—The regulations to be promulgated under this section shall—

"(A) establish effective safeguards to prevent a cable operator which has an attributable interest in a satellite cable programming vendor from unduly or improperly influencing the decision of such vendor to sell, or the price, terms, and conditions of sale of, satellite cable programming to any unaffiliated multichannel video programming distributor;

"(B) prohibit discrimination by a satellite cable programming vendor in which a cable operator has an attributable interest in the price, terms, and conditions in the sale or delivery of satellite cable programming among or between cable systems, cable operators, or their agents or buying groups, or other multichannel video programming distributors; except that such a satellite cable programming vendor in which a cable operator has an attributable interest shall not be prohibited from—

"(i) imposing reasonable requirements for creditworthiness, offering of service, and financial stability and standards regarding character and technical quality;

"(ii) establishing different prices, terms, and conditions to take into account actual and reasonable differences in the cost of creation, sale, delivery, or transmission of satellite cable programming;

"(iii) establishing different price, terms, and conditions which take into account reasonable volume discounts based on the number of subscribers served by the distributor; or

"(iv) entering into an exclusive contract that is permitted under subparagraph (D);

"(C) prohibit practices, understandings, arrangements, or activities, including exclusive contracts for satellite cable programming between a cable operator and a cable satellite programming vendor, which prevent a multichannel video programming distributor from obtaining such programming from any satellite cable programming vendor in which a cable operator has an attributable interest for distribution to persons in areas not served by a cable operator as of the date of enactment of this section; and

"(D) with respect to distribution to persons in areas served by a cable operator, prohibit exclusive contracts for satellite cable programming between a cable operator and a satellite cable programming vendor in which a cable operator has an attributable interest, unless the Commission determines (in accordance with paragraph (4)) that such contract is in the public interest.

"(3) GEOGRAPHIC LIMITATIONS.—Nothing in this section shall require any person who is engaged in the national or regional distribution of video programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution. Nothing in this section shall apply to the signal of any broadcast affiliate of a national television network or other television signal that is retransmitted by satellite, and shall not apply to any internal satellite communication of any broadcast network or cable network, except that satellite broadcast programming shall be subject to the requirements of this section.

"(4) PUBLIC INTEREST DETERMINATIONS ON EXCLUSIVE CONTRACTS.—In determining whether an exclusive contract is in the public interest for purposes of paragraph (2)(D), the Commission shall consider each of the following factors with respect to the effect of such contract on the distribution of video programming in areas that are served by a cable operator:

"(A) the effect of such exclusive contract on the development of competition in local and national multichannel video programming distribution markets;

"(B) the effect of such exclusive contract on competition from multichannel video programming distribution technologies other than cable;

"(C) the effect of such exclusive contract on the attraction of capital investment in the production and distribution of new satellite cable programming;

"(D) the effect of such exclusive contract on diversity of programming in the multichannel video programming distribution market; and

"(E) the duration of the exclusive contract.

"(5) SUNSET PROVISION.—The prohibition required by paragraph (2)(D) shall cease to be effective 10 years after the date of enactment of this Act.

"(d) ADJUDICATORY PROCEEDING.—Any multichannel video programming distributor aggrieved by conduct that it alleges constitutes a violation of this section, or the implementing regulations of the Commission under this section, may commence an adjudicatory proceeding at the Commission.

"(e) REMEDIES FOR VIOLATIONS.—

"(1) REMEDIES AUTHORIZED.—Upon completion of such adjudicatory proceeding, the Com-

mission shall have the power to order appropriate remedies, including, if necessary, the power to establish price, terms, and conditions of sale of programming to the aggrieved multichannel video programming distributor.

"(2) ADDITIONAL REMEDIES.—The remedies provided in paragraph (1) are in addition to and not in lieu of the remedies available under title V or any other provision of this Act.

"(f) PROCEDURES.—The Commission shall prescribe regulations to implement this section. The Commission's regulations shall—

"(1) provide for an expedited review of any complaints made pursuant to this section;

"(2) establish procedures for the Commission to collect such data, including the right to obtain copies of all contracts and documents reflecting arrangements and understandings alleged to violate this section, as the Commission requires to carry out this section; and

"(3) provide for any penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(g) REPORTS.—The Commission shall, beginning not later than 18 months after promulgation of the regulations required by subsection (c), annually report to Congress on the status of competition in the market for the delivery of video programming.

