

Before the  
U.S. COPYRIGHT OFFICE  
LIBRARY OF CONGRESS  
Washington, DC 20559

In the Matter of

Satellite Television Community Protection and  
Promotion Act of 2019 Study

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Docket No. 2020-13

COMMENTS OF THE  
NATIONAL ASSOCIATION OF BROADCASTERS

I. INTRODUCTION AND SUMMARY

The National Association of Broadcasters (NAB)<sup>1</sup> welcomes the opportunity to provide comments in response to the U.S. Copyright Office’s initiation of a statutorily mandated study<sup>2</sup> on the state of the television market after the passage of the Satellite Television Community Protection and Promotion Act of 2019.<sup>3</sup>

The STCPPA eliminated certain aspects of the distant signal license for satellite carriers, found in 117 U.S.C. § 119 of the Copyright Act, which were set to expire at the end of 2019. The Act revised and made permanent other more narrow aspects of the license to allow satellite carriage of “distant” (i.e., out-of-market) TV station signals only to subscribers’

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<sup>1</sup> NAB is a nonprofit trade association that advocates on behalf of free local radio and television stations and broadcast networks before Congress, the Federal Communications Commission, the Copyright Office, other federal agencies and the courts.

<sup>2</sup> *Satellite Television Community Protection and Promotion Act of 2019 Study: Notice and Request for Public Comment* (Notice), 86 Fed. Reg. 578 (Jan. 6, 2021).

<sup>3</sup> Satellite Television Community Protection and Promotion Act of 2019 (STCPPA or the Act), Pub. Law 116-94, 133 Stat. 2534, 3201-03 (2019).

recreational vehicles and commercial trucks and to “short markets” that lack one or more of the four most widely available broadcast TV network stations.<sup>4</sup> STCPPA also conditioned a satellite carrier’s use of the revised distant signal license on its delivery of local television broadcast signals to all 210 designated market areas (DMAs)<sup>5</sup> and established a transition period (through May 31, 2020) during which satellite TV subscribers who were no longer eligible to receive distant network signals under the new license could continue to receive those signals.<sup>6</sup>

By permitting aspects of the distant signal license to expire, Congress intended to encourage section 119 licensees to provide their subscribers access to local news and programming, rather than out-of-market programming, by carrying the signals of local, rather than distant, television stations. Congress observed that the section 119 license had provided “a below-market incentive for a mature satellite industry to restrict local news transmission.”<sup>7</sup> In revising the distant signal license, Congress recognized the importance of ensuring that consumers have access to locally oriented programming available via their local broadcast television stations, including news, weather and critical emergency information.

The Notice now seeks comment on whether the STCPPA appropriately incentivizes satellite carriers to provide local network signals to their residential subscribers, as well as the impact of the changes to the section 119 license on recreational vehicle and

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<sup>4</sup> STCPPA, Pub. Law 116-94, 133 Stat. 2534, 3201-03 (2019).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Staff of H.R. Comm. on Appropriations, 116th Cong., Further Consolidated Appropriations Act, 2020, Legislative Text and Explanatory Statement (Comm. Print 2020).

commercial truck subscribers and on those subscribers in short markets. NAB continues to believe that Congress's decision to narrow the section 119 license remains the correct one. NAB had previously explained that the distant signal license, with royalties substantially lower than the carriage fees negotiated in the free market by other pay TV providers, constituted a below-market subsidy to billion-dollar companies and acted as an incentive for satellite companies to deny viewers their necessary local programming.<sup>8</sup> Nothing that has occurred following passage of the STCPA changes NAB's view of the television market, the incentives of satellite TV operators or broadcasters' commitment to provide local TV service to viewers in all markets.

**II. THE REVISED SECTION 119 LICENSE HAS NOT IMPACTED THE ABILITY OF BROADCASTERS TO PROVIDE COMPARABLE TELEVISION SERVICE TO HOUSEHOLDS PREVIOUSLY SUBJECT TO THE LICENSE.**

The expiration of aspects of the section 119 license has not impacted broadcasters' ability or willingness to ensure that all television viewers have access to network stations. Throughout and following the legislative process, broadcasters have shown their willingness to meet the satellite carriers more than half-way. For example, to ensure that subscribers continued to have access to out-of-market network programming even after the planned expiration of the section 119 license, broadcasters supported a provision in the STCPA that granted the satellite carriers a transition period until May 31, 2020.

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<sup>8</sup> *STELAR Review: Protecting Consumers in an Evolving Media Marketplace*: Hearing Before the Subcomm. on Communications and Technology, House Energy and Commerce, 116<sup>th</sup> Cong. (June 4, 2019) (Statement of Gordon H. Smith, President and CEO, National Association of Broadcasters), available at: [https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Testimony\\_Smith.pdf](https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Testimony_Smith.pdf).

NAB does not have data on how many households that were previously eligible for the distant signal license now receive local signals. Such data would be known only to satellite carriers. But to the extent that unserved households that did not previously receive the signals of local network stations still do not receive those stations, it is not because of technological infeasibility on the part of section 119 licensees or a lack of will on the part of broadcasters. Broadcasters remain ready and willing to engage in negotiations for carriage of broadcast signals that will benefit consumers, satellite carriers and local stations.

### **III. NAB BELIEVES THE REVISED SECTION 119 LICENSE INCENTIVIZES SATELLITE CARRIERS TO DELIVER LOCAL CONTENT RELEVANT TO THEIR SUBSCRIBERS IN UNSERVED HOUSEHOLDS**

NAB shared Congress's concerns that the previous section 119 license under STELAR provided a financial incentive to satellite carriers to import out-of-market stations at a below-market, government-set rate rather than carry local channels at rates set via free-market negotiations between the satellite companies and broadcasters. NAB believes that the distant signal license, as narrowed by STCPA, has already encouraged a more active market for collaboration with section 119 licensees, and broadcasters continue to demonstrate their willingness to engage in carriage negotiations with section 119 licensees to ensure that subscribers receive the local broadcast news, weather and emergency information they need.

### **IV. CONCLUSION**

The revised section 119 license has incentivized satellite carriers to provide local programming for their subscribers by encouraging a robust marketplace for carriage negotiations. Broadcasters have demonstrated their willingness to engage constructively with satellite carriers to ensure that all television viewers have access to network stations,

especially their local broadcast signals. Broadcasters plan to continue productive collaboration with the satellite companies.

Respectfully submitted,

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BROADCASTERS**

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