GS&C/OLS Form (Rev 10/86)

CONGRESSIONAL RECORD
PROCEEDINGS AND DEBATES OF THE 100TH CONGRESS

HOUSE

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H.R 2848	Mar 22, 1988 36	H1028-32

ACTION REMARKS BY MR. OLIN, ET.AL.

Mr OLIN Mr Speaker, just about a month ago today, I held a special order for the purpose of trying to emphasize to Members of the House the importance of trying to bring to rural and mountainous regions of our districts, to those residents who have satellite dishes and whose signals have been scrambled by the broadcasters of satellite programs, to support the availability of signals and programming to those people at fair cost on an equitable basis

At that time two of our colleagues joined me on the floor, the gentleman from New York [Mr MARTIN], and the gentlewoman from Nevada [Mrs VUCANOVICH], the gentleman from Wisconsin [Mr KASTENMEIER] and the gentleman from Vermont [Mr JEFFORDS], made 1-minute statements regarding support of signal access in their areas Mr Speaker, in addition, 21 other Members of the House submitted statements for the RECORD

This broad showing of support continues to emphasize the need for congressional action on this issue The purpose of this special order today is to provide time for those who could not be heard 1 month ago to now come to the floor and make their statements

Mr Speaker, satellite dishes are the only means that many residents of rural areas have to get television signals It may sound strange to those who live in urban areas that many of our citizens in mountainous areas far away from cities and towns, that many of these people have never been able to receive good television programming

This began to change with the use of satellites to transmit television signals Rural families began to purchase home satellite dishes which cost them between $2,000 and $5,000 For the first time these families were able to get the same television programs as everybody else and they began to participate in the information age

Then many of these programmers who were concerned that they were not being paid properly for their programming, at least to the dish owners, began to scramble their signals This left additional owners confused and frustrated They had invested all this money and they do not know how much programming will be scrambled or whether they will be able to buy the programming or not No one is saying The dish owners do not say that they should be able to obtain privately owned programming for nothing, but they should be able to purchase the programming at a fair price and in an equitable manner on the same terms as people on cable systems

There are two bills before Congress which would support the policy of equitable access and fair pricing for home dish owners They are the Satellite Home Viewer Copyright Act, H R 2848, and the Satellite Television Fair Marketing Act, H R 1885

H R 2848 is sponsored by our colleague the gentleman from Wisconsin [Mr KASTENMEIER], who also chairs the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, of the Committee on the Judiciary, which is the subcommittee considering this bill This bill would modify the copyright law so that dish owners can legally be sold programming of independent stations which are transmitting these signals over satellite This bill also establishes a method for the owners of copyrights to be paid for this programming

As I understand it, hearings on this bill have been completed in subcommittee and the gentleman from Wisconsin [Mr KASTENMEIER], the chairman of the subcommittee, has announced that the bill will be marked up in the Committee on the Judiciary in the near future

Mr Speaker, H R 1885, sponsored by our friend the gentleman from Louisiana [Mr TAUZIN], and at least up to the present time this bill does not seem to be moving

The basic principle of this bill is the right to buy The intent is to establish a system where dish owners can buy programming and buy it at a fair price

The bill is in the Committee on Energy and Commerce, Subcommittee on Telecommunications and Finance That subcommittee held a hearing on the bill last summer, a hearing that was very well attended but there has not been any subsequent action

Mr Speaker, it is time that more hearings be held and the bill be reported on

Mr Speaker, at this time I will yield to my colleagues who have come into the Chamber and would like to participate in this special order I yield first to the gentleman from Alabama [Mr HARRIS]

Mr HARRIS Mr Speaker, I rise to join my colleagues in calling for the House's quick consideration and passage of this legislation This is a field in which the development of technology has outpaced our legal system, and we do not have a fair and efficient way for protecting the rights of both programmers and viewers

My district, like that of many other members, has large rural areas and a number of small towns These areas are not served by any cable system They are far removed from VHF broadcast stations and the few UHF stations have even more limited broadcast ranges As a result, my constituents who live in these areas have a real interest in the Satellite Viewing Rights Act For them, satellite dish reception represents the only reliable way to receive even regular network programming In past generations rural life along with its many advantages, has also meant a certain degree of isolation With present-day broadcast technology, literally the entire world can be brought into the home Not only is the range of entertainment greatly exapanded, but the educational opportunities offered by this technology are unsurpassed