"(h) EXEMPTIONS FOR PRIOR CONTRACTS.—

"(1) IN GENERAL.—Nothing in this section shall affect any contract that grants exclusive distribution rights to any person with respect to satellite cable programming and that was entered into on or before June 1, 1990, except that the provisions of subsection (c)(2)(C) shall apply for distribution to persons in areas not served by a cable operator.

"(2) LIMITATION ON RENEWALS.—A contract that was entered into on or before June 1, 1990, but that is renewed or extended after the date of enactment of this section shall not be exempt under paragraph (1) of this subsection.

"(i) APPLICABILITY OF ANTITRUST LAWS; NO ANTITRUST IMMUNITY.—Nothing in this section shall be construed to alter or restrict in any manner the applicability of any Federal or State antitrust law.

"(j) DEFINITIONS.—As used in this section:

"(1) The term 'satellite cable programming vendor' means a person engaged in the production, creation, or wholesale distribution of a satellite cable programming service for sale.

"(2) The terms 'cable system', 'multichannel video programming distributor', and 'video programming' have the meanings to provide under section 602 of this Act.

"(3) The term 'satellite cable programming' has the meaning provided under section 705 of the Act.

"(4) The term 'satellite broadcast programming' means broadcast programming, other than programming of an affiliate of a national network, when such programming is retransmitted by satellite and the entity retransmitting such programming is not the broadcaster or an entity performing such retransmission on behalf of and with the specific consent of the broadcaster.".

SEC. 13. REGULATION OF CARRIAGE AGREEMENTS.

Part II of title VI of the Communications Act of 1934 is amended by adding at the end the following new section:

"SEC. 616. REGULATION OF CARRIAGE AGREEMENTS.

"(a) REGULATIONS.—Within one year after the date of enactment of this section, the Commission shall establish regulations governing program carriage agreements and related practices between cable operators or other multichannel video programming distributors and video programming vendors. Such regulations shall—

"(1) include provisions designed to prevent a cable operator or other multichannel video programming distributor from requiring a financial interest in a program service as a condition for carriage on one or more of such operator's systems;

"(2) include provisions designed to prohibit a cable operator or other multichannel video programming distributor from coercing a video programming vendor to provide, and from retaliating against such a vendor for failing to provide, exclusive rights against other multichannel video programming distributors as a condition of carriage on a system;

"(3) contain provisions designed to prevent a multichannel video programming distributor from engaging in conduct the effect of which is to unreasonably restrain the ability of an unaffiliated video programming vendor to compete fairly by discriminating in video programming distribution on the basis of affiliation or nonaffiliation of vendors in the selection, terms, or conditions for carriage of video programming provided by such vendors;

"(4) provide for expedited review of any complaints made by a video programming vendor pursuant to this section;

"(5) provide for appropriate penalties and remedies for violations of this subsection, including carriage; and

"(6) provide penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(b) DEFINITION.—As used in this section, the term 'video programming vendor' means a person engaged in the production, creation, or wholesale distribution of a video programming service for sale."

SEC. 14. EQUAL EMPLOYMENT OPPORTUNITY.

"(a) FINDINGS.—The Congress finds and declares that—

"(1) despite the existence of regulations governing equal employment opportunity, females and minorities are not employed in significant numbers in positions of management authority in the cable television and broadcast industries;

"(2) increased numbers of females and minorities in positions of management authority in the cable television and broadcast industries advances the Nation's policy favoring diversity in the expression of views in the electronic media; and

"(3) rigorous enforcement of equal employment opportunity rules and regulations is required in order to effectively deter racial and gender discrimination.

"(b) STANDARDS.—Section 634(d)(1) of the Communications Act of 1934 (47 U.S.C. 554(d)(1)) is amended to read as follows:

"(d)(1) Not later than 270 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, of this section, and after notice and opportunity for hearing, the Commission shall prescribe revisions in the rules under this section in order to implement the amendments made to this section by such Act. Such revisions shall be designed to promote equality of employment opportunities for females and minorities in each of the job categories itemized in paragraph (3) of this subsection.".

"(c) CONTENTS OF ANNUAL STATISTICAL REPORTS.—Section 634(d)(3) of the Communications Act of 1934 (47 U.S.C. 554(d)(3)) is amended to read as follows:

"(3)(A) Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race, sex, and job title the number of employees in each of the following full-time and part-time job categories:

"(i) Corporate officers.

"(ii) General Manager.

