To allow multichannel video programming distributors to provide video programming to subscribers on an a la carte basis, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2013

Mr. MCCAIN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To allow multichannel video programming distributors to provide video programming to subscribers on an a la carte basis, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Television Consumer Freedom Act of 2013”.

SEC. 2. DEFINITIONS.

In this Act—

(1) the term “a la carte” means offering video programming for purchase, whether on a wholesale or retail basis, on an individual, per-channel basis
rather than as part of a package or tier of video pro-
gramming;

(2) the terms “channel”, “multichannel video
programming distributor”, and “video program-
ming” have the meaning given those terms in section
602 of the Communications Act of 1934 (47 U.S.C.
522);

(3) the term “Commission” means the Federal
Communications Commission;

(4) the term “local commercial television sta-
tion” has the meaning given that term in section
614(h) of the Communications Act of 1934 (47
U.S.C. 534(h));

(5) the term “qualified local noncommercial
educational television station” has the meaning
given that term in section 615(l) of the Communica-
tions Act of 1934 (47 U.S.C. 535(l)); and

(6) the term “video programming vendor” has
the meaning given that term in section 76.1300 of
subpart Q of part 76 of subchapter C of chapter I
of title 47, Code of Federal Regulations (47 C.F.R.
76.1300).

SEC. 3. A LA CARTE CHANNELS OF VIDEO PROGRAMMING.

(a) IN GENERAL.—Except as provided in section
623(b)(7) of the Communications Act of 1934 (47 U.S.C.
343(b)(7)), and notwithstanding any other provision of law, or any regulation prescribed by the Commission, a multichannel video programming distributor may provide subscribers with any channel of video programming on an a la carte basis.

(b) INCENTIVES TO OFFER CHANNELS OF VIDEO PROGRAMMING ON AN A LA CARTE BASIS.—Notwithstanding any other provision of law, or regulation prescribed by the Commission—

(1) the retransmission by a multichannel video programming distributor of a local commercial television station that has elected retransmission consent under section 325(b) of the Communications Act of 1934 (47 U.S.C. 325(b)) shall not be subject to the statutory license under sections 111(c) and 122 of title 17, United States Code, if the multichannel video programming distributor does not offer such local commercial television station, and any other channels of video programming under common control with such local commercial television station, for purchase by subscribers on an a la carte basis;

(2) a local commercial television station may not elect retransmission consent under section 325(b) of the Communications Act of 1934 (47
U.S.C. 325(b)) or avail itself of the protections of
the network program non-duplication and syndicated
exclusivity regulations under subpart F of part 76 of
subchapter C of chapter I of title 47, Code of Fed-
eral Regulations (47 C.F.R. 76.92 et seq.), if such
local commercial television station, and any other
channels of video programming under common con-
trol with such local commercial television station, is
not made available to multichannel video program-
ing distributors for purchase or sale on an a la
carte basis; and

(3) a video programming vendor may offer a
channel of video programming for purchase by a
multichannel video programming distributor as part
of a package of video programming only if such
video programming vendor also offers such channel
of video programming for purchase by the multi-
channel video programming distributor on an a la
carte basis.

(e) MINIMUM CONTENTS OF BASIC TIER.—The Com-
munications Act of 1934 (47 U.S.C. 151 et seq.) is
amended—

(1) in section 623 (47 U.S.C. 543)—

(A) in subsection (b)(7)(A)—

(i) by striking clauses (i) and (iii);
(ii) by redesignating clause (ii) as clause (i); and

(iii) by adding at the end the following:

“(ii) All local commercial television stations and qualified low power stations carried in fulfillment of the election under section 325(b) by the station of its right to mandatory carriage under section 614.

“(iii) All qualified local noncommercial educational television stations carried in fulfillment of a request for carriage under section 615.”; and

(B) in subsection (l), by adding at the end the following:

“(3) The terms ‘local commercial television station’ and ‘qualified low power station’ have the meaning given those terms in section 614(h).”;

(2) in section 614(b) (47 U.S.C. 534(b))—

(A) by striking paragraph (6) and redesignating paragraphs (7), (8), (9), and (10) as paragraphs (6), (7), (8), and (9), respectively; and

(B) in paragraph (6), as redesignated, by striking “Signals carried in fulfillment of the
requirements of this section’’ and inserting ‘‘All
local commercial television stations and quali-
fied low power stations carried in fulfillment of
the election by the station of its right to man-
datory carriage under this section’’; and

(3) in section 615(h) (47 U.S.C. 535(h)), by
striking ‘‘lowest priced service tier that includes the
retransmission of local commercial television broad-
cast signals.’’ and inserting ‘‘basic service tier.’’.

(d) DISCLOSURE REQUIREMENT.—If a multichannel
video programming distributor and a video programming
vendor fail to reach agreement regarding the terms, in-
cluding price, for the purchase by the multichannel video
programming distributor of the right to provide sub-
scribers with a local commercial television station or other
channel of video programming from the video program-
ning vendor on an a la carte basis, the multichannel video
programming distributor and the video programming ven-
dor each shall disclose to the Commission the terms of
the most recent offer made by the multichannel video pro-
gramming distributor and the video programming vendor,
respectively.

SEC. 4. SPECTRUM USE IN THE PUBLIC INTEREST.

Section 325(b) of the Communications Act of 1934
(47 U.S.C. 325(b)) is amended—
(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) after paragraph (5), by inserting the following:

“(6) PARITY FOR OVER-THE-AIR AND MULTICHANNEL VIDEO PROGRAMMING VIEWERS.—

“(A) IN GENERAL.—A television broadcast station that does not retransmit the signal over-the-air that is identical to the signal retransmitted to a multichannel video programming distributor shall forfeit any spectrum license of such television broadcast station.

“(B) REALLOCATION AND REASSIGNMENT OF SPECTRUM LICENSE.—Any spectrum license forfeited pursuant to subparagraph (A) shall be reallocated and reassigned by the Commission pursuant to section 309(j).

“(C) EXCEPTION.—Subparagraph (A) shall not apply to content that is a commercial advertisement that is not more than 60 seconds in duration.

“(D) DEFINITIONS.—In this paragraph—

“(i) the terms ‘multicast stream’ and ‘primary stream’ have the meaning given
those terms in section 119(d) of title 17,
United States Code; and

“(ii) the term ‘multichannel video pro-
gramming distributor’ has the meaning
given that term in section 602 (47 U.S.C.
522).”.

SEC. 5. SPORTS BLACKOUT REPEAL FOR PUBLICLY FI-
NANCED STADIUMS.

The Commission shall amend subpart F of part 76
of subchapter C of chapter I of title 47, Code of Federal
Regulations (47 C.F.R. 76.92 et seq.), to prohibit the ap-
plication of sports blackout regulations to the broadcast
of a sporting event taking place in a venue the construc-
tion of which was financed, in whole or in part, by the
Federal Government or a State or local government.