

(i) Regulatory powers of States and franchising authorities; nonexclusive nature of remedies and enforcement provisions; covered franchises

(1) Nothing in this section shall affect the authority of any State or any franchising authority—

(A) to establish or enforce any requirement which is consistent with the requirements of this section, including any requirement which affords equal employment opportunity protection for employees;

(B) to establish or enforce any provision requiring or encouraging any cable operator to conduct business with enterprises which are owned or controlled by members of minority groups (as defined in section 309(i)(3)(C)(ii) of this title) or which have their principal operations located within the community served by the cable operator; or

(C) to enforce any requirement of a franchise in effect on the effective date of this subchapter.

(2) The remedies and enforcement provisions of this section are in addition to, and not in lieu of, those available under this or any other law.

(3) The provisions of this section shall apply to any cable operator, whether operating pursuant to a franchise granted before, on, or after October 30, 1984.

(June 19, 1934, ch. 652, title VI, § 634, as added Pub. L. 98-549, § 2, Oct. 30, 1984, 98 Stat. 2797; amended Pub. L. 102-385, § 22(b)-(e), Oct. 5, 1992, 106 Stat. 1498, 1499; Pub. L. 103-414, title III, § 303(a)(24), Oct. 25, 1994, 108 Stat. 4295.)

REFERENCES IN TEXT

The Cable Television Consumer Protection and Competition Act of 1992, referred to in subsec. (d)(1), is Pub. L. 102-385, Oct. 5, 1992, 106 Stat. 1460. For complete classification of this Act to the Code, see Short Title of 1992 Amendments note set out under section 609 of this title and Tables.

This chapter, referred to in subsec. (f)(2), was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

For "the effective date of this subchapter", referred to in subsec. (i)(1)(C), as 60 days after Oct. 30, 1984, except where otherwise expressly provided, see section 9(a) of Pub. L. 98-549, set out as an Effective Date note under section 521 of this title.

AMENDMENTS

1994—Subsec. (h)(1). Pub. L. 103-414 substituted "section 522(7)(A)" for "section 522(6)(A)".

1992—Subsec. (d)(1). Pub. L. 102-385, § 22(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Not later than 270 days after the effective date of this section, and after notice and opportunity for hearing, the Commission shall prescribe rules to carry out this section."

Subsec. (d)(3). Pub. L. 102-385, § 22(c), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race and sex the number of employees in each of the following full-time and part-time job categories:

- "(A) officials and managers;
- "(B) professionals;

- "(C) technicians;
- "(D) sales persons;
- "(E) office and clerical personnel;
- "(F) skilled craft persons;
- "(G) semiskilled operatives;
- "(H) unskilled laborers; and
- "(I) service workers.

The report shall include the number of minorities and women in the relevant labor market for each of the above categories. The statistical report shall be available to the public at the central office and at every location where more than 5 full-time employees are regularly assigned to work."

Subsec. (f)(2). Pub. L. 102-385, § 22(d), substituted "\$500" for "\$200".

Subsec. (h)(1). Pub. L. 102-385, § 22(e), inserted before period at end "and any multichannel video programming distributor".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-385 effective 60 days after Oct. 5, 1992, see section 28 of Pub. L. 102-385, set out as a note under section 325 of this title.

EFFECTIVE DATE

Section effective 60 days after Oct. 30, 1984, except where otherwise expressly provided, see section 9(a) of Pub. L. 98-549, set out as a note under section 521 of this title.

CONGRESSIONAL FINDINGS: EMPLOYMENT OF WOMEN AND MINORITIES IN MANAGEMENT POSITIONS IN TELEVISION INDUSTRY

Pub. L. 102-385, § 22(a), Oct. 5, 1992, 106 Stat. 1498, provided that: "The Congress finds and declares that—

"(1) despite the existence of regulations governing equal employment opportunity, females and minorities are not employed in significant numbers in positions of management authority in the cable and broadcast television industries;

"(2) increased numbers of females and minorities in positions of management authority in the cable and broadcast television industries advances the Nation's policy favoring diversity in the expression of views in the electronic media; and

"(3) rigorous enforcement of equal employment opportunity rules and regulations is required in order to effectively deter racial and gender discrimination."

STUDY AND REPORT ON EFFECT AND OPERATION OF AMENDMENTS BY SECTION 22 OF PUB. L. 102-385

Pub. L. 102-385, § 22(g), Oct. 5, 1992, 106 Stat. 1500, provided that: "Not later than 2 years after the date of enactment of this Act [Oct. 5, 1992], the Commission shall submit to the Congress a report pursuant to a proceeding to review and obtain public comment on the effect and operation of the amendments made by this section [enacting section 334 of this title and amending this section]. In conducting such review, the Commission shall consider the effectiveness of its procedures, regulations, policies, standards, and guidelines in promoting equality of employment opportunity and promotion opportunity, and particularly the effectiveness of its procedures, regulations, policies, standards, and guidelines in promoting the congressional policy favoring increased employment opportunity for women and minorities in positions of management authority. The Commission shall forward to the Congress such legislative recommendations to improve equal employment opportunity in the broadcasting and cable industries as it deems necessary."

