

1993—Subsec. (b). Pub. L. 103-198, §4(1)(A), (B), struck out first two sentences which read as follows: “Not later than thirty days after the Copyright Royalty Tribunal has been constituted in accordance with section 802, the Chairman of the Tribunal shall cause notice to be published in the Federal Register of the initiation of proceedings for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by subsection (d) with respect to published nondramatic musical works and published pictorial, graphic, and sculptural works during a period beginning as provided in clause (3) of this subsection and ending on December 31, 1982. Copyright owners and public broadcasting entities shall negotiate in good faith and cooperate fully with the Tribunal in an effort to reach reasonable and expeditious results.”, and in third sentence substituted “published nondramatic musical works and published pictorial, graphic, and sculptural works” for “works specified by this subsection”.

Subsec. (b)(1). Pub. L. 103-198, §4(1)(C), struck out “, within one hundred and twenty days after publication of the notice specified in this subsection,” after “broadcasting entity may” and substituted “Librarian of Congress” for “Copyright Royalty Tribunal” wherever appearing.

Subsec. (b)(2). Pub. L. 103-198, §4(1)(D), substituted “Librarian of Congress” for “Tribunal”.

Subsec. (b)(3). Pub. L. 103-198, §4(1)(E)(ii), (iii), in second sentence, substituted “copyright arbitration royalty panel” for “Copyright Royalty Tribunal” and “paragraph (2)” for “clause (2) of this subsection”, and in last sentence, substituted “Librarian of Congress” for “Copyright Royalty Tribunal”.

Pub. L. 103-198, §4(1)(E)(i), substituted first sentence for former first sentence which read as follows: “Within six months, but not earlier than one hundred and twenty days, from the date of publication of the notice specified in this subsection the Copyright Royalty Tribunal shall make a determination and publish in the Federal Register a schedule of rates and terms which, subject to clause (2) of this subsection, shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether or not such copyright owners and public broadcasting entities have submitted proposals to the Tribunal.”

Subsec. (b)(4). Pub. L. 103-198, §4(1)(F), struck out par. (4) which read as follows: “With respect to the period beginning on the effective date of this title and ending on the date of publication of such rates and terms, this title shall not afford to owners of copyright or public broadcasting entities any greater or lesser rights with respect to the activities specified in subsection (d) as applied to works specified in this subsection than those afforded under the law in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.”

Subsec. (c). Pub. L. 103-198, §4(2), substituted “1997” for “1982” and “Librarian of Congress” for “Copyright Royalty Tribunal”.

Subsec. (d). Pub. L. 103-198, §4(3), in introductory provisions, struck out “to the transitional provisions of subsection (b)(4), and” after “Subject” and substituted “a copyright arbitration royalty panel” for “the Copyright Royalty Tribunal”, and in pars. (2) and (3), substituted “paragraph” for “clause” wherever appearing.

Subsec. (g). Pub. L. 103-198, §4(4), substituted “paragraph” for “clause”.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-303 effective as if included in the Copyright Royalty and Distribution Reform Act of 2004, Pub. L. 108-419, see section 6 of Pub. L. 109-303, set out as a note under section 111 of this title.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-419 effective 6 months after Nov. 30, 2004, subject to transition provisions, see section 6 of Pub. L. 108-419, set out as an Effective

Date; Transition Provisions note under section 801 of this title.

#### EFFECTIVE DATE

Section effective Oct. 19, 1976, see section 102 of Pub. L. 94-553, set out as a note preceding section 101 of this title.

### § 119. Limitations on exclusive rights: Secondary transmissions of distant television programming by satellite

#### (a) SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.—

(1) NON-NETWORK STATIONS.—Subject to the provisions of paragraphs (4), (5), and (7) of this subsection and section 114(d), secondary transmissions of a performance or display of a work embodied in a primary transmission made by a non-network station shall be subject to statutory licensing under this section if the secondary transmission is made by a satellite carrier to the public for private home viewing or for viewing in a commercial establishment, with regard to secondary transmissions the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals, and the carrier makes a direct or indirect charge for each retransmission service to each subscriber receiving the secondary transmission or to a distributor that has contracted with the carrier for direct or indirect delivery of the secondary transmission to the public for private home viewing or for viewing in a commercial establishment.

#### (2) NETWORK STATIONS.—

(A) IN GENERAL.—Subject to the provisions of subparagraph (B) of this paragraph and paragraphs (4), (5), (6), and (7) of this subsection and section 114(d), secondary transmissions of a performance or display of a work embodied in a primary transmission made by a network station shall be subject to statutory licensing under this section if the secondary transmission is made by a satellite carrier to the public for private home viewing, with regard to secondary transmissions the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals, and the carrier makes a direct or indirect charge for such retransmission service to each subscriber receiving the secondary transmission.

#### (B) SECONDARY TRANSMISSIONS TO UNSERVED HOUSEHOLDS.—

(i) IN GENERAL.—The statutory license provided for in subparagraph (A) shall be limited to secondary transmissions of the signals of no more than two network stations in a single day for each television network to persons who reside in unserved households.

(ii) ACCURATE DETERMINATIONS OF ELIGIBILITY.—

(I) ACCURATE PREDICTIVE MODEL.—In determining presumptively whether a person resides in an unserved household

under subsection (d)(10)(A), a court shall rely on the Individual Location Longley-Rice model set forth by the Federal Communications Commission in Docket No. 98-201, as that model may be amended by the Commission over time under section 339(c)(3) of the Communications Act of 1934 to increase the accuracy of that model.

(II) ACCURATE MEASUREMENTS.—For purposes of site measurements to determine whether a person resides in an unserved household under subsection (d)(10)(A), a court shall rely on section 339(c)(4) of the Communications Act of 1934.

(III) ACCURATE PREDICTIVE MODEL WITH RESPECT TO DIGITAL SIGNALS.—Notwithstanding subclause (I), in determining presumptively whether a person resides in an unserved household under subsection (d)(10)(A) with respect to digital signals, a court shall rely on a predictive model set forth by the Federal Communications Commission pursuant to a rulemaking as provided in section 339(c)(3) of the Communications Act of 1934 (47 U.S.C. 339(c)(3)), as that model may be amended by the Commission over time under such section to increase the accuracy of that model. Until such time as the Commission sets forth such model, a court shall rely on the predictive model as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05-182, FCC 05-199 (released December 9, 2005).

(iii) C-BAND EXEMPTION TO UNSERVED HOUSEHOLDS.—

(I) IN GENERAL.—The limitations of clause (i) shall not apply to any secondary transmissions by C-band services of network stations that a subscriber to C-band service received before any termination of such secondary transmissions before October 31, 1999.

(II) DEFINITION.—In this clause, the term “C-band service” means a service that is licensed by the Federal Communications Commission and operates in the Fixed Satellite Service under part 25 of title 47, Code of Federal Regulations.

(C) SUBMISSION OF SUBSCRIBER LISTS TO NETWORKS.—

(i) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, not later than 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station a list identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission to subscribers in unserved households.

(ii) MONTHLY LISTS.—After the submission of the initial lists under clause (i), the

satellite carrier shall, not later than the 15th of each month, submit to the network a list, aggregated by designated market area, identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) any persons who have been added or dropped as subscribers under clause (i) since the last submission under this subparagraph.

(iii) USE OF SUBSCRIBER INFORMATION.—Subscriber information submitted by a satellite carrier under this subparagraph may be used only for purposes of monitoring compliance by the satellite carrier with this subsection.

(iv) APPLICABILITY.—The submission requirements of this subparagraph shall apply to a satellite carrier only if the network to which the submissions are to be made places on file with the Register of Copyrights a document identifying the name and address of the person to whom such submissions are to be made. The Register shall maintain for public inspection a file of all such documents.

(3) STATUTORY LICENSE WHERE RETRANSMISSIONS INTO LOCAL MARKET AVAILABLE.—

(A) RULES FOR SUBSCRIBERS TO SIGNALS UNDER SUBSECTION (e).—

(i) FOR THOSE RECEIVING DISTANT SIGNALS.—In the case of a subscriber of a satellite carrier who is eligible to receive the secondary transmission of the primary transmission of a network station solely by reason of subsection (e) (in this subparagraph referred to as a “distant signal”), and who, as of October 1, 2004, is receiving the distant signal of that network station, the following shall apply:

(I) In a case in which the satellite carrier makes available to the subscriber the secondary transmission of the primary transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122, the statutory license under paragraph (2) shall apply only to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network—

(aa) if, within 60 days after receiving the notice of the satellite carrier under section 338(h)(1) of the Communications Act of 1934, the subscriber elects to retain the distant signal; but

(bb) only until such time as the subscriber elects to receive such local signal.

(II) Notwithstanding subclause (I), the statutory license under paragraph (2) shall not apply with respect to any subscriber who is eligible to receive the distant signal of a television network station solely by reason of subsection (e), unless the satellite carrier, within 60 days after the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, submits

to that television network a list, aggregated by designated market area (as defined in section 122(j)(2)(C)), that—

(aa) identifies that subscriber by name and address (street or rural route number, city, State, and zip code) and specifies the distant signals received by the subscriber; and

(bb) states, to the best of the satellite carrier's knowledge and belief, after having made diligent and good faith inquiries, that the subscriber is eligible under subsection (e) to receive the distant signals.

(ii) FOR THOSE NOT RECEIVING DISTANT SIGNALS.—In the case of any subscriber of a satellite carrier who is eligible to receive the distant signal of a network station solely by reason of subsection (e) and who did not receive a distant signal of a station affiliated with the same network on October 1, 2004, the statutory license under paragraph (2) shall not apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same network.

(B) RULES FOR LAWFUL SUBSCRIBERS AS OF DATE OF ENACTMENT OF 2010 ACT.—In the case of a subscriber of a satellite carrier who, on the day before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, was lawfully receiving the secondary transmission of the primary transmission of a network station under the statutory license under paragraph (2) (in this subparagraph referred to as the “distant signal”), other than subscribers to whom subparagraph (A) applies, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber's household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, whether or not the subscriber elects to subscribe to receive the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

(C) FUTURE APPLICABILITY.—

(i) WHEN LOCAL SIGNAL AVAILABLE AT TIME OF SUBSCRIPTION.—The statutory license under paragraph (2) shall not apply to the secondary transmission by a satellite carrier of the primary transmission of a network station to a person who is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the secondary transmission of the primary transmission of a local network station af-

filiated with the same network pursuant to the statutory license under section 122.

(ii) WHEN LOCAL SIGNAL AVAILABLE AFTER SUBSCRIPTION.—In the case of a subscriber who lawfully subscribes to and receives the secondary transmission by a satellite carrier of the primary transmission of a network station under the statutory license under paragraph (2) (in this clause referred to as the “distant signal”) on or after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber's household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, but only if such subscriber subscribes to the secondary transmission of the primary transmission of a local network station affiliated with the same network within 60 days after the satellite carrier makes available to the subscriber such secondary transmission of the primary transmission of such local network station.

(D) OTHER PROVISIONS NOT AFFECTED.—This paragraph shall not affect the applicability of the statutory license to secondary transmissions to unserved households included under paragraph (11).

(E) WAIVER.—A subscriber who is denied the secondary transmission of a network station under subparagraph (B) or (C) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station in the local market affiliated with the same network where the subscriber is located. The network station shall accept or reject the subscriber's request for a waiver within 30 days after receipt of the request. If the network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station shall be deemed to agree to the waiver request. Unless specifically stated by the network station, a waiver that was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 under section 339(c)(2) of the Communications Act of 1934 shall not constitute a waiver for purposes of this subparagraph.

(F) AVAILABLE DEFINED.—For purposes of this paragraph, a satellite carrier makes available a secondary transmission of the primary transmission of a local station to a subscriber or person if the satellite carrier offers that secondary transmission to other subscribers who reside in the same 9-digit zip code as that subscriber or person.

(4) NONCOMPLIANCE WITH REPORTING AND PAYMENT REQUIREMENTS.—Notwithstanding the provisions of paragraphs (1) and (2), the willful or repeated secondary transmission to the

public by a satellite carrier of a primary transmission made by a non-network station or a network station and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, where the satellite carrier has not deposited the statement of account and royalty fee required by subsection (b), or has failed to make the submissions to networks required by paragraph (2)(C).

(5) WILLFUL ALTERATIONS.—Notwithstanding the provisions of paragraphs (1) and (2), the secondary transmission to the public by a satellite carrier of a performance or display of a work embodied in a primary transmission made by a non-network station or a network station is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and section 510, if the content of the particular program in which the performance or display is embodied, or any commercial advertising or station announcement transmitted by the primary transmitter during, or immediately before or after, the transmission of such program, is in any way willfully altered by the satellite carrier through changes, deletions, or additions, or is combined with programming from any other broadcast signal.

