

113TH CONGRESS
1ST SESSION

S. 912

To allow multichannel video programming distributors to provide video programming to subscribers on an a la carte basis, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2013

Mr. McCAIN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To allow multichannel video programming distributors to provide video programming to subscribers on an a la carte basis, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Television Consumer
5 Freedom Act of 2013”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

8 (1) the term “a la carte” means offering video
9 programming for purchase, whether on a wholesale
10 or retail basis, on an individual, per-channel basis

1 rather than as part of a package or tier of video pro-
2 gramming;

3 (2) the terms “channel”, “multichannel video
4 programming distributor”, and “video program-
5 ming” have the meaning given those terms in section
6 602 of the Communications Act of 1934 (47 U.S.C.
7 522);

8 (3) the term “Commission” means the Federal
9 Communications Commission;

10 (4) the term “local commercial television sta-
11 tion” has the meaning given that term in section
12 614(h) of the Communications Act of 1934 (47
13 U.S.C. 534(h));

14 (5) the term “qualified local noncommercial
15 educational television station” has the meaning
16 given that term in section 615(l) of the Communica-
17 tions Act of 1934 (47 U.S.C. 535(l)); and

18 (6) the term “video programming vendor” has
19 the meaning given that term in section 76.1300 of
20 subpart Q of part 76 of subchapter C of chapter I
21 of title 47, Code of Federal Regulations (47 C.F.R.
22 76.1300).

23 **SEC. 3. A LA CARTE CHANNELS OF VIDEO PROGRAMMING.**

24 (a) IN GENERAL.—Except as provided in section
25 623(b)(7) of the Communications Act of 1934 (47 U.S.C.

1 543(b)(7)), and notwithstanding any other provision of
2 law, or any regulation prescribed by the Commission, a
3 multichannel video programming distributor may provide
4 subscribers with any channel of video programming on an
5 la carte basis.

6 (b) INCENTIVES TO OFFER CHANNELS OF VIDEO
7 PROGRAMMING ON AN A LA CARTE BASIS.—Notwith-
8 standing any other provision of law, or regulation pre-
9 scribed by the Commission—

10 (1) the retransmission by a multichannel video
11 programming distributor of a local commercial tele-
12 vision station that has elected retransmission con-
13 sent under section 325(b) of the Communications
14 Act of 1934 (47 U.S.C. 325(b)) shall not be subject
15 to the statutory license under sections 111(c) and
16 122 of title 17, United States Code, if the multi-
17 channel video programming distributor does not
18 offer such local commercial television station, and
19 any other channels of video programming under
20 common control with such local commercial tele-
21 vision station, for purchase by subscribers on an a
22 la carte basis;

23 (2) a local commercial television station may
24 not elect retransmission consent under section
25 325(b) of the Communications Act of 1934 (47

1 U.S.C. 325(b)) or avail itself of the protections of
2 the network program non-duplication and syndicated
3 exclusivity regulations under subpart F of part 76 of
4 subchapter C of chapter I of title 47, Code of Fed-
5 eral Regulations (47 C.F.R. 76.92 et seq.), if such
6 local commercial television station, and any other
7 channels of video programming under common con-
8 trol with such local commercial television station, is
9 not made available to multichannel video program-
10 ming distributors for purchase or sale on an a la
11 carte basis; and

12 (3) a video programming vendor may offer a
13 channel of video programming for purchase by a
14 multichannel video programming distributor as part
15 of a package of video programming only if such
16 video programming vendor also offers such channel
17 of video programming for purchase by the multi-
18 channel video programming distributor on an a la
19 carte basis.

20 (c) MINIMUM CONTENTS OF BASIC TIER.—The Com-
21 munications Act of 1934 (47 U.S.C. 151 et seq.) is
22 amended—

23 (1) in section 623 (47 U.S.C. 543)—

24 (A) in subsection (b)(7)(A)—

25 (i) by striking clauses (i) and (iii);

1 (ii) by redesignating clause (ii) as
2 clause (i); and

3 (iii) by adding at the end the fol-
4 lowing:

5 “(ii) All local commercial television
6 stations and qualified low power stations
7 carried in fulfillment of the election under
8 section 325(b) by the station of its right to
9 mandatory carriage under section 614.

