

[COMMITTEE PRINT]

109TH CONGRESS
2D SESSION

H. R. _____

[To be supplied].

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

[To be supplied].

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Communications Opportunity, Promotion, and Enhance-
6 ment Act of 2006”.

7 (b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL CABLE FRANCHISING

Sec. 101. National cable franchising.

Sec. 102. Definitions.



Sec. 103. Monitoring and reporting.

TITLE II—ENFORCEMENT OF BROADBAND POLICY STATEMENT

Sec. 201. Enforcement of broadband policy statement.

TITLE III—VOIP/911

Sec. 301. Emergency services; interconnection.

TITLE IV—MUNICIPAL PROVISION OF SERVICES

Sec. 401. Government authority to provide services.

TITLE V—BROADBAND SERVICE

Sec. 501. Stand-alone broadband service.

1 **TITLE I—NATIONAL CABLE**
2 **FRANCHISING**

3 **SEC. 101. NATIONAL CABLE FRANCHISING.**

4 (a) AMENDMENT.—Part III of title VI of the Com-
5 munications Act of 1934 (47 U.S.C. 541 et seq.) is
6 amended by adding at the end the following new section:

7 **“SEC. 630. NATIONAL CABLE FRANCHISING.**

8 “(a) NATIONAL FRANCHISES.—

9 “(1) ELECTION.—A cable operator that is eligi-
10 ble under subsection (d) may elect to obtain a na-
11 tional franchise under this section for a franchise
12 area in lieu of a franchise for a franchise area under
13 section 621. A cable operator may not provide cable
14 service in a franchise area without a franchise under
15 either this section or section 621. A franchising au-
16 thority may not require any cable operator that has
17 a national franchise under this section in effect with
18 respect to the franchise area of that franchising au-



1 thority to obtain a franchise to provide cable service
2 under section 621 or any other law.

3 “(2) CERTIFICATION.—To obtain a national
4 franchise under this section as authority to provide
5 cable service in any franchise area, a person or
6 group shall—

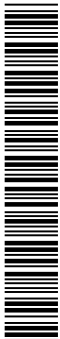
7 “(A) file with the Commission a certifi-
8 cation for a national franchise containing the
9 information required by paragraph (3) with re-
10 spect to such franchise area, if such person or
11 group has not previously obtained a national
12 franchise; or

13 “(B) file with the Commission a subse-
14 quent certification for additional franchise areas
15 containing the information required by para-
16 graph (3) with respect to such additional fran-
17 chise areas, if such operator has previously ob-
18 tained a national franchise.

19 “(3) CONTENTS OF CERTIFICATION.—Such cer-
20 tification shall be in such form as the Commission
21 shall require by regulation and shall contain—

22 “(A) with respect to the cable operator, a
23 statement of—

24 “(i) the name under which the oper-
25 ator is doing or intends to do business;



1 “(ii) the names and business address-
2 es of the directors and principal executive
3 officers, or the persons performing similar
4 functions, of the operator;

5 “(iii) the location of the operator’s
6 principal business office; and

7 “(iv) the name, business address, elec-
8 tronic mail address, and telephone and fax
9 number of the operator’s local agent;

10 “(B) a declaration by the cable operator
11 that the operator is eligible under subsection
12 (d) to obtain a national franchise under this
13 section;

14 “(C) a description of the cable service to
15 be offered by the cable operator under this sec-
16 tion, including the franchise areas in which
17 cable service will be offered pursuant to such
18 certification; and

19 “(D) a declaration that the cable operator
20 transmitted, or will transmit on the day of fil-
21 ing such declaration, a copy of such certifi-
22 cation to the franchising authority for each
23 such franchise area.

24 “(4) LOCAL NOTIFICATION; PRESERVATION OF
25 OPPORTUNITY TO NEGOTIATE.—



1 “(A) COPY TO LOCAL FRANCHISING AU-
2 THORITY.—On the day of filing any certifi-
3 cation under paragraph (2)(A) or (B) for a
4 franchise area, the cable operator shall transmit
5 a copy of such certification to the local fran-
6 chising authority for such area.

7 “(B) NEGOTIATED FRANCHISE AGREE-
8 MENTS PERMITTED.—Nothing in this section
9 shall prevent a person or group from negoti-
10 ating a local franchise agreement with a local
11 franchising authority under section 621. Upon
12 entry into any such negotiated franchise agree-
13 ment, such negotiated franchise agreement shall
14 apply in lieu of any national franchise held by
15 that person or group under this section for such
16 franchise area.

17 “(5) UPDATING OF CERTIFICATIONS.—A cable
18 operator that files a certification under this section
19 shall update any information contained in such cer-
20 tification that is no longer accurate and correct.

21 “(6) PUBLIC AVAILABILITY OF CERTIFI-
22 CATIONS.—The Commission shall provide for the
23 public availability on the Commission’s Internet
24 website or other electronic facility of all current cer-



1 tifications and updated information filed under this
2 section.

3 “(b) EFFECTIVENESS; DURATION.—

4 “(1) EFFECTIVENESS.—A national franchise
5 under this section shall be effective with respect to
6 any franchise area—

7 “(A) 30 days after the date of the filing of
8 a completed certification under subsection
9 (a)(2)(A) or (B) that applies to such franchise
10 area; or

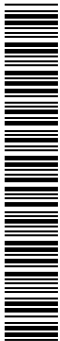
11 “(B) in the case of a person or group that
12 is eligible under subsection (d)(2)(B), the later
13 of—

14 “(i) 30 days after such date of filing;
15 or

16 “(ii) the date that the person or
17 group’s local franchise under section 621
18 to provide cable service in such franchise
19 area is no longer in effect.

20 “(2) DURATION.—

21 “(A) IN GENERAL.—A franchise under this
22 section that applies to a franchise area shall be
23 effective for that franchise area for a term of
24 10 years.



1 “(B) RENEWAL.—A franchise under this
2 section for a franchise area shall be renewed
3 automatically upon expiration of the 10-year
4 period described in subparagraph (A).

5 “(C) PUBLIC HEARING.—At the request of
6 a franchising authority in a franchise area, a
7 cable operator shall, within the last year of the
8 10-year period applicable under subparagraph
9 (A) to the cable operator’s franchise for such
10 franchise area, participate in a public hearing
11 on the cable operator’s performance in the fran-
12 chise area, including the cable operator’s com-
13 pliance with the requirements of this title. The
14 hearing shall afford the public the opportunity
15 to participate for the purpose of identifying
16 cable-related community needs and interests
17 and assessing the operator’s performance. The
18 cable operator shall provide notice to its sub-
19 scribers of the hearing at least 30 days prior to
20 the hearing.