Unfortunately, at present the lack of uniform rules and the justifiable concern of program originators has resulted in conflicting standards and incompatible coding or scrambling technology My constituents are willing to pay a reasonable fee for the right to receive programming What they object to is the multiplicity of decoding devices and the ever-multiplying fees which are being assessed by broadcasters and cable companies seeking to expand their base

Mr Speaker, my people recognize that those who originate and broadcast these programs deserve compensation for their efforts, and as I said before, they are willing to pay a reasonable fee for the privilege of receiving these broadcasts What we in the Congress must do, and do without further delay, is provide a system which fairly addresses the needs of all groups involved in this issue We must bring stability and predictability to this new technological frontier

Mr OLIN Mr Speaker, I thank the gentleman from Alabama [Mr HARRIS] for his comments I know he is going to help those of us who are interested in this subject to do all we can to push these bills in the committee they are in

Mr Speaker, I now yield to the gentleman from Louisiana [Mr TAUZIN], who is the principal sponsor of H R 1885 I have complimented him on his work in this regard and I look forward to what he has to say

Mr TAUZIN Mr Speaker, I want to thank the gentleman from Virginia [Mr OLIN] for yielding me this time I wish to compliment the gentleman from Virginia for taking this special order to talk about an issue that is to so important to so many people of America, not just rural Americans but Americans who live in urbanized areas and have not yet been touched by cable, and even to those cable subscribers who would like to know that there is competition going on out there to make sure that cable rates are fair and equitable

Mr Speaker, we deregulated cable recently

□ 1530

When we deregulated cable, we did it with the understanding that there would be competition for signals that would be brought to Americans via the satellite, and as a matter of fact, the courts recently upheld that deregulation and said that cable companies under that bill have exclusive right to set their own rates in cities that are served by more than three stations over the air broadcasting As a conse-

quence, it is important that there be some competition out there to hold down the charges that Americans pay for satellite television services, whether they are delivered via cable or via the special process of a home satellite dish

Let me compliment, first of all, the cable industry They have done a good job for America It has brought programming to American homes that the networks and theatrical producers in Hollywood might never have thought to bring to us It is some delightful and interesting programming, varied, and in ways enlightening, entertaining, and informational

I was at the Ace Awards in Los Angeles when cable celebrated its very most recent successes in that type programming They are to be congratulated and encouraged in their work

At the same time it is important for those consumers who live outside cable areas, particularly in the rural parts of America or the urbanized parts that do not have a cable in front of their homes that they have access to that same programming That is what our bill is all about, to guarantee equal, fair access to the programming

We have some good and bad news for you Since we have had our hearings, we have been encouraging the cable industry, which controls much of the programming, by the way, to open its doors and to allow some competition to flourish We have been encouraging it, the good news is that the rates that HBO and ShoTime and others charge home satellite dish-owners to descramble their product has come down to much more reasonable rates, but the bad news is it has not come down enough

The truth is when you buy those programs over the cable that part of your subscription fee goes to pay for the plant, the plant of the cable and the wire and the equipment and machinery and the buildings that provide that service to you over the cable But when you buy your own home satellite dish, you are buying your own plant You ought to get some benefit in the subscription rate, but we do not in rural America

As a matter of fact, there is not yet a distributor of products outside of the cable-owned or controlled companies that is now offering a full range of programs in a package to rural America There is one trying hard, the NRTC, which has been organized, and for a year now has been trying to negotiate the rights to sell programming to rural America outside of the cable-controlled operations of the programmers themselves

Let me tell the bad news The bad news is that they have yet to sign up one of those premier theatrical producers from Hollywood Why? Because they are controlled by the cable companies the big cable companies, and the big cable companies are becoming more and more controlled by a few people TCI for example, just recently bought rights and policy control to Turner Broadcasting, and you can see a consolidation of control occurring in cable programming that is not going to help competition

What we are promoting is a bill that says to NRTC and to other people who want reputable people who want to distribute those programs in a package at fair pricing to Americans, there ought to be a vehicle to do that The law ought to say that Americans have a right to packaging of programming on their satellite dish just as we have a right to packaging on cable, with competition working in the marketplace giving all consumers in America, whether you live in a remote mountainous area, a distant Plains State, or the Bayou country of Louisiana, the right to receive those signals just as if you lived in a heavily cabled area That is what the bill is all about It is a good bill, out of the Senate committee, and we on the House side are going to have an oppportunity later this year hopefully to see some action on our bill on the House side

