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have a lack thereof of earmarks, the gentleman knows my philosophy there. I totally support that. Therefore, I totally support the gentleman's motion and would encourage its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. OBEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin [Mr. OBEY].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. CALLAHAN, PORTER, LIVINGSTON, LIGHTFOOT, WOLF, PACKARD, KNOLLENBERG, FORBES, BUNN of Oregon, WILSON, YATES, Ms. PELOSI, Mr. TORRES, and Mr. OBEY.

There was no objection.

GENERAL LEAVE

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and that I may include tabular and extraneous material on H.R. 1868.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

COMMUNICATION FROM THE HONORABLE TOM DELAY, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable TOM DELAY, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 12, 1995.

DEAR MR. SPEAKER, This is to formally notify you pursuant to Rule L (50) of the Rules of the House that Bill Jarrell, my Deputy Chief of Staff, has been served with a subpoena issued by the United States Justice Department. This subpoena relates to his previous employment by a former Member of the House.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

TOM DELAY,
Member of Congress.

COMMUNICATION FROM THE HONORABLE SAM M. GIBBONS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable SAM GIBBONS, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 12, 1995.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my office has been served with a subpoena issued by the United States District Court for the Middle District of Florida.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

SAM M. GIBBONS,
United States Congressman.

LEGISLATIVE PROGRAM

(Mr. ARMEY asked and was given permission to address the House for 1 minute.)

Mr. ARMEY. Mr. Speaker, I would like to advise my colleagues in the House that due to the extraordinary effort of cooperation that has been made by the potential conferees on the telecommunications bill and on the appropriations bill we just handled, we will be able to handle this evening the legislative schedule that we had scheduled for tomorrow. In that context, by working a little later this evening, we will be able to avoid having to be here for votes tomorrow.

At this time, and again if I can express my appreciation to the Subcommittee on Foreign Operations of Appropriations and to the Committee on Commerce for their willingness to move up their work to this evening, on behalf of all our membership, we will be able to complete this matter of going to conference on the telecommunications bill now, then return to the science bill, finish our work for the week this evening and be free from the requirement of votes tomorrow.

We will have a further announcement about next week's schedule as the evening progresses. I would like to try to project a time when we could complete our work this evening. At approximately 9 o'clock this evening, we should have then been able to have our last vote of the week.

Mr. SKAGGS. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Speaker, is it the leader's intention that we would have even a pro forma session tomorrow?

Mr. ARMEY. We are still checking on the possibility. I can tell you that there will be a pro forma session on Monday, no votes required on Monday. But whether or not there is a pro forma session necessary for tomorrow is something we are still checking on.

TELECOMMICATIONS COMPETITION AND DEREGULATION ACT OF 1995

Mr. BLILEY. Mr. Speaker, pursuant to section 2 of House Resolution 207, I call up the Senate bill (S. 652) to provide for a procompetitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes.

The Clerk read the title of the Senate bill.

The text of the Senate bill is as follows:

S. 652

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 "Telecommunications Competition and Deregulation Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Purpose.
Sec. 4. Goals.
Sec. 5. Findings.
Sec. 6. Amendment of Communications Act of 1934.
Sec. 7. Effect on other law.
Sec. 8. Definitions.
TITLE I—TRANSITION TO COMPETITION
Sec. 101. Interconnection requirements.
Sec. 102. Separate affiliate and safeguard requirements.
Sec. 103. Universal service.
Sec. 104. Essential telecommunications carriers.
Sec. 105. Foreign investment and ownership reform.
Sec. 106. Infrastructure sharing.
Sec. 107. Coordination for telecommunications network-level interoperability.
TITLE II—REMOVAL OF RESTRICTIONS TO COMPETITION
SUBTITLE A—REMOVAL OF RESTRICTIONS
Sec. 201. Removal of entry barriers.
Sec. 202. Elimination of cable and telephone company cross-ownership restriction.
Sec. 203. Cable Act reform.
Sec. 204. Pole attachments.
Sec. 205. Entry by utility companies.
Sec. 206. Broadcast reform.
SUBTITLE B—TERMINATION OF MODIFICATION OF FINAL JUDGMENT
Sec. 221. Removal of long distance restrictions.
Sec. 222. Removal of manufacturing restrictions.
Sec. 223. Existing activities.
Sec. 224. Enforcement.
Sec. 225. Alarm monitoring services.
Sec. 226. Nonapplicability of Modification of Final Judgment.
TITLE III—AN END TO REGULATION
Sec. 301. Transition to competitive pricing.
Sec. 302. Biennial review of regulations; elimination of unnecessary regulations and functions.
Sec. 303. Regulatory forbearance.
Sec. 304. Advanced telecommunications incentives.
Sec. 305. Regulatory parity.
Sec. 306. Automated ship distress and safety systems.
Sec. 307. Telecommunications numbering administration.
Sec. 308. Access by persons with disabilities.
Sec. 309. Rural markets.
Sec. 310. Telecommunications services for health care providers for rural areas, educational providers, and libraries.