"(iii) Chief Technician.

"(iv) Comptroller.

"(v) General Sales Manager.

"(vi) Production Manager.

"(vii) Managers.

"(viii) Professionals.

"(ix) Technicians.

"(x) Sales.

"(xi) Office and Clerical.

"(xii) Skilled Craftspersons.

"(xiii) Semiskilled Operatives.

"(xiv) Unskilled Laborers.

"(xv) Service Workers.

"(B) The report required by subparagraph (A) shall be made on separate forms, provided by the Commission, for full-time and part-time employees. The Commission's rules shall sufficiently define job categories (i) through (vi) of such subparagraph so as to ensure that only employees who are principal decisionmakers and that have supervisory authority are reported for such categories. The Commission shall adopt rules that define job categories (vii) through (xv) in a manner that is consistent with the Commission policies in effect on June 1, 1990. The Commission shall prescribe the method by which entities shall be required to compute and report the number of minorities and women in job categories (i) through (x) and the number of minorities and women in job categories (i) through (xv) in proportion to the total number of qualified minorities and women in the relevant labor market. The report shall include information on hiring, promotion, and recruitment practices necessary for the Commission to evaluate the efforts of entities to comply with the provisions of paragraph (2) of this subsection. The report shall be available for public inspection at the entity's central location and at every location where 5 or more full-time employees are regularly assigned to work. Nothing in this subsection shall be construed as prohibiting the Commission from collecting or continuing to collect statistical or other employment information in a manner that it deems appropriate to carry out this section.".

(d) PENALTIES.—Section 634(f)(2) of such Act is amended by striking "$200" and inserting "$500".

(e) APPLICATION OF REQUIREMENTS.—Section 634(h)(1) of such Act is further amended by inserting before the period the following: "and any multichannel video programming distributor".

(f) STUDY AND REPORT REQUIRED.—Not later than 240 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall submit to the Congress a report pursuant to a proceeding to review and obtain public comment on the effect and operation of its procedures, regulations, policies, standards, and guidelines concerning equal employment opportunity in the broadcasting industry. In conducting such review, the Commission shall consider the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting equality of employment opportunity and promotion opportunity, and particularly the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting the congressional policy favoring increased employment opportunity for women and minorities in positions of management authority. In conducting such proceeding the Commission also shall review the effectiveness of penalties and remedies for violation of existing regulations and policies concerning equality of employment opportunity in the broadcasting industry. The Commission shall forward to the Congress such legislative recommendations to improve equal employment opportunity in the broadcasting industry as it deems necessary.

(g) BROADCASTING EQUAL EMPLOYMENT OPPORTUNITY.—Part II of title VI of the Communications Act of 1934 is amended by adding at the end thereof the following new section.

"SEC. 617. EQUAL EMPLOYMENT OPPORTUNITY OBLIGATIONS OF MUST-CARRY STATIONS.

"(a) APPLICATION OF SECTION.—This section shall apply to—

"(1) the licensee for any television broadcasting station that is eligible for carriage under section 614 or 615; and

"(2) any corporation, partnership, association, joint-stock company, trust, or affiliate or

subsidiary thereof engaged primarily in the management or operation of any such licensee.

"(b) EQUAL EMPLOYMENT OPPORTUNITY REQUIRED.—Equal opportunity in employment shall be afforded by each entity specified in subsection (a), and no person shall be discriminated against in employment by such entity because of race, color, religion, national origin, age, or sex.

"(c) EMPLOYMENT POLICIES AND PRACTICES REQUIRED.—Any entity specified in subsection (a) shall establish, maintain, and execute a positive continuing program of specific practices designed to ensure equal opportunity in every aspect of its employment policies and practices and to promote the hiring of a workforce that reflects the diversity of its community. Under the terms of its programs, such entity shall—

"(1) define the responsibility of each level of management to ensure a positive application and vigorous enforcement of its policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance;

"(2) inform its employees and recognized employee organizations of the equal employment opportunity policy and program and enlist their cooperation;

"(3) communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, age, or sex, and solicit their recruitment assistance on a continuing basis;

"(4) conduct a continuing program to exclude every form of prejudice or discrimination based on race, color, religion, national origin, age, or sex, from its personnel policies and practices and working conditions; and

"(5) conduct a continuing review of job structure and employment practices and adopt positive recruitment, training, job design, and other measures needed to ensure genuine equality of opportunity to participate fully in all its organizational units, occupations, and levels of responsibility.