(6) VIOLATION OF TERRITORIAL RESTRICTIONS ON STATUTORY LICENSE FOR NETWORK STATIONS.—

(A) INDIVIDUAL VIOLATIONS.—The willful or repeated secondary transmission by a satellite carrier of a primary transmission made by a network station and embodying a performance or display of a work to a subscriber who is not eligible to receive the transmission under this section is actionable as an act of infringement under section 501 and is fully subject to the remedies provided by sections 502 through 506, except that—

(i) no damages shall be awarded for such act of infringement if the satellite carrier took corrective action by promptly withdrawing service from the ineligible subscriber, and

(ii) any statutory damages shall not exceed \$250 for such subscriber for each month during which the violation occurred.

(B) PATTERN OF VIOLATIONS.—If a satellite carrier engages in a willful or repeated pattern or practice of delivering a primary transmission made by a network station and embodying a performance or display of a work to subscribers who are not eligible to receive the transmission under this section, then in addition to the remedies set forth in subparagraph (A)—

(i) if the pattern or practice has been carried out on a substantially nationwide basis, the court shall order a permanent injunction barring the secondary transmission by the satellite carrier, for private home viewing, of the primary transmissions of any primary network station affiliated with the same network, and the court may order statutory damages of not to exceed \$2,500,000 for each 3-month period

during which the pattern or practice was carried out; and

(ii) if the pattern or practice has been carried out on a local or regional basis, the court shall order a permanent injunction barring the secondary transmission, for private home viewing in that locality or region, by the satellite carrier of the primary transmissions of any primary network station affiliated with the same network, and the court may order statutory damages of not to exceed \$2,500,000 for each 6-month period during which the pattern or practice was carried out.

(C) PREVIOUS SUBSCRIBERS EXCLUDED.—Subparagraphs (A) and (B) do not apply to secondary transmissions by a satellite carrier to persons who subscribed to receive such secondary transmissions from the satellite carrier or a distributor before November 16, 1988.

(D) BURDEN OF PROOF.—In any action brought under this paragraph, the satellite carrier shall have the burden of proving that its secondary transmission of a primary transmission by a network station is to a subscriber who is eligible to receive the secondary transmission under this section.

(E) EXCEPTION.—The secondary transmission by a satellite carrier of a performance or display of a work embodied in a primary transmission made by a network station to subscribers who do not reside in unserved households shall not be an act of infringement if—

(i) the station on May 1, 1991, was retransmitted by a satellite carrier and was not on that date owned or operated by or affiliated with a television network that offered interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more States;

(ii) as of July 1, 1998, such station was retransmitted by a satellite carrier under the statutory license of this section; and

(iii) the station is not owned or operated by or affiliated with a television network that, as of January 1, 1995, offered interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more States.

The court shall direct one half of any statutory damages ordered under clause (i)<sup>1</sup> to be deposited with the Register of Copyrights for distribution to copyright owners pursuant to subsection (b). The Copyright Royalty Judges shall issue regulations establishing procedures for distributing such funds, on a proportional basis, to copyright owners whose works were included in the secondary transmissions that were the subject of the statutory damages.

(7) DISCRIMINATION BY A SATELLITE CARRIER.—Notwithstanding the provisions of paragraph (1), the willful or repeated secondary transmission to the public by a satellite carrier of a performance or display of a work em-

<sup>1</sup> So in original. Probably means subpar. (B)(i).

bodied in a primary transmission made by a non-network station or a network station is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, if the satellite carrier unlawfully discriminates against a distributor.

(8) GEOGRAPHIC LIMITATION ON SECONDARY TRANSMISSIONS.—The statutory license created by this section shall apply only to secondary transmissions to households located in the United States.

(9) LOSER PAYS FOR SIGNAL INTENSITY MEASUREMENT; RECOVERY OF MEASUREMENT COSTS IN A CIVIL ACTION.—In any civil action filed relating to the eligibility of subscribing households as unserved households—

(A) a network station challenging such eligibility shall, within 60 days after receipt of the measurement results and a statement of such costs, reimburse the satellite carrier for any signal intensity measurement that is conducted by that carrier in response to a challenge by the network station and that establishes the household is an unserved household; and

(B) a satellite carrier shall, within 60 days after receipt of the measurement results and a statement of such costs, reimburse the network station challenging such eligibility for any signal intensity measurement that is conducted by that station and that establishes the household is not an unserved household.

(10) INABILITY TO CONDUCT MEASUREMENT.—If a network station makes a reasonable attempt to conduct a site measurement of its signal at a subscriber's household and is denied access for the purpose of conducting the measurement, and is otherwise unable to conduct a measurement, the satellite carrier shall within 60 days notice thereof, terminate service of the station's network to that household.

(11) SERVICE TO RECREATIONAL VEHICLES AND COMMERCIAL TRUCKS.—

(A) EXEMPTION.—

(i) IN GENERAL.—For purposes of this subsection, and subject to clauses (ii) and (iii), the term “unserved household” shall include—

(I) recreational vehicles as defined in regulations of the Secretary of Housing and Urban Development under section 3282.8 of title 24, Code of Federal Regulations; and

(II) commercial trucks that qualify as commercial motor vehicles under regulations of the Secretary of Transportation under section 383.5 of title 49, Code of Federal Regulations.

(ii) LIMITATION.—Clause (i) shall apply only to a recreational vehicle or commercial truck if any satellite carrier that proposes to make a secondary transmission of a network station to the operator of such a recreational vehicle or commercial truck complies with the documentation requirements under subparagraphs (B) and (C).

(iii) EXCLUSION.—For purposes of this subparagraph, the terms “recreational ve-

hicle” and “commercial truck” shall not include any fixed dwelling, whether a mobile home or otherwise.

(B) DOCUMENTATION REQUIREMENTS.—A recreational vehicle or commercial truck shall be deemed to be an unserved household beginning 10 days after the relevant satellite carrier provides to the network that owns or is affiliated with the network station that will be secondarily transmitted to the recreational vehicle or commercial truck the following documents:

(i) DECLARATION.—A signed declaration by the operator of the recreational vehicle or commercial truck that the satellite dish is permanently attached to the recreational vehicle or commercial truck, and will not be used to receive satellite programming at any fixed dwelling.

(ii) REGISTRATION.—In the case of a recreational vehicle, a copy of the current State vehicle registration for the recreational vehicle.

(iii) REGISTRATION AND LICENSE.—In the case of a commercial truck, a copy of—

(I) the current State vehicle registration for the truck; and

(II) a copy of a valid, current commercial driver's license, as defined in regulations of the Secretary of Transportation under section 383 of title 49, Code of Federal Regulations, issued to the operator.

(C) UPDATED DOCUMENTATION REQUIREMENTS.—If a satellite carrier wishes to continue to make secondary transmissions to a recreational vehicle or commercial truck for more than a 2-year period, that carrier shall provide each network, upon request, with updated documentation in the form described under subparagraph (B) during the 90 days before expiration of that 2-year period.

(12) STATUTORY LICENSE CONTINGENT ON COMPLIANCE WITH FCC RULES AND REMEDIAL STEPS.—Notwithstanding any other provision of this section, the willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission embodying a performance or display of a work made by a broadcast station licensed by the Federal Communications Commission is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, if, at the time of such transmission, the satellite carrier is not in compliance with the rules, regulations, and authorizations of the Federal Communications Commission concerning the carriage of television broadcast station signals.

(13) WAIVERS.—A subscriber who is denied the secondary transmission of a signal of a network station under subsection (a)(2)(B) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station asserting that the secondary transmission is prohibited. The network station shall accept or reject a subscriber's request for a waiver within 30 days after receipt of the request. If a television network station fails to accept or reject a subscriber's request for a waiver with-

in the 30-day period after receipt of the request, that station shall be deemed to agree to the waiver request and have filed such written waiver. Unless specifically stated by the network station, a waiver that was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 under section 339(c)(2) of the Communications Act of 1934, and that was in effect on such date of enactment, shall constitute a waiver for purposes of this paragraph.

(14) RESTRICTED TRANSMISSION OF OUT-OF-STATE DISTANT NETWORK SIGNALS INTO CERTAIN MARKETS.—

(A) OUT-OF-STATE NETWORK AFFILIATES.—Notwithstanding any other provision of this title, the statutory license in this subsection and subsection (b) shall not apply to any secondary transmission of the primary transmission of a network station located outside of the State of Alaska to any subscriber in that State to whom the secondary transmission of the primary transmission of a television station located in that State is made available by the satellite carrier pursuant to section 122.

(B) EXCEPTION.—The limitation in subparagraph (A) shall not apply to the secondary transmission of the primary transmission of a digital signal of a network station located outside of the State of Alaska if at the time that the secondary transmission is made, no television station licensed to a community in the State and affiliated with the same network makes primary transmissions of a digital signal.

(b) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—

(1) DEPOSITS WITH THE REGISTER OF COPYRIGHTS.—A satellite carrier whose secondary transmissions are subject to statutory licensing under subsection (a) shall, on a semi-annual basis, deposit with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation—

(A) a statement of account, covering the preceding 6-month period, specifying the names and locations of all non-network stations and network stations whose signals were retransmitted, at any time during that period, to subscribers as described in subsections (a)(1) and (a)(2), the total number of subscribers that received such retransmissions, and such other data as the Register of Copyrights may from time to time prescribe by regulation;

(B) a royalty fee payable to copyright owners pursuant to paragraph (4) for that 6-month period, computed by multiplying the total number of subscribers receiving each secondary transmission of a primary stream or multicast stream of each non-network station or network station during each calendar year month by the appropriate rate in effect under this subsection; and

(C) a filing fee, as determined by the Register of Copyrights pursuant to section 708(a).

(2) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue

regulations to permit interested parties to verify and audit the statements of account and royalty fees submitted by satellite carriers under this subsection.

(3) INVESTMENT OF FEES.—The Register of Copyrights shall receive all fees (including the filing fee specified in paragraph (1)(C)) deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section (other than the costs deducted under paragraph (5)), shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing securities of the United States for later distribution with interest by the Librarian of Congress as provided by this title.

(4) PERSONS TO WHOM FEES ARE DISTRIBUTED.—The royalty fees deposited under paragraph (3) shall, in accordance with the procedures provided by paragraph (5), be distributed to those copyright owners whose works were included in a secondary transmission made by a satellite carrier during the applicable 6-month accounting period and who file a claim with the Copyright Royalty Judges under paragraph (5).

(5) PROCEDURES FOR DISTRIBUTION.—The royalty fees deposited under paragraph (3) shall be distributed in accordance with the following procedures:

(A) FILING OF CLAIMS FOR FEES.—During the month of July in each year, each person claiming to be entitled to statutory license fees for secondary transmissions shall file a claim with the Copyright Royalty Judges, in accordance with requirements that the Copyright Royalty Judges shall prescribe by regulation. For purposes of this paragraph, any claimants may agree among themselves as to the proportionate division of statutory license fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(B) DETERMINATION OF CONTROVERSY; DISTRIBUTIONS.—After the first day of August of each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Copyright Royalty Judges determine that no such controversy exists, the Copyright Royalty Judges shall authorize the Librarian of Congress to proceed to distribute such fees to the copyright owners entitled to receive them, or to their designated agents, subject to the deduction of reasonable administrative costs under this section. If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

(C) WITHHOLDING OF FEES DURING CONTROVERSY.—During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall have the discretion to authorize the Librarian of Congress to proceed to distribute any amounts that are not in controversy.

## (c) ADJUSTMENT OF ROYALTY FEES.—

## (1) APPLICABILITY AND DETERMINATION OF ROYALTY FEES FOR SIGNALS.—

(A) INITIAL FEE.—The appropriate fee for purposes of determining the royalty fee under subsection (b)(1)(B) for the secondary transmission of the primary transmissions of network stations and non-network stations shall be the appropriate fee set forth in part 258 of title 37, Code of Federal Regulations, as in effect on July 1, 2009, as modified under this paragraph.

(B) FEE SET BY VOLUNTARY NEGOTIATION.—On or before June 1, 2010, the Copyright Royalty Judges shall cause to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining the royalty fee to be paid by satellite carriers for the secondary transmission of the primary transmissions of network stations and non-network stations under subsection (b)(1)(B).

(C) NEGOTIATIONS.—Satellite carriers, distributors, and copyright owners entitled to royalty fees under this section shall negotiate in good faith in an effort to reach a voluntary agreement or agreements for the payment of royalty fees. Any such satellite carriers, distributors and copyright owners may at any time negotiate and agree to the royalty fee, and may designate common agents to negotiate, agree to, or pay such fees. If the parties fail to identify common agents, the Copyright Royalty Judges shall do so, after requesting recommendations from the parties to the negotiation proceeding. The parties to each negotiation proceeding shall bear the cost thereof.