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Sec. 311. Provision of payphone service and telemessaging service.
Sec. 312. Direct Broadcast Satellite.
TITLE IV—OBSCENE, HARASSING, AND WRONGFUL UTILIZATION OF TELECOMMUNICATIONS FACILITIES
Sec. 401. Short title.
Sec. 402. Obscene or harassing use of telecommunications facilities under the Communications Act of 1934.
Sec. 403. Obscene programming on cable television.
Sec. 404. Broadcasting obscene language on radio.
Sec. 405. Separability.
Sec. 406. Additional prohibition on billing for toll-free telephone calls.
Sec. 407. Scrambling of cable channels for nonsubscribers.
Sec. 408. Scrambling of sexually explicit adult video service programming.
Sec. 409. Cable operator refusal to carry certain programs.
Sec. 410. Restrictions on access by children to obscene and indecent material on electronic information networks open to the public.
TITLE V—PARENTAL CHOICE IN TELEVISION
Sec. 501. Short title.
Sec. 502. Findings.
Sec. 503. Rating code for violence and other objectionable content on television.
Sec. 504. Requirement for manufacture of televisions that block programs.
Sec. 505. Shipping or importing of televisions that block programs.
TITLE VI—NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION
Sec. 601. Short title.
Sec. 602. Findings; purpose.
Sec. 603. Definitions.
Sec. 604. Assistance for educational technology purposes.
Sec. 605. Audits.
Sec. 606. Annual report; testimony to the Congress.
TITLE VII—MISCELLANEOUS PROVISIONS
Sec. 701. Spectrum auctions.
Sec. 702. Renewed efforts to regulate violent programming.
Sec. 703. Prevention of unfair billing practices for information or services provided over toll-free telephone calls.
Sec. 704. Disclosure of certain records for investigations of telemarketing fraud.
Sec. 705. Telecommuting public information program.
Sec. 706. Authority to acquire cable systems.

SEC. 2. PURPOSE.

It is the purpose of this Act to increase competition in all telecommunications markets and provide for an orderly transition from regulated markets to competitive and deregulated telecommunications markets consistent with the public interest, convenience, and necessity.

SEC. 4. GOALS.

This Act is intended to establish a national policy framework designed to accelerate rapidly the private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and to meet the following goals:

(1) To promote and encourage advanced telecommunications networks, capable of enabling users to originate and receive affordable, high-quality voice, data, image, graphic, and video telecommunications services.

(2) To improve international competitiveness markedly.

(3) To spur economic growth, create jobs, and increase productivity.

(4) To deliver a better quality of life through the preservation and advancement of universal service to allow the more efficient delivery of educational, health care, and other social services.

SEC. 5. FINDINGS.

The Congress makes the following findings:

(1) Competition, not regulation, is the best way to spur innovation and the development of new services. A competitive market place is the most efficient way to lower prices and increase value for consumers. In furthering the principle of open and full competition in all telecommunications markets, however, it must be recognized that some markets are more open than others.

(2) Local telephone service is predominantly a monopoly service. Although business customers in metropolitan areas may have alternative providers for exchange access service, consumers do not have a choice of local telephone service. Some States have begun to open local telephone markets to competition. A national policy framework is needed to accelerate the process.

(3) Because of their monopoly status, local telephone companies and the Bell operating companies have been prevented from competing in certain markets. It is time to eliminate these restrictions. Nonetheless, transition rules designed to open monopoly markets to competition must be in place before certain restrictions are lifted.

(4) Transition rules must be truly transitional, not protectionism for certain industry segments or artificial impediments to increased competition in all markets. Where possible, transition rules should create investment incentives through increased competition. Regulatory safeguards should be adopted only where competitive conditions would not prevent anticompetitive behavior.

(5) More competitive American telecommunications markets will promote United States technological advances, domestic job and investment opportunities, national competitiveness, sustained economic development, and improved quality of American life more effectively than regulation.

(6) Congress should establish clear statutory guidelines, standards, and time frames to facilitate more effective communications competition and, by so doing, will reduce business and customer uncertainty, lessen regulatory processes, court appeals, and litigation, and thus encourage the business community to focus more on competing in the domestic and international communications marketplace.

(7) Where competitive markets are demonstrably inadequate to safeguard important public policy goals, such as the continued universal availability of telecommunications services at reasonable and affordable prices, particularly in rural America, Congress should establish workable regulatory procedures to advance those goals, provided that in any proceeding undertaken to ensure universal availability, regulators shall seek to choose the most procompetitive and least burdensome alternative.

(8) Competitive communications markets, safeguarded by effective Federal and State antitrust enforcement, and strong economic growth in the United States which such markets will foster are the most effective means of assuring that all segments of the American public command access to advanced telecommunications technologies.

(9) Achieving full and fair competition requires strict parity of marketplace opportunities and responsibilities on the part of incumbent telecommunications service providers as well as new entrants into the telecommunications marketplace, provided that any responsibilities placed on providers should be the minimum required to advance a clearly defined public policy goal.

(10) Congress should not cede its constitutional responsibility regarding interstate and foreign commerce in communications to the Judiciary through the establishment of procedures which will encourage or necessitate judicial interpretation or intervention into the communications marketplace.

(11) Ensuring that all Americans, regardless of where they may work, live, or visit, ultimately have comparable access to the full benefits of competitive communications markets requires Federal and State authorities to work together affirmatively to minimize and remove unnecessary institutional and regulatory barriers to new entry and competition.

(12) Effectively competitive communications markets will ensure customers the widest possible choice of services and equipment, tailored to individual desires and needs, and at prices they are willing to pay.

(13) Investment in and deployment of existing and future advanced, multipurpose technologies will best be fostered by minimizing government limitations on the commercial use of those technologies.

(14) The efficient development of competitive United States communications markets will be furthered by policies which aim at ensuring reciprocal opening of international investment opportunities.