21 “(D) REVOCATION.—A franchise under
22 this section for a franchise area may be revoked
23 by the Commission—

24 “(i) for willful or repeated violation of
25 any Federal or State law, or any Commis-



1 sion regulation, relating to the provision of
2 cable service in such franchise area;

3 “(ii) for false statements or material
4 omissions knowingly made in any filing
5 with the Commission relating to the provi-
6 sion of cable service in such franchise area;

7 “(iii) for willful or repeated violation
8 of the rights-of-way management laws or
9 regulations of any franchising authority in
10 such franchise area relating to the provi-
11 sion of cable service in such franchise area;

12 or

13 “(iv) for willful or repeated violation
14 of the antidiscrimination requirement of
15 subsection (h) with respect to such fran-
16 chise area.

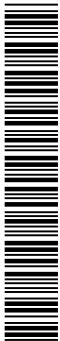
17 “(E) REINSTATEMENT.—After a revoca-
18 tion of a franchise for a franchise area of any
19 group or person under subparagraph (D), the
20 Commission may refuse to accept for filing a
21 new certification for authority of such person or
22 group to provide cable service under this section
23 in such franchise area until the Commission de-
24 termines that the basis of such revocation has
25 been remedied.



1 “(F) RETURN TO LOCAL FRANCHISING IF
2 CABLE COMPETITION CEASES.—

3 “(i) If only one cable operator is pro-
4 viding cable service in a franchise area,
5 and that cable operator obtained a national
6 franchise for such franchise area under
7 subsection (d)(2), the franchising authority
8 for such franchise area may file a petition
9 with the Commission requesting that the
10 Commission terminate such national fran-
11 chise for such franchise area.

12 “(ii) The Commission shall provide
13 public notice and opportunity to comment
14 on such petition. If it finds that the re-
15 quirements of clause (i) are satisfied, the
16 Commission shall issue an order granting
17 such petition. Such order shall take effect
18 one year from the date of such grant, if no
19 other cable operator offers cable service in
20 such area during that one year. If another
21 cable operator does offer cable service in
22 such franchise area during that one year,
23 the Commission shall rescind such order
24 and dismiss such petition.



1 “(iii) A cable operator whose national
2 franchise is terminated for such franchise
3 area under this subparagraph may obtain
4 a new franchise under this section or sec-
5 tion 621, in accordance with the provisions
6 of such sections.

7 “(G) NOTICE.—The Commission shall
8 send a notice of such revocation to each local
9 franchising authority with jurisdiction over the
10 franchise areas for which the cable operator’s
11 franchise was revoked.

12 “(c) REQUIREMENTS OF NATIONAL FRANCHISE.—A
13 national franchise shall contain the following require-
14 ments:

15 “(1) FRANCHISE FEE.—A cable operator au-
16 thorized under this section to provide cable service
17 in a franchise area shall pay to the franchising au-
18 thority in such franchise area a franchise fee of up
19 to 5 percent (as determined by the franchising au-
20 thority) of such cable operator’s gross revenues from
21 the provision of cable service under this section in
22 such franchise area. Such payment shall be assessed
23 and collected in a manner consistent with section
24 622 and the definition of gross revenues in this sec-
25 tion.



1 “(2) PEG/I-NET REQUIREMENTS.—A cable op-
2 erator authorized under this section to provide cable
3 service in a local franchise area shall comply with
4 the requirements of subsection (e).

5 “(3) RIGHTS-OF-WAY.—A cable operator au-
6 thORIZED under this section to provide cable service
7 in a local franchise area shall comply with the
8 rights-of-way requirements of the franchising au-
9 thority under subsection (f).

10 “(4) CONSUMER PROTECTION AND CUSTOMER
11 SERVICE STANDARDS.—A cable operator authorized
12 under this section to provide cable service in a local
13 franchise area shall comply with the consumer pro-
14 tection and customer service standards established
15 by the Commission under section 632(b).

16 “(5) CHILD PORNOGRAPHY.—A cable operator
17 authorized under this section to provide cable service
18 in a local franchise area shall comply with the regu-
19 lations on child pornography promulgated pursuant
20 to subsection (i).

21 “(d) ELIGIBILITY FOR NATIONAL FRANCHISES.—
22 The following persons or groups are eligible to obtain a
23 national franchise under this section:

24 “(1) COMMENCEMENT OF SERVICE AFTER EN-
25 ACTMENT.—A person or group that commences the



1 provision of cable service in a franchise area on or
2 after the date of enactment of this section may ob-
3 tain a national franchise under this section for such
4 franchise area.

5 “(2) EXISTING PROVIDERS OF CABLE SERV-
6 ICE.—A person or group that is providing cable
7 service under section 621 in a franchise area on the
8 date of enactment of this section may provide cable
9 service pursuant to a national franchise under this
10 section in such franchise area if—

11 “(A) another cable operator commences
12 providing cable service pursuant to a national
13 franchise under this section in such franchise
14 area after such date of enactment; or

15 “(B) such person or group is one of two
16 cable operators providing cable service in such
17 franchise area on such date of enactment, one
18 of which is an incumbent local exchange carrier
19 (as such term is defined in section 251(h)) or
20 its affiliate, and—

21 “(i) the section 621 franchise of such
22 person or group ceases to be in effect; and

23 “(ii) the other cable operator is still
24 providing cable service in such franchise
25 area on the date that the national fran-



1 chise of such person or group becomes ef-
2 fective.

3 “(e) PUBLIC, EDUCATIONAL, AND GOVERNMENTAL
4 USE.—

5 “(1) IN GENERAL.—Subject to paragraph (3), a
6 cable operator obtaining a national franchise for a
7 franchise area under this section shall provide chan-
8 nel capacity for public, educational, and govern-
9 mental use that is not less than the channel capacity
10 required of the cable operator with the most sub-
11 scribers in such franchise area on the effective date
12 of such national franchise. If there is no other cable
13 operator in such franchise area on the effective date
14 of such national franchise, or there is no other cable
15 operator in such franchise area on such date that is
16 required to provide channel capacity for public, edu-
17 cational, and governmental use, the cable operator
18 shall provide the amount of channel capacity for
19 such use as determined by Commission rule.

