

AMENDMENT TO H.R. _____**OFFERED BY MR. DEAL OF GEORGIA****(Page & line references to Committee Print of April 26, 2004)**

At the end of title II add the following new section
(and conform the table of contents accordingly):

1 SEC. 209. INCENTIVE PROGRAM FOR INCREASED CHANNEL**2 SELECTION AND CHOICE.**

3 (a) DEFINITIONS.—For purposes of this section:

4 (1) COMMISSION.—The term “Commission”
5 means the Federal Communications Commission.

6 (2) MVPD.—The term “MVPD” means a mul-
7 tichannel video programming distributor, as such
8 term is defined in section 602(13) of the Commu-
9 nications Act of 1934 (47 U.S.C. 522(13)).

10 (3) A LA CARTE PROGRAMMING.—The term “a
11 la carte programming” means that subscribers are
12 offered the ability to select and pay for individual
13 channels of video programming without regard to
14 any tiers or packages that are also offered by the
15 MVPD.

16 (4) SPECIAL TIER PROGRAMMING.—The term
17 “special tier programming” means that subscribers
18 are offered the ability to select and pay for special



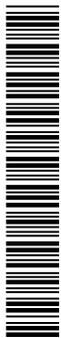
1 groupings of video programming channels without
2 regard to basic cable service or service tier, as such
3 terms are defined in section 602 of the Communica-
4 tions Act of 1934 (47 U.S.C. 522), that are also of-
5 fered by the MVPD.

6 (b) PROCEDURES REQUIRED.—Within 90 days after
7 the date of enactment of this Act, the Commission shall
8 prescribe rules to prohibit any MVPD from entering into,
9 after the date of enactment of this Act, any contract with
10 any video programming producer that would preclude the
11 MVPD from voluntarily offering a la carte or special tier
12 programming to the MVPD's subscribers. Such rules
13 shall—

14 (1) permit any MVPD system that agrees to
15 offer a la carte or special tier programming to con-
16 tinue to offer tiers, packages, or other bundles of
17 video programming;

18 (2) require a MVPD to notify all providers of
19 video programming offered on the MVPD system of
20 their intent to offer a la carte or special tier pro-
21 gramming and of any contract under negotiation
22 that would preclude the MVPD from offering a la
23 carte or special tier programming; and

24 (3) require any MVPD that believes it cannot
25 proceed to offer a la carte or special tier program-



1 ming because of any limitations imposed by a pro-
2 gramming agreements to notify the Commission of
3 such limitations.

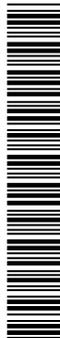
4 (c) MONITORING.—The Commission shall use its au-
5 thority under title VI of the Communications Act of 1934
6 (and section 6 of the Cable Television Consumer Protec-
7 tion and Competition Act of 1992)—

8 (1) to ensure that there are no discriminatory
9 or collusive practices that are preventing the flow of
10 video programming to the public; and

11 (2) to ascertain whether there are any practices
12 that impede consumers' abilities to receive maximum
13 choice of programming under reasonable terms and
14 conditions.

15 (d) SUSPENSION OF CONTRACTUAL PROVISIONS.—If
16 the Commission finds that any provision of any contract
17 between a MVPD and any video programming producer
18 entered into after the date of enactment of this Act would
19 preclude the MVPD from voluntarily offering a la carte
20 or special tier programming to the MVPD's subscribers,
21 the Commission may suspend enforcement of that provi-
22 sion of the contract until the later of—

23 (1) 12 months the date of the order suspending
24 such provision; or



1 (2) 12 months after the date on which the
2 Commission's report is submitted to Congress under
3 subsection (e).

4 (e) REPORT.—Within one year after the date of en-
5 actment of this Act, the Commission shall report to Con-
6 gress the following information:

7 (1) The number of MVPD systems that have
8 indicated interest in offering a la carte or special
9 tier programming to their subscribers, and the num-
10 ber of systems that have actually done so.

11 (2) The number and nature of impediments to
12 a la carte or special tier programming offerings.

13 (3) The number and nature of contractual
14 terms that the Commission has found that have pre-
15 vented MVPD's from offering a la carte or special
16 tier programming to the public.

17 (4) Information associated with the costs of
18 moving to an a la carte or special tier programming
19 system.

20 (5) Information about the relationship between
21 the costs of a la carte or special tier programming
22 and the actual costs of such programming.

23 (6) Information about increases or declines in
24 advertising revenues.



1 (7) Information about savings consumers re-
2 ceive as a result of their ability to choose a la carte
3 or special tier programming.