SEC. 6. AMENDMENT OF COMMUNICATIONS ACT OF 1934.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. 7. EFFECT ON OTHER LAW.

(a) ANTITRUST LAWS.—Except as provided in subsections (b) and (c), nothing in this Act shall be construed to modify, impair, or supersede the applicability of any antitrust law.

(b) MODIFICATION OF FINAL JUDGMENT.—This Act shall supersede the Modification of Final Judgment to the extent that it is inconsistent with this Act.

(c) TRANSFER OF MFJ.—After the date of enactment of this Act, the Commission shall administer any provision of the Modification of Final Judgment not overridden or superseded by this Act. The District Court for the District of Columbia shall have no further jurisdiction over any provision of the Modification of Final Judgment administered by the Commission under this Act or the Communications Act of 1934. The Commission may, consistent with this Act (and the amendments made by this Act), modify any provision of the Modification of Final Judgment that it administers.

(d) GTE CONSENT DECREE.—This Act shall supersede the provisions of the Final Judgment entered in United States v. GTE Corp., No. 83-1298 (D.C. D.C.), and such Final Judgment shall not be enforced after the effective date of this Act.

SEC. 8. DEFINITIONS.

(a) TERMS USED IN THIS ACT.—As used in this Act—

(1) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(2) MODIFICATION OF FINAL JUDGMENT.—The term "Modification of Final Judgment" means the decree entered on August 24, 1982,

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in United States v. Western Electric Civil Action No. 82-0192 (United States District Court, District of Columbia), and includes any judgment or order with respect to such action entered on or after August 24, 1982, and before the date of enactment of this Act.

(3) GTE CONSENT DECREE.—The term "GTE Consent Decree" means the order entered on December 21, 1984, as restated January 11, 1985, in United States v. GTE Corporation, Civil Action No. 83-1298 (United States District Court, District of Columbia), and includes any judgment or order with respect to such action entered on or after January 11, 1985, and before the date of enactment of this Act.

(4) INTEGRATED TELECOMMUNICATIONS SERVICE PROVIDER.—The term "integrated telecommunications service provider" means any person engaged in the provision of multiple services, such as voice, data, image, graphics, and video services, which make common use of all or part of the same transmission facilities, switches, signalling, or control devices.

(b) TERMS USED IN THE COMMUNICATIONS ACT OF 1934.—Section 3 (47 U.S.C. 153) is amended by adding at the end thereof the following:

"(gg) 'Modification of Final Judgment' means the decree entered on August 24, 1982, in United States v. Western Electric Civil Action No. 82-0192 (United States District Court, District of Columbia), and includes any judgment or order with respect to such action entered on or after August 24, 1982, and before the date of enactment of the Telecommunications Competition and Deregulation Act of 1995.

"(hh) 'Bell operating company' means any company listed in appendix A of the Modification of Final Judgment to the extent such company provides telephone exchange service or exchange access service, and includes any successor or assign of any such company, but does not include any affiliate of such company.

"(ii) 'Affiliate' means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term 'own' means to own an equity interest (or the equivalent thereof) of more than 10 percent.

"(jj) 'Telecommunications Act of 1995' means the Telecommunications Competition and Deregulation Act of 1995.

"(kk) 'Local exchange carrier' means a provider of telephone exchange service or exchange access service.

"(ll) 'Telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, including voice, data, image, graphics, and video, without change in the form or content of the information, as sent and received, with or without benefit of any closed transmission medium.

"(mm) 'Telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used to transmit the telecommunications service.

"(nn) 'Telecommunications carrier' means any provider of telecommunications services, except that such term does not include hotels, motels, hospitals, and other aggregators of telecommunications services (as defined in section 226). A telecommunications carrier shall only be treated as a common carrier under this Act to the extent that it is engaged in providing telecommunications services for voice, data, image, graphics, or video that it does not own, control, or select, except that the Commission shall continue to determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.

"(oo) 'Telecommunications number portability' means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

"(pp) 'Information service' means the offering of services that—

"(1) employ computer processing applications that act on the format, content, code, protocol, or similar aspects of the subscriber's transmitted information;

"(2) provide the subscriber additional, different, or restructured information; or

"(3) involve subscriber interaction with stored information.

"(qq) 'Cable service' means cable service as defined in section 602.

"(rr) 'Rural telephone company' means a telecommunications carrier operating entity to the extent that such entity provides telephone exchange service, including access service subject to part 69 of the Commission's rules (47 C.F.R. 69.1 et seq.), to—

"(1) any service area that does not include either—

"(A) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recent population statistics of the Bureau of the Census; or

"(B) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of January 1, 1995; or

"(2) fewer than 100,000 access lines within a State.

"(ss) 'Service area' means a geographic area established by the Commission and the States for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, 'service area' means such company's 'study area' unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

"(tt) 'LATA' means a local access and transport area as defined in United States v. Western Electric Co., 569 F. Supp. 990 (U. S. District Court, District of Columbia) and subsequent judicial orders relating thereto, except that, with respect to commercial mobile services, the term 'LATA' means the geographic areas defined or used by the Commission in issuing licenses for such services: *Provided however*, That in the case of a Bell operating company cellular affiliate, such geographic area shall be no smaller than the LATA area for such affiliate on the date of enactment of the Telecommunications Act of 1995.".

TITLE I—TRANSITION TO COMPETITION

SEC. 101. INTERCONNECTION REQUIREMENTS.