20 “(2) PEG AND I-NET FINANCIAL SUPPORT.—A
21 cable operator with a national franchise under this
22 section for a franchise area shall pay an amount
23 equal to 1 percent of the cable operator’s gross reve-
24 nues (as such term is defined in this section) in the
25 franchise area to the franchising authority for the



1 support of public, educational, and governmental use
2 and institutional networks (as such term is defined
3 in section 611(f)). Such payment shall be assessed
4 and collected in a manner consistent with section
5 622. A cable operator that previously held a fran-
6 chise under section 621 and that obtains a national
7 franchise under this section shall continue to provide
8 any institutional network that it was required to
9 provide under such section 621 franchise. Notwith-
10 standing section 621(b)(3)(D), a local franchise au-
11 thority may not require a cable operator franchised
12 under this section to construct a new institutional
13 network.

14 “(3) ADJUSTMENT.—Every 10 years after the
15 commencement of a franchise under this section for
16 a franchise area, a franchising authority may require
17 a cable operator franchised under this section to in-
18 crease the channel capacity designated for public,
19 educational, or governmental use, and the channel
20 capacity designated for such use on any institutional
21 networks required under paragraph (2). Such in-
22 crease shall not exceed the higher of—

23 “(A) one channel; or



1 “(B) 10 percent of the public, educational,
2 or governmental channel capacity required of
3 that operator prior to the increase.

4 “(4) TRANSMISSION AND PRODUCTION OF PRO-
5 GRAMMING.—

6 “(A) A cable operator franchised under
7 this section shall ensure that all subscribers re-
8 ceive any public, educational, or governmental
9 programming carried by the cable operator
10 within the subscriber’s franchise area.

11 “(B) The production of any programming
12 provided under this subsection shall be the re-
13 sponsibility of the franchising authority.

14 “(C) The cable operator shall be respon-
15 sible for the transmission from the signal origi-
16 nation point (or points) of the programming, or
17 from the point of interconnection with another
18 cable operator under subparagraph (D), to the
19 cable operator’s subscribers, of any public, edu-
20 cational, or governmental programming pro-
21 duced by or for the franchising authority and
22 carried by the cable operator pursuant to this
23 section.

24 “(D) Unless two cable operators otherwise
25 agree to the terms for interconnection and cost



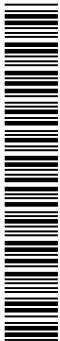
1 sharing, such cable operators shall comply with
2 regulations prescribed by the Commission pro-
3 viding for—

4 “(i) the interconnection between two
5 cable operators in a franchise area for
6 transmission of public, educational, or gov-
7 ernmental programming, without material
8 deterioration in signal quality or
9 functionality; and

10 “(ii) the reasonable allocation of the
11 costs of such interconnection between such
12 cable operators.

13 “(E) The cable operator shall display the
14 program information for public, educational, or
15 governmental programming in any print or elec-
16 tronic program guide in the same manner in
17 which it displays program information for other
18 video programming in the franchise area. The
19 cable operator shall not omit public, edu-
20 cational, or governmental programming from
21 any navigational device, guide, or menu con-
22 taining other video programming that is avail-
23 able to subscribers in the franchise area.

24 “(f) RIGHTS-OF-WAY.—



1 “(1) AUTHORITY TO USE.—Any franchise under
2 this section for a franchise area shall be construed
3 to authorize the construction of a cable system over
4 public rights-of-way, and through easements, which
5 is within the area to be served by the cable system
6 and which have been dedicated for compatible uses,
7 except that in using such easements the cable oper-
8 ator shall ensure that—

9 “(A) the safety, functioning, and appear-
10 ance of the property and the convenience and
11 the safety of other persons not be adversely af-
12 fected by the installation or construction of fa-
13 cilities necessary for a cable system;

14 “(B) the cost of the installation, construc-
15 tion, operation, or removal of such facilities be
16 borne by the cable operator or subscriber, or a
17 combination of both; and

18 “(C) the owner of the property be justly
19 compensated by the cable operator for any dam-
20 ages caused by the installation, construction,
21 operation, or removal of such facilities by the
22 cable operator.

23 “(2) MANAGEMENT OF PUBLIC RIGHTS-OF-
24 WAY.—Nothing in this Act affects the authority of
25 a State or local government (including a franchising



1 authority) to manage the public rights-of-way, and
2 easements that have been dedicated for compatible
3 uses, on a reasonable, competitively neutral, and
4 non-discriminatory basis. A State or local govern-
5 ment (including a franchising authority) may, on a
6 reasonable, competitively neutral, and non-discrimi-
7 natory basis—

8 “(A) impose charges for such management;
9 and

10 “(B) require compliance with paragraphs
11 (1)(A), (B), and (C).

12 “(g) CONSUMER PROTECTION AND CUSTOMER SERV-
13 ICE.—

14 “(1) NATIONAL STANDARDS.—Notwithstanding
15 section 632(d), no State or local law (including any
16 regulation) shall impose on a cable operator fran-
17 chised under this section any consumer protection or
18 customer service requirements other than consumer
19 protection or customer service requirements of gen-
20 eral applicability.

21 “(2) PROCEEDING.—Within 120 days after the
22 date of enactment of this section, the Commission
23 shall issue a report and order that updates for cable
24 operators franchised under this section the national
25 consumer protection and customer service rules



1 under section 632(b), taking into consideration the
2 national nature of a franchise under this section and
3 the role of State and local governments in enforcing,
4 but not creating, consumer protection and customer
5 service standards for cable operators franchised
6 under this section.

7 “(3) COMPLAINTS.—Any person may file a
8 complaint with respect to a violation of the regula-
9 tions prescribed under section 632(b) in a local fran-
10 chise area by a cable operator franchised under this
11 section—

12 “(A) with the local franchising authority in
13 such area; or

14 “(B) with the Commission.

15 “(4) LOCAL FRANCHISING ORDERS REQUIRING
16 COMPLIANCE.—In a proceeding commenced with a
17 local franchising authority on such a complaint, a
18 local franchising authority may issue an order re-
19 quiring compliance with any of such regulations pre-
20 scribed by the Commission, but a local franchising
21 authority may not create any new standard or regu-
22 lation, or expand upon or modify the Commission’s
23 standards or regulations.

24 “(5) ACCESS TO RECORDS.—In such a pro-
25 ceeding, the local franchising authority may issue an



1 order requiring the filing of any contract, agree-
2 ment, or arrangement between the subscriber and
3 the provider, or any other data, documents, or
4 records, directly related to the alleged violation.

