



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

October 21, 2004

S. 2644 **Satellite Home Viewer Extension and Rural Consumer Access to Digital Television Act of 2004**

*As ordered reported by the Senate Committee on Commerce, Science, and
Transportation on July 22, 2004*

SUMMARY

S. 2644 would amend current law relating to satellite retransmission of television broadcasting. CBO estimates that enacting only the provisions of S. 2644 would not affect direct spending or revenues. 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 affect direct spending and revenues, but by an insignificant amount. Implementing the bill would not have a significant effect on spending subject to appropriation.

S. 2644 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

S. 2644 would impose private-sector mandates as defined in UMRA on satellite companies and television network 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).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

Under current law, the use of certain copyrighted material by the public is governed by the terms of 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 material subject to 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. Receipts 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.

S. 2644 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 such material. Under current law, the requirement to pay royalties will expire on December 31, 2004. Several provisions in S. 2644 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, those changes would have no effect on the budget after December 31, 2004.

As a result, CBO estimates that enacting S. 2644 by itself would have no effect on revenues or direct spending from enactment through 2014. 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 have an insignificant effect on direct spending and revenues.

BASIS OF ESTIMATE

Under section 4, satellite subscribers who live in a “digital white area” (i.e., persons who cannot receive a local digital signal from broadcasters) could choose to receive digital signals for digital programming. As a result, some subscribers who do not receive a distant signal under current law would receive the signal under section 4 of the bill. Because satellite companies currently pay royalties for retransmitting distant signals, enacting section 4 would increase both revenues from royalty collections and payments to copyright owners.

Neither the satellite industry nor the Federal Communications Commission has information regarding the number of satellite subscribers who are located in digital white areas as defined under section 4. For this estimate, CBO assumes that satellite subscribers in digital white areas would generally overlap with satellite subscribers in analog white areas. Under that assumption, any increase in copyright royalties from new digital transmissions would be offset by a decrease in copyright royalties from analog transmissions as satellite subscribers switch from analog to digital. Thus, CBO estimates that enacting section 4 would not have a significant effect on revenues or direct spending, even if the requirement to pay royalties were extended.

S. 2644 would make a number of other changes to current law regarding satellite subscribers’ eligibility to receive distant signals. CBO estimates that enacting those provisions would not have a significant effect on revenues or direct spending if the requirement to pay royalties were extended.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 2644 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 2644 would impose private-sector mandates as defined in UMRA on satellite companies and television network stations. Specifically, the bill would impose mandates on satellite companies by requiring them to:

- Reallocate their retransmission of local television channels to a single dish,
- Retransmit a distant digital signal only if they retransmit a local analog signal in that same market and notify those customers that are receiving a distant digital signal when they are no longer eligible to receive those distant signals,
- Notify subscribers of their privacy rights,
- Provide the television network stations with a list of subscribers when those subscribers would no longer be eligible to receive a distant digital signal, and
- Announce the sponsor of commercial or political advertising that originates with the satellite company.

The bill also would require that the television network stations notify a satellite company when a household would no longer be eligible to receive a distant digital signal.

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 3 would require satellite companies to reallocate their retransmission of local television channels so that satellite subscribers could 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 local digital channels. It would allow satellite carriers to retransmit local digital channels to subscribers by means of a separate dish, if they transmit all local digital channels to the same dish.

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 nationally have two dishes, but that proportion of subscribers varies by market.

The bill would require carriers to meet the retransmission requirements of section 3 within 18 months of enactment. Given that 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 expects 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 per customer, including equipment, installation, and notification of customers.

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. Thus, under the current configuration of channels on the satellites, as many as two million additional dishes would have to be installed. Engineering studies, however, suggest that reallocation of local channels on the satellites could reduce the number of subscribers needing the second dish to 350,000 to 400,000. Such reallocation of local channels would most likely occur in the smaller markets served by the carriers.

Based on those figures, CBO estimates that satellite companies could spend \$50 million to \$60 million to comply with that mandate. The number of subscribers affected might be reduced further by technical changes available to satellite companies. CBO has not accounted for such technical changes in its estimate.