(a) REQUIRED INTERCONNECTION.—Title II (47 U.S.C. 201 et seq.) is amended by inserting after section 228 the following:

"Part II—Competition in Telecommunications

"SEC. 251. INTERCONNECTION.

"(a) DUTY TO PROVIDE INTERCONNECTION.—

"(1) IN GENERAL.—A local exchange carrier, or class of local exchange carriers, determined by the Commission to have market power in providing telephone exchange service or exchange access service has a duty under this Act, upon request—

"(A) to enter into good faith negotiations with any telecommunications carrier requesting interconnection between the facilities and equipment of the requesting telecommunications carrier and the carrier, or class of carriers, of which the request was made for the purpose of permitting the telecommunications carrier to provide telephone exchange or exchange access service; and

"(B) to provide such interconnection, at rates that are reasonable and nondiscriminatory, according to the terms of the agreement and in accordance with the requirements of this section.

"(2) INITIATION.—A local exchange carrier, or class of carriers, described in paragraph (1) shall commence good faith negotiations to conclude an agreement, whether through negotiation under subsection (c) or arbitration or intervention under subsection (d), within 15 days after receiving a request from any telecommunications carrier seeking to provide telephone exchange or exchange access service. Nothing in this Act shall prohibit multilateral negotiations between or among a local exchange carrier or class of carriers and a telecommunications carrier or class of carriers seeking interconnection under subsection (c) or subsection (d). At the request of any of the parties to a negotiation, a State may participate in the negotiation of any portion of an agreement under subsection (c).

"(3) MARKET POWER.—For the purpose of determining whether a carrier has market power under paragraph (1), the relevant market shall include all providers of telephone exchange or exchange access services in a local area, regardless of the technology used by any such provider.

"(b) MINIMUM STANDARDS.—An interconnection agreement entered into under this section shall, if requested by a telecommunications carrier requesting interconnection, provide for—

"(1) nondiscriminatory access on an unbundled basis to the network functions and services of the local exchange carrier's telecommunications network (including switching software, to the extent defined in implementing regulations by the Commission);

"(2) nondiscriminatory access on an unbundled basis to any of the local exchange carrier's telecommunications facilities and information, including databases and signaling, necessary to the transmission and routing of any telephone exchange service or exchange access service and the interoperability of both carriers' networks;

"(3) interconnection to the local exchange carrier's telecommunications facilities and services at any technically feasible point within the carrier's network;

"(4) interconnection that is at least equal in type, quality, and price (on a per unit basis or otherwise) to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection;

"(5) nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the local exchange carrier at just and reasonable rates;

"(6) the local exchange carrier to take whatever action under its control is necessary, as soon as is technically feasible, to provide telecommunications number portability and local dialing parity in a manner that—

"(A) permits consumers to be able to dial the same number of digits when using any telecommunications carrier providing telephone exchange service or exchange access service in the market served by the local exchange carrier;

"(B) permits all such carriers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing with no unreasonable dialing delays; and

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"(C) provides for a reasonable allocation of costs among the parties to the agreement;

"(7) telecommunications services and network functions of the local exchange carrier to be available to the telecommunications carrier on an unbundled basis without any unreasonable conditions on the resale or sharing of those services or functions, including the origination, transport, and termination of such telecommunications services, other than reasonable conditions required by a State; and for purposes of this paragraph, it is not an unreasonable condition for a State to limit the resale—

"(A) of services included in the definition of universal service to a telecommunications carrier who resells that service to a category of customers different from the category of customers being offered that universal service by such carrier if the State orders a carrier to provide the same service to different categories of customers at different prices necessary to promote universal service; or

"(B) of subsidized universal service in a manner that allows companies to charge another carrier rates which reflect the actual cost of providing those services to that carrier, exclusive of any universal service support received for providing such services in accordance with section 214(d)(5);

"(8) reciprocal compensation arrangements for the origination and termination of telecommunications;

"(9) reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks; and

"(10) a schedule of itemized charges and conditions for each service, facility, or function provided under the agreement.

"(c) AGREEMENTS ARRIVED AT THROUGH NEGOTIATION.—Upon receiving a request for interconnection, a local exchange carrier may meet its interconnection obligations under this section by negotiating and entering into a binding agreement with the telecommunications carrier seeking interconnection without regard to the standards set forth in subsection (b). The agreement shall include a schedule of itemized charges for each service, facility, or function included in the agreement. The agreement, including any interoonnection agreement negotiated before the date of enactment of the Telecommunications Act of 1995, shall be submitted to the State under subsection (e).

"(d) AGREEMENTS ARRIVED AT THROUGH ARBITRATION OR INTERVENTION.—

"(1) IN GENERAL.—Any party negotiating an interconnection agreement under this section may, at any point in the negotiation, ask a State to participate in the negotiation and to arbitrate any differences arising in the course of the negotiation. The refusal of any other party to the negotiation to participate further in the negotiations, to cooperate with the State in carrying out its function as a arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the State shall be considered a failure to negotiate in good faith.

"(2) INTERVENTION.—If any issues remain open in a negotiation commenced under this section more than 135 days after the date upon which the local exchange carrier received the request for such negotiation, then the carrier or any other party to the negotiation may petition a State to intervene in the negotiations for purposes of resolving any such remaining open issues. Any such request must be made during the 25-day period that begins 135 days after the carrier receives the request for such negotiation and ends 160 days after that date.