5 “(6) COMMISSION REMEDIES; APPEALS.—Un-
6 less appealed to the Commission, an order of a local
7 franchising authority under this subsection shall be
8 enforced by the Commission. Any such appeal shall
9 be resolved by the Commission within 30 days after
10 receipt of the appeal by the Commission.

11 “(7) COST OF LOCAL FRANCHISING AUTHORITY
12 ORDERS.—A local franchising authority may charge
13 a provider of cable service under this section a nomi-
14 nal fee to cover the costs of issuing such orders.

15 “(h) ANTIDISCRIMINATION.—

16 “(1) PROHIBITION.—A cable operator with a
17 national franchise under this section shall not deny
18 access to its cable service to any group of potential
19 residential cable service subscribers because of the
20 income of that group.

21 “(2) ENFORCEMENT.—

22 “(A) COMPLAINT.—If a franchising au-
23 thority in a franchise area has reasonable cause
24 to believe that a cable operator is in violation
25 of this subsection with respect to such franchise



1 area, the franchising authority may, after com-
2 plying with subparagraph (B), file a complaint
3 with the Commission alleging such violation.

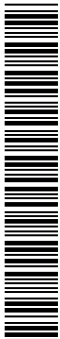
4 “(B) NOTICE BY FRANCHISING AUTHOR-
5 ITY.—Before filing a complaint with the Com-
6 mission under subparagraph (A), a franchising
7 authority—

8 “(i) shall give notice of each alleged
9 violation to the cable operator;

10 “(ii) shall provide a period of not less
11 than 30 days for the cable operator to re-
12 spond to such allegations; and

13 “(iii) during such period, may require
14 the cable operator to submit a written re-
15 sponse stating the reasons why the oper-
16 ator has not violated this subsection.

17 “(C) BIENNIAL REPORT.—A cable oper-
18 ator with a national franchise under this section
19 for a franchise area, not later than 180 days
20 after the effective date of such national fran-
21 chise, and biennially thereafter, shall submit a
22 report to the Commission and the franchising
23 authority in the franchise area—



1 “(i) identifying the geographic areas
2 in the franchise area where the cable oper-
3 ator offers cable service; and

4 “(ii) describing the cable operator’s
5 progress in extending cable service to other
6 areas in the franchise area.

7 “(D) NOTICE BY COMMISSION.—Upon re-
8 ceipt of a complaint under this paragraph alleg-
9 ing a violation of this subsection by a cable op-
10 erator, the Commission shall give notice of the
11 complaint to the cable operator.

12 “(E) INVESTIGATION.—In investigating a
13 complaint under this paragraph, the Commis-
14 sion may require a cable operator to disclose to
15 the Commission such information and docu-
16 ments as the Commission deems necessary to
17 determine whether the cable operator is in com-
18 pliance with this subsection. The Commission
19 shall maintain confidential any information or
20 document collected under this subparagraph.

21 “(F) DEADLINE FOR RESOLUTION OF
22 COMPLAINTS.—Not more than 60 days after
23 the Commission receives a complaint under this
24 paragraph, the Commission shall issue a deter-



1 mination with respect to each violation alleged
2 in the complaint.

3 “(G) DETERMINATION.—If the Commis-
4 sion determines (in response to a complaint
5 under this paragraph or on its own initiative)
6 that a cable operator has denied access to its
7 cable service to a group of potential residential
8 cable service subscribers because of the income
9 of that group, the Commission shall ensure that
10 the cable operator extends access to that group.

11 “(H) REMEDIES.—

12 “(i) IN GENERAL.—This subsection
13 shall be enforced by the Commission under
14 titles IV and V.

15 “(ii) MAXIMUM FORFEITURE PEN-
16 ALTY.—For purposes of section 503, the
17 maximum forfeiture penalty applicable to a
18 violation of this subsection shall be
19 \$500,000 for each day of the violation.

20 “(iii) PAYMENT OF PENALTIES TO
21 FRANCHISING AUTHORITY.—The Commis-
22 sion shall order any cable operator subject
23 to a forfeiture penalty under this sub-
24 section to pay the penalty directly to the
25 franchising authority involved.



1 “(i) CHILD PORNOGRAPHY.—Not later than 180
2 days after the date of enactment of this section, the Com-
3 mission shall promulgate regulations to require a cable op-
4 erator with a national franchise under this section to pre-
5 vent the distribution of child pornography (as such term
6 is defined in section 254(h)(7)(F)) over its network.

7 “(j) LEASED ACCESS.—The provisions of section
8 612(i) regarding the carriage of programming from a
9 qualified minority programming source or from any quali-
10 fied educational programming source shall apply to a cable
11 operator franchised under this section to provide cable
12 service in a local franchise area.

13 “(k) APPLICABILITY OF OTHER PROVISIONS.—The
14 following sections shall not apply to cable operators fran-
15 chised under this section, or confer any authority to regu-
16 late or impose obligations on such cable operators: Sec-
17 tions 611(a), 611(b), 611(c), 613(a), 617, 621 (other than
18 subsections (b)(3)(A), (b)(3)(B), (b)(3)(C), and (c)),
19 624(b), 624(c), 624(h), 625, 626, 627, and 632(a).

20 “(l) EMERGENCY ALERTS.—Nothing in this Act shall
21 be construed to prohibit a State or local government from
22 accessing the emergency alert system of a cable operator
23 with a franchise under this section in the area served by
24 the State or local government to transmit local or regional
25 emergency alerts.



1 “(m) REPORTING, RECORDS, AND AUDITS.—

2 “(1) REPORTING.—A cable operator with a
3 franchise under this section to provide cable service
4 in a franchise area shall make such periodic reports
5 to the Commission and the local franchising author-
6 ity for such franchise area as the Commission may
7 require to verify compliance with the fee obligations
8 of subsections (c)(1) and (e)(2).

9 “(2) AVAILABILITY OF BOOKS AND RECORDS.—

10 Upon request under paragraph (3) by a franchising
11 authority for a franchise area, and upon request by
12 the Commission, a cable operator with a national
13 franchise for such franchise area shall make avail-
14 able its books and records to periodic audit by such
15 local franchising authority or the Commission, re-
16 spectively.

17 “(3) FRANCHISING AUTHORITY AUDIT PROCE-
18 DURE.—A franchising authority may, upon reason-
19 able written request, but no more than once in any
20 12-month period, review the business records of such
21 cable operator to the extent reasonably necessary to
22 ensure payment of the fees required by subsections
23 (c)(1) and (e)(2). Such review may include the meth-
24 odology used by such cable operator to assign por-
25 tions of the revenue from cable service that may be



1 bundled or functionally integrated with other serv-
2 ices, capabilities, or applications. Such review shall
3 be conducted in accordance with procedures estab-
4 lished by the Commission.

