

[STAFF DISCUSSION DRAFT]

107TH CONGRESS
2D SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To require the Federal Communications Commission to take actions necessary to advance the transition to digital television service, and for other purposes.

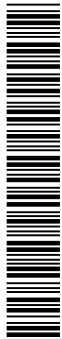
1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “____ Act of 2002”.

6 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings



- Sec. 3. Ensure the availability of analog television spectrum for future uses.
- Sec. 4. Pass-through of network digital signals.
- Sec. 5. Digital television broadcast flag rulemaking.
- Sec. 6. Prohibition of dual must-carry.
- Sec. 7. Applicability of must-carry requirements to digital multicasting.
- Sec. 8. Digital television cable compatibility.
- Sec. 9. Digital television tuner requirements.
- Sec. 10. Integrated converter-security boxes.
- Sec. 11. Consumer notice requirement.

1 **SEC. 2. FINDINGS**

2 The Congress finds the following:

3 **[to be supplied]**

4 **SEC. 3. ENSURE THE AVAILABILITY OF ANALOG TELE-**
5 **VISION SPECTRUM FOR FUTURE USES.**

6 Section 309(j)(14) of the Communications Act of
7 1934 (47 U.S.C. 309(j)(14)) is amended—

8 (1) by striking subparagraph (B);

9 (2) in subparagraph (D), by striking “subpara-
10 graph (C)(i)” and inserting “subparagraph (B)(i)”;
11 and

12 (3) by redesignating subparagraphs (C) and
13 (D) as subparagraphs (B) and (C), respectively.

14 **SEC. 4. PASS-THROUGH OF NETWORK DIGITAL SIGNALS.**

15 Within ____ after the date of enactment of this Act,
16 the Commission shall, pursuant to its authority under sub-
17 sections (b) and (e) of section 303 of the Communications
18 Act of 1934 (47 U.S.C. 303(b), (e)), and other provisions
19 of such Act, establish a schedule by which each local affil-
20 iate of a television network that broadcast a digital tele-



1 vision service signal provided by such television network
2 shall broadcast such signal without degradation.

3 **SEC. 5. DIGITAL TELEVISION BROADCAST FLAG RULE-**
4 **MAKING.**

5 Part I of title III is amended by adding at the end
6 the following new section:

7 **“SEC. 340. BROADCAST FLAG RULEMAKING.**

8 “(a) BROADCAST FLAG RECOGNITION.—Within 180
9 days after the date of enactment of this section, the Com-
10 mission shall, by regulation, require that all digital devices
11 that are capable of demodulating an incoming modulated
12 digital terrestrial broadcast television signal, or the trans-
13 mission of such signal by a multichannel video program-
14 ming distributor, and that are shipped in interstate com-
15 merce or manufactured in the United States after January
16 1, 2006 recognize the use of a broadcast flag in order to
17 prevent the unauthorized redistribution of marked digital
18 terrestrial broadcast television content to the public over
19 the Internet.

20 “(b) BROADCAST FLAG REGULATION REQUIRE-
21 MENTS.—The regulations promulgated pursuant to sub-
22 section (a) shall—

23 “(1) establish an expedited process, which may
24 include self-certification, by which the Commission



1 shall determine whether proposed technologies sat-
2 isfy the requirements of this section;

3 “(2) establish a set of objective technical cri-
4 teria, that—

5 “(A) identify technologies that protect dig-
6 ital recordings of marked digital terrestrial
7 broadcast television content, and prevent trans-
8 missions of such content to the public over the
9 Internet;

10 “(B) do not impose unnecessary or unrea-
11 sonable burdens on product design or manufac-
12 ture or stifle innovation;

13 “(C) protect the full functionality to con-
14 sumers of equipment manufactured before Jan-
15 uary 1, 2006; and

16 “(D) to the maximum extent possible—

17 “(i) are technologically neutral;

18 “(ii) recognize and utilize multiple
19 technologies that have been developed by
20 private industry; and

21 “(iii) take into account technological
22 advances subsequent to the adoption of
23 such criteria;