We need your help We need other Members, and other Members who are not part of your committee, especially, to join with us in cosponsoring, to join with the millions of rural Americans who want a chance to see and enjoy the informational, educational, entertainment programming that so many in America have a right to see and enjoy via cable We need to have competition is all we are asking for, and rural America deserves it

Mr OLIN I thank the gentleman for his comments He is right on target There is no question that what we really need is a vehicle that allows the competition and packaging not only to start but to flourish That is the only way

Mr TAUZIN Mr Speaker, will the gentleman yield?

Mr OLIN I would certainly yield to the gentleman from Louisiana

Mr TAUZIN The gentleman put his finger on the right word, that is, fair packaging and the pricing

Right now if you own a satellite dish and buy a descrambler or you get one of the black market descramblers, and there are many out there, by the way, unfortunately, if you have a descrambler and you want to buy the programming, you can buy it on an a la carte basis, on a very expensive one-time shot program from the programmer But if you want a fair list of packages, if you want to buy them in a package the same way you buy programs in a package from a cable company, you have a tough time doing it unless you buy it from a cable controlled company

Again, what we are saying is there ought to be fair packages at fair, competitive rates The gentleman from Virginia put his finger on it, fair packaging offered to American consumers, and Americans will be treated fairly in the television world

Mr OLIN I wonder if I could give the gentleman from Louisiana some information I picked up from one of my cities

In addition to availability has been the pricing Some of my constituents who have dishes have given me this information

Right in the center of my district, if you are a cable subscriber in that particular area, you pay $12 75 a month for the basic program This is a basic mix of programs, a package If you are a dish owner in that same area, you pay not $12 75 but $19 a month, and furthermore, you have to pay a year in advance, $228, that is for the basic

If you want an add-on package, that is, 15 more channels and you are a cable subscriber, you pay $5 95 a month, but if you are a dish owner, you can get a package that happens to be only 14, not 15 You will have to pay $20 a month, not $5 95, and you are going to have to pay a year in advance, $240 up front

Does the gentleman from Louisiana hear the same kinds of things in his area?

Mr TAUZIN Mr Speaker, will the gentleman yield?

Mr OLIN Absolutely, I will yield to the gentleman from Louisiana

Mr TAUZIN Yes, we hear it all over America While prices have come down on the a la carte charges, nevertheless, when you total them up as a cable subscriber would pay for total programming in a package, the prices are exorbitantly high to the home satellite dish consumer, and that is not fair

The rural consumer ought to have the same, indeed, fair rates of pricing for packages that are available over the cable

Let me add an insult to injury for a minute It is not just the HBO's and the ShoTimes and the Disneys that are scrambling the signals The networks are talking about scrambling, too, and when the national networks begin their scrambling, and they want to do it for good reason, they want to protect their up link signal, because that is an unprotected kind of conversation, to make sure that people are not receiving it and perhaps they would be subject to some sort of suit or damage or lose the confidentiality of a conversation on the up link side

When they begin scrambling their down link signals, they will begin denying to rural Americans the same commercial television programming that is now available to others over the air broadcasting

Let me be more specific In many areas of America, television signals cannot arrive The only way they can see NBC, CBS, or ABC is to see it over satellite with a home dish

When those signals are scrambled, unless there is provision made for the rural consumer to unscramble those network signals, he will be denied the variety of network programming that we pay for, by the way, when we go to

the supermarket My point of view is when you buy the soap you ought to be able to see the soap opera, too That is what it is all about in commercial television We ought to have a way that the networks make sure that the rural signal is available to the consumers Several networks are trying to do that, but one is holding back, and we should get the networks to come across by yielding to the consumer, I believe, legitimate requests to see their down link signals in the rural parts of America Then we will have a better world of satellite viewing as well

So it is a twofold problem, the problem of the specialized HBO's and Sho-Time programming that is typically seen on cable, or the programming that we normally see over the air of broadcasts from the networks Both types of scrambling pose new problems for consumers in America, and as the gentleman from Virginia pointed out, they create a situation where prices are not fairly apportioned across the breadth and width of our land

