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# House Action Reports

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## Video & Broadband Services

This Floor Summary describes the changes made by the House to HR 5252, Communications Opportunity, Promotion and Enhancement Act, before it was passed by the House last night by a vote of 321 to 101.

The bill, which represents the first major overhaul of telecommunications law in a decade, provides a new national approval process for telephone and cable companies that want to offer cable TV services, allowing them to obtain a national franchise from the FCC, rather than obtaining approval from local governments. The measure requires companies with a national franchise to comply with local rights-of-way management, to abide by national consumer protection standards that could be enforced by both the FCC and local authorities, and to pay certain fees to the governments of the areas in which it operates. The bill includes anti-redlining language that prevents the franchise holders from denying service to a group of customers because of their income, but it does not require the companies to deploy service in an entire area.

The bill gives the FCC the sole authority to enforce a policy statement supporting the right of consumers to access their choice of Internet services and sites, while preserving the applicability of antitrust laws to cases concerning network operations. It does not include more explicit "network neutrality" requirements sought by content providers such as Google and Yahoo, but opposed by service providers; the House rejected, by a vote of 269 to 152, an effort to add such rules.

The bill ensures that municipalities can establish public broadband and telecommunications networks. It also requires companies that offer telephone service using the Internet to provide their customers with 911 access, while applying some of the same rights, duties and obligations of traditional carriers.

It is not known when the Senate will consider its much broader version (S 2686).

For a summary of the bill considered on the House floor, see House Action Reports Fact Sheet No. 109-39, June 7.

## House Changes to HR 5252

During consideration of the bill on June 8, the House adopted the following six amendments before passing the bill by a vote of 321 to 101.

### Manager's Amendment

An amendment by **CHAIRMAN JOE L. BARTON, R-Texas**, (adopted by voice vote) that made a number of changes to the bill, including several technical changes. It clarified what constitutes a franchise area under the national cable franchising process established by the bill, and clarified that those seeking authority to provide service under a national franchise must comply with FCC requirements issued under the measure's consumer protection and customer service provisions. It clarified that national franchise holders would be subject to all cable provisions in Title VI of the Communications Act, except for those for which the bill specifically provides exemptions. It required the FCC to issue a rule specifying the methods by which franchising authorities would inform national franchise holders that they wish to hold a hearing about the company in the last year of its franchise. It specified that an annual report to Congress on complaints of violations of national consumer standards would go to the House Energy and Commerce and Senate Commerce, Science and Transportation committees. It also stated that the bill does not affect provisions of current law regarding pole attachments.

### National Cable Franchising

An amendment by **REP. ALBERT R. WYNN, D-Md.**, (adopted by voice vote) that modified procedures in the bill for dealing with alleged violations of national consumer protection standards by nationally franchised cable companies. As under the reported bill, either the local franchise authority or the FCC could respond to complaints regarding an alleged violation. The amendment, however, also allowed local authorities, on their own volition or at the request of an individual, to initiate a complaint proceeding or file a complaint with the FCC. The amendment required the FCC and franchising authorities to resolve any complaints within 90 days. The amendment required the FCC to carry out a local franchising authority's order for compliance if the order is not appealed, if the FCC does not agree to grant a review within 30 days of a request, or the FCC sustains the order during an appeal. If the FCC grants review of an appeal, then the amendment required the FCC to render a decision on its appeal within 90 days. The amendment also expanded the information required in an annual report to Congress regarding the submission and resolution of complaints that the national consumer standards have been violated.

An amendment by **REP. EDDIE BERNICE JOHNSON, D-Texas**, (adopted by voice vote) that increased to \$750,000, from \$500,000, the maximum forfeiture penalty that the FCC may assess on national franchise holders that violate the anti-discrimination provisions in the bill, which prohibit national franchise holders from denying access to their services based on the income level of a particular group.

An amendment by **REP. BOBBY L. RUSH, D-Ill.**, (adopted by voice vote) that established a process to resolve disputes over franchise fees or fees for supporting public, education and government (PEG) channels and institutional networks that arise between local franchise authorities and cable operators. Under the amendment, either the cable operator or franchise holder must provide written notice to the other party, and the parties must meet within 30 days of providing such notice. If the parties cannot resolve a dispute within 90 days of notice being provided, either party could petition the FCC to resolve the complaint, and the FCC would then have 90 days to issue an order that resolves the dispute. The amendment required complaints to be brought to the FCC within three years of the period for which fees are under dispute, unless both parties agree in writing to extend that time period.

### **Broadband Policy/Network Neutrality**

An amendment by **REP. LAMAR SMITH, R-Texas**, (adopted by a vote of 353 to 68) that stated that the provisions of the bill giving the FCC the exclusive authority to enforce, and adjudicate complaints under, its 2005 broadband policy statement shall not be construed to modify, impair or supersede the applicability of antitrust laws or the jurisdiction of U.S. district courts to hear claims arising under antitrust laws. The intent was to allow courts to resolve disputes relating to network neutrality issues on a case-by-case basis under the antitrust laws.

### **VOIP Providers**

An amendment by **REPS. GIL GUTKNECHT, R-Minn., ALLEN BOYD, D-Fla., IKE SKELTON, D-Mo., STEPHANIE HERSETH, D-S.D., BART STUPAK, D-Mich., and JOHN E. PETERSON, R-Pa.**, (adopted by voice vote) stating that the bill should not be construed to exempt providers of voice-over-Internet-protocol (VOIP) services — i.e., telephone service that uses the Internet — from requirements imposed by the FCC or state commissions on all VOIP providers, including requirements that VOIP providers make contributions to the federal universal service fund if they connect with local carrier networks or that they pay appropriate compensation to other providers for using their facilities and equipment to transmit VOIP service, as other carriers do.