"(3) DUTY OF PETITIONER.—

"(A) A party that petitions a State under paragraph (2) shall, at the same time as it submits the petition, provide the State all relevant documentation concerning the negotiations necessary to understand—

"(i) the unresolved issues;

"(ii) the position of each of the parties with respect to those issues; and

"(iii) any other issue discussed and resolved by the parties.

"(B) A party petitioning a State under paragraph (2) shall provide a copy of the petition and any documentation to the other party not later than the day on which the State receives the petition.

"(4) OPPORTUNITY TO RESPOND.—A party to a negotiation under this section with respect to which the other party has petitioned a State under paragraph (2) may respond to the other party's petition and provide such additional information as it wishes within 25 days after the State receives the petition.

"(5) ACTION BY STATE.—

"(A) A State proceeding to consider a petition under this subsection shall be conducted in accordance with the rules promulgated by the Commission under subsection (i). The State shall limit its consideration of any petition under paragraph (2) (and any response thereto) to the issues set forth in the petition and in the response, if any, filed under paragraph (4).

"(B) The State may require the petitioning party and the responding party to provide such information as may be necessary for the State to reach a decision on the unresolved issues. If either party refuses or fails unreasonably to respond on a timely basis to any reasonable request from the State, then the State may proceed on the basis of the best information available to it from whatever source derived.

"(C) The State shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions upon the parties to the agreement, and shall conduct the review of the agreement (including the issues resolved by the State) not later than 10 months after the date on which the local exchange carrier received the request for interconnection under this section.

"(D) In resolving any open issues and imposing conditions upon the parties to the agreement, a State shall ensure that the requirements of this section are met by the solution imposed by the State and are consistent with the Commission's rules defining minimum standards.

"(6) CHARGES.—If the amount charged by a local exchange carrier, or class of local exchange carriers, for an unbundled element of the interconnection provided under subsection (b) is determined by arbitration or intervention under this subsection, then the charge—

"(A) shall be

"(i) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the unbundled element,

"(ii) nondiscriminatory, and

"(iii) individually priced to the smallest element that is technically feasible and economically reasonable to provide; and

"(B) may include a reasonable profit.

"(e) APPROVAL BY STATE.—Any interconnection agreement under this section shall be submitted for approval to the State. A State to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies. The State may only reject—

"(1) an agreement under subsection (c) if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement; and

"(2) an agreement under subsection (d) if it finds that—

"(A) the agreement does not meet the standards set forth in subsection (b), or

"(B) the implementation of the agreement is not in the public interest.

If the State does not act to approve or reject the agreement within 90 days after receiving the agreement, or 30 days in the case of an agreement negotiated under subsection (c), the agreement shall be deemed approved. No State court shall have jurisdiction to review the action of a State in approving or rejecting an agreement under this section.

"(f) FILING REQUIRED.—A State shall make a copy of each agreement approved under subsection (e) available for public inspection and copying within 10 days after the agreement is approved. The State may charge a reasonable and nondiscriminatory fee to the parties to the agreement to cover the costs of approving and filing such agreement.

"(g) AVAILABILITY TO OTHER TELECOMMUNICATIONS CARRIERS.—A local exchange carrier shall make available any service, facility, or function provided under an interconnection agreement to which it is a party to any other telecommunications carrier that requests such interconnection upon the same terms and conditions as those provided in the agreement.

"(h) COLLOCATION.—A State may require telecommunications carriers to provide for actual collocation of equipment necessary for interconnection at the premises of the carrier at reasonable charges, if the State finds actual collocation to be in the public interest.

"(i) IMPLEMENTATION.—

"(1) RULES AND STANDARDS.—The Commission shall promulgate rules to implement the requirements of this section within 6 months after the date of enactment of the Telecommunications Act of 1995. In establishing the standards for determining what facilities and information are necessary for purposes of subsection (b)(2), the Commission shall consider, at a minimum, whether—

"(A) access to such facilities and information that are proprietary in nature is necessary; and

"(B) the failure to provide access to such facilities and information would impair the ability of the telecommunications carrier seeking interconnection to provide the services that it seeks to offer.

"(2) COMMISSION TO ACT IF STATE WILL NOT ACT.—If a State, through action or inaction, fails to carry out its responsibility under this section in accordance with the rules prescribed by the Commission under paragraph (1) in any proceeding or other matter under this section, then the Commission shall issue an order preempting the State's jurisdiction of that proceeding or matter within 90 days after being notified (or taking notice) of such failure, and shall assume the responsibility of the State under this section with respect to the proceeding or matter and act for the State.

"(3) WAIVERS AND MODIFICATIONS FOR RURAL CARRIERS.—The Commission or a State shall, upon petition or on its own initiative, waive or modify the requirements of subsection (b) for a rural telephone company or companies, and may waive or modify the requirements of subsection (b) for local exchange carriers with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide, to the extent that the Commission or a State determines that such requirements would result in unfair competition, impose a significant adverse economic impact on users of telecommunications services, be technically infeasible, or otherwise not be in the public interest. The Commission or a State shall act upon any petition

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filed under this paragraph within 180 days of receiving such petition. Pending such action, the Commission or a State may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

"(j) STATE REQUIREMENTS.—Nothing in this section precludes a State from imposing requirements on a telecommunications carrier for intrastate services that are necessary to further competition in the provision of telephone exchange service or exchange access service, as long as the State's requirements are not inconsistent with the Commission's regulations to implement this section.

