CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

July 8, 2004

H.R. 4501

Satellite Home Viewer Extension and Reauthorization Act of 2004

As ordered reported by the House Committee on Energy and Commerce on June 3, 2004

SUMMARY

H.R. 4501 would amend current law relating to satellite retransmission of television broadcasting. CBO estimates that enacting only the provisions of H.R. 4501 would not affect direct spending or revenues. However, if the authority to collect and distribute copyright royalties for satellite retransmissions were extended by subsequent legislation, CBO estimates that enacting the bill (together with that extension) would decrease revenues by about $1 million over the five-year period beginning in calendar year 2005 and also would decrease direct spending by about $1 million over the 10-year period beginning in calendar year 2005. The bill would not have a significant effect on spending subject to appropriation.

H.R. 4501 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the resulting costs would be minimal and would not exceed the threshold established in UMRA ($60 million in 2004, adjusted annually for inflation).

H.R. 4501 would impose private-sector mandates as defined in UMRA on satellite companies. CBO estimates that the aggregate cost of those mandates would not exceed the annual threshold for private-sector mandates established by UMRA ($120 million in 2004, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

Under current law, the use of certain copyrighted material by the public operates under a compulsory license. Users of copyrighted material do not need specific permission from owners to use material with a compulsory license, but must pay royalties and abide by certain conditions when using the material. The federal Copyright Office collects royalties from users of compulsory licenses and then later distributes the royalties to owners of copyrighted works using guidelines agreed upon in private negotiations between users and owners of copyrighted work. The receipt of royalties from users of copyrighted material are recorded in the budget as federal revenues, and the distributions to copyright owners are recorded as federal spending.

H.R. 4501 would extend current law to allow satellite companies to use copyrighted material without specific permission from copyright owners, but would not extend the requirement for satellite companies to pay royalties in exchange for the use of copyrighted material. Under current law, the requirement to pay royalties will expire on December 31, 2004. Several provisions in H.R. 4501 would make changes affecting royalties collected and distributed for satellite transmissions; however, without extending the requirement for satellite companies to pay royalties for use of copyrighted material, these changes would have no effect after December 31, 2004.

BASIS OF ESTIMATE

Revenues and Direct Spending

CBO estimates that enacting H.R. 4501 by itself would have no effect on revenues or direct spending from enactment through the end of calendar year 2009. However, if the Congress extends royalty requirements for satellite retransmission of broadcast signals at the rate effective under current law, CBO estimates that enacting the bill (together with that extension) would decrease revenues by about $1 million over the five-year period beginning in calendar year 2005. With lower royalty collections, the payments to copyright owners would also decrease.

Satellite retransmission of distant and local signals. According to the FCC, about 20 million households subscribe to a satellite television service in the United States. Under current law, satellite companies are permitted to retransmit signals originally broadcast by television stations back into the same area where they originated ("local-into-local") for most subscribers and may retransmit signals that originate in a distant market into a local area ("distant-into-local") under certain circumstances. As a result, some subscribers are eligible to receive both distant-into-local and local-into-local signals. Section 204 would require certain satellite subscribers to choose between receiving distant-into-local and local-into-local signals.

While satellite companies pay royalties for restransmitting distant-into-local signals, they do not pay royalties for retransmitting local-into-local signals. Under section 204, satellite companies would pay fewer royalties because they would be retransmitting distant-into-local signals to a smaller number of subscribers than they would if the current copyright laws were extended.

CBO estimates that enacting section 204 (and an extension of the current-law requirements for royalties from satellite retransmission) would decrease revenue collections by about $1 million over the five-year period beginning in calendar year 2005. In addition, payments to copyright owners would decrease, causing a decrease in direct spending of about $1 million over the 10-year period beginning in calendar year 2005.

Spending Subject to Appropriation

Section 208 of the bill would require the FCC to conduct a study identifying consumers who will be unserved by over-the-air signals starting in 2007, when those signals will no longer be broadcast. Based on information provided by the FCC, CBO estimates that completing this study would not have a significant effect on spending subject to appropriation.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 4501 contains an intergovernmental mandate as defined in UMRA because it would establish procedures for appeal of FCC orders, by satellite carriers, that would supersede any other appeal rights under state law. CBO estimates that the resulting costs to states of this preemption would be minimal and would not exceed the threshold established in UMRA ($60 million in 2004, adjusted annually for inflation).