"(d) COMMISSION RULES REQUIRED.—

"(1) DEADLINE FOR RULES.—Not later than 270 days after the date of enactment of this section, and after notice and opportunity for hearing, the Commission shall prescribe rules to carry out this section.

"(2) CONTENT OF RULES.—Such rules shall specify the terms under which an entity specified in subsection (a) shall, to the extent possible—

"(A) disseminate its equal opportunity program to job applicants, employees, and those with whom it regularly does business;

"(B) use minority organizations, organizations for women, media, educational institutions, and other potential sources of minority and female applicants, on an ongoing basis as a potential source of referrals for whenever jobs may become available;

"(C) evaluate its employment profile and job turnover against the availability of minorities and women in its service area;

"(D) undertake to offer promotions of minorities and women to positions of greater responsibility;

"(E) encourage minority and female entrepreneurs to conduct business with all parts of its operation; and

"(F) analyze the results of its efforts to recruit, hire, promote, and use the service of minorities and women and explain any difficulties encountered in implementing its equal employment opportunity program.

"(3) REPORTS REQUIRED.—Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race and sex the number of employees in each of the following full-time and part-time job categories—

"(A) Corporate officers.
"(B) General Manager.
"(C) Chief Technician.
"(D) Comptroller.
"(E) General Sales Manager.
"(F) Production Manager.
"(G) Managers.
"(H) Professionals.
"(I) Technicians.
"(J) Sales.
"(K) Office and Clerical.
"(L) Skilled Craftspersons.
"(M) Semiskilled Operatives.
"(N) Unskilled Laborers.
"(O) Service Workers.

"(4) ADDITIONAL CONTENTS OF REPORTS.—In addition, such report shall state the number of job openings occurring during the course of the year and (A) shall certify that the openings were filled in accordance with the program required by subsection (c), or (B) shall contain a statement providing reasons for not filling such positions in accordance with such program. The statistical report shall be available to the public at the central office and at every location where more than 5 full-time employees re regularly assigned to work.

"(5) RULES AMENDMENTS.—The Commission may amend such rules from time to time to the extent necessary to carry out the provisions of this section. Any such amendment shall be made after notice and opportunity for comment.

"(e) ENFORCEMENT.—

"(1) ANNUAL CERTIFICATION.—On an annual basis, the Commission shall certify each entity described in subsection (a) as in compliance with this section if, on the basis of information in the possession of the Commission, including the report filed pursuant to subsection (d)(3), such entity was in compliance, during the annual period involved, with the requirements of subsections (b), (c), and (d).

"(2) LICENSE RENEWAL REVIEWS.—The Commission shall, at the time of license renewal, review the employment practices of each entity described in subsection (a), in the aggregate, as well as in individual job categories, and determine whether such entity is in compliance with the requirements of subsections (b), (c), and (d), including whether such entity's employment practices deny or abridge minorities and women equal opportunities. As part of such investigation, the Commission shall review whether the entity's reports filed pursuant to subsection (d)(3) accurately reflect employee responsibilities in the reported job classifications and accurately reflect compliance with the equal employment opportunity plans in filing its annual reports.

"(f) COMPLAINTS.—Employees or applicants for employment who believe they have been discriminated against in violation of the requirements of this section, or rules under this section, or any other interested person, may file a complaint with the Commission. A complaint by any such person shall be in writing, and shall be signed and sworn to by that person. The rules prescribed under subsection (d)(1) shall specify a program, under authorities otherwise available to the Commission, for the investigation of complaints and violations, and for the enforcement of this section.

"(g) PENALTIES.—

"(1) IN GENERAL.—Any person who is determined by the commission, through an investigation pursuant to subsection (e) or otherwise, to have failed to meet or failed to make best efforts to meet the requirements of this section, or rules under this section, shall be liable to the United States for a forfeiture penalty of $200 for each violation. Each day of continuing violation shall constitute a separate offense. Any entity defined in subsection (a) shall not be liable for more than 180 days of forfeitures which accrued prior to notification by the Commission of a potential violation. Nothing in this paragraph shall limit the forfeiture imposed on any person as a result of any violation that continues subsequent to such notification. In addition, any person liable for such penalty may also have any license under this Act conditioned, suspended, or revoked. Whoever knowingly makes any false statement or submits documentation which he knows to be false, pursuant to an application for certification under this section shall be in violation of this section.

