CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

November 1, 2004

S. 2820
SAVE LIVES Act

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

SUMMARY

S. 2820 would amend federal laws governing the use of the electromagnetic spectrum by public safety agencies and television broadcasters. The bill would appropriate up to $1 billion to subsidize consumer purchases of certain television products. It also would authorize the appropriation of $117 million in funding over the 2005-2009 period for programs aimed at improving the interoperability of radio systems used by public safety agencies.

CBO estimates that enacting the bill would increase direct spending by $500 million over the 2005-2009 period and another $500 million thereafter. CBO estimates that implementing the legislation would add $83 million to discretionary spending over the 2005-2009 period, assuming appropriation of the authorized amounts. Enacting S. 2820 would not affect revenues.

S. 2820 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would require seven public broadcasting stations to vacate their current television channels by January 1, 2008. CBO estimates, however, that the associated costs to state, local, and tribal governments would be small and would not exceed the threshold established in UMRA ($60 million in 2004, adjusted annually for inflation).

S. 2820 would impose private-sector mandates as defined in UMRA on television broadcasters and manufacturers, importers, and retailers of equipment capable of receiving analog broadcast television signals. The bill would increase the local and public affairs requirements for holders of broadcast licenses. It also would require television broadcasters to vacate certain channels by January 1, 2008. Finally, the bill would require certain manufacturers, importers, and retailers to place labels on their equipment regarding the end of over-the-air broadcasts of analog television signals. Based on information from the

industry and the Federal Communications Commission (FCC), CBO expects that the aggregate direct cost to comply with those mandates would exceed the annual threshold established by UMRA for private-sector mandates ($120 million in 2004, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 2820 is shown in the following table. The costs of this legislation fall within budget functions 370 (commerce and housing credit) and 750 (administration of justice).

	By Fiscal Year, in Millions of Dollars				
	2005	2006	2007	2008	2009
CHANGES IN DIRECT SPENDING					
Estimated Budget Authority	0	0	0	1,000	0
Estimated Outlays	0	0	0	150	350
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	22	23	23	24	25
Estimated Outlays	3	13	20	23	24

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted in calendar year 2004 and that the authorized amounts will be appropriated near the start of each fiscal year. Outlay estimates are based on spending patterns of similar programs. CBO estimates that enacting S. 2820 would increase direct spending by $1 billion over the next 10 years, but that spending would not begin until 2008. Discretionary spending also would increase by $83 million over the 2005-2009 period, assuming appropriation of the authorized amounts.

Direct Spending

S. 2820 would appropriate up to $1 billion of the proceeds from auctioning certain spectrum for a new program to subsidize certain consumer purchases of digital television products. Under this bill, proceeds from auctions of licenses to use certain frequencies now used by television broadcasters would be deposited in a new Digital Transition Consumer Assistance Fund. The bill would direct the Secretary of Commerce to spend up to $1 billion of the money in that fund to assist households in purchasing equipment or services that would enable them to receive digital rather than analog television signals. Under current law, the Federal Communications Commission is supposed to auction those frequencies before its auction authority expires and deposit the proceeds in the Treasury.

CBO estimates that $1 billion would become available to the new fund in 2008 and that it would be spent over the following six years. This estimate reflects CBO's baseline assumption that auctions of the affected television frequencies are likely to occur in fiscal year 2007 (the year the FCC's auction authority expires under current law) and that proceeds would be deposited by 2008. CBO expects that the department would spend the entire $1 billion authorized for the new program, as shown in the table below, given the large number of households that currently lack access to digital television signals.