## (D) AGREEMENTS BINDING ON PARTIES; FILING OF AGREEMENTS; PUBLIC NOTICE.—

(i) VOLUNTARY AGREEMENTS; FILING.—Voluntary agreements negotiated at any time in accordance with this paragraph shall be binding upon all satellite carriers, distributors, and copyright owners that are parties thereto. Copies of such agreements shall be filed with the Copyright Office within 30 days after execution in accordance with regulations that the Register of Copyrights shall prescribe.

## (ii) PROCEDURE FOR ADOPTION OF FEES.—

(I) PUBLICATION OF NOTICE.—Within 10 days after publication in the Federal Register of a notice of the initiation of voluntary negotiation proceedings, parties who have reached a voluntary agreement may request that the royalty fees in that agreement be applied to all satellite carriers, distributors, and copyright owners without convening a proceeding under subparagraph (F).

(II) PUBLIC NOTICE OF FEES.—Upon receiving a request under subclause (I), the Copyright Royalty Judges shall immediately provide public notice of the royalty fees from the voluntary agreement and afford parties an opportunity to state that they object to those fees.

(III) ADOPTION OF FEES.—The Copyright Royalty Judges shall adopt the royalty fees from the voluntary agreement for

all satellite carriers, distributors, and copyright owners without convening the proceeding under subparagraph (F) unless a party with an intent to participate in that proceeding and a significant interest in the outcome of that proceeding objects under subclause (II).

(E) PERIOD AGREEMENT IS IN EFFECT.—The obligation to pay the royalty fees established under a voluntary agreement which has been filed with the Copyright Royalty Judges in accordance with this paragraph shall become effective on the date specified in the agreement, and shall remain in effect until December 31, 2019, or in accordance with the terms of the agreement, whichever is later.

## (F) FEE SET BY COPYRIGHT ROYALTY JUDGES PROCEEDING.—

(i) NOTICE OF INITIATION OF THE PROCEEDING.—On or before September 1, 2010, the Copyright Royalty Judges shall cause notice to be published in the Federal Register of the initiation of a proceeding for the purpose of determining the royalty fees to be paid for the secondary transmission of the primary transmissions of network stations and non-network stations under subsection (b)(1)(B) by satellite carriers and distributors—

(I) in the absence of a voluntary agreement filed in accordance with subparagraph (D) that establishes royalty fees to be paid by all satellite carriers and distributors; or

(II) if an objection to the fees from a voluntary agreement submitted for adoption by the Copyright Royalty Judges to apply to all satellite carriers, distributors, and copyright owners is received under subparagraph (D) from a party with an intent to participate in the proceeding and a significant interest in the outcome of that proceeding.

Such proceeding shall be conducted under chapter 8.

(ii) ESTABLISHMENT OF ROYALTY FEES.—In determining royalty fees under this subparagraph, the Copyright Royalty Judges shall establish fees for the secondary transmissions of the primary transmissions of network stations and non-network stations that most clearly represent the fair market value of secondary transmissions, except that the Copyright Royalty Judges shall adjust royalty fees to account for the obligations of the parties under any applicable voluntary agreement filed with the Copyright Royalty Judges in accordance with subparagraph (D). In determining the fair market value, the Judges shall base their decision on economic, competitive, and programming information presented by the parties, including—

(I) the competitive environment in which such programming is distributed, the cost of similar signals in similar private and compulsory license marketplaces, and any special features and con-

ditions of the retransmission marketplace;

(II) the economic impact of such fees on copyright owners and satellite carriers; and

(III) the impact on the continued availability of secondary transmissions to the public.

(iii) EFFECTIVE DATE FOR DECISION OF COPYRIGHT ROYALTY JUDGES.—The obligation to pay the royalty fees established under a determination that is made by the Copyright Royalty Judges in a proceeding under this paragraph shall be effective as of January 1, 2010.

(iv) PERSONS SUBJECT TO ROYALTY FEES.—The royalty fees referred to in clause (iii) shall be binding on all satellite carriers, distributors and copyright owners, who are not party to a voluntary agreement filed with the Copyright Office under subparagraph (D).

(2) ANNUAL ROYALTY FEE ADJUSTMENT.—Effective January 1 of each year, the royalty fee payable under subsection (b)(1)(B) for the secondary transmission of the primary transmissions of network stations and non-network stations shall be adjusted by the Copyright Royalty Judges to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index (for all consumers and for all items) published by the Secretary of Labor before December 1 of the preceding year. Notification of the adjusted fees shall be published in the Federal Register at least 25 days before January 1.

(d) DEFINITIONS.—As used in this section—

(1) DISTRIBUTOR.—The term “distributor” means an entity that contracts to distribute secondary transmissions from a satellite carrier and, either as a single channel or in a package with other programming, provides the secondary transmission either directly to individual subscribers or indirectly through other program distribution entities in accordance with the provisions of this section.

(2) NETWORK STATION.—The term “network station” means—

(A) a television station licensed by the Federal Communications Commission, including any translator station or terrestrial satellite station that rebroadcasts all or substantially all of the programming broadcast by a network station, that is owned or operated by, or affiliated with, one or more of the television networks in the United States that offer an interconnected program service on a regular basis for 15 or more hours per week to at least 25 of its affiliated television licensees in 10 or more States; or

(B) a noncommercial educational broadcast station (as defined in section 397 of the Communications Act of 1934);

except that the term does not include the signal of the Alaska Rural Communications Service, or any successor entity to that service.

(3) PRIMARY NETWORK STATION.—The term “primary network station” means a network station that broadcasts or rebroadcasts the

basic programming service of a particular national network.

(4) PRIMARY TRANSMISSION.—The term “primary transmission” has the meaning given that term in section 111(f) of this title.

(5) PRIVATE HOME VIEWING.—The term “private home viewing” means the viewing, for private use in a household by means of satellite reception equipment that is operated by an individual in that household and that serves only such household, of a secondary transmission delivered by a satellite carrier of a primary transmission of a television station licensed by the Federal Communications Commission.

(6) SATELLITE CARRIER.—The term “satellite carrier” means an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operates in the Fixed-Satellite Service under part 25 of title 47, Code of Federal Regulations, or the Direct Broadcast Satellite Service under part 100 of title 47, Code of Federal Regulations, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing pursuant to this section.

(7) SECONDARY TRANSMISSION.—The term “secondary transmission” has the meaning given that term in section 111(f) of this title.

(8) SUBSCRIBER; SUBSCRIBE.—

(A) SUBSCRIBER.—The term “subscriber” means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

(B) SUBSCRIBE.—The term “subscribe” means to elect to become a subscriber.

(9) NON-NETWORK STATION.—The term “non-network station” means a television station, other than a network station, licensed by the Federal Communications Commission, that is secondarily transmitted by a satellite carrier.

(10) UNSERVED HOUSEHOLD.—The term “unserved household”, with respect to a particular television network, means a household that—

(A) cannot receive, through the use of an antenna, an over-the-air signal containing the primary stream, or, on or after the qualifying date, the multicast stream, originating in that household’s local market and affiliated with that network of—

(i) if the signal originates as an analog signal, Grade B intensity as defined by the Federal Communications Commission in section 73.683(a) of title 47, Code of Federal Regulations, as in effect on January 1, 1999; or

(ii) if the signal originates as a digital signal, intensity defined in the values for the digital television noise-limited service contour, as defined in regulations issued by the Federal Communications Commis-



sion (section 73.622(e) of title 47, Code of Federal Regulations), as such regulations may be amended from time to time;

(B) is subject to a waiver that meets the standards of subsection (a)(13), whether or not the waiver was granted before the date of the enactment of the Satellite Television Extension and Localism Act of 2010;

(C) is a subscriber to whom subsection (e) applies;

(D) is a subscriber to whom subsection (a)(11) applies; or

(E) is a subscriber to whom the exemption under subsection (a)(2)(B)(iii) applies.

(11) LOCAL MARKET.—The term “local market” has the meaning given such term under section 122(j).

(12) COMMERCIAL ESTABLISHMENT.—The term “commercial establishment”—

(A) means an establishment used for commercial purposes, such as a bar, restaurant, private office, fitness club, oil rig, retail store, bank or other financial institution, supermarket, automobile or boat dealership, or any other establishment with a common business area; and

(B) does not include a multi-unit permanent or temporary dwelling where private home viewing occurs, such as a hotel, dormitory, hospital, apartment, condominium, or prison.

(13) QUALIFYING DATE.—The term “qualifying date”, for purposes of paragraph (10)(A), means—

(A) October 1, 2010, for multicast streams that exist on March 31, 2010; and

(B) January 1, 2011, for all other multicast streams.

(14) MULTICAST STREAM.—The term “multicast stream” means a digital stream containing programming and program-related material affiliated with a television network, other than the primary stream.

(15) PRIMARY STREAM.—The term “primary stream” means—

(A) the single digital stream of programming as to which a television broadcast station has the right to mandatory carriage with a satellite carrier under the rules of the Federal Communications Commission in effect on July 1, 2009; or

(B) if there is no stream described in subparagraph (A), then either—

(i) the single digital stream of programming associated with the network last transmitted by the station as an analog signal; or

(ii) if there is no stream described in clause (i), then the single digital stream of programming affiliated with the network that, as of July 1, 2009, had been offered by the television broadcast station for the longest period of time.

(e) MORATORIUM ON COPYRIGHT LIABILITY.—Until December 31, 2019, a subscriber who does not receive a signal of Grade A intensity (as defined in the regulations of the Federal Communications Commission under section 73.683(a) of title 47, Code of Federal Regulations, as in effect

on January 1, 1999, or predicted by the Federal Communications Commission using the Individual Location Longley-Rice methodology described by the Federal Communications Commission in Docket No. 98–201) of a local network television broadcast station shall remain eligible to receive signals of network stations affiliated with the same network, if that subscriber had satellite service of such network signal terminated after July 11, 1998, and before October 31, 1999, as required by this section, or received such service on October 31, 1999.

(f) EXPEDITED CONSIDERATION BY JUSTICE DEPARTMENT OF VOLUNTARY AGREEMENTS TO PROVIDE SATELLITE SECONDARY TRANSMISSIONS TO LOCAL MARKETS.—

(1) IN GENERAL.—In a case in which no satellite carrier makes available, to subscribers located in a local market, as defined in section 122(j)(2), the secondary transmission into that market of a primary transmission of one or more television broadcast stations licensed by the Federal Communications Commission, and two or more satellite carriers request a business review letter in accordance with section 50.6 of title 28, Code of Federal Regulations (as in effect on July 7, 2004), in order to assess the legality under the antitrust laws of proposed business conduct to make or carry out an agreement to provide such secondary transmission into such local market, the appropriate official of the Department of Justice shall respond to the request no later than 90 days after the date on which the request is received.

(2) DEFINITION.—For purposes of this subsection, the term “antitrust laws”—

(A) has the meaning given that term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section 5 applies to unfair methods of competition; and

(B) includes any State law similar to the laws referred to in paragraph (1).

(g) CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

(1) INJUNCTION WAIVER.—A court that issued an injunction pursuant to subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction if the court recognizes the entity against which the injunction was issued as a qualified carrier.

(2) LIMITED TEMPORARY WAIVER.—

(A) IN GENERAL.—Upon a request made by a satellite carrier, a court that issued an injunction against such carrier under subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction with respect to the statutory license provided under subsection (a)(2) to the extent necessary to allow such carrier to make secondary transmissions of primary transmissions made by a network station to unserved households located in short markets in which such carrier was not providing local service pursuant to the license under section 122 as of December 31, 2009.

(B) EXPIRATION OF TEMPORARY WAIVER.—A temporary waiver of an injunction under

subparagraph (A) shall expire after the end of the 120-day period beginning on the date such temporary waiver is issued unless extended for good cause by the court making the temporary waiver.

(C) FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

(i) FAILURE TO ACT REASONABLY AND IN GOOD FAITH.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to act reasonably or has failed to make a good faith effort to provide local-into-local service to all DMAs, such failure—

(I) is actionable as an act of infringement under section 501 and the court may in its discretion impose the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

(II) shall result in the termination of the waiver issued under subparagraph (A).

(ii) FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to provide local-into-local service to all DMAs, but determines that the carrier acted reasonably and in good faith, the court may in its discretion impose financial penalties that reflect—

(I) the degree of control the carrier had over the circumstances that resulted in the failure;

(II) the quality of the carrier's efforts to remedy the failure; and

(III) the severity and duration of any service interruption.

(D) SINGLE TEMPORARY WAIVER AVAILABLE.—An entity may only receive one temporary waiver under this paragraph.

(E) SHORT MARKET DEFINED.—For purposes of this paragraph, the term "short market" means a local market in which programming of one or more of the four most widely viewed television networks nationwide as measured on the date of the enactment of this subsection is not offered on the primary stream transmitted by any local television broadcast station.