5 “(4) COST RECOVERY.—

6 “(A) To the extent that the review under
7 paragraph (3) identifies an underpayment of an
8 amount meeting the minimum percentage speci-
9 fied in subparagraph (B) of the fee required
10 under subsections (c)(1) and (e)(2) for the pe-
11 riod of review, the cable operator shall reim-
12 burse the franchising authority the reasonable
13 costs of any such review conducted by an inde-
14 pendent third party, as determined by the Com-
15 mission, with respect to such fee. The costs of
16 any contingency fee arrangement between the
17 franchising authority and the independent re-
18 viewer shall not be subject to reimbursement.

19 “(B) The Commission shall determine by
20 rule the minimum percentage underpayment
21 that requires cost reimbursement under sub-
22 paragraph (A).

23 “(5) LIMITATION.—Any fee that is not reviewed
24 by a franchising authority within 3 years after it is
25 paid or remitted shall not be subject to later review



1 by the franchising authority under this subsection
2 and shall be deemed accepted in full payment by the
3 franchising authority.

4 “(n) ACCESS TO PROGRAMMING FOR SHARED FA-
5 CILITIES.—

6 “(1) PROHIBITION.—A cable programming ven-
7 dor in which a cable operator has an attributable in-
8 terest shall not deny a cable operator with a national
9 franchise under this section access to video program-
10 ming solely because such cable operator uses a
11 headend for its cable system that is also used, under
12 a shared ownership or leasing agreement, as the
13 headend for another cable system.

14 “(2) DEFINITION.—The term ‘cable program-
15 ming vendor’ means a person engaged in the produc-
16 tion, creation, or wholesale distribution for sale of
17 video programming which is primarily intended for
18 the direct receipt by cable operators for their re-
19 transmission to cable subscribers.

20 “(o) GROSS REVENUES.—As used in this section:

21 “(1) IN GENERAL.—Subject to paragraphs (2)
22 and (3), for purposes of this section, the term ‘gross
23 revenues’ means all consideration of any kind or na-
24 ture, including without limitation, cash, credits,
25 property, and in-kind contributions (services or



1 goods) received by the cable operator from the provi-
2 sion of cable service within the franchise area.

3 “(2) INCLUDED ITEMS.—Subject to paragraph
4 (3), for purposes of this section, the term ‘gross rev-
5 enues’ shall include the following:

6 “(A) all charges and fees paid by sub-
7 scribers for the provision of cable service, in-
8 cluding fees attributable to cable service when
9 sold individually or as part of a package or bun-
10 dle, or functionally integrated, with services
11 other than cable service;

12 “(B) any franchise fee imposed on the
13 cable operator that is passed on to subscribers;

14 “(C) compensation received by the cable
15 operator for promotion or exhibition of any
16 products or services over the cable service, such
17 as on ‘home shopping’ or similar programming;

18 “(D) revenue received by the cable oper-
19 ator as compensation for carriage of video pro-
20 gramming on that operator’s cable service;

21 “(E) all revenue derived from the cable op-
22 erator’s cable service pursuant to compensation
23 arrangements for advertising attributable to the
24 local franchise area; and



1 “(F) any advertising commissions paid to
2 an affiliated third party for cable services ad-
3 vertising.

4 “(3) EXCLUDED ITEMS.—For purposes of this
5 section, the term ‘gross revenues’ shall not include
6 the following:

7 “(A) any revenue not actually received,
8 even if billed, such as bad debt net of any re-
9 coveries of bad debt;

10 “(B) refunds, rebates, credits, or discounts
11 to subscribers or a municipality to the extent
12 not already offset by subparagraph (A) and to
13 the extent such refund, rebate, credit, or dis-
14 count is attributable to the cable service;

15 “(C) subject to paragraph (4), any reve-
16 nues received by the cable operator or its affili-
17 ates from the provision of services or capabili-
18 ties other than cable service, including tele-
19 communications services, information services,
20 and services, capabilities, and applications that
21 may be sold as part of a package or bundle, or
22 functionally integrated, with cable service;

23 “(D) any revenues received by the cable
24 operator or its affiliates for the provision of di-
25 rectory or Internet advertising, including yellow



1 pages, white pages, banner advertisement, and
2 electronic publishing;

3 “(E) any amounts attributable to the pro-
4 vision of cable service to customers at no
5 charge, including the provision of such service
6 to public institutions without charge;

7 “(F) any tax, fee, or assessment of general
8 applicability imposed on the customer or the
9 transaction by a Federal, State, or local govern-
10 ment or any other governmental entity, col-
11 lected by the provider, and required to be remit-
12 ted to the taxing entity, including sales and use
13 taxes and utility user taxes;

14 “(G) any forgone revenue from the provi-
15 sion of cable service at no charge to any person,
16 except that any forgone revenue exchanged for
17 trades, barter, services, or other items of value
18 shall be included in gross revenue;

19 “(H) sales of capital assets or surplus
20 equipment;

21 “(I) reimbursement by programmers of
22 marketing costs actually incurred by the cable
23 operator for the introduction of new program-
24 ming; and



1 “(J) the sale of cable services for resale to
2 the extent the purchaser certifies in writing
3 that it will resell the service and pay a franchise
4 fee with respect thereto.

5 “(4) FUNCTIONALLY INTEGRATED SERVICES.—
6 In the case of a cable service that is bundled or inte-
7 grated functionally with other services, capabilities,
8 or applications, the portion of the cable operator’s
9 revenue attributable to such other services, capabili-
10 ties, or applications shall be included in gross rev-
11 enue unless the cable operator can reasonably iden-
12 tify the division or exclusion of such revenue from
13 its books and records that are kept in the regular
14 course of business.

15 “(5) AFFILIATE REVENUE.—Revenue of an af-
16 filiate shall be included in the calculation of gross
17 revenues to the extent the treatment of such revenue
18 as revenue of the affiliate has the effect (whether in-
19 tentional or unintentional) of evading the payment
20 of franchise fees which would otherwise be paid for
21 cable service.

22 “(6) AFFECT ON OTHER LAW.—Nothing in this
23 section is intended to limit a franchising authority’s
24 rights pursuant to section 622(h).”.