10 “(iii) All qualified local noncommercial
11 educational television stations carried in
12 fulfillment of a request for carriage under
13 section 615.”; and

14 (B) in subsection (l), by adding at the end
15 the following:

16 “(3) The terms ‘local commercial television sta-
17 tion’ and ‘qualified low power station’ have the
18 meaning given those terms in section 614(h).”;

19 (2) in section 614(b) (47 U.S.C. 534(b))—

20 (A) by striking paragraph (6) and redesign-
21 ating paragraphs (7), (8), (9), and (10) as
22 paragraphs (6), (7), (8), and (9), respectively;
23 and

24 (B) in paragraph (6), as redesignated, by
25 striking “Signals carried in fulfillment of the

1 requirements of this section” and inserting “All
 2 local commercial television stations and quali-
 3 fied low power stations carried in fulfillment of
 4 the election by the station of its right to man-
 5 datory carriage under this section”; and

6 (3) in section 615(h) (47 U.S.C. 535(h)), by
 7 striking “lowest priced service tier that includes the
 8 retransmission of local commercial television broad-
 9 cast signals.” and inserting “basic service tier.”.

10 (d) DISCLOSURE REQUIREMENT.—If a multichannel
 11 video programming distributor and a video programming
 12 vendor fail to reach agreement regarding the terms, in-
 13 cluding price, for the purchase by the multichannel video
 14 programming distributor of the right to provide sub-
 15 scribers with a local commercial television station or other
 16 channel of video programming from the video program-
 17 ming vendor on an a la carte basis, the multichannel video
 18 programming distributor and the video programming ven-
 19 dor each shall disclose to the Commission the terms of
 20 the most recent offer made by the multichannel video pro-
 21 gramming distributor and the video programming vendor,
 22 respectively.

23 **SEC. 4. SPECTRUM USE IN THE PUBLIC INTEREST.**

24 Section 325(b) of the Communications Act of 1934
 25 (47 U.S.C. 325(b)) is amended—

1 (1) by redesignating paragraphs (6) and (7) as
2 paragraphs (7) and (8), respectively; and

3 (2) after paragraph (5), by inserting the fol-
4 lowing:

5 “(6) PARITY FOR OVER-THE-AIR AND MULTI-
6 CHANNEL VIDEO PROGRAMMING VIEWERS.—

7 “(A) IN GENERAL.—A television broadcast
8 station that does not retransmit the signal over-
9 the-air that is identical to the signal retrans-
10 mitted to a multichannel video programming
11 distributor shall forfeit any spectrum license of
12 such television broadcast station.

13 “(B) REALLOCATION AND REASSIGNMENT
14 OF SPECTRUM LICENSE.—Any spectrum license
15 forfeited pursuant to subparagraph (A) shall be
16 reallocated and reassigned by the Commission
17 pursuant to section 309(j).

18 “(C) EXCEPTION.—Subparagraph (A)
19 shall not apply to content that is a commercial
20 advertisement that is not more than 60 seconds
21 in duration.

22 “(D) DEFINITIONS.—In this paragraph—

23 “(i) the terms ‘multicast stream’ and
24 ‘primary stream’ have the meaning given

1 those terms in section 119(d) of title 17,
2 United States Code; and

3 “(ii) the term ‘multichannel video pro-
4 gramming distributor’ has the meaning
5 given that term in section 602 (47 U.S.C.
6 522).”.

7 **SEC. 5. SPORTS BLACKOUT REPEAL FOR PUBLICLY FI-**
8 **NANCED STADIUMS.**

9 The Commission shall amend subpart F of part 76
10 of subchapter C of chapter I of title 47, Code of Federal
11 Regulations (47 C.F.R. 76.92 et seq.), to prohibit the ap-
12 plication of sports blackout regulations to the broadcast
13 of a sporting event taking place in a venue the construc-
14 tion of which was financed, in whole or in part, by the
15 Federal Government or a State or local government.

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