"(k) ACCESS CHARGE RULES.—Nothing in this section shall affect the Commission's interexchange-to-local exchange access charge rules for local exchange carriers or interexchange carriers in effect on the date of enactment of the Telecommunications Act of 1995.

"(l) REVIEW OF INTERCONNECTION STANDARDS.—Beginning 3 years after the date of enactment of the Telecommunications Act of 1995 and every 3 years thereafter, the Commission shall review the standards and requirements for interconnection established under subsection (b). The Commission shall complete each such review within 180 days and may modify or waive any requirements or standards established under subsection (b) if it determines that the modification or waiver meets the requirements of section 260.

"(m) COMMERCIAL MOBILE SERVICE PROVIDERS.—The requirements of this section shall not apply to commercial mobile services provided by a wireline local exchange carrier unless the Commission determines under subsection (a)(3) that such carrier has market power in the provision of commercial mobile service.".

(c) TECHNICAL AMENDMENTS.—

(1) Title II (47 U.S.C. 201 et seq.) is amended by inserting before section 201 the following:

"PART I—GENERAL PROVISIONS".

(2) Section 2(b) (47 U.S.C. 152(b)) is amended by striking "sections 223 through 227, inclusive, and section 332," and inserting "section 214(d), sections 223 through 227, part II of title II, and section 332,".

SEC. 102. SEPARATE AFFILIATE AND SAFEGUARD REQUIREMENTS.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by section 101 of this Act, is amended by inserting after section 251 the following new section:

"SEC. 252. SEPARATE AFFILIATE; SAFEGUARDS.

"(a) SEPARATE AFFILIATE REQUIRED FOR COMPETITIVE ACTIVITIES.—

"(1) IN GENERAL.—A Bell operating company (including any affiliate) which is a local exchange carrier that is subject to the requirements of section 251(a) may not provide any service described in paragraph (2) unless it provides that service through one or more affiliates that—

"(A) are separate from any operating company entity that is subject to the requirements of section 251(a); and

"(B) meet the requirements of subsection (b).

"(2) SERVICES FOR WHICH A SEPARATE AFFILIATE IS REQUIRED.—The services for which a separate affiliate is required by paragraph (1) are:

"(A) Information services, including cable services and alarm monitoring services, other than any information service a Bell operating company was authorized to provide before July 24, 1991.

"(B) Manufacturing services.

"(C) InterLATA services other than—

"(i) incidental services, not including information services;

"(ii) out-of-region services; or

"(iii) services authorized under an order entered by the United States District Court for the District of Columbia pursuant to the Modification of Final Judgment before the date of enactment of the Telecommunications Act of 1995.

"(b) STRUCTURAL AND TRANSACTIONAL REQUIREMENTS.—The separate affiliate required by this section—

"(1) shall maintain books, records, and accounts in the manner prescribed by the Commission which shall be separate from the books, records, and accounts maintained by the Bell operating company of which it is an affiliate;

"(2) shall have separate officers, directors, and employees from the Bell operating company of which it is an affiliate;

"(3) may not obtain credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the Bell operating company; and

"(4) shall conduct all transactions with the Bell operating company of which it is an affiliate on an arm's length basis with any such transactions reduced to writing and available for public inspection.

"(c) NONDISCRIMINATION SAFEGUARDS.—In its dealings with its affiliate described in subsection (a) a Bell operating company—

"(1) may not discriminate between that company or affiliate and any other entity in the provision or procurement of goods, services, facilities, and information, or in the establishment of standards;

"(2) may not provide any goods, services, facilities, or information to such company or affiliate unless the goods, services, facilities, or information are made available to other persons on reasonable and nondiscriminatory terms and conditions, unbundled to the smallest element that is technically feasible and economically reasonable to provide, and at just and reasonable rates that are not higher on a per-unit basis than those charged for such services to any affiliate of such company; and

"(3) shall account for all transactions with an affiliate described in subsection (a) in accordance with generally accepted accounting principles.

"(d) BIENNIAL AUDIT.—

"(1) GENERAL REQUIREMENT.—A company required to operate a separate affiliate under this section shall obtain and pay for a joint Federal/State audit every 2 years conducted by an independent auditor selected by the Commission, and working at the direction of, the Commission and the State commission of each State in which such company provides service, to determine whether such company has complied with this section and the regulations promulgated under this section, and particularly whether such company has complied with the separate accounting requirements under subsection (b).

"(2) RESULTS SUBMITTED TO COMMISSION; STATE COMMISSIONS.—The auditor described in paragraph (1) shall submit the results of the audit to the Commission and to the State commission of each State in which the company audited provides service, which shall make such results available for public inspection. Any party may submit comments on the final audit report.

"(3) ACCESS TO DOCUMENTS.—For purposes of conducting audits and reviews under this subsection—

"(A) the independent auditor, the Commission, and the State commission shall have access to the financial accounts and records of each company and of its affiliates necessary to verify transactions conducted with that company that are relevant to the specific activities permitted under this section and that are necessary for the regulation of rates;

"(B) the Commission and the State commission shall have access to the working papers and supporting materials of any auditor who performs an audit under this section; and

"(C) the State commission shall implement appropriate procedures to ensure the protection of any proprietary information submitted to it under this section.

"(e) JOINT MARKETING.—

"(1) A Bell operating company affiliate required by this section may not market or sell telephone exchange services provided by the Bell operating company unless that company permits other entities offering the same or similar service to market and sell its telephone exchange services.

"(2) A Bell operating company may not market or sell any service provided by an affiliate required by this section until that company has been authorized to provide interLATA services under section 255.