1 (b) IMPLEMENTING REGULATIONS.—The Federal
2 Communications Commission shall prescribe regulations
3 to implement the amendment made by subsection (a) with-
4 in 120 days after the date of enactment of this Act.

5 **SEC. 102. DEFINITIONS.**

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

8 (1) in paragraph (4), by inserting before the
9 semicolon at the end the following: “, or its equiva-
10 lent as determined by the Commission”;

11 (2) in paragraph (5)(A), by inserting “(regard-
12 less of whether such person or group provides such
13 service separately or combined with a telecommuni-
14 cations service or information service)” after “over
15 a cable system”; and

16 (3) by striking paragraph (6) and inserting the
17 following:

18 “(6) the term ‘cable service’ means—

19 “(A)(i) the one-way transmission to sub-
20 scribers of (I) video programming, or (II) other
21 programming service; and

22 “(ii) subscriber interaction, if any, which is
23 required for the selection or use of such video
24 programming or other programming service; or



1 “(B) the transmission to subscribers of
 2 video programming provided through wireline
 3 facilities located at least in part in the public
 4 rights-of-way, without regard to delivery tech-
 5 nology, including Internet protocol technology;
 6 except that the term ‘cable service’ does not in-
 7 clude the provision of—

8 “(i) solely interactive on-demand serv-
 9 ices;

10 “(ii) any video programming provided
 11 by a provider of commercial mobile service
 12 provider (as such term is defined in section
 13 332(d)); or

14 “(iii) any information service.”.

15 **SEC. 103. MONITORING AND REPORTING.**

16 (a) REPORT ON CABLE SERVICE DEPLOYMENT.—

17 The Federal Communications Commission shall, com-
 18 mencing not later than one year after the date of enact-
 19 ment of this Act, issue a report annually on the deploy-
 20 ment of cable service. In its report, the Commission shall
 21 describe in detail—

22 (1) with respect to deployment by new cable
 23 operators—

24 (A) the progress of deployment of such
 25 service within the telephone service area of



1 cable operators, if the operator is also an in-
2 cumbent local exchange carrier;

3 (B) the number of local franchise areas in
4 which such service is being deployed and of-
5 fered;

6 (C) where such service is not being de-
7 ployed and offered;

8 (D) the number and locations of franchise
9 areas in which the cable operator is serving only
10 a portion of the franchise area, and the extent
11 of such service within the franchise area;

12 (2) the number and locations of franchise areas
13 in which a cable operator with a franchise under sec-
14 tion 621 of the Communications Act of 1934 (47
15 U.S.C. 541) on the date of enactment of this Act
16 withdraws service from any portion of the franchise
17 area for which it previously offered service, and the
18 extent of such withdrawal of service within the fran-
19 chise area;

20 (3) the rates generally charged for cable service;

21 (4) the rates charged by overlapping, competing
22 multichannel video programming distributors and by
23 competing cable operators for comparable service or
24 cable service;



1 (5) the average household income of those fran-
2 chise areas or portions of franchise areas where
3 cable services is being offered, and the average
4 household income of those franchise areas, or por-
5 tions of franchise areas, where cable service is not
6 being offered; and

7 (6) a comparison of the services and rates in
8 areas served by national franchisees under section
9 630 of the Communications Act of 1934 (as added
10 by section 101 of this Act) and the services and
11 rates in other areas.

12 (b) CABLE OPERATOR REPORTS.—The Federal Com-
13 munications Commission is authorized—

14 (1) to require cable operators to report to the
15 Commission all of the information that the Commis-
16 sion needs to compile the report required by this sec-
17 tion; and

18 (2) to require cable operators to file the same
19 information with the relevant franchising authorities
20 and State commissions.



1 **TITLE II—ENFORCEMENT OF**
2 **BROADBAND POLICY STATE-**
3 **MENT**

4 **SEC. 201. ENFORCEMENT OF BROADBAND POLICY STATE-**
5 **MENT.**

6 Title VII of the Communications Act of 1934 (47
7 U.S.C. 601 et seq.) is amended by adding at the end the
8 following new section:

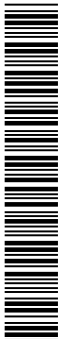
9 **“SEC. 715. ENFORCEMENT OF BROADBAND POLICY STATE-**
10 **MENT.**

11 “(a) **AUTHORITY.**—The Commission shall have the
12 authority to enforce the Commission’s broadband policy
13 statement and the principles incorporated therein.

14 “(b) **ENFORCEMENT.**—

15 “(1) **IN GENERAL.**—This section shall be en-
16 forced by the Commission under titles IV and V. A
17 violation of the Commission’s broadband policy
18 statement or the principles incorporated therein
19 shall be treated as a violation of this Act.

20 “(2) **MAXIMUM FORFEITURE PENALTY.**—For
21 purposes of section 503, the maximum forfeiture
22 penalty applicable to a violation described in para-
23 graph (1) of this subsection shall be \$500,000 for
24 each violation.



1 “(3) ADJUDICATORY AUTHORITY.—The Com-
2 mission shall have exclusive authority to adjudicate
3 any complaint alleging a violation of the broadband
4 policy statement and the principles incorporated
5 therein. The Commission shall complete an adjudica-
6 tory proceeding under this subsection not later than
7 90 days after receipt of the complaint. If, upon com-
8 pletion of an adjudicatory proceeding pursuant to
9 this section, the Commission determines that such a
10 violation has occurred, the Commission shall have
11 authority to adopt an order to require the entity
12 subject to the complaint to comply with the
13 broadband policy statement and the principles incor-
14 porated therein. Such authority shall be in addition
15 to the authority specified in paragraph (1) to en-
16 force this section under titles IV and V. In addition,
17 the Commission shall have authority to adopt proce-
18 dures for the adjudication of complaints alleging a
19 violation of the broadband policy statement or prin-
20 ciples incorporated therein.

21 “(4) LIMITATION.—Notwithstanding paragraph
22 (1), the Commission’s authority to enforce the
23 broadband policy statement and the principles incor-
24 porated therein does not include authorization for
25 the Commission to adopt or implement rules or reg-



1 section 715 (as added by section 201 of this Act) the fol-
2 lowing new sections:

3 **“SEC. 716. EMERGENCY SERVICES.**

4 “(a) 911 AND E-911 SERVICES.—

5 “(1) IN GENERAL.—Each VOIP service pro-
6 vider has a duty to ensure that 911 and E-911 serv-
7 ices are provided to subscribers of VOIP services.