1 “(3) provide for the termination of the manu-
2 facture of equipment that has analog outputs by
3 July 1, 2005;

4 “(4) prohibit the use of the broadcast flag to
5 signal protection for news and public affairs pro-
6 grams (including political debates); and

7 “(5) contain safeguards to ensure that content
8 providers and manufacturers of equipment meeting
9 the objective criteria established under paragraph
10 (2) can incorporate broadcast flag protection tech-
11 nology licensing terms (including any associated
12 compliance, robustness, and encoding rules) that—

13 “(A) do not result in the altered or dimin-
14 ished functionality of a consumer’s digital tele-
15 vision reception and recording equipment as in-
16 tended for legal, noncommercial use; and

17 “(B) are no broader in scope than nec-
18 essary to implement the requirements of this
19 section in a robust manner that prevents theft
20 of services.

21 “(c) EXEMPTION FOR PROFESSIONAL EQUIPMENT.—

22 As part of the rule promulgated pursuant to subsection
23 (a), the Commission shall exempt professional equipment
24 used by broadcast companies, cable companies, satellite
25 companies, and any other companies subject to the Com-



1 mission’s jurisdiction when used by those companies to
2 produce, deliver, or retransmit digital terrestrial broadcast
3 television programs to the public.

4 “(d) SUNSET; PERIODIC REVIEW.—

5 “(1) SUNSET.—The requirements of this sec-
6 tion shall cease to be effective if the Commission de-
7 termines, on petition, that—

8 “(A) multiple technologies that have been
9 developed and deployed by private industry to
10 prevent the unauthorized redistribution of
11 marked digital terrestrial broadcast television
12 content to the public over the Internet; and

13 “(B) enforcement of this section is not
14 necessary for the protection of consumers.

15 “(2) BIENNIAL REVIEW OF REGULATIONS.—In
16 every even-numbered year (beginning with 2004),
17 the Commission—

18 “(A) shall review the regulations issued
19 under this section in effect at the time of the
20 review; and

21 “(B) repeal or modify any regulation if the
22 Commission determines that—

23 “(i) multiple technologies that have
24 been developed and deployed by private in-
25 dustry to prevent the unauthorized redis-



1 tribution of marked digital terrestrial
2 broadcast television content to the public
3 over the Internet; and

4 “(ii) enforcement of such regulation is
5 not necessary for the protection of con-
6 sumers.

7 “(e) DEFINITIONS.—For purposes of this Act—

8 “(1) the term ‘broadcast flag’ means the redis-
9 tribution control descriptor set forth in ATSC
10 Standard A/65A: Program and System Information
11 Protocol for Terrestrial Broadcast and Cable (31
12 May 2000, amendment 3, 6 February 2002); and

13 “(2) the term ‘Internet’ means the combination
14 of computer facilities and electromagnetic trans-
15 mission media, and related equipment and software,
16 comprising the interconnected worldwide network of
17 computer networks that employ the Transmission
18 Control Protocol/Internet Protocol or any successor
19 protocol to transmit information.”.

20 **SEC. 6. PROHIBITION OF DUAL MUST-CARRY.**

21 (a) COMMERCIAL STATIONS.—Section 614(b)(5) of
22 the Communications Act of 1934 (47 U.S.C. 534(b)(5))
23 is amended by adding at the end the following: “Notwith-
24 standing paragraph (1), a cable operator shall not be re-
25 quired to carry simultaneously both the analog and digital



1 signals of the same broadcast content of any local commer-
2 cial television station.”.

3 (b) NONCOMMERCIAL STATIONS.—Section 615 of the
4 Communications Act of 1934 (47 U.S.C. 535) is amended
5 by adding at the end the following new subsection:

6 “(m) DUAL MUST-CARRY PROHIBITED.—Notwith-
7 standing any other provision of this section, a cable oper-
8 ator shall not be required to carry simultaneously both the
9 analog and digital signals of the same broadcast content
10 of any qualified local noncommercial educational television
11 station.”.