"(2) ADDITIONAL REMEDIES.—The provisions of paragraphs (2)(D), (3), and (4), of section 503(b) shall apply to forfeitures under this subsection.

"(3) NOTICE OF PENALTIES.—The Commission shall provide for notice to the public of any penalty imposed under this section.

"(h) EFFECT ON OTHER LAWS.—Nothing in this section shall affect the authority of any State or local government—

"(1) to establish or enforce any requirement which is consistent with the requirements of this section, including any requirement which affords equal employment opportunity protection for employees; or

"(2) to establish or enforce any provision requiring or encouraging any entity specified in subsection (a) to conduct business with enterprises which are owned or controlled by members of minority groups (as defined in section 309(j)(3)(C)(ii)) or which have their principal operations located within the local service area of such entity.".

SEC. 16. HOME WIRING.

Section 624 of the Communications Act of 1934 (47 U.S.C. 544) is amended by adding at the end the following new subsection:

"(i) Within 120 days after the date of enactment of this subsection, the Commission shall prescribe rules concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber.".

SEC. 17. SALES OF CABLE SYSTEMS.

Part II of title VI of the Communications Act of 1934 is further amended by adding at the end thereof the following new section:

"SEC. 628. SALES OF CABLE SYSTEMS.

"(a) 3-YEAR HOLDING PERIOD REQUIRED.—Except as provided in this section, no cable operator may sell or otherwise transfer ownership in a cable system within a 36-month period following either the acquisition or initial construction of such system by such operator.

"(b) TREATMENT OF MULTIPLE TRANSFERS.—In the case of a sale of multiple systems, if the terms of the sale require the buyer to subsequently transfer ownership of one or more such systems to one or more third parties, such transfers shall be considered a part of the initial transaction.

"(c) EXCEPTIONS.—Subsection (a) of this section shall not apply to—

"(1) any transfer of ownership interest in any cable system which is not subject to Federal income tax liability;

"(2) any sale required by operation of any law or any act of any Federal agency, any State or political subdivision thereof, or any franchising authority; or

"(3) any sale, assignment, or transfer, to one or more purchasers, assignees, or transferees controlled by, controlling, or under common control with, the seller, assignor, or transferor.

"(d) WAIVER AUTHORITY.—The Commission may, consistent with the public interest, waive the requirement of subsection (a), except that, if the franchise requires franchise authority approval of a transfer, the Commission shall not waive such requirements unless the franchise authority has approved the transfer.

"(e) LIMITATION ON DURATION OF FRANCHISING AUTHORITY POWER TO DISAPPROVE TRANSFERS.—In the case of any sale or transfer of ownership of any cable system after the 36-month period following acquisition of such system, a franchising authority shall, if the franchise requires franchising authority approval of a sale or transfer, have 120 days to act upon any request for approval of such sale or transfer that contains or is accompanied by such information as is required in accordance with Com-

mission regulations and by the franchising authority. If the franchising authority fails to render a final decision on the request within 120 days, such request shall be deemed granted unless the requesting party and the franchising authority agree to an extension of time.".

SEC. 17. LIMITATION ON FRANCHISING AUTHORITY LIABILITY.

(a) AMENDMENT.—Part IV of title VI of the Communications Act of 1934 is amended by inserting after section 635 (47 U.S.C. 555) the following new section:

"SEC. 636A. LIMITATION OF FRANCHISING AUTHORITY LIABILITY.

"(a) SUITS FOR DAMAGES PROHIBITED.—In any court proceeding pending on or initiated after the date of enactment of this section involving any claim against a franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity, arising from the regulation of cable service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of a franchise, any relief, to the extent such relief is required by any other provision of Federal, State, or local law, shall be limited to injunctive relief and declaratory relief.

"(b) EXCEPTION FOR COMPLETED CASES.—The limitation contained in subsection (a) shall not apply to actions that, prior to such violation, have been determined by a final order of a court of binding jurisdiction, no longer subject to appeal, to be in violation of a cable operator's rights.

"(c) DISCRIMINATION CLAIMS PERMITTED.—Nothing in this section shall be construed as limiting the relief authorized with respect to any claim against a franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity, to the extent such claim involves discrimination on the basis of race, color, sex, age, religion, national origin, or handicap.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as creating or authorizing liability of any kind, under any law, for any action or failure to act relating to cable service or the granting of a franchise by any franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity.".