8 “(2) USE OF EXISTING REGULATIONS.—Until
9 the Commission’s regulations to implement para-
10 graph (1) take effect, a VOIP service provider that
11 complies with the Commission’s regulations that
12 apply to a VOIP service provider and that are in ef-
13 fect on the date of enactment of this section shall be
14 considered to be in compliance with the requirements
15 of this section.

16 “(b) NON-DISCRIMINATORY ACCESS TO CAPABILI-
17 TIES.—

18 “(1) ACCESS.—Each local exchange carrier or
19 government entity with ownership or control of the
20 necessary E-911 infrastructure shall provide any re-
21 questing VOIP service provider with nondiscrim-
22 inatory access to such infrastructure. Such carrier
23 or entity shall provide access to the infrastructure at
24 just and reasonable, nondiscriminatory rates, terms,
25 and conditions as determined by the Commission. In



1 determining such access terms and conditions, the
2 Commission shall take into consideration appropriate
3 industry standards established by applicable industry
4 standard-setting organizations.

5 “(2) ENFORCEMENT.—The Commission or a
6 State commission may enforce the requirements of
7 this subsection and the Commission’s regulations
8 thereunder.

9 “(c) STATE AUTHORITY.—Nothing in this Act or any
10 Commission regulation or order shall prevent the imposi-
11 tion on or collection from a VOIP service provider, of any
12 fee or charge specifically designated or presented as dedi-
13 cated by a State, political subdivision thereof, or Indian
14 tribe on an equitable, and non-discriminatory basis for the
15 support of 911 and E-911 services if no portion of the
16 revenue derived from such fee or charge is obligated or
17 expended for any purpose other than support of 911 and
18 E-911 services or enhancements of such services.

19 “(d) FEASIBILITY.—In establishing requirements or
20 obligations under subsections (a) and (b), the Commission
21 shall ensure that such standards impose requirements or
22 obligations on VOIP service providers and entities with
23 ownership or control of necessary E-911 infrastructure
24 that the Commission determines are technologically and
25 operationally feasible. In determining the requirements



1 and obligations that are technologically and operationally
2 feasible, the Commission shall take into consideration
3 available industry technological and operational standards.

4 “(e) PROGRESS REPORTS.—To the extent that the
5 Commission concludes that it is not technologically or
6 operationally feasible for VOIP service providers to comply
7 with E-911 requirements or obligations, then the Com-
8 mission shall submit reports to the Committee on Energy
9 and Commerce of the House of Representatives and the
10 Committee on Commerce, Science, and Transportation of
11 the Senate on the progress in attaining and deploying E-
12 911 service. Such reports shall be submitted semiannually
13 until the Commission concludes that it is technologically
14 and operationally feasible for all VOIP service providers
15 to comply with E-911 requirements and obligations. Such
16 reports may include any recommendations the Commission
17 considers appropriate to encourage the migration of emer-
18 gency services to TCP/IP protocol or other advanced serv-
19 ices.

20 “(f) ACCESS TO INFORMATION.—The Commission
21 shall have the authority to compile a list of PSAP contact
22 information, testing procedures, and classes and types of
23 services supported by PSAPs, or other information con-
24 cerning the necessary E-911 infrastructure, for the pur-



1 pose of assisting providers in complying with the require-
2 ments of this section.

3 “(g) EMERGENCY ROUTING NUMBER ADMINIS-
4 TRATOR.—Within 30 days after the date of enactment of
5 this section, the Federal Communications Commission
6 shall establish an emergency routing number adminis-
7 trator to enable VOIP service providers to acquire non-
8 dialable pseudo-automatic number identification numbers
9 for 9–1-1 routing purposes on a national scale. The Com-
10 mission may adopt such rules and practices as are nec-
11 essary to guide such administrator in the fair and expedi-
12 tious assignment of these numbers.

13 “(h) MIGRATION TO IP-ENABLED EMERGENCY NET-
14 WORK.—

15 “(1) NATIONAL REPORT.—No more than 18
16 months after the date of the enactment of this sec-
17 tion, the National 911 Implementation and Coordi-
18 nation Office shall develop a report to Congress on
19 migrating to a national IP-enabled emergency net-
20 work capable of receiving and responding to all cit-
21 izen activated emergency communications.

22 “(2) CONTENTS OF REPORT.—The report re-
23 quired by paragraph (1) shall—

24 “(A) outline the potential benefits of such
25 a migration;



1 “(B) identify barriers that must be over-
2 come and funding mechanisms to address those
3 barriers;

4 “(C) include a proposed timetable, an out-
5 line of costs and potential savings;

6 “(D) provide recommendations on specific
7 legislative language,

8 “(E) provide recommendations on any leg-
9 islative changes, including updating definitions,
10 to facilitate a national IP-enabled emergency
11 network; and

12 “(F) assess, collect, and analyze the expe-
13 riences of the PSAPs and related public safety
14 authorities who are conducting trial deploy-
15 ments of IP-enabled emergency networks as of
16 the date of enactment of this section.

17 “(3) CONSULTATION.—In developing the report
18 required by paragraph (1), the Office shall consult
19 with representatives of the public safety community,
20 technology and telecommunications providers, and
21 others it deems appropriate.

22 “(i) IMPLEMENTATION.—

23 “(1) DEADLINE.—The Commission shall pre-
24 scribe regulations to implement this section within
25 120 days after the date of enactment of this section.



1 “(2) LIMITATION.—Nothing in this section
2 shall be construed to permit the Commission to issue
3 regulations that require or impose a specific tech-
4 nology or technological standard.

5 “(j) DEFINITIONS.—For purposes of this section:

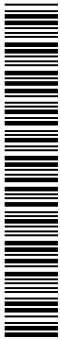
6 “(1) VOIP SERVICE.—The term ‘VOIP service’
7 means a service that—

8 “(A) provides real-time 2-way voice com-
9 munications transmitted through customer
10 premises equipment using TCP/IP protocol, or
11 a successor protocol (including when the voice
12 communication is converted to or from TCP/IP
13 protocol by the VOIP service provider and
14 transmitted to the subscriber without use of cir-
15 cuit switching), for a fee;

16 “(B) is offered to the public, or such class-
17 es of users as to be effectively available to the
18 public (whether part of a bundle of services or
19 separately); and

20 “(C) has the capability so that the service
21 can originate traffic to, and terminate traffic
22 from, the public switched telephone network.

