

[118H3353]

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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Communications Act of 1934 to amend provisions relating to franchise term and termination and provisions relating to the elimination or modification of requirements in franchises, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. WEBER of Texas introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Communications Act of 1934 to amend provisions relating to franchise term and termination and provisions relating to the elimination or modification of requirements in franchises, 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 “Cable Transparency
5 Act”.

1 **SEC. 2. CABLE FRANCHISE TERM AND TERMINATION.**

2 (a) **ELIMINATION OR MODIFICATION OF REQUIRE-**
3 **MENT IN FRANCHISE.**—Section 625 of the Communica-
4 tions Act of 1934 (47 U.S.C. 545) is amended to read
5 as follows:

6 **“SEC. 625. ELIMINATION OR MODIFICATION OF REQUIRE-**
7 **MENT IN FRANCHISE.**

8 “(a) **IN GENERAL.**—During the period in which a
9 franchise is in effect, the cable operator may obtain the
10 elimination or modification of any requirement in the fran-
11 chise by submitting to the franchising authority a request
12 for the elimination or modification of such requirement.

13 “(b) **ELIMINATION OR MODIFICATION OF REQUIRE-**
14 **MENT IN FRANCHISE.**—

15 “(1) **REQUIREMENT.**—The franchising author-
16 ity shall eliminate or modify a requirement in ac-
17 cordance with a complete request submitted under
18 subsection (a) not later than 120 days after receiv-
19 ing such request if the cable operator demonstrates
20 in the request—

21 “(A) good cause for the elimination or
22 modification of the requirement, including the
23 need to eliminate or modify the requirement—

24 “(i) to conform to an applicable Fed-
25 eral or State law;

1 “(ii) to address changes in technology;

2 or

3 “(iii) in the case of a requirement ap-
4 plicable to the cable operator, due to com-
5 mercial impracticability; and

6 “(B) that the mix, quality, and level of
7 cable services required by the franchise at the
8 time the franchise was granted will be main-
9 tained notwithstanding the elimination or modi-
10 fication of the requirement;

11 “(2) DEFINITION.—In this subsection, the term
12 ‘commercial impracticability’ means that it is com-
13 mercially impracticable for the operator to comply
14 with the requirement as a result of a change in con-
15 ditions which is beyond the control of the operator
16 and the nonoccurrence of which was a basic assump-
17 tion on which the requirement was based.

18 “(c) DEEMED ELIMINATION OR MODIFICATION.—
19 Except in the case of a request for the elimination or
20 modification of a requirement for services relating to pub-
21 lic, educational, or governmental access, if the franchising
22 authority fails to approve or deny the complete request
23 submitted under subsection (a) by the date described
24 under subsection (b), the requirement shall be deemed

1 eliminated or modified in accordance with the request on
2 the day after such date.

3 “(d) APPEAL.—

4 “(1) IN GENERAL.—Any cable operator whose
5 request for elimination or modification of a require-
6 ment in a franchise under subsection (a) has been
7 denied by a final decision of a franchising authority
8 may seek judicial review of the decision pursuant to
9 the provisions of section 635.

10 “(2) GRANT OF REQUEST.—In the case of any
11 proposed elimination or modification of a require-
12 ment in a franchise under subsection (a), the court
13 shall grant such elimination or modification only if
14 the cable operator demonstrates to the court that
15 the standards in subsection (b) have been met.

16 “(e) WHEN REQUEST CONSIDERED COMPLETE.—

17 “(1) IN GENERAL.—For the purposes of this
18 section, a request to a franchising authority shall be
19 considered complete if the cable operator—

20 “(A) has taken the first procedural step
21 within the control of the cable operator that the
22 franchising authority requires as part of the
23 process established by the franchising authority
24 for reviewing any requests related to franchises;
25 and

1 “(B) has not received a written notice from
2 the franchising authority within 30 days after
3 the date on which the request is received by the
4 franchising authority—

5 “(i) stating that all the information
6 (including any form or other document) re-
7 quired by the franchising authority to be
8 submitted for the request to be considered
9 complete has not been submitted;

10 “(ii) identifying the information re-
11 quired to be submitted that was not sub-
12 mitted; and

13 “(iii) identifying the publicly available
14 rules, regulations, or standards issued by
15 the franchising authority requiring that
16 the information be submitted with such a
17 request.

18 “(2) DEFINITION.—In this subsection, the term
19 ‘the date on which the request is received by the
20 franchising authority’ means—

21 “(A) in the case of a request submitted
22 electronically, the date on which the request is
23 transmitted;

24 “(B) in the case of a request submitted in
25 person, the date on which the request is deliv-

1 ered to the individual or at the location speci-
2 fied by the franchising authority for in-person
3 submission; and

4 “(C) in the case of a request submitted in
5 any other manner, the date determined under
6 regulations promulgated by the Commission for
7 the manner in which the request is submitted.”.

8 (b) IN GENERAL.—Section 626 of the Communica-
9 tions Act of 1934 (47 U.S.C. 546) is amended to read
10 as follows:

11 **“SEC. 626. FRANCHISE TERM AND TERMINATION.**

12 “(a) FRANCHISE TERM.—A franchise shall continue
13 in effect (without any requirement for renewal) until the
14 date on which the franchise is revoked or terminated in
15 accordance with subsection (b).