(b) CONFORMING AMENDMENT.—Section 635(b) of the Communications Act of 1934 (47 U.S.C. 555(b)) is amended by inserting "and with the provisions of section 635(a)" after "subsection (a)".

SEC. 18. CABLE CHANNELS FOR COMMERCIAL USE.

(a) RATES, TERMS, AND CONDITIONS.—Section 612(c) of the Communications Act of 1934 (47 U.S.C. 532(c)) is amended—

(1) in paragraph (1), by striking "consistent with the purpose of this section" and inserting "consistent with regulations prescribed by the Commission under paragraph (4)"; and

(2) by adding at the end thereof the following new paragraph:

"(4) The Commission shall, not later than 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, by regulation establish—

"(A) a formula to determine the maximum rates which a cable operator may establish under paragraph (1) of this subsection;

"(B) standards concerning the terms and conditions which may be so established;

"(C) standards concerning methods for collection and billing for commercial use of channel capacity made available under this section; and

"(D) procedures for the expedited resolution of disputes concerning rates or carriage under this section.".

(b) ACCESS FOR QUALITY MINORITY PROGRAMMING SOURCES AND QUALIFIED EDUCATIONAL PROGRAMMING SOURCES.—Section 612 of such Act is further amended by adding at the end thereof the following new subsection:

"(l)(1) Notwithstanding the provisions of subsections (b) and (c), a cable operator required by this section to designate channel capacity for commercial use may use any such channel capacity for the provision of programming from a qualified minority programming source or from any qualified educational programming source, whether or not such source is affiliated with the cable operator. The channel capacity used to provide programming from a qualified minority programming source or from any qualified educational programming source pursuant to this subsection may not exceed 33 percent of the channel capacity designated pursuant to this section. No programming provided over a cable system on July 1, 1990, may qualify as minority programming or educational programming on that cable system under this subsection.

"(2) For purposes of this subsection, the term 'qualified minority programming source' means a programming source which devotes significantly all of its programming to coverage of minority viewpoints, or to programming directed at members of minority groups, and which is over 50 percent minority-owned, as the term 'minority' is defined in section 309(j)(3)(C)(ii) of this Act.

"(3) For purposes of this subsection, the term 'qualified educational programming source' means a programming source which devotes significantly all of its programming to educational or instructional programming of such a nature that it promotes public understanding of mathematics, the sciences, the humanities, and the arts and has a documented annual expenditure on programming exceeding $15,000,000. Programming expenditures shall mean all annual costs incurred by the channel originator to produce or acquire programs which are scheduled to appear on air, and shall specifically exclude marketing, promotion, satellite transmission and operational costs, and general administrative costs. Nothing in this subsection shall substitute for the requirements to carry qualified noncommercial educational television stations as specified under section 615.".

SEC. 19. CABLE FOREIGN OWNERSHIP RESTRICTIONS.

(a) FINDINGS.—The Congress finds that—

(1) restrictions on alien or foreign ownership of broadcasting and common carriers first were enacted by Congress in the Radio Act of 1912;

(2) cable television service currently is available to more than 90 percent of American households, more than 62 percent of American households subscribe to such services, and the majority of viewers rely on cable as the conduit through which they receive terrestrial broadcast signals;

(3) many Americans receive a significant portion of their daily news, information, and entertainment programming from cable television systems, and such systems should not be controlled by foreign entities; and

(4) the policy justifications underlying restrictions on alien ownership of broadcast or common carrier licenses have equal application to alien ownership of cable television systems, direct broadcast satellite systems, and multipoint distribution services.

(b) AMENDMENT TO COMMUNICATIONS ACT.—Section 310(b) of the Communications Act of 1934 (47 U.S.C. 310(b)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D);

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end thereof the following new paragraphs:

"(2)(A) No cable system (as such term is defined in section 602) in the United States shall be owned or otherwise controlled by any alien, representative, or corporation described in subparagraph (A), (B), (C), or (D) of paragraph (1) of this subsection.

"(B) Subparagraph (A) of this paragraph shall not be applied—

"(i) to require any such alien, representative, or corporation to sell or dispose of any ownership interest held or contracted for on or before June 1, 1990, or acquired in accordance with clause (ii); or

"(ii) to prohibit any such alien, representative, or corporation that owns, has contracted on or before June 1, 1990, to acquire ownership, or otherwise controls, any cable system from acquiring ownership or control of additional cable systems if the total number of households passed by all the cable systems that such alien, representative, or corporation would, as a result of such acquisition, own or control does not exceed 2,000,000.