23 “(2) VOIP SERVICE PROVIDER.—The term
24 ‘VOIP service provider’ means any person who pro-



1 vides or offers to provide a VOIP service, either di-
2 rectly or through an affiliate.

3 “(3) NECESSARY E-911 INFRASTRUCTURE.—

4 The term ‘necessary E-911 infrastructure’ means
5 the selective routers, selective router databases,
6 automatic location information databases, master
7 street address guides, trunk lines between selective
8 routers and PSAPs, trunk lines between automatic
9 location information databases and PSAPs, and
10 other 911 and E-911 equipment, facilities, data-
11 bases, interfaces, and related capabilities specified
12 by the Commission.

13 “(4) NON-DIALABLE PSEUDO-AUTOMATIC NUM-

14 BER IDENTIFICATION NUMBER.—The term ‘non-

15 dialable pseudo-automatic number identification

16 number’ means a number, consisting of the same

17 number of digits as numbers used for automatic

18 number identification, that is not a North American

19 Numbering Plan telephone directory number and

20 that may be used in place of an automatic number

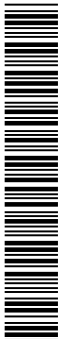
21 identification number to convey special meaning.

22 The special meaning assigned to the non-dialable

23 pseudo-automatic number identification number is

24 determined by nationally standard agreements, or by

25 individual agreements, as necessary, between the



1 system originating the call, intermediate systems
2 handling and routing the call, and the destination
3 system.

4 **“SEC. 717. RIGHTS AND OBLIGATIONS OF VOIP SERVICE**
5 **PROVIDERS.**

6 “(a) IN GENERAL.—

7 “(1) FACILITIES-BASED VOIP SERVICE PRO-
8 VIDERS.—A facilities-based VOIP service provider
9 shall have the same rights, duties, and obligations as
10 a requesting telecommunications carrier under sec-
11 tions 251 and 252, if the provider elects to assert
12 such rights.

13 “(2) VOIP SERVICE PROVIDERS.—A VOIP serv-
14 ice provider that is not a facilities-based VOIP serv-
15 ice provider shall have only the same rights, duties,
16 and obligations as a requesting telecommunications
17 carrier under sections 251(b), 251(e), and 252, if
18 the provider elects to assert such rights.

19 “(b) DISABLED SERVICES.—A VOIP service provider
20 shall have the same rights, duties, and obligations as a
21 telecommunications carrier under sections 225, 255, and
22 710. In revising the Commission’s regulations under such
23 sections to carry out this subsection, the Commission shall
24 consider whether a service or equipment is marketed as
25 a substitute for telecommunications service, telecommuni-



1 cations equipment, customer premises equipment, or tele-
2 communications relay services.

3 “(c) DEFINITIONS.—For purposes of this section:

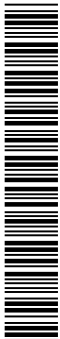
4 “(1) FACILITIES-BASED VOIP SERVICE PRO-
5 VIDER.—The term ‘facilities-based VOIP service
6 provider’ means a facilities-based entity as defined
7 by the Commission, or an affiliate thereof (where
8 such entity has facilities), that provides VOIP serv-
9 ice.

10 “(2) VOIP SERVICE PROVIDER; VOIP SERVICE.—
11 The terms ‘VOIP service provider’ and ‘VOIP serv-
12 ice’ have the meanings given such terms by section
13 716(j).”.

14 **TITLE IV—MUNICIPAL**
15 **PROVISION OF SERVICES**

16 **SEC. 401. GOVERNMENT AUTHORITY TO PROVIDE SERV-**
17 **ICES.**

18 (a) IN GENERAL.—Neither the Communications Act
19 of 1934 nor any State statute, regulation, or other State
20 legal requirement may prohibit or have the effect of pro-
21 hibiting any public provider of telecommunications service,
22 information service, or cable service (as such terms are
23 defined in sections 3 and 602 of such Act) from providing
24 such services to any person or entity.



1 (b) COMPETITION NEUTRALITY.—Any State or polit-
2 ical subdivision thereof, or any agency, authority, or in-
3 strumentality of a State or political subdivision thereof,
4 that is, owns, controls, or is otherwise affiliated with a
5 public provider of telecommunications service, information
6 service, or cable service shall not grant any preference or
7 advantage to any such provider. Such entity shall apply
8 its ordinances, rules, and policies, including those relating
9 to the use of public rights-of-way, permitting, performance
10 bonding, and reporting without discrimination in favor of
11 any such provider as compared to other providers of such
12 services.

13 (c) COMPLIANCE WITH OTHER LAWS NOT AF-
14 FECTED.—Nothing in this section shall exempt a public
15 provider from any law or regulation that applies to pro-
16 viders of telecommunications service, information service,
17 or cable service.

18 (d) DEFINITION OF PUBLIC PROVIDER.—For pur-
19 poses of this section, the term “public provider” means
20 a State or political subdivision thereof, or any agency, au-
21 thority, or instrumentality of a State or political subdivi-
22 sion thereof, that provides telecommunications service, in-
23 formation service, or cable service, or any entity that is
24 owned, controlled, or is otherwise affiliated with such
25 State or political subdivision thereof, or agency, authority,



1 or instrumentality of a State or political subdivision there-
2 of.

3 **TITLE V—BROADBAND SERVICE**

4 **SEC. 501. STAND-ALONE BROADBAND SERVICE.**

5 Title VII of the Communications Act of 1934 (47
6 U.S.C. 601 et seq.) is further amended by adding after
7 section 717 (as added by section 301 of this Act) the fol-
8 lowing new section:

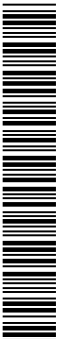
9 **“SEC. 718. STAND-ALONE BROADBAND SERVICE.**

10 “(a) PROHIBITION.—A broadband service provider
11 shall not require a subscriber, as a condition on the pur-
12 chase of any broadband service the provider offers, to pur-
13 chase any cable service or telecommunications service of-
14 fered by the provider.

15 “(b) DEFINITIONS.—In this section:

16 “(1) The term ‘broadband service’ means a two-
17 way transmission service that connects to the Inter-
18 net and transmits information at an average rate of
19 at least 200 kilobits per second in at least one direc-
20 tion.

21 “(2) The term ‘broadband service provider’
22 means a person or entity that controls, operates, or
23 resells and controls any facility used to provide
24 broadband service to the public, by whatever tech-



- 1 nology and whether provided for a fee, in exchange
- 2 for an explicit benefit, or for free.”.