(3) ESTABLISHMENT OF QUALIFIED CARRIER RECOGNITION.—

(A) STATEMENT OF ELIGIBILITY.—An entity seeking to be recognized as a qualified carrier under this subsection shall file a statement of eligibility with the court that imposed the injunction. A statement of eligibility must include—

(i) an affidavit that the entity is providing local-into-local service to all DMAs;

(ii) a motion for a waiver of the injunction;

(iii) a motion that the court appoint a special master under Rule 53 of the Federal Rules of Civil Procedure;

(iv) an agreement by the carrier to pay all expenses incurred by the special master under paragraph (4)(B)(ii); and

(v) a certification issued pursuant to section 342(a) of Communications Act of 1934.

(B) GRANT OF RECOGNITION AS A QUALIFIED CARRIER.—Upon receipt of a statement of eligibility, the court shall recognize the entity as a qualified carrier and issue the waiver under paragraph (1). Upon motion pursuant to subparagraph (A)(iii), the court shall appoint a special master to conduct the examination and provide a report to the court as provided in paragraph (4)(B).

(C) VOLUNTARY TERMINATION.—At any time, an entity recognized as a qualified carrier may file a statement of voluntary termination with the court certifying that it no longer wishes to be recognized as a qualified carrier. Upon receipt of such statement, the court shall reinstate the injunction waived under paragraph (1).

(D) LOSS OF RECOGNITION PREVENTS FUTURE RECOGNITION.—No entity may be recognized as a qualified carrier if such entity had previously been recognized as a qualified carrier and subsequently lost such recognition or voluntarily terminated such recognition under subparagraph (C).

(4) QUALIFIED CARRIER OBLIGATIONS AND COMPLIANCE.—

(A) CONTINUING OBLIGATIONS.—

(i) IN GENERAL.—An entity recognized as a qualified carrier shall continue to provide local-into-local service to all DMAs.

(ii) COOPERATION WITH COMPLIANCE EXAMINATION.—An entity recognized as a qualified carrier shall fully cooperate with the special master appointed by the court under paragraph (3)(B) in an examination set forth in subparagraph (B).

(B) QUALIFIED CARRIER COMPLIANCE EXAMINATION.—

(i) EXAMINATION AND REPORT.—A special master appointed by the court under paragraph (3)(B) shall conduct an examination of, and file a report on, the qualified carrier's compliance with the royalty payment and household eligibility requirements of the license under this section. The report shall address the qualified carrier's conduct during the period beginning on the date on which the qualified carrier is recognized as such under paragraph (3)(B) and ending on April 30, 2012.

(ii) RECORDS OF QUALIFIED CARRIER.—Beginning on the date that is one year after the date on which the qualified carrier is recognized as such under paragraph (3)(B), but not later than December 1, 2011, the qualified carrier shall provide the special master with all records that the special master considers to be directly pertinent to the following requirements under this section:

(I) Proper calculation and payment of royalties under the statutory license under this section.

(II) Provision of service under this license to eligible subscribers only.

(iii) **SUBMISSION OF REPORT.**—The special master shall file the report required by clause (i) not later than July 24, 2012, with the court referred to in paragraph (1) that issued the injunction, and the court shall transmit a copy of the report to the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate.

(iv) **EVIDENCE OF INFRINGEMENT.**—The special master shall include in the report a statement of whether the examination by the special master indicated that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement.

(v) **SUBSEQUENT EXAMINATION.**—If the special master's report includes a statement that its examination indicated the existence of substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement, the special master shall, not later than 6 months after the report under clause (i) is filed, initiate another examination of the qualified carrier's compliance with the royalty payment and household eligibility requirements of the license under this section since the last report was filed under clause (iii). The special master shall file a report on the results of the examination conducted under this clause with the court referred to in paragraph (1) that issued the injunction, and the court shall transmit a copy to the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate. The report shall include a statement described in clause (iv).

(vi) **COMPLIANCE.**—Upon motion filed by an aggrieved copyright owner, the court recognizing an entity as a qualified carrier shall terminate such designation upon finding that the entity has failed to cooperate with an examination required by this subparagraph.

(vii) **OVERSIGHT.**—During the period of time that the special master is conducting an examination under this subparagraph, the Comptroller General shall monitor the degree to which the entity seeking to be recognized or recognized as a qualified carrier under paragraph (3) is complying with the special master's examination. The qualified carrier shall make available to the Comptroller General all records and individuals that the Comptroller General considers necessary to meet the Comptroller General's obligations under this clause. The Comptroller General shall report the results of the monitoring required by this clause to the Committees on the Judiciary and on Energy and Commerce of the House

of Representatives and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate at intervals of not less than six months during such period.

(C) **AFFIRMATION.**—A qualified carrier shall file an affidavit with the district court and the Register of Copyrights 30 months after such status was granted stating that, to the best of the affiant's knowledge, it is in compliance with the requirements for a qualified carrier. The qualified carrier shall attach to its affidavit copies of all reports or orders issued by the court, the special master, and the Comptroller General.

(D) **COMPLIANCE DETERMINATION.**—Upon the motion of an aggrieved television broadcast station, the court recognizing an entity as a qualified carrier may make a determination of whether the entity is providing local-into-local service to all DMAs.

(E) **PLEADING REQUIREMENT.**—In any motion brought under subparagraph (D), the party making such motion shall specify one or more designated market areas (as such term is defined in section 122(j)(2)(C)) for which the failure to provide service is being alleged, and, for each such designated market area, shall plead with particularity the circumstances of the alleged failure.

(F) **BURDEN OF PROOF.**—In any proceeding to make a determination under subparagraph (D), and with respect to a designated market area for which failure to provide service is alleged, the entity recognized as a qualified carrier shall have the burden of proving that the entity provided local-into-local service with a good quality satellite signal to at least 90 percent of the households in such designated market area (based on the most recent census data released by the United States Census Bureau) at the time and place alleged.

(5) **FAILURE TO PROVIDE SERVICE.**—

(A) **PENALTIES.**—If the court recognizing an entity as a qualified carrier finds that such entity has willfully failed to provide local-into-local service to all DMAs, such finding shall result in the loss of recognition of the entity as a qualified carrier and the termination of the waiver provided under paragraph (1), and the court may, in its discretion—

(i) treat such failure as an act of infringement under section 501, and subject such infringement to the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

(ii) impose a fine of not less than \$250,000 and not more than \$5,000,000.

(B) **EXCEPTION FOR NONWILLFUL VIOLATION.**—If the court determines that the failure to provide local-into-local service to all DMAs is nonwillful, the court may in its discretion impose financial penalties for non-compliance that reflect—

(i) the degree of control the entity had over the circumstances that resulted in the failure;

(ii) the quality of the entity's efforts to remedy the failure and restore service; and

(iii) the severity and duration of any service interruption.

(6) PENALTIES FOR VIOLATIONS OF LICENSE.—A court that finds, under subsection (a)(6)(A), that an entity recognized as a qualified carrier has willfully made a secondary transmission of a primary transmission made by a network station and embodying a performance or display of a work to a subscriber who is not eligible to receive the transmission under this section shall reinstate the injunction waived under paragraph (1), and the court may order statutory damages of not more than \$2,500,000.

(7) LOCAL-INTO-LOCAL SERVICE TO ALL DMAS DEFINED.—For purposes of this subsection:

(A) IN GENERAL.—An entity provides “local-into-local service to all DMAs” if the entity provides local service in all designated market areas (as such term is defined in section 122(j)(2)(C)) pursuant to the license under section 122.

(B) HOUSEHOLD COVERAGE.—For purposes of subparagraph (A), an entity that makes available local-into-local service with a good quality satellite signal to at least 90 percent of the households in a designated market area based on the most recent census data released by the United States Census Bureau shall be considered to be providing local service to such designated market area.

(C) GOOD QUALITY SATELLITE SIGNAL DEFINED.—The term “good quality satellite signal” has the meaning given such term under section 342(e)(2) of Communications<sup>2</sup> Act of 1934.

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

(Added Pub. L. 100-667, title II, § 202(2), Nov. 16, 1988, 102 Stat. 3949; amended Pub. L. 103-198, § 5, Dec. 17, 1993, 107 Stat. 2310; Pub. L. 103-369, § 2, Oct. 18, 1994, 108 Stat. 3477; Pub. L. 104-39, § 5(c), Nov. 1, 1995, 109 Stat. 348; Pub. L. 105-80, §§ 1, 12(a)(8), Nov. 13, 1997, 111 Stat. 1529, 1535; Pub. L. 106-44, § 1(g)(4), Aug. 5, 1999, 113 Stat. 222; Pub. L. 106-113, div. B, § 1000(a)(9) [title I, §§ 1004-1007, 1008(b), 1011(b)(2), (c)], Nov. 29, 1999, 113 Stat. 1536, 1501A-527 to 1501A-531, 1501A-537, 1501A-543, 1501A-544; Pub. L. 107-273, div. C, title III, §§ 13209, 13210(1), (8), Nov. 2, 2002, 116 Stat. 1908, 1909; Pub. L. 108-419, § 5(g), (h), Nov. 30, 2004, 118 Stat. 2367; Pub. L. 108-447, div. J, title IX [title I, §§ 101(b)-105, 107(a), 108, 111(a)], Dec. 8, 2004, 118 Stat. 3394-3408; Pub. L. 109-303, § 4(e), (g), Oct. 6, 2006, 120 Stat. 1482, 1483; Pub. L. 110-403, title II, § 209(a)(4), Oct. 13, 2008, 122 Stat. 4264; Pub. L. 111-118, div. B, § 1003(a)(1), Dec. 19, 2009, 123 Stat. 3469; Pub. L. 111-144, § 10(a)(1), Mar. 2, 2010, 124 Stat. 47; Pub. L. 111-151, § 2(a)(1), Mar. 26, 2010, 124 Stat. 1027; Pub. L. 111-157, § 9(a)(1), Apr. 15, 2010, 124 Stat. 1118; Pub. L. 111-175, title I, §§ 102(a)(1), (b)-(k), 105, May 27, 2010, 124 Stat. 1219-1226, 1239; Pub. L. 111-295, § 6(c), Dec. 9, 2010, 124 Stat. 3181; Pub. L. 113-200, title II, §§ 201(2), 202(a), Dec. 4, 2014, 128 Stat. 2066.)

#### TERMINATION OF SECTION

*For termination of section, see subsection (h) of this section.*

#### REFERENCES IN TEXT

The date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, referred to in subsec. (a)(3)(A)(i)(II), (E), (13), is the date of the enactment of Pub. L. 108-447, which was approved Dec. 8, 2004.

The date of the enactment of the Satellite Television Extension and Localism Act of 2010, referred to in subsecs. (a)(3)(B), (C) and (d)(10)(B), is the date of enactment of Pub. L. 111-175, which shall be deemed to refer to Feb. 27, 2010, see section 307(a) of Pub. L. 111-175, set out as an Effective Date of 2010 Amendment note under section 111 of this title.

The Communications Act of 1934, referred to in subsec. (d)(6), is act June 19, 1934, ch. 652, 48 Stat. 1064, which is classified principally to chapter 5 (§151 et seq.) of Title 47, Telecommunications. Sections 338, 339, 342, and 397 of the Act are classified to sections 338, 339, 342, and 397, respectively, of Title 47. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

The date of the enactment of this subsection, referred to in subsec. (g)(1), (2)(A), (E), is the date of enactment of Pub. L. 111-175, which shall be deemed to refer to Feb. 27, 2010. See section 307(a) of Pub. L. 111-175, set out as an Effective Date of 2010 Amendment note under section 111 of this title.

The Federal Rules of Civil Procedure, referred to in subsec. (g)(3)(A)(iii), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

#### AMENDMENTS

2014—Subsec. (c)(1)(E). Pub. L. 113-200, § 201(2)(A), substituted “2019” for “2014”.

Subsec. (e). Pub. L. 113-200, § 201(2)(B), substituted “2019” for “2014”.

Subsec. (h). Pub. L. 113-200, § 202(a), added subsec. (h). 2010—Pub. L. 111-175, § 102(a)(1), substituted “distant television programming by satellite” for “superstations and network stations for private home viewing” in section catchline.

Subsec. (a). Pub. L. 111-175, § 102(h)(1)(B), (C), redesignated pars. (4) to (14) and (16) as (3) to (13) and (14), respectively, and struck out former pars. (3) and (15) which related to secondary transmissions of significantly viewed signals and carriage of low power television stations, respectively.

Subsec. (a)(1). Pub. L. 111-175, § 102(h)(2)(A)(i), substituted “(4), (5), and (7)” for “(5), (6), and (8)”.

Pub. L. 111-175, § 102(g)(2), which directed amendment of section by substituting “non-network stations” for “superstations” wherever appearing in headings, was executed by substituting “NON-NETWORK STATIONS” for “SUPERSTATIONS” in par. (1) heading, to reflect the probable intent of Congress.