12 **SEC. 7. APPLICABILITY OF MUST-CARRY REQUIREMENTS**
13 **TO DIGITAL MULTICASTING.**

14 **【TO BE SUPPLIED】**

15 **SEC. 8. DIGITAL TELEVISION CABLE COMPATIBILITY.**

16 Section 624A of the Communications Act of 1934 (47
17 U.S.C. 544a) is amended—

18 (1) in subsection (c)(2)—

19 (A) by striking “and” at the end of sub-
20 paragraph (E);

21 (B) by striking the period at the end of
22 subparagraph (F) and inserting “; and”; and

23 (C) by adding at the end the following new
24 subparagraph:



1 “(G) to specify the technical requirements
2 with which any equipment capable of receiving,
3 recording, or displaying, or navigating among,
4 television signals, must comply in order meet
5 the minimum threshold of compatibility between
6 all cable television systems and all digital tele-
7 vision receivers as prescribed under subsection
8 (d).”;

9 (2) by redesignating subsection (d) as sub-
10 section (e); and

11 (3) by inserting after subsection (c) the fol-
12 lowing new subsection:

13 “(d) DIGITAL TELEVISION SERVICE CABLE COMPAT-
14 IBILITY.—

15 “(1) NATIONWIDE INTEROPERABILITY AND
16 PORTABILITY.—Within 120 days after the date of
17 the enactment of the ____ Act of 2002, the Commis-
18 sion shall revise its regulations under this section to
19 ensure the nationwide interoperability with cable
20 systems, and the nationwide portability, of equip-
21 ment capable of receiving, recording, or displaying,
22 or navigating among, television signals that is sold
23 as capable of providing digital television service
24 using a cable connection.



1 “(2) SPECIFIC CONTENT OF REGULATIONS.—
2 The regulations required by paragraph (1) shall, at
3 a minimum—

4 “(A) require all cable operators, by July 1,
5 2005, to transmit signals in accordance with a
6 uniform family of technical standards accred-
7 ited by the American National Standards Insti-
8 tute and prescribed by the Commission, that
9 enable subscribers to receive, without the need
10 for a separate cable set-top box, at a
11 minimum—

12 “(i) basic and premium digital tele-
13 vision cable programming offered by the
14 cable operator in both standard and high
15 definition; and

16 “(ii) standard definition digital pro-
17 gramming offered on a per program or per
18 channel basis without the use of integrated
19 bidirectional communications;

20 “(B) require all cable operators, by July 1,
21 2005, to make available to subscribers point-of-
22 deployment modules for use with digital tele-
23 vision receivers that are manufactured in ac-
24 cordance with a uniform family of technical
25 standards accredited by the American National



1 Standards Institute and prescribed by the Com-
2 mission;

3 “(C) require all digital television display
4 equipment to include secure digital interface
5 connections and ensure that such equipment is
6 upgradeable to successor digital interface tech-
7 nologies;

8 “(D) require all equipment to which this
9 subsection applies under paragraph (1) that is
10 shipped in interstate commerce or manufac-
11 tured in the United States after July 1, 2005,
12 to operate in compliance with the standards
13 adopted pursuant to this subsection, except
14 that—

15 “(i) such regulations shall not require
16 compliance with the OpenCable Applica-
17 tions Platform (OCAP) or any successor
18 specification to provide two-way capability;
19 and

20 “(ii) such regulations may permit
21 manufacturers to self-certify compliance
22 with the regulations prescribed under this
23 subsection;

24 “(E) contain safeguards necessary to en-
25 sure that manufacturers of all such equipment



1 can incorporate point-of-deployment security
2 technology subject to reasonable and non-
3 discriminatory licensing terms (including any
4 associated compliance, robustness and encoding
5 rules) that—

6 “(i) do not result in the altered or di-
7 minished functionality of a consumer’s dig-
8 ital television reception, recording, and dis-
9 play equipment as intended for legal, non-
10 commercial use; and

11 “(ii) do not impose on manufacturers,
12 either directly or indirectly, any require-
13 ments other than those necessary to imple-
14 ment the requirements of this subsection in
15 a robust manner that prevents theft of
16 services and physical harm to the cable
17 system.”.