Transmission of a Distant Digital Signal in a Local Market

Section 4 would require that a satellite company retransmit a distant digital signal only if that company is also transmitting a local analog signal and not a local digital signal in that same market. The satellite company also would be required to notify those customers that are receiving a distant digital signal when they are no longer eligible to receive those distant signals. According to information from industry representatives, satellite companies currently retransmit a distant digital signal only in markets where they also retransmit a local analog signal. The number of those households that receive those signals is very small. Therefore, CBO estimates that the satellite companies would incur minimal cost to comply with those requirements.

Privacy Rights of Satellite Subscribers

Section 7 would extend the current privacy rights of cable subscribers to satellite subscribers. That section would require satellite companies to provide a separate, written notice that would inform the subscriber of the personally identifiable information that the satellite company collects and how it is to be used; the nature, frequency, and purpose of any disclosures; the time and place at which the subscriber may access the information; and the time frame during which the company would maintain that information. That section also would prohibit satellite companies from collecting and disclosing program selection or personally identifiable information on 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 it collected. When that information is no longer necessary and a request for access is not pending, the company would have to destroy such information. Information from representatives of the satellite companies indicates that they currently comply with many of those requirements. CBO estimates that the incremental cost to provide a written notice of the subscribers' privacy rights could be about \$20 million.

Notices to Satellite Companies and Television Network Stations Regarding a Digital Signal

Within two years after the enactment of S. 2644, the bill would require that the FCC determine what households would be considered "unserved households" for a distant digital signal. A television network station would be required to notify the satellite company when it files a license application with the FCC that would result in any household ceasing to be an unserved digital household. When the satellite company receives that notification, it would have to send a list identifying each subscriber that would no longer be an unserved

digital household and, therefore, would no longer be allowed to receive a distant digital signal. The satellite company also would be required to send a comprehensive list to television network stations that provide a digital signal to the satellite company's subscribers. Based on information from representatives of the satellite companies, CBO estimates that the cost to comply with those notification requirements would be minimal.

Sponsorship Identification Requirement

Section 8 would extend the sponsorship identification rules that currently apply to cable operators of satellite companies. As a result, a satellite company would be required to announce a sponsor of any commercial or political advertising that originates with a satellite company. According to representatives of the satellite companies, they only retransmit programming and do not add any advertising to those programs. Therefore, CBO estimates that the satellite companies would incur no costs to comply with this requirement.

PREVIOUS CBO ESTIMATES

On July 8, 2004, CBO transmitted a cost estimate for H.R. 4501, the Satellite Home Viewer Extension and Reauthorization Act of 2004, as ordered reported by the House Committee on Energy and Commerce on June 3, 2004. Both bills contain provisions that would make changes to satellite retransmission of distant and local signals, but S. 2644 would affect a smaller number of subscribers. The cost estimates for the bills reflect this difference.

On July 22, 2004, CBO transmitted a cost estimate for H.R. 4518, the Satellite Home Viewer Extension Act of 2004, as ordered reported by the House Committee on the Judiciary on July 7, 2004. While H.R. 4518 would extend copyright royalty fees, S. 2644 would not. Both bills contain provisions that would make changes to satellite retransmission of distant and local signals, but S. 2644 would affect a smaller number of subscribers. The cost estimates for the bills reflect those differences.

On July 22, 2004, CBO transmitted a cost estimate for S. 2013, the Satellite Home Viewer Extension Act of 2004, as ordered reported by the Senate Committee on the Judiciary on June 17, 2004. While S. 2013 would extend copyright royalty fees, S. 2644 would not. The cost estimates for the bills reflect this difference.

Both S. 2644 and H.R. 4501 would require that satellite companies retransmit local television channels to a single dish and to notify customers of their privacy rights. H.R. 4518 and S. 2013 would require a satellite company to submit a list to television network stations of

their subscribers that are receiving signals of "significantly viewed" stations. The total direct costs of mandates contained in each of the bills would fall below the annual threshold for private-sector mandates established in UMRA.

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