Pub. L. 111-175, § 102(g)(1), substituted “non-network station” for “superstation”.

Subsec. (a)(2)(A). Pub. L. 111-175, § 102(h)(2)(A)(ii)(I), substituted “subparagraph (B) of this paragraph and paragraphs (4), (5), (6), and (7)” for “subparagraphs (B) and (C) of this paragraph and paragraphs (5), (6), (7), and (8)”.

Subsec. (a)(2)(B)(i). Pub. L. 111-175, § 102(h)(2)(A)(ii)(II), struck out “The limitation in this clause shall not apply to secondary transmissions under paragraph (3).” at end.

Subsec. (a)(2)(B)(ii)(III). Pub. L. 111-175, § 102(i)(1), added subcl. (III).

Subsec. (a)(2)(B)(iii)(II). Pub. L. 111-175, § 102(i)(5), (k)(1), substituted “In this clause,” for “In this clause” and “, Code of Federal Regulations” for “of the Code of Federal Regulations”.

Subsec. (a)(2)(C). Pub. L. 111-175, § 102(h)(1)(A), redesignated subpar. (D) as (C) and struck out former subpar. (C), which related to exceptions.

Subsec. (a)(2)(C)(i), (ii). Pub. L. 111-175, § 102(h)(2)(A)(ii)(III), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which related to initial lists and monthly lists, respectively.

<sup>2</sup> So in original. Probably should be preceded by “the”.

Subsec. (a)(2)(D). Pub. L. 111-175, §102(h)(1)(A), redesignated subpar. (D) as (C).

Subsec. (a)(3)(A). Pub. L. 111-175, §102(i)(2)(A), struck out “analog” after “subscribers to” in subpar. heading, substituted “distant” for “distant analog” and “primary” for “primary analog” wherever appearing in headings and text, and struck out “analog” after “receive such local” in cl. (i)(I)(bb).

Subsec. (a)(3)(B), (C). Pub. L. 111-175, §102(i)(2)(B), added subpars. (B) and (C) and struck out former subpars. (B) and (C) which related to rules for other subscribers and future applicability, respectively.

Subsec. (a)(3)(D). Pub. L. 111-175, §102(i)(2)(B), (C), redesignated subpar. (E) as (D) and struck out former subpar. (D) which related to special rules for distant digital signals.

Subsec. (a)(3)(E). Pub. L. 111-175, §102(i)(2)(C), (D), redesignated subpar. (F) as (E) and substituted “(B) or (C)” for “(C) or (D)”. Former subpar. (E) redesignated (D).

Pub. L. 111-175, §102(h)(2)(A)(iii), struck out “under paragraph (3) or” after “transmissions” and substituted “paragraph (11)” for “paragraph (12)”.

Subsec. (a)(3)(F), (G). Pub. L. 111-175, §102(i)(2)(C), (E), redesignated subpar. (G) as (F) and inserted “9-digit” before “zip code”. Former subpar. (F) redesignated (E).

Subsec. (a)(4). Pub. L. 111-175, §102(i)(4), struck out “and 509” after “506”.

Subsec. (a)(5). Pub. L. 111-175, §102(g)(1), substituted “non-network station” for “superstation”.

Subsec. (a)(6). Pub. L. 111-175, §102(i)(3)(C), inserted concluding provisions.

Pub. L. 111-175, §102(g)(1), substituted “non-network station” for “superstation”.

Subsec. (a)(6)(A)(ii). Pub. L. 111-175, §102(i)(3)(A), substituted “\$250” for “\$5”.

Subsec. (a)(6)(B)(i). Pub. L. 111-175, §102(i)(3)(B)(i), substituted “\$2,500,000 for each 3-month period” for “\$250,000 for each 6-month period”.

Subsec. (a)(6)(B)(ii). Pub. L. 111-175, §102(i)(3)(B)(ii), substituted “\$2,500,000” for “\$250,000”.

Subsec. (a)(8). Pub. L. 111-175, §102(g)(1), substituted “non-network station” for “superstation”.

Subsec. (a)(11)(A)(i)(I), (II), (B)(iii)(II). Pub. L. 111-175, §102(k)(1), substituted “, Code of Federal Regulations” for “of the Code of Federal Regulations”.

Subsec. (b). Pub. L. 111-175, §102(d)(1), amended heading generally. Prior to amendment, heading read as follows: “STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS FOR PRIVATE HOME VIEWING.—”.

Subsec. (b)(1). Pub. L. 111-175, §102(h)(2)(B), struck out concluding provisions which read as follows: “Notwithstanding the provisions of subparagraph (B), a satellite carrier whose secondary transmissions are subject to statutory licensing under paragraph (1) or (2) of subsection (a) shall have no royalty obligation for secondary transmissions to a subscriber under paragraph (3) of such subsection.”

Subsec. (b)(1)(A). Pub. L. 111-175, §102(g)(2), substituted “non-network stations” for “superstations”.

Subsec. (b)(1)(B). Pub. L. 111-175, §102(d)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: “a royalty fee for that 6-month period, computed by multiplying the total number of subscribers receiving each secondary transmission of each superstation or network station during each calendar month by the appropriate rate in effect under this section; and”.

Subsec. (b)(1)(C). Pub. L. 111-175, §102(c), added subpar. (C).

Subsec. (b)(2). Pub. L. 111-175, §102(d)(4), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 111-175, §102(d)(3), (5), redesignated par. (2) as (3), inserted “(including the filing fee specified in paragraph (1)(C))” after “shall receive all fees”, and substituted “paragraph (5)” for “paragraph (4)”. Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 111-175, §102(d)(3), (6), redesignated par. (3) as (4), substituted “paragraph (3)” for “paragraph (2)”, and substituted “paragraph (5)” for

“paragraph (4)” in two places. Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 111-175, §102(d)(3), (7), redesignated par. (4) as (5) and substituted “paragraph (3)” for “paragraph (2)” in introductory provisions.

Subsec. (c)(1). Pub. L. 111-175, §102(e)(1)(A), struck out “analog” after “fees for” in heading.

Subsec. (c)(1)(A). Pub. L. 111-175, §102(e)(1)(B), (g)(2), substituted “primary transmissions” for “primary analog transmissions”, “non-network stations” for “superstations”, and “July 1, 2009” for “July 1, 2004”.

Subsec. (c)(1)(B). Pub. L. 111-175, §102(e)(1)(C), (g)(2), substituted “June 1, 2010, the Copyright Royalty Judges” for “January 2, 2005, the Librarian of Congress”, “primary transmissions” for “primary analog transmission”, and “non-network stations” for “superstations”.

Subsec. (c)(1)(C). Pub. L. 111-175, §102(e)(1)(D), substituted “Copyright Royalty Judges” for “Librarian of Congress”.

Subsec. (c)(1)(D)(i). Pub. L. 111-175, §102(e)(1)(E)(i), inserted heading and substituted “that are parties” for “that a parties”.

Subsec. (c)(1)(D)(ii). Pub. L. 111-175, §102(e)(1)(E)(ii)(I), inserted heading.

Subsec. (c)(1)(D)(ii)(I). Pub. L. 111-175, §102(e)(1)(E)(ii)(I), (II), inserted heading and substituted “a proceeding under subparagraph (F)” for “an arbitration proceeding pursuant to subparagraph (E)”.

Subsec. (c)(1)(D)(ii)(II). Pub. L. 111-175, §102(e)(1)(E)(ii)(III), inserted heading and substituted “Upon receiving a request under subclause (I), the Copyright Royalty Judges” for “Upon receiving a request under subclause (I), the Librarian of Congress”.

Subsec. (c)(1)(D)(ii)(III). Pub. L. 111-175, §102(e)(1)(E)(ii)(IV), inserted heading and substituted “The Copyright Royalty Judges” for “The Librarian”, “the proceeding under subparagraph (F)” for “an arbitration proceeding”, and “that proceeding” for “the arbitration proceeding”.

Subsec. (c)(1)(E). Pub. L. 111-175, §102(e)(1)(F), substituted “Copyright Royalty Judges” for “Copyright Office” and “December 31, 2014” for “May 31, 2010”.

Pub. L. 111-157, §9(a)(1)(A), substituted “May 31, 2010” for “April 30, 2010”.

Pub. L. 111-151, §2(a)(1)(A), substituted “April 30, 2010” for “March 28, 2010”.

Pub. L. 111-144, §10(a)(1)(A), substituted “March 28, 2010” for “February 28, 2010”.

Subsec. (c)(1)(F). Pub. L. 111-175, §102(e)(1)(G)(i), substituted “copyright royalty judges proceeding” for “compulsory arbitration” in heading.

Subsec. (c)(1)(F)(i). Pub. L. 111-175, §102(e)(1)(G)(ii)(I), (II), (IV), (g)(2), in heading, substituted “the proceeding” for “proceedings”, in introductory provisions, substituted “September 1, 2010, the Copyright Royalty Judges” for “May 1, 2005, the Librarian of Congress”, “a proceeding” for “arbitration proceedings”, “fees to be paid” for “fee to be paid”, “the primary transmissions” for “primary analog transmission”, “non-network stations” for “superstations”, and “distributors—” for “distributors”, and amended concluding provisions generally. Prior to amendment, concluding provisions read as follows: “Such arbitration proceeding shall be conducted under chapter 8 as in effect on the day before the date of the enactment of the Copyright Royalty and Distribution Act of 2004.”

Subsec. (c)(1)(F)(i)(II). Pub. L. 111-175, §102(e)(1)(G)(ii)(III), substituted “Copyright Royalty Judges” for “Librarian of Congress” and struck out “arbitration” after “participate in the”.

Subsec. (c)(1)(F)(ii). Pub. L. 111-175, §102(e)(1)(G)(iii), amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: “In determining royalty fees under this subparagraph, the copyright arbitration royalty panel appointed under chapter 8, as in effect on the day before the date of the enactment of the Copyright Royalty and Distribution Act of 2004 shall establish fees for the secondary transmissions of the primary analog transmission

of network stations and superstations that most clearly represent the fair market value of secondary transmissions, except that the Librarian of Congress and any copyright arbitration royalty panel shall adjust those fees to account for the obligations of the parties under any applicable voluntary agreement filed with the Copyright Office pursuant to subparagraph (D). In determining the fair market value, the panel shall base its decision on economic, competitive, and programming information presented by the parties, including—

Subsec. (c)(1)(F)(iii). Pub. L. 111-175, §102(e)(1)(G)(iv), amended cl. (iii) generally. Prior to amendment, text read as follows: “The obligation to pay the royalty fee established under a determination which—

“(I) is made by a copyright arbitration royalty panel in an arbitration proceeding under this paragraph and is adopted by the Librarian of Congress under section 802(f), as in effect on the day before the date of the enactment of the Copyright Royalty and Distribution Act of 2004; or

“(II) is established by the Librarian under section 802(f) as in effect on the day before such date of enactment shall be effective as of January 1, 2005.”

Subsec. (c)(1)(F)(iv). Pub. L. 111-175, §102(e)(1)(G)(v), substituted “fees” for “fee” in heading and substituted “fees referred to in clause (iii)” for “fee referred to in (iii)” in text.

Subsec. (c)(2). Pub. L. 111-175, §102(e)(2), amended par. (2) generally. Prior to amendment, par. (2) related to applicability and determination of royalty fees for digital signals.

Subsec. (d)(1). Pub. L. 111-175, §102(f)(6), substituted “that contracts” for “which contracts”.

Subsec. (d)(2)(A). Pub. L. 111-175, §102(f)(6), substituted “that offer” for “which offer”.

Subsec. (d)(5). Pub. L. 111-175, §102(f)(6), substituted “that is operated” for “which is operated” and “that serves” for “which serves”.

Subsec. (d)(6). Pub. L. 111-175, §102(k), substituted “, Code of Federal Regulations, or the Direct Broadcast Satellite Service under part 100 of title 47, Code of Federal Regulations” for “of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of the Code of Federal Regulations”.

Subsec. (d)(8). Pub. L. 111-175, §102(f)(1), amended par. (8) generally. Prior to amendment, text read as follows: “The term ‘subscriber’ means an individual or entity that receives a secondary transmission service by means of a secondary transmission from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor in accordance with the provisions of this section.”

Subsec. (d)(9). Pub. L. 111-175, §102(g)(1), which directed amendment of section by substituting “non-network station” for “superstation” wherever appearing in headings, was executed by substituting “NON-NETWORK STATION” for “SUPERSTATION” in par. (9) heading, to reflect the probable intent of Congress.

Pub. L. 111-175, §102(g)(1), substituted “non-network station” for “superstation”.

Subsec. (d)(10)(A). Pub. L. 111-175, §102(b)(1)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: “cannot receive, through the use of a conventional, stationary, outdoor rooftop receiving antenna, an over-the-air signal of a primary network station affiliated with that network of Grade B intensity as defined by the Federal Communications Commission under section 73.683(a) of title 47 of the Code of Federal Regulations, as in effect on January 1, 1999;”.