18 **SEC. 9. DIGITAL TELEVISION TUNER REQUIREMENTS.**

19 (a) SCHEDULE AFFIRMED.—The schedule for the im-
20 plementation of digital television reception capability es-
21 tablished by the Commission pursuant to section 303(s)
22 of the Communications Act of 1934 (47 U.S.C. 303(s)),
23 and other provisions such Act, as contained in section
24 15.117(i) of the Commission’s regulations (47 CFR
25 15.117(i)) as modified in FCC 02-230 (August 8, 2002),



1 shall not be delayed except as expressly provided by Act
2 of Congress.

3 (b) PRESERVATION OF AUTHORITY.—Except as pro-
4 vided in subsection (a), nothing in this section shall be
5 construed to limit or restrict the authority of the Commis-
6 sion to revise its regulations pertaining to television broad-
7 cast receivers.

8 **SEC. 10. INTEGRATED CONVERTER-SECURITY BOXES.**

9 (a) AMENDMENT.—Section 629(a) of the Commu-
10 nications Act of 1934 (47 U.S.C. 549(a)) is amended by
11 adding at the end the following new sentence: “Subject
12 to the forgoing provisions of this subsection, such regula-
13 tions shall not prohibit a multichannel video program dis-
14 tributor from providing a navigation device that includes
15 conditional access functions or other functions.”.

16 (b) REVISION OF REGULATIONS REQUIRED.—Within
17 _____ after the date of enactment of this Act, the Commis-
18 sion shall revise section 76.1204 of its regulations (47
19 CFR 76.1204) to implement the amendment made by sub-
20 section (a).

21 **SEC. 11. CONSUMER NOTICE REQUIREMENT.**

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



1 **“SEC. 715. CONSUMER NOTICE REQUIREMENT.**

2 “(a) NOTICE REQUIRED.—The Commission shall re-
3 quire by regulation that a consumer notice be affixed—

4 “(1) to any apparatus capable of receiving, re-
5 cording, or displaying, or navigating among, tele-
6 vision signals, that is shipped in interstate commerce
7 or manufactured in the United States during the pe-
8 riod after the date the regulations required by sec-
9 tion 624A(d) are prescribed and before July 1,
10 2005, for sale or resale to the public and that will
11 not display digital television content in accordance
12 with such regulations; and

13 “(2) to any recording of a protected work that
14 is shipped in interstate commerce or manufactured
15 in the United States after the date the regulations
16 required by section 624A(d) are prescribed, for sale
17 or resale to the public and that will not be able to
18 be displayed on any class of apparatus that a con-
19 sumer could reasonably expect to display such re-
20 cording.

21 “(b) CONTENTS OF NOTICE.—

22 “(1) EQUIPMENT NOTICES.—The notice re-
23 quired by subsection (a)(1) shall—

24 “(A) disclose to any prospective purchaser
25 that the apparatus will not function for the
26 purpose of receiving, recording, or displaying



1 digital television content in accordance with the
2 regulations required by section 624A(d); and

3 “(B) be conspicuously displayed in simple
4 language on the body of the apparatus, its
5 packaging, and any other location the Commis-
6 sion deems appropriate.

7 “(2) RECORDING NOTICES.—The notice re-
8 quired by subsection (a)(2) shall—

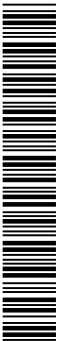
9 “(A) disclose to any prospective
10 purchaser—

11 “(i) the classes of apparatus that will
12 display the recording;

13 “(ii) the protection technologies or
14 techniques that prevent such replay;

15 “(B) be conspicuously displayed in simple
16 language on the body of the recording, its pack-
17 aging, and any other location the Commission
18 deems appropriate.

19 “(3) DEFINITION.—The term ‘recording of a
20 protected work’ means any copyrighted video and ac-
21 companying audio offered to the public for purchase,
22 rent, lease, or under license, whether in pre-pack-
23 aged form or offered as part of any pay-per-view,
24 download, or subscription service, when a consumer’s



- 1 access or ability to consume the copyrighted work is
- 2 restricted by technological means.”.