"(3) The joint marketing and sale of services permitted under this subsection shall not be considered to violate the nondiscrimination provisions of subsection (c).

"(f) ADDITIONAL REQUIREMENTS FOR PROVISION OF INTERLATA SERVICES.—A Bell operating company—

"(1) shall fulfill any requests from an unaffiliated entity for exchange access service within a period no longer than that in which it provides such exchange access service to itself or to its affiliates;

"(2) shall fulfill any such requests with exchange access service of a quality that meets or exceeds the quality of exchange access service provided by the Bell operating company to itself or its affiliate;

"(3) shall provide exchange access service to all carriers at rates that are just, reasonable, not unreasonably discriminatory, and based on costs;

"(4) shall not provide any facilities, services, or information concerning its provision of exchange access service to the affiliate described in subsection (a) unless such facilities, services, or information are made available to other providers of interLATA services in that market on the same terms and conditions;

"(5) shall charge the affiliate described in subsection (a), and impute to itself or any intraLATA interexchange affiliate, the same rates for access to its telephone exchange service and exchange access service that it charges unaffiliated interexchange carriers for such service; and

"(6) may provide any interLATA or intraLATA facilities or services to its interLATA affiliate if such services or facilities are made available to all carriers at the same rates and on the same terms and conditions so long as the costs are appropriately allocated.

"(g) PROPRIETARY INFORMATION.—

"(1) IN GENERAL.—In complying with the requirements of this section, each Bell operating company and any affiliate of such company has a duty to protect the confidentiality of propriety information relating to other common carriers, to equipment manufacturers, and to customers. A Bell operating company may not share customer proprietary information in aggregate form with its affiliates unless such aggregate information is available to other carriers or persons under the same terms and conditions. Individually identifiable customer proprietary information and other proprietary information may be—

"(A) shared with any affiliated entity required by this section or with any unaffiliated entity only with the consent of the person to which such information relates or from which it was obtained (including other carriers); or

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"(B) disclosed to appropriate authorities pursuant to court order.

"(2) EXCEPTIONS.—Paragraph (1) does not limit the disclosure of individually identifiable customer proprietary information by each Bell operating company as necessary—

"(A) to initiate, render, bill, and collect for telephone exchange service, interexchange service, or telecommunications service requested by a customer; or

"(B) to protect the rights or property of the carrier, or to protect users of any of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, any such service.

"(3) SUBSCRIBER LIST INFORMATION.—For purposes of this subsection, the term 'customer proprietary information' does not include subscriber list information.

"(b) COMMISSION MAY GRANT EXCEPTIONS.—The Commission may grant an exception from compliance with any requirement of this section upon a showing that the exception is necessary for the public interest, convenience, and necessity.

"(1) APPLICATION TO UTILITY COMPANIES.—

"(1) REGISTERED PUBLIC UTILITY HOLDING COMPANY.—A registered company may provide telecommunications services only through a separate subsidiary company that is not a public utility company.

"(2) OTHER UTILITY COMPANIES.—Each State shall determine whether a holding company subject to its jurisdiction—

"(A) that is not a registered holding company, and

"(B) that provides telecommunications service,

is required to provide that service through a separate subsidiary company.

"(3) SAVINGS PROVISION.—Nothing in this subsection or the Telecommunications Act of 1995 prohibits a public utility company from engaging in any activity in which it is legally engaged on the date of enactment of the Telecommunications Act of 1995; provided it complies with the terms of any applicable authorizations.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'public utility company', 'associate company', 'holding company', 'subsidiary company', 'registered holding company', and 'State commission' have the same meaning as they have in section 2 of the Public Utility Holding Company Act of 1935.".

(b) IMPLEMENTATION.—The Commission shall promulgate any regulations necessary to implement section 252 of the Communications Act of 1934 (as added by subsection (a)) not later than one year after the date of enactment of this Act. Any separate affiliate established or designated for purposes of section 252(a) of the Communications Act of 1934 before the regulations have been issued in final form shall be restructured or otherwise modified, if necessary, to meet the requirements of those regulations.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

SEC. 103. UNIVERSAL SERVICE.

(a) FINDINGS.—The Congress finds that—

(1) the existing system of universal service has evolved since 1930 through an ongoing dialogue between industry, various Federal-State Joint Boards, the Commission, and the courts;

(2) this system has been predicated on rates established by the Commission and the States that require implicit cost shifting by monopoly providers of telephone exchange service through both local rates and access charges to interexchange carriers;

(3) the advent of competition for the provision of telephone exchange service has led to industry requests that the existing system be modified to make support for universal service explicit and to require that all telecommunications carriers participate in the modified system on a competitively neutral basis; and

(4) modification of the existing system is necessary to promote competition in the provision of telecommunications services and to allow competition and new technologies to reduce the need for universal service support mechanisms.

(b) FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE.—

(1) Within one month after the date of enactment of this Act, the Commission shall institute and refer to a Federal-State Joint Board under section 410(c) of the Communications Act of 1934 a proceeding to recommend rules regarding the implementation of section 253 of that Act, including the definition of universal service. The Joint Board shall, after notice and public comment, make its recommendations to the Commission no later than 9 months after the date of enactment of this Act.

(2) The Commission may periodically, but no less than once every 4 years, institute and refer to the Joint Board a proceeding to review the implementation of section 253 of that Act and to make new recommendations, as necessary, with respect to any modifications or additions that may be needed. As part of any such proceeding the Joint Board shall review the definition of, and adequacy of support for, universal service and shall evaluate the extent to which universal service has been protected and advanced.