Subsec. (d)(10)(B). Pub. L. 111-175, §102(b)(1)(B), substituted “subsection (a)(13),” for “subsection (a)(14)” and “Satellite Television Extension and Localism Act of 2010” for “Satellite Home Viewer Extension and Reauthorization Act of 2004”.

Subsec. (d)(10)(D). Pub. L. 111-175, §102(b)(1)(C), substituted “(a)(11)” for “(a)(12)”.

Subsec. (d)(11). Pub. L. 111-175, §102(f)(2), amended par. (11) generally. Prior to amendment, text read as follows: “The term ‘local market’ has the meaning

given such term under section 122(j), except that with respect to a low power television station, the term ‘local market’ means the designated market area in which the station is located.”

Subsec. (d)(12), (13). Pub. L. 111-175, §102(f)(3), redesignated pars. (13) and (14) as (12) and (13), respectively, and struck out former par. (12). Text read as follows: “The term ‘low power television station’ means a low power television as defined under section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term ‘low power television station’ includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.”

Subsec. (d)(14). Pub. L. 111-175, §102(f)(4), added par. (14). Former par. (14) redesignated (13).

Pub. L. 111-175, §102(b)(2), added par. (14).

Subsec. (d)(15). Pub. L. 111-175, §102(f)(5), added par. (15).

Subsec. (e). Pub. L. 111-175, §102(j), (k)(1), substituted “December 31, 2014” for “May 31, 2010” and “, Code of Federal Regulations” for “of the Code of Federal Regulations”.

Pub. L. 111-157, §9(a)(1)(B), substituted “May 31, 2010” for “April 30, 2010”.

Pub. L. 111-151, §2(a)(1)(B), substituted “April 30, 2010” for “March 28, 2010”.

Pub. L. 111-144, §10(a)(1)(B), substituted “March 28, 2010” for “February 28, 2010”.

Subsec. (g). Pub. L. 111-175, §105, added subsec. (g).

Subsec. (g)(4)(B)(vi). Pub. L. 111-295 substituted “an examination” for “the examinations”.

2009—Subsecs. (c)(1)(E), (e). Pub. L. 111-118 substituted “February 28, 2010” for “December 31, 2009”.

2008—Subsec. (a)(6). Pub. L. 110-403, §209(a)(4)(A), substituted “section 510” for “sections 509 and 510”.

Subsec. (a)(7)(A). Pub. L. 110-403, §209(a)(4)(B), struck out “and 509” after “506” in introductory provisions.

Subsec. (a)(8), (13). Pub. L. 110-403, §209(a)(4)(C), (D), struck out “and 509” after “506”.

2006—Subsec. (b)(4)(B). Pub. L. 109-303, §4(e)(1)(A), substituted second sentence for former second sentence which read as follows: “If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, after deducting reasonable administrative costs under this paragraph, distribute such fees to the copyright owners entitled to receive them, or to their designated agents.”

Subsec. (b)(4)(C). Pub. L. 109-303, §4(e)(1)(B), amended subpar. (C) generally. Prior to amendment, text of subpar. (C) read as follows: “During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have the discretion to proceed to distribute any amounts that are not in controversy.”

Subsec. (c). Pub. L. 109-303, §4(g), deemed amendment by Pub. L. 108-419, §5(h), never to have been enacted. See 2004 Amendment note below.

Subsec. (c)(1)(F)(i). Pub. L. 109-303, §4(e)(2), substituted “arbitration” for “arbitrary” in concluding provisions.

2004—Subsec. (a)(1). Pub. L. 108-447, §107(a)(1), inserted “or for viewing in a commercial establishment” after “for private home viewing” in two places and substituted “subscriber” for “household”.

Pub. L. 108-447, §102(1), struck out “and pbs satellite feed” after “Superstations” in heading, substituted “paragraphs (5), (6), and (8)” for “paragraphs (3), (4), and (6)” and struck out “or by the Public Broadcasting Service satellite feed” after “primary transmission made by a superstation” in first sentence, and struck out at end “In the case of the Public Broadcasting Service satellite feed, the statutory license shall be effective until January 1, 2002.”

Subsec. (a)(2)(A). Pub. L. 108-447, §102(2)(A), substituted “paragraphs (5), (6), (7), and (8)” for “paragraphs (3), (4), (5), and (6)”.

Subsec. (a)(2)(B)(i). Pub. L. 108-447, §102(7), inserted at end “The limitation in this clause shall not apply to secondary transmissions under paragraph (3).”

Subsec. (a)(2)(C), (D). Pub. L. 108-447, §102(2)(B), added subpars. (C) and (D) and struck out heading and text of former subpar. (C). Text read as follows: “A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station a list identifying (by name and street address, including county and zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission. Thereafter, on the 15th of each month, the satellite carrier shall submit to the network a list identifying (by name and street address, including county and zip code) any persons who have been added or dropped as such subscribers since the last submission under this subparagraph. Such subscriber information submitted by a satellite carrier may be used only for purposes of monitoring compliance by the satellite carrier with this subsection. The submission requirements of this subparagraph shall apply to a satellite carrier only if the network to whom the submissions are to be made places on file with the Register of Copyrights a document identifying the name and address of the person to whom such submissions are to be made. The Register shall maintain for public inspection a file of all such documents.”

Subsec. (a)(3) to (6). Pub. L. 108-447, §§102(5), (6), 103(1), added pars. (3) and (4) and redesignated former pars. (3) and (4) as (5) and (6), respectively. Former pars. (5) and (6) redesignated (7) and (8), respectively.

Subsec. (a)(7). Pub. L. 108-447, §102(5), redesignated par. (5) as (7). Former par. (7) redesignated (9).

Subsec. (a)(7)(A). Pub. L. 108-447, §103(6)(A), substituted “who is not eligible to receive the transmission under this section” for “who does not reside in an unserved household” in introductory provisions.

Subsec. (a)(7)(B). Pub. L. 108-447, §103(6)(B), substituted “who are not eligible to receive the transmission under this section” for “who do not reside in unserved households” in introductory provisions.

Subsec. (a)(7)(D). Pub. L. 108-447, §103(6)(C), substituted “is to a subscriber who is eligible to receive the secondary transmission under this section” for “is for private home viewing to an unserved household”.

Subsec. (a)(8). Pub. L. 108-447, §102(3), (5), redesignated par. (6) as (8) and struck out former par. (8) which related to transitional signal intensity measurement procedures.

Subsec. (a)(9) to (13). Pub. L. 108-447, §102(4), (5), redesignated pars. (7) and (9) to (12) as (9) and (10) to (13), respectively.

Subsec. (a)(14). Pub. L. 108-447, §103(2), added par. (14).

Subsec. (a)(15). Pub. L. 108-447, §104, added par. (15).

Subsec. (a)(16). Pub. L. 108-447, §111(a), added par. (16).

Subsec. (b)(1). Pub. L. 108-447, §103(4), inserted at end: “Notwithstanding the provisions of subparagraph (B), a satellite carrier whose secondary transmissions are subject to statutory licensing under paragraph (1) or (2) of subsection (a) shall have no royalty obligation for secondary transmissions to a subscriber under paragraph (3) of such subsection.”

Subsec. (b)(1)(A). Pub. L. 108-447, §107(a)(2), struck out “for private home viewing” after “to subscribers”.

Subsec. (b)(1)(B). Pub. L. 108-447, §103(3), added subpar. (B) and struck out former subpar. (B) which read as follows: “a royalty fee for that 6-month period, computed by—

“(i) multiplying the total number of subscribers receiving each secondary transmission of a superstation during each calendar month by 17.5 cents per subscriber in the case of superstations that as retransmitted by the satellite carrier include any program which, if delivered by any cable system in the United States, would be subject to the syndicated exclusivity rules of the Federal Communications Commission, and 14 cents per subscriber in the case of

superstations that are syndex-proof as defined in section 258.2 of title 37, Code of Federal Regulations;

“(ii) multiplying the number of subscribers receiving each secondary transmission of a network station or the Public Broadcasting Service satellite feed during each calendar month by 6 cents; and

“(iii) adding together the totals computed under clauses (i) and (ii).”

Subsec. (b)(3). Pub. L. 108-447, §107(a)(2), struck out “for private home viewing” after “secondary transmission”.

Pub. L. 108-419, §5(g)(1), substituted “Copyright Royalty Judges” for “Librarian of Congress”.

Subsec. (b)(4)(A). Pub. L. 108-447, §107(a)(2), struck out “for private home viewing” after “secondary transmissions”.

Pub. L. 108-419, §5(g)(2)(A), substituted “Copyright Royalty Judges” for “Librarian of Congress” in two places.

Subsec. (b)(4)(B), (C). Pub. L. 108-419, §5(g)(2)(B), reenacted headings without change and amended text generally, substituting provisions relating to duties of Copyright Royalty Judges concerning determination of royalty fee controversies and distribution of royalty fees for provisions relating to duties of Librarian of Congress relating to such determination and distribution.

Subsec. (c). Pub. L. 108-447, §103(5), amended heading and text of subsec. (c) generally. Prior to amendment, text related to adjustment, determination, arbitration, and reduction of royalty fees.

Pub. L. 108-419, §5(h), which directed amendment of subsec. (c) by substituting “Copyright Royalty Judges” for “Librarian of Congress” in par. (2)(B), “Copyright Royalty Judges shall prescribe as provided in section 803(b)(6)” for “Register of Copyrights shall prescribe” in par. (2)(C), “proceedings” for “arbitration proceedings” and for “arbitration proceeding” in par. (3)(A), “Copyright Royalty Judges” for “copyright arbitration royalty panel appointed under chapter 8” and “Copyright Royalty Judges shall base their determination” for “panel shall base its decision” in par. (3)(B), “determination under chapter 8” for “decision of arbitration panel or order of librarian” in heading of par. (3)(C), and “(i) is made by the Copyright Royalty Judges pursuant to this paragraph and becomes final, or” and “(ii) is made by the court on appeal under section 803(d)(3),” for cls. (i) and (ii), respectively, of par. (3)(C), was deemed never to have been enacted by Pub. L. 109-303, §4(g). See Removal of Inconsistent Provisions note below.

Subsec. (d)(1). Pub. L. 108-447, §107(a)(3), struck out “for private home viewing” after “individual subscribers” and inserted “in accordance with the provisions of this section” before the period at end.

Subsec. (d)(2)(A). Pub. L. 108-447, §105(1), substituted “a television station licensed by the Federal Communications Commission” for “a television broadcast station”.

Subsec. (d)(6). Pub. L. 108-447, §107(a)(4), inserted “pursuant to this section” before period at end.

Subsec. (d)(8). Pub. L. 108-447, §107(a)(5), substituted “or entity that” for “who”, struck out “for private home viewing” after “transmission service”, and inserted “in accordance with the provisions of this section” before period at end.

Subsec. (d)(9). Pub. L. 108-447, §105(2), amended heading and text of par. (9) generally. Prior to amendment, text read as follows: “The term ‘superstation’—

“(A) means a television broadcast station, other than a network station, licensed by the Federal Communications Commission that is secondarily transmitted by a satellite carrier; and

“(B) except for purposes of computing the royalty fee, includes the Public Broadcasting Service satellite feed.”

Subsec. (d)(10)(B). Pub. L. 108-447, §105(3)(A), substituted “that meets the standards of subsection (a)(14) whether or not the waiver was granted before the date of the enactment of the Satellite Home Viewer Exten-

sion and Reauthorization Act of 2004” for “granted under regulations established under section 339(c)(2) of the Communications Act of 1934”.

Subsec. (d)(10)(D). Pub. L. 108-447, §105(3)(B), substituted “(a)(12)” for “(a)(11)”.

Subsec. (d)(11) to (13). Pub. L. 108-447, §105(4), added pars. (11) to (13) and struck out former pars. (11) and (12) which read as follows:

“(11) LOCAL MARKET.—The term ‘local market’ has the meaning given such term under section 122(j).

“(12) PUBLIC BROADCASTING SERVICE SATELLITE FEED.—The term ‘Public Broadcasting Service satellite feed’ means the national satellite feed distributed and designated for purposes of this section by the Public Broadcasting Service consisting of educational and informational programming intended for private home viewing, to which the Public Broadcasting Service holds national terrestrial broadcast rights.”

Subsec. (e). Pub. L. 108-447, §101(b), substituted “December 31, 2009” for “December 31, 2004”.

Subsec. (f). Pub. L. 108-447, §108, added subsec. (f).  
2002—Subsec. (a)(1). Pub. L. 107-273, §13209(3)(B), amended Pub. L. 106-113, §1000(a)(9) [title I, §1011(b)(2)(A)]. See 1999 Amendment note below.