	By Fiscal Year, in Millions of Dollars									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
DIGITAL TRANSITION CONSUMER ASSISTANCE FUND										
Estimated Outlays	0	0	0	150	350	200	150	100	50	0

Spending Subject to Appropriation

S. 2820 would authorize funding for two new programs to enhance the interoperability of communications systems used by public safety agencies. The bill would authorize a new research and development initiative at the Department of Homeland Security (DHS) on systems, standards, and a strategic plan for interoperable communication systems. The authorized amounts range from $22 million in 2005 to $25 million in 2009 and would total $117 million over the 2005-2009 period. Based on experience with similar activities, CBO estimates that outlays for these programs would total $83 million over the 2005-2009 period.

The bill also would authorize DHS to assist state and local first-responder agencies to acquire and deploy interoperable communications systems. Funding for this program would be subject to appropriation and limited to the amounts in the Digital Transition Consumer Assistance Fund that are in excess of the amounts spent by the Department of Commerce to assist households in converting from analog to digital television. Because the Commerce program is likely to take several years to implement, CBO expects that grants for first-responders would not be made until after 2009.

Finally, S. 2820 would direct various agencies to prepare reports and implement various rulemaking proceedings. Based on information from the Office of Management and Budget and affected agencies, CBO estimates that the cost of those activities would not be significant.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 2820 contains an intergovernmental mandate as defined in UMRA because it would require seven public broadcasting stations to vacate their current television channels by January 1, 2008, more quickly than under current law. Based on information from industry sources and the FCC, CBO estimates that stations affected by the bill would face costs totaling no more than $2 million per station depending on the television market in which they currently operate, possible lost contributions from members who are no longer able to receive the station signal, and the adjustments to their broadcasting technology that they would be required to make.

Section 11 also would require the FCC to develop new guidelines for programs that originate locally. However, based on information from the Corporation for Public Broadcasting, CBO estimates that the costs of the new guidelines to public television stations would be minimal. The aggregate costs of the mandate would thus not exceed the threshold established in UMRA ($60 million in 2004, adjusted annually for inflation).

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 2820 contains private-sector mandates as defined in UMRA that would affect television broadcasters and manufacturers, importers, and retailers of equipment capable of receiving analog broadcast television signals. The bill would impose mandates by:

- Requiring television broadcasters to increase the amount of local and public affairs programming;
- Requiring television broadcasters to vacate certain channels by January 1, 2008; and
- Requiring certain manufacturers, importers, and retailers to post notices on their equipment regarding the termination date for over-the-air broadcasts of analog television signals.

Based on information from the industry and the FCC, CBO estimates that the aggregate direct cost to comply with those mandates would exceed the annual threshold established by

UMRA for private-sector mandates ($120 million in 2004, adjusted annually for inflation). CBO cannot estimate the total cost of mandates in the bill because some of the requirements established by the bill would depend on future regulatory action for which information is not available. However, CBO estimates that the cost associated with increasing the amount of local and public affairs programing that broadcast licensees would have to carry is likely to be above the UMRA threshold.

Minimum Requirements for Public Interest Programming

Section 11 would direct the FCC to establish "minimum quantitative guidelines for locally originating programming, local electoral and public affairs programming, and independently produced programming" for television broadcast licensees. Under the bill, the FCC would have to consider the extent to which licensees have complied with those guidelines when reviewing an application for renewal of a digital broadcast license. The bill would impose a private-sector mandate by effectively increasing the requirements for renewal of television broadcast licences. Television stations already broadcast many public service announcements. Such announcements may not fulfill the requirements under the new guidelines, however, since those announcements are typically not locally oriented or locally produced nor do they typically deal with local electoral politics.

To comply with the mandate, television stations would be required to reschedule or not transmit certain programs and produce other programs that qualify under the new guidelines. The cost of the mandate for licensees in the private sector would be:

- The loss in net advertising revenues (net income) associated with rescheduling or not transmitting some commercial programming, and

- The production costs of creating locally and independently produced programming.

Based on information from industry sources and the FCC, CBO expects that the cost of complying with the new guidelines would be greater than UMRA's annual threshold for private-sector mandates.