Mr OLIN The gentleman really makes a good point here

It is true that this subject of scrambling started sort of gradually It started out with HBO and Cinemax a couple of years ago Everybody was shocked when that started to happen We have gotten past that That is gradually being worked out to some degree, but now it looks as though almost all the signals are going to end up being scrambled in some form, and the poor rural American that has a dish and paid $4,000 for the dish, and he paid $400 for a descrambler, and now he wants a reasonably fair deal on the availability of signals that he can get into his descrambler, it is not yet clear how that is going to happen Unless we find some way of providing facilities of packaging so intermediate brokers, if you want to call them that or distributors, can make the arrangements to provide different package options for different homeowners according to their needs and desires, rural America is not going to have the privilege that people who live in cities have when they have access to a cable system

Mr TAUZIN If the gentleman will yield, I would love to be able to tell him that legislation is not going to be necessary I would love to be able to tell him that our hearings and experience in the real world of telecommunications is resulting in a free and fair competitive marketplace for rural consumers

Unfortunately, I think legislation just might be necessary Let me give you an example Two years ago, the Disney channel representatives came before our committee and assured us that they would negotiate a contract with the Rural Telecommunications Corp , the same group trying to put together a package for rural America, 2 years ago They have yet to negotiate a contract That is how slowly the cable industry and the producers have moved to this independent form of packaging and sale of the product in America

If you did not have consolidation of the cable industry, if there was great competition there, then you might not need third-party packaging, but as the cable industry consolidates and as Americans in rural parts of our country find they have to pay these kinds of charges to see what many of us have a right to see because we live near a cabled-up area, then you get the feeling that maybe we need to push this legislation Maybe we need to pass it this year to guarantee those rights to rural Americans

Mr OLIN I thank the gentleman for his observations

I would like to call to his attention, as he knows, that there are two companion bills, H R 2848, which is in the subcommittee of the gentleman from Wisconsin [Mr KASTENMEIER] He thinks he is going to be able to get some movement on that bill I hope he is right I am all for him, and I hope that the gentleman from Louisiana is successful in getting some movement on his bill sometime this year, because it is very clear that the market really has not formed in an effective way at this time

There is unavailability of signals Some people still like the idea of being able to charge exorbitant amounts for their signals, and they do not make them available except on a preferential basis, and that really has to stop

Then there is the question of putting together reasonable packages so that the home dish individual gets the same kind of a deal that somebody that lives in a city and has access to cable gets

Mr TAUZIN Let us talk about another issue, that of fairness When General Instruments, the original maker of this decoder, and that was the centerpiece of the scrambling-descrambling movement here in telecommunications from satellite, when they first appeared before our committee, they guaranteed us their equipment was foolproof, that no pirate could come in and produce a pirated type of equipment from which others could steal the signal Let me tell the gentleman what he is finding out in the market Piracy is rampant We understand the latest pirated black box or phony decoder being sold to consumers out there is undetectable by General Instruments, so here we have some people who buy their satellite dish, who go through the process of correctly buying a decoder and paying these prices the gentleman pointed out, trying to do it the right way, the legal way, when maybe next door, across the street or across the next mountain, somebody else has a pirated box and is getting the signal free

The system is not working well, and the system will not work well until there is fair pricing and adequate programming available

As long as the pressure to cheat is there, some young genius is going to be out there in his back garage figuring out how to pirate that macom decorder It is happening now Piracy is rampant

If we are going to have a good system by which pay programs are properly paid for, we ought to have a system where the pricing and the packaging is there, where pirating is not encouraged but, rather, discouraged

Mr OLIN That is a very good factor to bring up

I would like to comment also that it really is not the function of Congress to dictate the detailed pricing and the arrangements in a market like this It is too complex We ought to leave that to the private market system, but we have got to establish the structure that permits a free market to function properly, because the free market finally will bring equity to people if it is open and available to everybody

Mr TAUZIN The gentleman makes a good point which maybe I can stress again

□ 1545

The bill we have offered to Congress and are asking Members to consider cosponsoring and joining with us on is not a bill to regulate pricing, it is a bill simply to insure fair competitive marketplace, where the marketplace will set the price but in a way that guarantees that there will be competition working

