

Why GAO Did This Study

Most U.S. households rely on cable or satellite operators to watch television broadcast programming. These operators are able to provide their subscribers with broadcast programming—including local news—by retransmitting local broadcast television stations' over-the-air signals. Three statutory licenses permit operators to offer copyrighted broadcast programming in return for paying a government-set royalty fee. For 2014, these fees totaled about \$320 million. Congress created statutory licenses as a cost-effective way for operators to air broadcast programming without obtaining permission to do so from those that own the copyrights for this programming. However, changes in the video marketplace have led some industry stakeholders to question the need for the licenses.

The Satellite Television Extension and Localism Reauthorization Act of 2014 included a provision for GAO to review possible effects of phasing out the statutory licenses. This report addresses (1) what is known about the feasibility of phasing out the statutory licenses and (2) views of selected stakeholders on the implications of such a phaseout. GAO analyzed FCC's cable price data from 2010 to 2014 and the U.S. Copyright Office's royalty data from 2014, the most recently available; reviewed relevant laws and reports; and interviewed 42 industry stakeholders, selected for their role in the video marketplace and expertise on the issue.

View [GAO-16-496](#). For more information, contact Mark Goldstein at (202) 512-2834 or goldsteinm@gao.gov.

STATUTORY COPYRIGHT LICENSES

Stakeholders' Views on a Phaseout of Licenses for Broadcast Programming

What GAO Found

A phaseout of the statutory licenses for broadcast programming may be feasible for most participants in the video marketplace, although there may be statutory implications for the "carriage requirements" governing which local broadcast television stations are carried by cable and satellite operators. These licenses allow cable and satellite operators to carry copyrighted content, such as television shows and movies, embedded in local broadcast stations' signals to their subscribers' television sets without negotiating with individual copyright owners. At the same time, these cable and satellite operators also engage in market-based negotiations to make some or all of this content available in other contexts, such as online. Of the 42 selected stakeholders GAO interviewed, 21 either use the statutory licenses or have their content provided through the statutory licenses. 20 of these 21 stakeholders—including content producers, broadcast networks, and cable and satellite operators—also engage in market-based negotiations to license broadcast content for video-on-demand or online viewing. Therefore, for stakeholders representing these business interests, a market-based approach to licensing secondary transmission rights may be feasible. However, some participants in the video marketplace—most notably, public television and small cable operators—may face logistical challenges and financial constraints in the event of a phaseout of the statutory licenses.

Phasing out the statutory licenses could have implications for the "must-carry" and "carry-one, carry-all requirements," which require cable and satellite operators, respectively, to carry the signals of local broadcast television stations upon request. As GAO has previously reported, the must-carry requirement could become impractical if Congress phased out the statutory license that applies to cable operators, as these operators could find themselves in the paradoxical position of being required to transmit the copyrighted content on a local broadcast television station's signal for which they may not have the legal right to air. In addition, according to Federal Communications Commission (FCC) and the U.S. Copyright Office, the carry-one, carry-all requirement would no longer apply to satellite operators if the applicable statutory license were phased out because the requirement is premised on the use of the license.

The 42 selected stakeholders GAO interviewed varied in their support for a phaseout of the statutory licenses and many stakeholders were uncertain about the potential effects on the marketplace and consumers. For example:

- 15 supported a full or partial phaseout; 13 did not have a position; and 14 did not support a phaseout, because most believe the current system works,
- About half were uncertain how a phaseout would affect the video marketplace. This uncertainty stems from uncertainty over how the carriage requirements may change and the video marketplace would respond; 10 thought a phaseout would affect competition in the market, but differed on whether this would increase or decrease programming costs.
- 6 thought consumers' access to programming would be negatively affected, 7 thought diversity of programs offered would decrease, and 13 thought consumer prices would rise.