Termination of Broadcast Television Licenses for 24 Megahertz of Spectrum

Current law requires all television broadcasters to give up their analog spectrum by December 31, 2006. TV broadcasters can receive an unlimited extension of this deadline for several reasons; most notably, an extension may be granted to broadcasters until at least 85 percent of households in their service areas are capable of receiving a digital signal. Most experts agree that the 2006 deadline for vacating the analog channels will not be met by broadcasters in most markets under the current rules. The FCC has been considering a proposal that would require broadcasters to give up their analog broadcast licenses by January 1, 2009. Of the spectrum released as part of the transition to digital television, current law requires that 24 megahertz (4 channels) in the 700 megahertz band be turned over for use by public safety agencies.

Section 3 of S. 2820 would require broadcasters operating on channels 63, 64, 68, and 69 to clear their analog and digital spectrum for public safety use by January 1, 2008. The bill would prohibit the FCC from extending broadcast licenses for those channels beyond the 2008 deadline. The bill also would authorize the FCC to modify or reassign the licenses of entities operating in the adjacent bands of the electromagnetic spectrum, if necessary, for the operations of the public safety services. The FCC could waive those requirements under the bill in two circumstances: first, if there is no substantive request by relevant first-responders in a designated market area, and second, "to the extent necessary to avoid consumer disruption while maximizing the ability of relevant public safety entities to use the frequencies described . . . ."

CBO is uncertain how the FCC would implement the provisions of section 3. The authority to waive the requirements of the bill under certain conditions increases the uncertainty about the scope of the mandate on broadcasters. The FCC could interpret the "consumer disruption" clause broadly and clear few, if any, channels before the general transition to digital television, which currently appears to be set for sometime in 2009. Alternatively, the bill would allow the FCC to completely clear out the four relevant channels while permitting other television broadcasters to continue broadcasting on other analog channels through 2009.

For purposes of this estimate, CBO assumes that the FCC would let the current 2006 deadline pass without clearing many of the channels, but that, following this bill, it would clear all the public safety channels by January 1, 2008. Further, CBO assumes that few of the adjacent channels would be cleared before the general transition to digital broadcasting. Clearing television broadcasters from the initial four channels could affect 31 analog broadcast stations and four digital broadcast stations in the United States, including Puerto Rico.

For purposes of this estimate, CBO assumes that the FCC would require television stations to cease over-the-air broadcasts on the four designated channels, while still requiring their programs to be "retransmitted" to households by cable, satellite, and other multivideo services (enforcing the "must-carry" rules on cable companies and "carry one, carry all" rules on satellite companies). Some analysts have suggested this as a viable option since most households view television through cable, satellite, or other multivideo services. In this scenario, the cost to stations transmitting analog signals would end, but their over-the-air audience would also largely disappear. With the loss of that audience segment, the value of their advertising revenue would be reduced.

Based on information from FCC and industry sources, CBO estimates that the costs to comply with the mandate facing the affected broadcasters would be small—substantially less than the UMRA threshold. The TV stations using the designated channels do not have large audiences and so do not command much in the way of advertising revenues. Some of the broadcasters might also face the additional costs of buying the necessary equipment to ensure that their signals get to the cable networks that are carrying their programs. However, most of the stations involved already have the digital transmitters in operation that can be used by the cable systems.

Warning Requirement for Analog Equipment

Section 9 would require manufacturers, importers, and retailers to display a label (or notice) on all television apparatus (mainly TV sets and VCRs) involved in interstate commerce and incapable of receiving digital television signals. A label (or printed notice, in the case of retailers) would state that the equipment "will be incapable of displaying over-the-air television broadcast signals received after December 31, 2008, without the purchase of additional equipment." While requiring such a warning would appear to constitute an enforceable duty, the bill would not establish a 2008 deadline for television broadcast conversion to digital signals, nor is there such a deadline in current law. Because such a label would be inconsistent with current law, CBO is uncertain how to measure the potential costs of compliance.

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