"(3)(A) For purposes of paragraph (1) of this subsection, a license or authorization for any of the following services shall be deemed to be a broadcast station license:

"(i) cable auxiliary relay services;

"(ii) multipoint distribution services;

"(iii) direct broadcast satellite services; and

"(iv) other services the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

"(B) Subparagraph (A) of this paragraph shall not be applied to any cable operator to the extent that such operator is eligible for the exemptions contained in subparagraph (B) of paragraph (2).".

SEC. 20. THEFT OF CABLE SERVICE.

Section 633(b) of the Communications Act of 1934 (47 U.S.C. 533(b)) is amended—

(1) in paragraph (2)—

(A) by striking "$25,000" and inserting "$50,000";

(B) by striking "1 year" and inserting "2 years";

(C) by striking "$50,000" and inserting "$100,000"; and

(D) by striking "2 years" and inserting "5 years"; and

(2) by adding at the end thereof the following new paragraph:

"(3) For purposes of all penalties and remedies established for violations of subsection (a)(1), the prohibited activity established herein as it applies to each such device shall be deemed a separate violation.".

SEC. 21. STUDIES.

(a) STUDY OF VIDEO PROGRAMMING DIVERSITY AND COMPETITION.—

(1) COMMISSION STUDY AND RULEMAKING.—The Commission shall conduct a rulemaking proceeding to review and study to determine whether it is necessary or appropriate in the public interest to prohibit or constrain acts and practices that may unreasonably restrict diversity and competition in the market for video programming. In conducting such proceeding, the Commission—

(A) shall consider the necessity and appropriateness of imposing limitations on the degree to which multichannel video programming distributors may engage in the creation or production of such programming; and

(B) shall impose limitations on the proportion of the market, at any stage in the distribution of video programming, which may be controlled by any multichannel video programming distributor or other person engaged in such distribution.

(2) REPORT.—Within one year after the date of enactment of this Act, the Commission shall submit a report on the review and study required by paragraph (1) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Thereafter, the Commission shall continue to monitor (and summarize in the Commission's annual reports) the status of diversity and competition in the marketplace for video programming.

(3) PROCEEDING REQUIRED TO REVIEW DBS RESPONSIBILITIES.—The Federal Communications Commission shall, within 180 days after the date of enactment of this Act, initiate a rulemaking proceeding to impose, with respect to any direct

broadcast satellite system that is not regulated as a common carrier under title II of the Communications Act of 1934, public interest or other requirements on direct broadcast satellite systems providing video programming. Any regulations prescribed pursuant to such rulemaking shall, at a minimum, apply the access to broadcast time requirement of section 312(a)(7) of the Communications Act of 1934 and the use of facilities requirements of section 315 of such Act to direct broadcast satellite systems providing video programming. Such proceeding also shall examine the opportunities that the establishment of such systems provide for the principle of localism under such Act, and the methods by which such principle may be served through technological and other developments in, or regulation of, such systems.

(4) PUBLIC SERVICE USE REQUIREMENTS.—The Federal Communications Commission shall require, as a condition of any initial authorization, or renewal thereof, for a direct broadcast satellite service providing video programming, that the provider of such service reserve not less than 4 percent or more than 7 percent of the channel capacity of such service exclusively for noncommercial public service uses. A provider of direct broadcast satellite service may use any unused channel capacity designated pursuant to this paragraph until the use of such channel capacity is obtained, pursuant to a written agreement, for public service use. The direct broadcast satellite service provider may recover only the direct costs of transmitting public service programming on the channels reserved under this subsection.

(5) STUDY PANEL.—There is established a study panel which shall be comprised of a representative of the Corporation for Public Broadcasting, the National Telecommunications and Information Administration, and the Office of Technology Assessment selected by the head of each such entity. Such study panel shall within 2 years after the date of enactment of this Act, submit a report to the Congress containing recommendations on—

(A) methods and strategies for promoting the development of programming for transmission over the public use channels reserved pursuant to paragraph (4)(A);

(B) methods and criteria for selecting programming for such channels that avoids conflicts of interest and the exercise of editorial control by the direct broadcast satellite service provider; and

(C) identifying existing and potential sources of funding for administrative and production costs for such public use programming.