Pub. L. 107-273, §13209(3)(A), amended Pub. L. 106-113, §1000(a)(9) [title I, §1006(a)]. See 1999 Amendment note below.

Subsec. (a)(2)(A). Pub. L. 107-273, §13209(1)(A), made technical correction to directory language of Pub. L. 106-113, §1000(a)(9) [title I, §1007(2)]. See 1999 Amendment note below.

Subsec. (a)(6). Pub. L. 107-273, §13210(1), substituted “of a performance” for “of performance”.

Subsec. (a)(12). Pub. L. 107-273, §13209(1)(B), made technical correction to directory language of Pub. L. 106-113, §1000(a)(9) [title I, §1007(3)]. See 1999 Amendment note below.

Subsec. (b)(1)(A). Pub. L. 107-273, §13210(8), substituted “retransmitted” for “transmitted” and “re-transmissions” for “transmissions”.

Subsec. (b)(1)(B)(ii). Pub. L. 107-273, §13209(2), made technical correction to directory language of Pub. L. 106-113, §1000(a)(9) [title I, §1006(b)]. See 1999 Amendment note below.

1999—Subsec. (a)(1). Pub. L. 106-113, §1000(a)(9) [title I, §1011(b)(2)(A)], as amended by Pub. L. 107-273, §13209(3)(B), substituted “performance or display of a work embodied in a primary transmission made by a superstation or by the Public Broadcasting Service satellite feed” for “primary transmission made by a superstation and embodying a performance or display of a work”.

Pub. L. 106-113, §1000(a)(9) [title I, §1007(1)], inserted “with regard to secondary transmissions the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals,” after “satellite carrier to the public for private home viewing.”.

Pub. L. 106-113, §1000(a)(9) [title I, §1006(a)], as amended by Pub. L. 107-273, §13209(3)(A), in heading substituted “Superstations and pbs satellite feed” for “Superstations” and in text inserted “In the case of the Public Broadcasting Service satellite feed, the statutory license shall be effective until January 1, 2002.” at end. Pub. L. 107-273, §13209(3)(A)(ii), which repealed Pub. L. 106-113, §1000(a)(9) [title I, §1006(a)(2)], was executed by striking out “or by the Public Broadcasting Service satellite feed” which had been inserted by section 1006(a)(2) after “of a primary transmission made by a superstation”, to reflect the probable intent of Congress.

Subsec. (a)(2)(A). Pub. L. 106-113, §1000(a)(9) [title I, §1011(b)(2)(A)], substituted “a performance or display of a work embodied in a primary transmission made by a network station” for “programming contained in a primary transmission made by a network station and embodying a performance or display of a work”.

Pub. L. 106-113, §1000(a)(9) [title I, §1007(2)], as amended by Pub. L. 107-273, §13209(1)(A), inserted “with regard

to secondary transmissions the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals,” after “satellite carrier to the public for private home viewing.”.

Subsec. (a)(2)(B). Pub. L. 106-113, §1000(a)(9) [title I, §1005(a)(2)], reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The statutory license provided for in subparagraph (A) shall be limited to secondary transmissions to persons who reside in unserved households.”

Subsec. (a)(2)(C). Pub. L. 106-113, §1000(a)(9) [title I, §1011(c)], struck out “currently” after “all subscribers to which the satellite carrier” in first sentence.

Subsec. (a)(4). Pub. L. 106-113, §1000(a)(9) [title I, §1011(b)(2)(C)], inserted “a performance or display of a work embodied in” after “by a satellite carrier of” and struck out “and embodying a performance or display of a work” after “network station”.

Subsec. (a)(5)(E). Pub. L. 106-113, §1000(a)(9) [title I, §1005(b)], added subpar. (E).

Subsec. (a)(6). Pub. L. 106-113, §1000(a)(9) [title I, §1011(b)(2)(D)], inserted “performance or display of a work embodied in” after “by a satellite carrier of” and struck out “and embodying a performance or display of a work” after “network station”.

Subsec. (a)(8)(C)(ii). Pub. L. 106-44 substituted “within the network station’s” for “within the network’s station” in first sentence.

Subsec. (a)(11). Pub. L. 106-113, §1000(a)(9) [title I, §1005(d)], added par. (11).

Subsec. (a)(12). Pub. L. 106-113, §1000(a)(9) [title I, §1007(3)], as amended by Pub. L. 107-273, §13209(1)(B), added par. (12).

Subsec. (b)(1)(B)(ii). Pub. L. 106-113, §1000(a)(9) [title I, §1006(b)], as amended by Pub. L. 107-273, §13209(2), inserted “or the Public Broadcasting Service satellite feed” after “network station”.

Subsec. (c)(4), (5). Pub. L. 106-113, §1000(a)(9) [title I, §1004], added pars. (4) and (5).

Subsec. (d)(2). Pub. L. 106-113, §1000(a)(9) [title I, §1008(b)], substituted a semicolon for the period at end of subpar. (B) and inserted concluding provisions.

Subsec. (d)(9). Pub. L. 106-113, §1000(a)(9) [title I, §1006(c)(1)], reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The term ‘superstation’ means a television broadcast station, other than a network station, licensed by the Federal Communications Commission that is secondarily transmitted by a satellite carrier.”

Subsec. (d)(10). Pub. L. 106-113, §1000(a)(9) [title I, §1005(a)(1)], added par. (10) and struck out heading and text of former par. (10). Text read as follows: “The term ‘unserved household’, with respect to a particular television network, means a household that—

“(A) cannot receive, through the use of a conventional outdoor rooftop receiving antenna, an over-the-air signal of grade B intensity (as defined by the Federal Communications Commission) of a primary network station affiliated with that network, and

“(B) has not, within 90 days before the date on which that household subscribes, either initially or on renewal, to receive secondary transmissions by a satellite carrier of a network station affiliated with that network, subscribed to a cable system that provides the signal of a primary network station affiliated with that network.”

Subsec. (d)(11). Pub. L. 106-113, §1000(a)(9) [title I, §1005(e)], reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The term ‘local market’ means the area encompassed within a network station’s predicted Grade B contour as that contour is defined by the Federal Communications Commission.”

Subsec. (d)(12). Pub. L. 106-113, §1000(a)(9) [title I, §1006(c)(2)], added par. (12).

Subsec. (e). Pub. L. 106-113, §1000(a)(9) [title I, §1005(c)], amended heading and text of subsec. (e) gen-



erally. Prior to amendment, text read as follows: “No provision of section 111 of this title or any other law (other than this section) shall be construed to contain any authorization, exemption, or license through which secondary transmissions by satellite carrier for private home viewing of programming contained in a primary transmission made by a superstation or a network station may be made without obtaining the consent of the copyright owner.”

1997—Subsec. (a)(5)(C). Pub. L. 105–80, §1(3), amended Pub. L. 103–369, §2(5)(A). See 1994 Amendment note below.

Subsec. (b)(1)(B)(i). Pub. L. 105–80, §1(1), amended Pub. L. 103–369, §2(3)(A). See 1994 Amendment note below.

Subsec. (c)(1). Pub. L. 105–80, §12(a)(8), which directed substitution of “unless” for “until unless” before “a royalty fee”, could not be executed because “until” did not appear subsequent to amendment by Pub. L. 103–369, §2(4)(A), as amended by Pub. L. 105–80, §1(2). See 1994 Amendment note below.

Pub. L. 105–80, §1(2), amended Pub. L. 103–369, §2(4)(A). See 1994 Amendment note below.

Subsec. (c)(2)(A), (D), (3)(A)–(C). Pub. L. 105–80, §1(2), amended Pub. L. 103–369, §2(4). See 1994 Amendment notes below.

1995—Subsec. (a)(1), (2)(A). Pub. L. 104–39 inserted “and section 114(d)” after “of this subsection”.

1994—Subsec. (a)(2)(C). Pub. L. 103–369, §2(1), struck out “90 days after the effective date of the Satellite Home Viewer Act of 1988, or” before “90 days after commencing”, “whichever is later,” before “submit to the network that owns”, and “, on or after the effective date of the Satellite Home Viewer Act of 1988,” after “Register of Copyrights”, and inserted “name and” after “identifying (by)” in two places.

Subsec. (a)(5)(C). Pub. L. 103–369, §2(5)(A), as amended by Pub. L. 105–80, §1(3), substituted “November 16, 1988” for “the date of the enactment of the Satellite Home Viewer Act of 1988”.

Subsec. (a)(5)(D). Pub. L. 103–369, §2(2), added subpar. (D).

Subsec. (a)(8) to (10). Pub. L. 103–369, §2(5)(B), added pars. (8) to (10).

Subsec. (b)(1)(B)(i). Pub. L. 103–369, §2(3)(A), as amended by Pub. L. 105–80, §1(1), substituted “17.5 cents per subscriber in the case of superstations that as retransmitted by the satellite carrier include any program which, if delivered by any cable system in the United States, would be subject to the syndicated exclusivity rules of the Federal Communications Commission, and 14 cents per subscriber in the case of superstations that are syndex-proof as defined in section 258.2 of title 37, Code of Federal Regulations” for “12 cents”.

Subsec. (b)(1)(B)(ii). Pub. L. 103–369, §2(3)(B), substituted “6 cents” for “3 cents”.

Subsec. (c)(1). Pub. L. 103–369, §2(4)(A), as amended by Pub. L. 105–80, §1(2), struck out “until December 31, 1992,” before “unless a royalty fee”, substituted “paragraph (2) or (3) of this subsection” for “paragraph (2), (3), or (4) of this subsection”, and struck out at end “After that date, the fee shall be determined either in accordance with the voluntary negotiation procedure specified in paragraph (2) or in accordance with the compulsory arbitration procedure specified in paragraphs (3) and (4).”

Subsec. (c)(2)(A). Pub. L. 103–369, §2(4)(B)(i), as amended by Pub. L. 105–80, §1(2), substituted “July 1, 1996” for “July 1, 1991”.

Subsec. (c)(2)(D). Pub. L. 103–369, §2(4)(B)(ii), as amended by Pub. L. 105–80, §1(2), substituted “December 31, 1999, or in accordance with the terms of the agreement, whichever is later” for “December 31, 1994”.

Subsec. (c)(3)(A). Pub. L. 103–369, §2(4)(C)(i), as amended by Pub. L. 105–80, §1(2), substituted “January 1, 1997” for “December 31, 1991”.

Subsec. (c)(3)(B). Pub. L. 103–369, §2(4)(C)(ii), as amended by Pub. L. 105–80, §1(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows:

“(B) FACTORS FOR DETERMINING ROYALTY FEES.—In determining royalty fees under this paragraph, the copyright arbitration royalty panel appointed under chapter 8 shall consider the approximate average cost to a cable system for the right to secondarily transmit to the public a primary transmission made by a broadcast station, the fee established under any voluntary agreement filed with the Copyright Office in accordance with paragraph (2), and the last fee proposed by the parties, before proceedings under this paragraph, for the secondary transmission of superstations or network stations for private home viewing. The fee shall also be calculated to achieve the following objectives:

“(i) To maximize the availability of creative works to the public.

“(ii) To afford the copyright owner a fair return for his or her creative work and the copyright user a fair income under existing economic conditions.

“(iii) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication.

“(iv) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.”

Subsec. (c)(3)(C). Pub. L. 103–369, §2(4)(C)(iii), as amended by Pub. L. 105–80, §1(2), inserted before period at end “or July 1, 1997, whichever is later”.

Subsec. (d)(2). Pub. L. 103–369, §2(6)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

“(2) NETWORK STATION.—The term ‘network station’ has the meaning given that term in section 111(f) of this title, and includes any translator station or terrestrial satellite station that rebroadcasts all or substantially all of the programming broadcast by a network station.”

Subsec. (d)(6). Pub. L. 103–369, §2(6)(B), inserted “and operates in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of the Code of Federal Regulations” after “Federal Communications Commission”.

Subsec. (d)(11). Pub. L. 103–369, §2(6)(C), added par. (11).

1993—Subsec. (b)(1). Pub. L. 103–198, §5(1)(A), struck out “, after consultation with the Copyright Royalty Tribunal,” in introductory provisions after “Register shall” and in subpar. (A) after “Copyrights may”.

Subsec. (b)(2), (3). Pub. L. 103–198, §5(1)(B), (C), substituted “Librarian of Congress” for “Copyright Royalty Tribunal”.

Subsec. (b)(4). Pub. L. 103–198, §5(1)(D), in subpar. (A), substituted “Librarian of Congress” for “Copyright Royalty Tribunal” after “claim with the” and for “Tribunal” after “requirements that the”, in subpar. (B), substituted “Librarian of Congress” for “Copyright Royalty Tribunal” before “shall determine” and for “Tribunal” wherever else appearing, and substituted “convene a copyright arbitration royalty panel” for “conduct a proceeding”, and in subpar. (C), substituted “Librarian of Congress” for “Copyright Royalty Tribunal”.