You see, a fair competitive marketplace does not work when there is only one group of people controlling the pricing out there That is our problem today If we can somehow overcome that, the Government does not have to come in and set prices, the marketplace will do an adequate job of it That is all our bill does, it sets up a good, fair competitive marketplace

Mr OLIN That is why both of these bills ought to get the full support of all Members of Congress and move through these committees faster than they are moving

Mr TAUZIN I thank the gentleman for his special order and encourage him in his efforts to encourage support for the bill

Mr OLIN And I thank the gentleman for having initiated one of these bills and for all the work he is doing to get the bill passed

I yield to the gentleman from Kentucky [Mr ROGERS]

Mr ROGERS I thank the gentleman from Virginia for again holding this special order on an issue of real importance to rural areas, including mine as well

I am pleased to be a cosponsor again in this Congress of H R 1885, the satellite television fair marketing act

I thank the gentleman for his hard work in behalf of this and other legislation to help solve this critical problem

H R 1885 would do many things It would require that any programmer who offered his programs to cable also offer them to satellite dish owners It would require that all PBS and Armed Forces TV be available to dish owners without any scrambling, it would require there be one universal unscrambling system for all channels, it would make sure that prices are fair by having the Federal Trade Commission investigate the competitiveness of satellite TV, it would make sure that network programming is available to all those who cannot get such programs over-the-air

We have had hearings on this bill in both the 99th and 100th Congresses and dozens of people have testified What we need now is action, action on this bill by this House, by the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce and we need this bill to be marked up in that subcommittee so that we can have a vote on it here in the House

I have spoken to the Chairman Dennis Patrick of the Federal Communications Commission about the issue He and I do not agree on the issue I think the only way to resolve the conflict is through passage of H R 1885 We are not going to get an administrative solution to the problem

People in my district have written by the hundreds They are fair and reasonable people They want the chance to watch the same programs that their neighbors with cable can watch I really think we have got a question of free speech here as flagrant as any that you would find

Many people simply cannot get the cable because they live outside of the town or city or outside the reach of that cable system, outside the reach of an on the-air signal

They have invested thousands of dollars in buying what is their own cable system, their own satellite dish and they deserve to be able to have access to these same programs at a reasonable price And that is what H R 1885 would do I urge all of my colleagues in calling for immediate action on H R 1885 and, together, we can get this bill moving forward both in the subcommittee, the full committee and the House at large

Again, I want to thank the gentleman from Virginia for his leadership on this issue and congratulate him on this special order where we can have a chance to air our support for the measure

I thank the gentleman for yielding

Mr OLIN I thank the gentleman from Kentucky for his support and for his comments I am hoping that one of the results of this special order will be that not only our colleagues here in Washington are going to hear this but it is possible that this might be picked up by satellite and there might be quite a few others around the country hearing

I hope that the people who hear this message will be getting in touch with their Members of Congress, see if they cannot stimulate them a little bit

Mr ROGERS If the people who have communicated with me would communicate with those who are not yet on board, it would help a lot

Mr OLIN It would help a great deal

Mr Speaker, I think it is obvious that the issue of program access for home satellite dish owners is very important to a broad segment of the American public This situation is much like the situation in the 1930's when rural families did not have electricity

The Federal Government helped bring electricity to the rural areas and helped these rural families get electricity into their homes so they could have the same standard of living that was appreciated by other people in our country

Today we live in an information age, an age in which all of our citizens need access to information, the type of information provided by television, in order to fully participate in our society Our rural citizens also have the right to get the same entertainment programming that is available to those who live in cities and towns It is not just entertainment, it is information, it is news, it is analysis, it is history, it is our culture

I think that this is a problem of the right to buy Dish owners, program packagers and others should have a right to buy programming which is sent out over the public airways and over satellites which were put up there in the first place with the aid of taxpayer money They should have the right to buy this programming at a fair price and on an equitable basis

This right-to-buy is a policy issue that Congress should address The two bills before the House are complimentary methods of establishing this right to buy H R 2848, the Satellite Home Viewer Copyright Act reforms copyright law to get it in line with the new demands of satellite technology H R 2848 would establish the right to buy the programming of independent stations This bill is moving I want to commend Chairman KASTENMEIER for his work on this measure