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 4501 would impose private-sector mandates as defined in UMRA on satellite companies. Specifically, the bill would impose mandates on satellite companies by requiring them to:

- Reallocate their retransmission of local television channels to a single dish;
- Replace "distant-into-local" signals with "local-into-local" signals for certain subscribers;
- Notify subscribers of their privacy rights; and

- Notify television broadcast stations of plans to begin "local-into-local" satellite service in their markets and provide them with the right to elect carriage of their stations.

CBO estimates that the aggregate cost of those mandates would not exceed the annual threshold for private-sector mandates established by UMRA ($120 million in 2004, adjusted annually for inflation).

Carriage of Local Stations on a Single Dish

Section 203 would require satellite companies to reallocate their retransmission of local television channels in such a way that satellite subscribers can receive all of the local channels with only one satellite antenna (or satellite dish) and associated equipment. Local channels are those channels that can be received over the air with a conventional antenna and television set. The bill would provide an exception to this requirement in the case of digital local channels. Satellite carriers may retransmit local digital channels to subscribers by means of a separate dish, but must transmit all local digital channels to the same dish. Section 203 also would require satellite companies to notify their licensees (broadcast television stations) and subscribers of the reallocation of the channels and inform them of the need for new reception antenna or equipment.

In many television markets, some subscribers to satellite service require two dishes to receive all the local channels. (Many subscribers in those markets do not have a second dish and so do not receive some local channels.) Satellite companies estimate that currently only 15 percent to 20 percent of subscribers have two dishes nationally, but that proportion of subscribers varies by market.

The bill would require carriers to meet the retransmission requirements of section 203 within a year of enactment. Given the one-year time frame, affected companies could comply with the mandate in one of two ways. First, satellite carriers could exit the market for retransmission of local channels. CBO assumes that satellite companies would not abandon local service entirely because the affected companies would risk losing valuable customers to rival satellite companies and cable providers. Second, carriers could reallocate their satellite transmissions so that, in each market, subscribers received all their local channels from a single satellite. In some markets, receiving those local channels would require that the companies provide a second dish to subscribers. The largest cost facing affected companies would be the cost of installing those additional dishes. CBO estimates that providing additional dishes could cost the companies about $150 to $160 per customer, including installation, notification, and equipment.

Service to as many as two million subscribers could be subject to the reallocation requirements under the current configuration of local television channels on the satellites. Engineering studies, however, suggest that reallocation of local channels on the satellites could reduce the number of subscribers needing a second dish to 350,000 to 400,000. Such relocation of local channels to a second dish would most likely occur in the relatively smaller markets served by satellite carriers. The affected number of subscribers might be reduced further by technical changes available to satellite companies.

Based on those figures, CBO estimates that satellite companies could spend $50 million to $65 million to comply with this mandate.

Replacement of Distant Signals with Local Signals

Until recently, satellite carriers did not have the technological capability to redistribute multiple local broadcast signals back to the communities serviced by the local broadcast stations ("local-into-local") service. So satellite providers retransmitted "distant network signals" from locations such as New York, Atlanta, or Denver ("distant-into-local" service). Currently, some satellite providers have the capability of retransmitting local signals into many local markets.

Section 204 would prohibit satellite companies from providing a distant-into-local signal to certain subscribers that are currently receiving that signal. The companies would be required to send notices to subscribers offering to substitute the local-into-local signal for the distant-into-local signal. The companies would then adjust the subscriber’s package so that the subscriber would receive the appropriate signal. The bill also would require companies to send a list to television networks with each subscriber that receives a distant-into-local signal. Based on information from the industry, the cost to not transmit a signal would be minor. CBO estimates that the cost to send those notices would not be great.

Privacy Rights of Satellite Subscribers

Section 206 would require satellite companies to notify their subscribers in a separate written statement of their privacy rights. The bill also would prohibit the satellite companies from collecting and disclosing program selection or personally identifiable information concerning any subscriber without prior consent from the subscriber. In addition, satellite companies would be required to provide a subscriber access to all personally identifiable information that is collected and maintained by the satellite company regarding the subscriber. When that information is no longer necessary and a request by the subscriber for access is not pending, the company must destroy that information. The main cost of these provisions would be the one-time cost of notifying subscribers. According to the FCC, there are about 20 million subscribers of satellite services. CBO estimates that the cost to comply with those mandates could be between $10 million and $20 million.

Additional Notices

Section 205 would require satellite companies to inform each television broadcast station licensee within a local market of the company's intention to begin local-into-local service and to provide them with the right to elect carriage of their station. This section also would require satellite companies to send a notice to any television broadcast station in a local market that it will begin transmitting significantly viewed stations. CBO estimates that the cost to send those notices would be small.

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