§ 555. Judicial proceedings

(a) Actions to review determinations by franchising authorities

Any cable operator adversely affected by any final determination made by a franchising au-

thority under section 541(a)(1), 545 or 546 of this title may commence an action within 120 days after receiving notice of such determination, which may be brought in—

- (1) the district court of the United States for any judicial district in which the cable system is located; or
- (2) in any State court of general jurisdiction having jurisdiction over the parties.

(b) Available relief

The court may award any appropriate relief consistent with the provisions of the relevant section described in subsection (a) and with the provisions of subsection (a).

(c) Review of constitutionality of sections 534 and 535

(1) Notwithstanding any other provision of law, any civil action challenging the constitutionality of section 534 or 535 of this title or any provision thereof shall be heard by a district court of three judges convened pursuant to the provisions of section 2284 of title 28.

(2) Notwithstanding any other provision of law, an interlocutory or final judgment, decree, or order of the court of three judges in an action under paragraph (1) holding section 534 or 535 of this title or any provision thereof unconstitutional shall be reviewable as a matter of right by direct appeal to the Supreme Court. Any such appeal shall be filed not more than 20 days after entry of such judgment, decree, or order.

(June 19, 1934, ch. 652, title VI, §635, as added Pub. L. 98-549, §2, Oct. 30, 1984, 98 Stat. 2800; amended Pub. L. 102-385, §§7(a)(2), 23, 24(b), Oct. 5, 1992, 106 Stat. 1483, 1500, 1501.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-385, §7(a)(2), inserted “541(a)(1),” after “section”.

Subsec. (b). Pub. L. 102-385, §24(b), inserted “and with the provisions of subsection (a)” after “subsection (a)”.

Subsec. (c). Pub. L. 102-385, §23, added subsec. (c).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-385 effective 60 days after Oct. 5, 1992, see section 28 of Pub. L. 102-385, set out as a note under section 325 of this title.

EFFECTIVE DATE

Section effective 60 days after Oct. 30, 1984, except where otherwise expressly provided, see section 9(a) of Pub. L. 98-549, set out as a note under section 521 of this title.

§ 555a. Limitation of franchising authority liability

(a) Suits for damages prohibited

In any court proceeding pending on or initiated after October 5, 1992, involving any claim against a franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity, arising from the regulation of cable service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of a franchise, any relief, to the extent such relief is required by any other provision of Federal, State, or local law, shall be limited to injunctive relief and declaratory relief.

(b) Exception for completed cases

The limitation contained in subsection (a) shall not apply to actions that, prior to such

violation, have been determined by a final order of a court of binding jurisdiction, no longer subject to appeal, to be in violation of a cable operator's rights.

(c) Discrimination claims permitted

Nothing in this section shall be construed as limiting the relief authorized with respect to any claim against a franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity, to the extent such claim involves discrimination on the basis of race, color, sex, age, religion, national origin, or handicap.

(d) Rule of construction

Nothing in this section shall be construed as creating or authorizing liability of any kind, under any law, for any action or failure to act relating to cable service or the granting of a franchise by any franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity.

(June 19, 1934, ch. 652, title VI, §635A, as added Pub. L. 102-385, §24(a), Oct. 5, 1992, 106 Stat. 1500.)

EFFECTIVE DATE

Section effective 60 days after Oct. 5, 1992, see section 28 of Pub. L. 102-385, set out as an Effective Date of 1992 Amendment note under section 325 of this title.

§ 556. Coordination of Federal, State, and local authority

(a) Regulation by States, political subdivisions, State and local agencies, and franchising authorities

Nothing in this subchapter shall be construed to affect any authority of any State, political subdivision, or agency thereof, or franchising authority, regarding matters of public health, safety, and welfare, to the extent consistent with the express provisions of this subchapter.

(b) State jurisdiction with regard to cable services

Nothing in this subchapter shall be construed to restrict a State from exercising jurisdiction with regard to cable services consistent with this subchapter.

(c) Preemption

Except as provided in section 557 of this title, any provision of law of any State, political subdivision, or agency thereof, or franchising authority, or any provision of any franchise granted by such authority, which is inconsistent with this chapter shall be deemed to be preempted and superseded.

(d) “State” defined

For purposes of this section, the term “State” has the meaning given such term in section 153 of this title.

(June 19, 1934, ch. 652, title VI, §636, as added Pub. L. 98-549, §2, Oct. 30, 1984, 98 Stat. 2800; amended Pub. L. 104-104, §3(d)(3), Feb. 8, 1996, 110 Stat. 61.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original “this Act”, meaning act June 19, 1934, ch. 652,