Subsec. (c). Pub. L. 103–198, §5(2)(A), substituted “Adjustment” for “Determination” in heading.

Subsec. (c)(2). Pub. L. 103–198, §5(2)(B), substituted “Librarian of Congress” for “Copyright Royalty Tribunal” in subpars. (A) and (B).

Subsec. (c)(3)(A). Pub. L. 103–198, §5(2)(C)(i), substituted “Librarian of Congress” for “Copyright Royalty Tribunal” and substituted last sentence for former last sentence which read as follows: “Such notice shall include the names and qualifications of potential arbitrators chosen by the Tribunal from a list of available arbitrators obtained from the American Arbitration Association or such similar organization as the Tribunal shall select.”

Subsec. (c)(3)(B). Pub. L. 103-198, §5(2)(C)(ii), (iii), redesignated subpar. (D) as (B), substituted “copyright arbitration royalty panel appointed under chapter 8” for “Arbitration Panel” in introductory provisions, and struck out former subpar. (B) which provided for the selection of an Arbitration Panel.

Subsec. (c)(3)(C). Pub. L. 103-198, §5(2)(C)(ii), (v), redesignated subpar. (G) as (C), amended subpar. generally, substituting provisions relating to period during which decision of arbitration panel or order of Librarian of Congress becomes effective for provisions relating to period during which decision of Arbitration Panel or order of Copyright Royalty Tribunal became effective, and struck out former subpar. (C) which related to proceedings in arbitration.

Subsec. (c)(3)(D). Pub. L. 103-198, §5(2)(C)(vi), redesignated subpar. (H) as (D) and substituted “referred to in subparagraph (C)” for “adopted or ordered under subparagraph (F)”. Former subpar. (D) redesignated (B).

Subsec. (c)(3)(E) to (H). Pub. L. 103-198, §5(2)(C)(iv)-(vi)(I), struck out subpar. (E) which required the Arbitration Panel to report to the Copyright Royalty Tribunal not later than 60 days after publication of notice initiating an arbitration proceeding, struck out subpar. (F) which required action by the Tribunal within 60 days after receiving the report by the Panel, and redesignated subpars. (G) and (H) as (C) and (D), respectively.

Subsec. (c)(4). Pub. L. 103-198, §5(2)(D), struck out par. (4) which established procedures for judicial review of decisions of the Copyright Royalty Tribunal.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-175 effective Feb. 27, 2010, see section 307(a) of Pub. L. 111-175, set out as a note under section 111 of this title.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-303 effective as if included in the Copyright Royalty and Distribution Reform Act of 2004, Pub. L. 108-419, see section 6 of Pub. L. 109-303, set out as a note under section 111 of this title.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-419 effective 6 months after Nov. 30, 2004, subject to transition provisions, see section 6 of Pub. L. 108-419, set out as an Effective Date; Transition Provisions note under section 801 of this title.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by section 1000(a)(9) [title I, §§1004, 1006] of Pub. L. 106-113 effective July 1, 1999, and amendment by section 1000(a)(9) [title I, §§1005, 1007, 1008(b), 1011(b)(2), (c)] of Pub. L. 106-113 effective Nov. 29, 1999, see section 1000(a)(9) [title I, §1012] of Pub. L. 106-113, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-80, §13, Nov. 13, 1997, 111 Stat. 1536, provided that:

“(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this Act [amending this section, sections 101, 104A, 108 to 110, 114 to 116, 303, 304, 405, 407, 411, 504, 509, 601, 708, 801 to 803, 909, 910, 1006, and 1007 of this title, and section 2319 of Title 18, Crimes and Criminal Procedure, and amending provisions set out as a note under section 914 of this title] shall take effect on the date of the enactment of this Act [Nov. 13, 1997].

“(b) SATELLITE HOME VIEWER ACT.—The amendments made by section 1 [amending this section] shall be effective as if enacted as part of the Satellite Home Viewer Act of 1994 (Public Law 103-369).

“(c) TECHNICAL AMENDMENT.—The amendment made by section 12(b)(1) [amending provisions set out as a note under section 914 of this title] shall be effective as if enacted on November 9, 1987.”

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-39 effective 3 months after Nov. 1, 1995, see section 6 of Pub. L. 104-39, set out as a note under section 101 of this title.

#### EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Pub. L. 103-369, §6, Oct. 18, 1994, 108 Stat. 3481, provided that:

“(a) IN GENERAL.—Except as provided in subsections (b) and (d), this Act [amending this section and section 111 of this title, enacting provisions set out as notes under this section and section 101 of this title, and repealing provisions set out as a note under this section] and the amendments made by this Act take effect on the date of the enactment of this Act [Oct. 18, 1994].

“(b) BURDEN OF PROOF PROVISIONS.—The provisions of section 119(a)(5)(D) [now section 119(a)(6)(D)] of title 17, United States Code (as added by section 2(2) of this Act) relating to the burden of proof of satellite carriers, shall take effect on January 1, 1997, with respect to civil actions relating to the eligibility of subscribers who subscribed to service as an unserved household before the date of the enactment of this Act.

“(c) TRANSITIONAL SIGNAL INTENSITY MEASUREMENT PROCEDURES.—The provisions of [former] section 119(a)(8) of title 17, United States Code (as added by section 2(5) of this Act), relating to transitional signal intensity measurements, shall cease to be effective on December 31, 1996.

“(d) LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.—The amendment made by section 3(b) [amending section 111 of this title], relating to the definition of the local service area of a primary transmitter, shall take effect on July 1, 1994.”

#### EFFECTIVE DATE

Pub. L. 100-667, title II, §206, Nov. 16, 1988, 102 Stat. 3960, provided that: “This title and the amendments made by this title [enacting this section and sections 612 and 613 of Title 47, Telecommunications, amending sections 111, 501, 801, and 804 of this title and section 605 of Title 47, and enacting provisions set out as notes under this section and section 101 of this title] take effect on January 1, 1989, except that the authority of the Register of Copyrights to issue regulations pursuant to section 119(b)(1) of title 17, United States Code, as added by section 202 of this Act, takes effect on the date of the enactment of this Act [Nov. 16, 1988].”

Pub. L. 100-667, title II, §207, Nov. 16, 1988, 102 Stat. 3960, provided that this title and the amendments made by this title (other than the amendments made by section 205 [amending section 605 of Title 47]) cease to be effective on Dec. 31, 1994, prior to repeal by Pub. L. 103-369, §4(b), Oct. 18, 1994, 108 Stat. 3481.

#### TERMINATION OF SECTION

For termination of section, see subsection (h) of this section.

Pub. L. 111-175, title I, §107(a), May 27, 2010, 124 Stat. 1245, which provided that this section would cease to be effective on Dec. 31, 2014, was repealed by Pub. L. 113-200, title II, §202(b), Dec. 4, 2014, 128 Stat. 2066.

Pub. L. 111-118, div. B, §1003(a)(2)(A), Dec. 19, 2009, 123 Stat. 3469, as amended by Pub. L. 111-144, §10(a)(2), Mar. 2, 2010, 124 Stat. 47; Pub. L. 111-151, §2(a)(2), Mar. 26, 2010, 124 Stat. 1027; Pub. L. 111-157, §9(a)(2), Apr. 15, 2010, 124 Stat. 1119, which provided that this section would cease to be effective on May 31, 2010, was repealed by Pub. L. 111-175, title I, §107(b), May 27, 2010, 124 Stat. 1245.

Pub. L. 103-369, §4(a), Oct. 18, 1994, 108 Stat. 3481, as amended by Pub. L. 106-113, div. B, §1000(a)(9) [title I, §1003], Nov. 29, 1999, 113 Stat. 1536, 1501A-527; Pub. L. 108-447, div. J, title IX [title I, §101(a)], Dec. 8, 2004, 118 Stat. 3394, which provided that this section would cease to be effective on Dec. 31, 2009, was repealed by Pub. L. 111-118, div. B, §1003(a)(2)(B), Dec. 19, 2009, 123 Stat. 3469.

## REMOVAL OF INCONSISTENT PROVISIONS

Pub. L. 109-303, §4(g), Oct. 6, 2006, 120 Stat. 1483, provided that: “The amendments contained in subsection (h) of section 5 of the Copyright Royalty and Distribution Reform Act of 2004 [Pub. L. 108-419, amending this section] shall be deemed never to have been enacted.”

## EFFECT ON CERTAIN PROCEEDINGS

Pub. L. 108-447, div. J, title IX [title I, §106], Dec. 8, 2004, 118 Stat. 3406, provided that: “Nothing in this title [see Short Title of 2004 Amendment note set out under section 101 of this title] shall modify any remedy imposed on a party that is required by the judgment of a court in any action that was brought before May 1, 2004, against that party for a violation of section 119 of title 17, United States Code.”

## APPLICABILITY OF 1994 AMENDMENT

Pub. L. 103-369, §5, Oct. 14, 1994, 108 Stat. 3481, provided that: “The amendments made by this section apply only to section 119 of title 17, United States Code.”

### § 120. Scope of exclusive rights in architectural works

(a) PICTORIAL REPRESENTATIONS PERMITTED.—The copyright in an architectural work that has been constructed does not include the right to prevent the making, distributing, or public display of pictures, paintings, photographs, or other pictorial representations of the work, if the building in which the work is embodied is located in or ordinarily visible from a public place.

(b) ALTERATIONS TO AND DESTRUCTION OF BUILDINGS.—Notwithstanding the provisions of section 106(2), the owners of a building embodying an architectural work may, without the consent of the author or copyright owner of the architectural work, make or authorize the making of alterations to such building, and destroy or authorize the destruction of such building.

(Added Pub. L. 101-650, title VII, §704(a), Dec. 1, 1990, 104 Stat. 5133.)

## EFFECTIVE DATE

Section applicable to any architectural work created on or after Dec. 1, 1990, and any architectural work, that, on Dec. 1, 1990, is unconstructed and embodied in unpublished plans or drawings, except that protection for such architectural work under this title terminates on Dec. 31, 2002, unless the work is constructed by that date, see section 706 of Pub. L. 101-650, set out as an Effective Date of 1990 Amendment note under section 101 of this title.

### § 121. Limitations on exclusive rights: Reproduction for blind or other people with disabilities

(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for an authorized entity to reproduce or to distribute copies or phonorecords of a previously published, nondramatic literary work if such copies or phonorecords are reproduced or distributed in specialized formats exclusively for use by blind or other persons with disabilities.

(b)(1) Copies or phonorecords to which this section applies shall—

(A) not be reproduced or distributed in a format other than a specialized format exclusively for use by blind or other persons with disabilities;

(B) bear a notice that any further reproduction or distribution in a format other than a specialized format is an infringement; and

(C) include a copyright notice identifying the copyright owner and the date of the original publication.

(2) The provisions of this subsection shall not apply to standardized, secure, or norm-referenced tests and related testing material, or to computer programs, except the portions thereof that are in conventional human language (including descriptions of pictorial works) and displayed to users in the ordinary course of using the computer programs.

(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a publisher of print instructional materials for use in elementary or secondary schools to create and distribute to the National Instructional Materials Access Center copies of the electronic files described in sections 612(a)(23)(C), 613(a)(6), and section 674(e) of the Individuals with Disabilities Education Act that contain the contents of print instructional materials using the National Instructional Material Accessibility Standard (as defined in section 674(e)(3) of that Act), if—

(1) the inclusion of the contents of such print instructional materials is required by any State educational agency or local educational agency;

(2) the publisher had the right to publish such print instructional materials in print formats; and

(3) such copies are used solely for reproduction or distribution of the contents of such print instructional materials in specialized formats.

(d) For purposes of this section, the term—

(1) “authorized entity” means a nonprofit organization or a governmental agency that has a primary mission to provide specialized services relating to training, education, or adaptive reading or information access needs of blind or other persons with disabilities;

(2) “blind or other persons with disabilities” means individuals who are eligible or who may qualify in accordance with the Act entitled “An Act to provide books for the adult blind”, approved March 3, 1931 (2 U.S.C. 135a; 46 Stat. 1487) to receive books and other publications produced in specialized formats;

(3) “print instructional materials” has the meaning given under section 674(e)(3)(C) of the Individuals with Disabilities Education Act; and

(4) “specialized formats” means—

(A) braille, audio, or digital text which is exclusively for use by blind or other persons with disabilities; and

(B) with respect to print instructional materials, includes large print formats when such materials are distributed exclusively for use by blind or other persons with disabilities.

(Added Pub. L. 104-197, title III, §316(a), Sept. 16, 1996, 110 Stat. 2416; amended Pub. L. 106-379, §3(b), Oct. 27, 2000, 114 Stat. 1445; Pub. L. 107-273, div. C, title III, §13210(3)(A), Nov. 2, 2002, 116 Stat. 1909; Pub. L. 108-446, title III, §306, Dec. 3, 2004, 118 Stat. 2807.)