(6) DEFINITIONS.—As used in this subsection—

(A) the term "direct broadcast satellite systems" includes (i) satellite systems licensed under Part 100 of the Federal Communications Commission's rules, and (ii) high power K'band fixed service satellite systems providing video service directly to the home and licensed under Part 25 of the Federal Communications Commission's rules; and

(B) the term "public service uses" includes—

(i) programming produced by public telecommunications entities, including programming furnished to such entities by independent production services;

(ii) programming produced by public or private educational institutions or entities for educational, instructional, or cultural purposes; and

(iii) programming produced by any entity to serve the disparate needs of specific communities of interest, including linguistically distinct groups, minority and ethnic groups, and other groups.

(b) SPORTS PROGRAMMING MIGRATION STUDY AND REPORT.—

(1) STUDY REQUIRED.—The Federal Communications Commission shall conduct an ongoing study on the carriage of local, regional, and national sports programming by broadcast stations, cable programming networks, and pay-per-view services. The study shall investigate and analyze, on a sport-by-sport basis, trends in the migration of such programming from carriage by broadcast stations to carriage over cable programming networks and pay-per-view systems, including the economic causes and the economic and social consequences for such trends.

(2) REPORT ON STUDY.—The Federal Communications Commission shall, on or before July 1, 1993, and July 1, 1994, submit an interim and a final report, respectively, on the results of the study required by paragraph (1) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Such reports shall include a statement of the results, on a sport-by-sport basis, of the analysis of the trends required by paragraph (1) and such legislative or regulatory recommendations as the Commission considers appropriate.

(3) ANALYSIS OF PRECLUSIVE CONTRACTS REQUIRED.—In conducting the study required by paragraph (1), the Commission shall analyze the extent to which preclusive contracts between college athletic conferences and video programming vendors have artificially and unfairly restricted the supply of the sporting events of local colleges for broadcast on local television stations. In conducting such analysis, the Commission shall consult with the Attorney General to determine whether and to what extent such preclusive contracts are prohibited by existing statutes. The report required by paragraph (2) shall include a separate statement of the results of the analysis required by this paragraph, together with such recommendations for legislation as the Commission considers necessary and appropriate. For purposes of the paragraph, the term "preclusive contract" includes any contract that prohibits—

(A) the live broadcast by a local television station of a sporting event of a local college team that is not carried, on a live basis, by any cable system within the local community served by such local television station; or

(B) the delayed broadcast by a local television station of a sporting event of a local college team that is not carried, on a live or delayed basis, by any cable system within the local community served by such local television station.

(c) PROCEEDING WITH RESPECT TO AREAS RECEIVING POOR OVER-THE-AIR SIGNALS.—The Federal Communications Commission shall initiate an inquiry and rulemaking to examine the feasibility of providing access to network and independent broadcasting station signals to persons who subscribe to direct broadcast satellite service and are unable to receive such signals (of grade B quality) over the air from a local licensee or from a cable system. In undertaking such rulemaking, the Commission shall take into consideration pertinent economic and technological factors, including the following:

(1) the extent to which individuals in rural, underserved areas are unable to receive broadcast television transmission; and

(2) potential ways in which operators of satellite-delivered programming services or the manufacturers or distributors of receiving equipment might enhance the ability of such persons to receive and readily access additional video programming, including without limitation, an electronic switching capability as a minimum feature on satellite television receiving equipment.

SEC. 22. ANTITRUST IMMUNITY.

Nothing in the amendments made by this Act shall be construed to create any immunity to any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any matter the applicability of any Federal or State antitrust law.

SEC. 23. EFFECTIVE DATE.

Except where otherwise expressly provided, the provisions of this Act and the amendments made thereby shall take effect 60 days after the enactment of this Act.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An Act to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4850) was laid on the table.

APPOINTMENT OF CONFEREES

Mr. MARKEY. Mr. Speaker, I move that the House insist upon its amendment to the Senate bill, S. 12 and request a conference with the Senate thereon.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts.

The motion was agreed to.

The SPEAKER pro tempore. The Chair will appoint conferees on tomorrow.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 4850, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 12, CABLE TELEVISION CONSUMER PROTECTION AND COMPETITIVENESS ACT OF 1992

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that, in the engrossment of the House amendment to the Senate bill, the Clerk be authorized to correct section numbers, punctuation, spelling, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 4850.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I rise to inquire of our Republican colleagues who are handling the rule that is forthcoming whether they anticipate a recorded vote on the rule this evening.