H R 1885 would establish the right to buy all programming which is scrambled for resale This is an important measure which would support equitable access and fair pricing for dish owners

My colleague, BILLY TAUZIN of Louisiana has worked hard to draft this bill Unfortunately, the Subcommittee on Telecommunications and Finance has not seen fit to move the bill We should help all our citizens obtain full access to information and entertain ment services provided by television The current situation is unfair and it is time that it was fixed

I urge all of my colleagues, particularly those from rural districts and also those in urban districts to do whatever they can to speed action on this issue

Mr JEFFORDS Mr Speaker I commend the gentleman from Virginia [Mr OLIN] for reserving this special order today I have previously stated the importance to Vermonters of access to satellite programming at a reasonable price

Vermont is characteristically rural and hilly, the combination of which has made it very difficult to receive a good television signal If you don t live in a town that broadcasts a signal, then you probably have a hill between you and that signal blocking it

Satellite dish technology has changed a lot of that Many people living in rural Vermont have had, for the first time, access to a variety of quality programming News, sports, education, and entertainment programs are now available because these people have had the initiative to purchase a satellite dish

It should be noted that the vast majority of people who have purchased dishes in Vermont have done so not as an alternative to cable or local network, but because it is the only way they could ever hope to receive more than one or two channels Rural Vermonters have made a considerable investment in a dish in order to have access to programming that can enrich the cultural, political, and contemporary aspects of their daily lives

Dishowners in Vermont are not looking for any special treatment But neither do they want to be shut off from signals being reflected from satellites that have been put into space at Federal expense I think there is an argument here

In the 99th Congress I cosponsored legislation to protect satellite dishowners, and in the 100th, my colleague, Mr TAUZIN, has reintroduced this legislation as H R 1885 I am proud to be a cosponsor of this bill, the Satellite Television Fair Marketing Act

The bill says that if a programmer scrambles a signal and then sells it to someone, then he must offer it for sale to home satellite dishowners, and at a price comparable to those charged to cable subscribers

It directs the Federal Communications Commission to establish uniform standards for encription

H R 1885 also prohibits scrambling of taxpayer supported Public Broadcasting Service or Armed Service Radio programming intended for broadcast by television stations

Mr Speaker, since 1985 we have considered legislation to protect the rights of home dishowners and to allow them access to the same programming as their urban neighbors Today I join my colleagues in urging Chairman MARKEY to bring H R 1885 to the floor for a vote

Satellite dishowners in rural America deserve our attention They should not unfairly be shut off from the variety of news, educational and entertainment programming that is available to others

No one is asking for a free lunch, but merely a place at the table with the same menu

I ask my colleagues to join me in supporting this bill

Mr LUJAN Mr Speaker, I appreciate this opportunity to express my strong interest in seeing some attention paid to the rights of

home satellite dishowners during this 100th Congress

Usually, Mr Speaker, the longer a technology is around, the more accessible and less expensive it becomes Computers are a prime example of this process Who, 20 years ago, would have envisioned that computers would become household appliances for many?

Well, this principle, for a variety of reasons, just does not apply where satellite dishes for television reception are concerned In the last few years, dishowners have discovered that the television programming they once received for the cost of the dish now carries an additional price tag The same television shows that other Americans receive for free, or for a low subscriber cost, dishowners only receive if they ante up more money

Now, Mr Speaker, like many congressional districts across our Nation, the First Congressional District of New Mexico has areas that do not receive any local television signals Folks in my district, like Dale Hanson, have expressed to me the frustration they encounter in their efforts to simply receive television programming at a reasonable price I'm sure their views on this don't differ much from the millions of other dishowners in this country In other words, they are willing to pay their fair share for the programming and related services they receive

I am encouraged by the interest now being shown in satellite dish television by many rural cooperatives and the rural telephone companies Involvement by operations like this, I am sure, could certainly enhance viewing opportunities for many residents of rural areas, and additionally provide programmers access to this population

At the same time, because of the important matters at stake here, I believe serious congressional attention to the subject of satellite television is overdue More than the concept of a free and spirited marketplace is involved here There are constitutional questions to be addressed, and the rights of the broadcasters to be considered also These are clearly not minor considerations

For this reason, it is my hope that during the remaining months of this 100th Congress, the rights of home satellite viewers, along with the interests of those who provide this programming, will receive the active consideration they deserve