16 “(b) LIMITS.—

17 “(1) PROHIBITION AGAINST REVOCATION; TER-
18 MINATION.—Except as provided in paragraph (2), a
19 franchise may not be—

20 “(A) revoked by a franchising authority;

21 “(B) terminated by a cable operator; or

22 “(C) revoked or terminated by operation of
23 law, including by a term in a franchise that re-
24 vokes or terminates such franchise on a specific

1 date, after a period of time, or upon the occur-
2 rence of an event.

3 “(2) WHEN TERMINATION OR REVOCATION OF
4 FRANCHISE PERMITTED.—

5 “(A) TERMINATION BY CABLE OPER-
6 ATOR.—

7 “(i) IN GENERAL.—A cable operator
8 may terminate a franchise by submitting
9 to the franchising authority a written re-
10 quest for the franchising authority to re-
11 voke such franchise.

12 “(ii) TIME OF REVOCATION.—If the
13 cable operator submits a complete request
14 under clause (i), the franchising authority
15 shall revoke the franchise on the date that
16 is 90 days after the franchising authority
17 receives such request.

18 “(iii) DEEMED TO BE REVOKED.—If a
19 franchising authority does not approve a
20 request by the date required under clause
21 (ii), the franchise is deemed revoked on the
22 day after such date.

23 “(B) TERMINATION BY FRANCHISING AU-
24 THORITY.—A franchising authority may revoke
25 a franchise if the franchising authority—

1 “(i) finds that the cable operator has
2 knowingly and willfully failed to substan-
3 tially meet a material requirement imposed
4 by the franchise;

5 “(ii) provides the cable operator a rea-
6 sonable opportunity to cure such failure,
7 after which the cable operator fails to cure
8 such failure; and

9 “(iii) does not waive the material re-
10 quirement or acquiesce with the failure to
11 substantially meet such requirement.

12 “(c) REVIEW OF REVOCATION OF FRANCHISE BY
13 FRANCHISING AUTHORITY.—

14 “(1) ADMINISTRATIVE OR JUDICIAL REVIEW.—

15 With respect to a determination by a franchising au-
16 thority to revoke a franchise under subsection
17 (b)(2)(B), a cable operator may—

18 “(A) petition the Commission for review of
19 such determination; or

20 “(B) seek judicial review of such deter-
21 mination pursuant to the provisions of 635.

22 “(2) COMMISSION REVIEW.—With respect to a
23 petition for the review of a determination brought
24 under paragraph (1)(A), the Commission shall—

25 “(A) review the determination de novo; and

1 “(B) invalidate the determination if, based
2 on the evidence presented during the review, the
3 Commission determines that the franchising au-
4 thority has not demonstrated by a preponder-
5 ance of the evidence that the franchising au-
6 thority revoked the franchise in accordance with
7 subsection (b)(2)(B).

8 “(3) STAY OF DETERMINATION TO REVOKE
9 FRANCHISE.—A revocation of a franchise under sub-
10 section (b)(2)(B) may be stayed—

11 “(A) in the case the cable operator peti-
12 tions the Commission for review of the deter-
13 mination on which such revocation is based, by
14 the Commission; and

15 “(B) in the case the cable operator seeks
16 judicial review of the determination on which
17 such revocation is based, by the court in which
18 the cable operator seeks judicial review of the
19 determination.”.

20 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
21 The Communications Act of 1934 (47 U.S.C. 151 et seq.)
22 is amended—

23 (1) in section 601—

24 (A) in paragraph (4), by striking the semi-
25 colon at the end and inserting “; and”;

1 (B) by striking paragraph (5); and

2 (C) by redesignating paragraph (6) as
3 paragraph (5);

4 (2) in section 602(9)—

5 (A) by striking “initial”; and

6 (B) by striking “, or renewal thereof (in-
7 cluding a renewal of an authorization which has
8 been granted subject to section 626),”;

9 (3) in section 611(b), by striking “and may re-
10 quire as part of a cable operator’s proposal for a
11 franchise renewal, subject to section 626”;

12 (4) in section 612(b)(3)—

13 (A) by striking “or as part of a proposal
14 for renewal, subject to section 626,”; and

15 (B) by striking “, or proposal for renewal
16 thereof,”;

17 (5) in section 621(b)(3)—

18 (A) in subparagraph (C)(ii), by striking
19 “or franchise renewal”; and

20 (B) in subparagraph (D)—

21 (i) by striking “initial”; and

22 (ii) by striking “, a franchise re-
23 newal,”;

24 (6) in section 624—

1 (A) in subsection (b)(1), by striking “(in-
2 cluding requests for renewal proposals, subject
3 to section 626)”; and

4 (B) in subsection (d)(1), by striking “or
5 renewal thereof”;

6 (7) in section 635A(a), by striking “renewal,”.

7 (d) EFFECTIVE DATE; APPLICATION.—

8 (1) EFFECTIVE DATE.—This section, and the
9 amendments made by this section, shall take effect
10 6 months after the date of the enactment of this
11 Act.

12 (2) APPLICATION.—This section, and the
13 amendments made by this section, shall apply to a
14 franchise granted—

15 (A) on or after the effective date estab-
16 lished by paragraph (1); or

17 (B) before such date, if—

18 (i) such franchise (including, any re-
19 newal thereof before the date of the enact-
20 ment of this Act) is in effect on such date;
21 or

22 (ii) such franchise is expired and the
23 cable operator has continued to perform
24 under the provisions of such franchise as if
25 such franchise were not expired.