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(Original Signature of Member)

109TH CONGRESS
1ST SESSION

H. R. _____

To promote deployment of competitive video services and eliminate redundant and unnecessary regulation.

IN THE HOUSE OF REPRESENTATIVES

Mrs. BLACKBURN (for herself and Mr. WYNN) introduced the following bill; which was referred to the Committee on _____

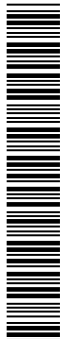
A BILL

To promote deployment of competitive video services and eliminate redundant and unnecessary regulation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Video Choice Act of
5 2005”.



1 **SEC. 2. ESTABLISHMENT OF VIDEO CHOICE REGULATORY**
2 **RELIEF.**

3 The Communications Act of 1934 (47 U.S.C. 151 et
4 seq.) is amended by adding at the end the following new
5 title:

6 **“TITLE VIII—VIDEO CHOICE**
7 **REGULATORY RELIEF**

8 **“SEC. 801. DEFINITIONS.**

9 “(a) **COMPETITIVE VIDEO SERVICES PROVIDER.**—
10 For purposes of this title, the term ‘competitive video serv-
11 ices provider’ means any provider of video programming,
12 interactive on-demand services, other programming serv-
13 ices, or any other video services, who has, pursuant to any
14 Federal, State, or local law, any right, permission, or au-
15 thority to establish or use lines in or across public rights-
16 of-way, which right, permission or authority does not rely
17 on, and is independent of, any cable franchise obtained
18 pursuant to section 621.

19 “(b) **OTHER TERMS.**—For the purposes of this title,
20 any term used in this title that is defined by section 602
21 has the meaning provided by that section.

22 **“SEC. 802. REGULATORY RELIEF.**

23 “(a) **REDUNDANT FRANCHISES PROHIBITED.**—Not-
24 withstanding any other provision of this Act, no competi-
25 tive video services provider may be required, whether pur-
26 suant to section 621 or to any other provision of Federal,



1 State, or local law, to obtain a franchise, in order to pro-
2 vide any video programming, interactive on-demand serv-
3 ices, other programming services, or any other video serv-
4 ices in any geographic area if the provider has, pursuant
5 to any Federal, State, or local law, any right, permission,
6 or authority to establish lines in or across public rights-
7 of-way in such geographic area, which right, permission
8 or authority does not rely on, and is independent of, any
9 cable franchise obtained pursuant to section 621.

10 “(b) FEES.—

11 “(1) FEES PERMITTED.—Any competitive video
12 services provider may be subject to the payment of
13 fees to a local franchising authority, based on the
14 gross revenues of the provider within the jurisdiction
15 of such franchising authority, subject to the limita-
16 tions of paragraph (2).

17 “(2) LIMITS ON FEES.—In determining the fees
18 that may be required under paragraph (1)—

19 “(A) the rate at which fees are imposed
20 shall not exceed—

21 “(i) the rate at which franchise fees
22 are imposed on any cable operator pro-
23 viding cable service in the jurisdiction of
24 the franchising authority, as determined in



1 accordance with section 622 and any re-
2 lated regulations; or

3 “(ii) in any jurisdiction in which no
4 cable operator provides service, no more
5 than the rate at which franchise fees could
6 be imposed rate on a cable operator in ac-
7 cordance with section 622 and any related
8 regulations; and

9 “(B) the only revenues that shall be con-
10 sidered are those attributable to services that
11 would be considered in calculating franchise
12 fees if the provider were deemed a cable oper-
13 ator for purposes of section 622 and any re-
14 lated regulations.

15 “(3) ITEMIZED BILLING PERMITTED.—The
16 competitive video services provider may designate
17 that portion of the end user’s bill attributable to the
18 fee under this subsection as a separate item on the
19 bill.

20 “(c) REGULATORY TREATMENT.—

21 “(1) OBLIGATIONS AND DUTIES.—Any competi-
22 tive video services provider shall—

23 “(A) be subject to the retransmission con-
24 sent provisions of section 325(b);



1 “(B) carry, within each local franchise
2 area, any public, educational, or governmental
3 use channels that are carried by cable operators
4 within such franchise area, and, in any fran-
5 chise area not served by a cable operator, pro-
6 vide reasonable public, educational or govern-
7 mental access facilities pursuant to section 611;

8 “(C) carry the signals of local commercial
9 television stations as required by section 614;

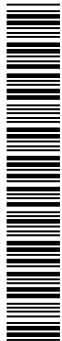
10 “(D) carry the signals of local noncommer-
11 cial educational television stations as required
12 by section 615;

13 “(E) not deny services to any group of po-
14 tential residential subscribers because of the in-
15 come of the residents of the local area in which
16 such group resides;

17 “(F) be entitled to the benefits and protec-
18 tion of section 628;

19 “(G) protect the personally identifiable in-
20 formation of its subscribers in the same manner
21 as is required of cable operators with respect to
22 subscribers to cable services under section 631;

23 “(H) comply with any consumer protection
24 and customer service requirements promulgated



1 by the Commission pursuant to section 632;
2 and

3 “(I) be entitled to the benefits and protec-
4 tion of section 633;

5 “(J) be subject to the requirements of sec-
6 tion 641;

7 “(K) be subject to the prohibition on buy
8 outs of or by the incumbent cable operator
9 under section 652; and

10 “(L) not be subject to any other provisions
11 of title VI of this Act.

12 “(2) DETERMINATIONS OF LOCAL SIGNALS.—

13 For purposes of complying with paragraphs (1)(C)
14 and (D), a competitive video service provider shall
15 treat as local television stations with respect to a
16 customer located within the jurisdiction of any fran-
17 chising authority the same stations that are treated
18 as local television stations for a cable system located
19 within such jurisdiction.

20 “(d) OTHER REGULATION PROHIBITED.—Except to
21 the extent expressly provided in this title, neither the Com-
22 mission nor any State or political subdivision thereof may
23 regulate the rates, charges, terms, or conditions for, entry
24 into, exit from, deployment or provision of, or any other



1 aspect of the services provided by a competitive video serv-
2 ices provider.

3 “(e) STATE AND LOCAL GOVERNMENT AUTHOR-
4 ITY.—Except as provided in subsection (a), nothing in this
5 section affects the authority of a State or local government
6 to manage the public rights-of-way. ”.

7 **SEC. 3. REGULATION OF COMMON CARRIERS.**

8 Section 651(a)(3) of the Communications Act of
9 1934 (47 U.S.C. 571(a)(3)) is amended—

10 (1) by striking “or” at the end of subparagraph
11 (A);

12 (2) by striking the period at the end of sub-
13 paragraph (B) and inserting “; or”; and

14 (3) by adding at the end the following new sub-
15 paragraph:

16 “(C) if such carrier is a competitive video
17 services provider providing video programming
18 pursuant to title VIII of this Act, such carrier
19 shall not be subject to the requirements of this
20 title except as provided in title VIII.”.