(c) COMMISSION ACTION.—The Commission shall initiate a single proceeding to implement recommendations from the initial Joint Board required by subsection (a) and shall complete such proceeding within 1 year after the date of enactment of this Act. Thereafter, the Commission shall complete any proceeding to implement recommendations from any further Joint Board required under subsection (b) within one year after receiving such recommendations.

(d) SEPARATIONS RULES.—Nothing in the amendments made by this Act to the Communications Act of 1934 shall affect the Commission's separations rules for local exchange carriers or interexchange carriers in effect on the date of enactment of this Act.

(e) AMENDMENT OF COMMUNICATIONS ACT.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 252 the following new section:

"SEC. 253. UNIVERSAL SERVICE.

"(a) UNIVERSAL SERVICE PRINCIPLES.—The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:

"(1) Quality services are to be provided at just, reasonable, and affordable rates.

"(2) Access to advanced telecommunications and information services should be provided in all regions of the Nation.

"(3) Consumers in rural and high cost areas should have access to telecommunications and information services, including interexchange services, that are reasonably comparable to those services provided in urban areas.

"(4) Consumers in rural and high cost areas should have access to telecommunications and information services at rates that are reasonably comparable to rates charged for similar services in urban areas.

"(5) Consumers in rural and high cost areas should have access to the benefits of advanced telecommunications and information services for health care, education, economic development, and other public purposes.

"(6) There should be a coordinated Federal-State universal service system to preserve and advance universal service using specific and predictable Federal and State mechanisms administered by an independent, nongovernmental entity or entities.

"(7) Elementary and secondary schools and classrooms should have access to advanced telecommunications services.

"(b) DEFINITION.—

"(1) IN GENERAL.—Universal service is an evolving level of intrastate and interstate telecommunications services that the Commission, based on recommendations from the public, Congress, and the Federal-State Joint Board periodically convened under section 103 of the Telecommunications Act of 1995, and taking into account advances in telecommunications and information technologies and services, determines—

"(A) should be provided at just, reasonable, and affordable rates to all Americans, including those in rural and high cost areas and those with disabilities;

"(B) are essential in order for Americans to participate effectively in the economic, academic, medical, and democratic processes of the Nation; and

"(C) are, through the operation of market choices, subscribed to by a substantial majority of residential customers.

"(2) DIFFERENT DEFINITION FOR CERTAIN PURPOSES.—The Commission may establish a different definition of universal service for schools, libraries, and health care providers for the purposes of section 264.

"(c) ALL TELECOMMUNICATIONS CARRIERS MUST PARTICIPATE.—Every telecommunications carrier engaged in instrastate, interstate, or foreign communication shall participate, on an equitable and nondiscriminatory basis, in the specific and predictable mechanisms established by the Commission and the States to preserve and advance universal service. Such participation shall be in the manner determined by the Commission and the States to be reasonably necessary to preserve and advance universal service. Any other provider of telecommunications may be required to participate in the preservation and advancement of universal service, if the public interest so requires.

"(d) STATE AUTHORITY.—A State may adopt regulations to carry out its responsibilities under this section, or to provide for additional definitions, mechanisms, and standards to preserve and advance universal service within that State, to the extent that such regulations do not conflict with the Commission's rules to implement this section. A State may only enforce additional definitions or standards to the extent that it adopts additional specific and predictable mechanisms to support such definitions or standards.

"(e) ELIGIBILITY FOR UNIVERSAL SERVICE SUPPORT.—To the extent necessary to provide for specific and predictable mechanisms to achieve the purposes of this section, the Commission shall modify its existing rules for the preservation and advancement of universal service. Only essential telecommunications carriers designated under section 214(d) shall be eligible to receive support for the provision of universal service. Such support, if any, shall accurately reflect what is necessary to preserve and advance universal service in accordance with this section and the other requirements of this Act.

"(f) UNIVERSAL SERVICE SUPPORT.—The Commission and the States shall have as their goal the need to make any support for universal service explicit, and to target that support to those essential telecommunications carriers that serve areas for which such support is necessary. The specific and predictable mechanisms adopted by the Commission and the States shall ensure that essential telecommunications carriers are able

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to provide universal service at just, reasonable, and affordable rates. A carrier that receives universal service support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

"(g) INTEREXCHANGE SERVICES.—The rates charged by any provider of interexchange telecommunications service to customers in rural and high cost areas shall be no higher than those charged by such provider to its customers in urban areas.

"(h) SUBSIDY OF COMPETITIVE SERVICES PROHIBITED.—A telecommunications carrier may not use services that are not competitive to subsidize competitive services. The Commission, with respect to interstate services, and the States, with respect to intrastate services, shall establish any necessary cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.

"(i) CONGRESSIONAL NOTIFICATION REQUIRED.—

"(1) IN GENERAL.—The Commission may not take action to require participation by telecommunications carriers or other providers of telecommunications under subsection (c), or to modify its rules to increase support for the preservation and advancement of universal service, until—

"(A) the Commission submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a report on the participation required, or the increase in support proposed, as appropriate; and

"(B) a period of 120 days has elapsed since the date the report required under paragraph (1) was submitted.

"(2) NOT APPLICABLE TO REDUCTIONS.—This subsection shall not apply to any action taken to reduce costs to carriers or consumers.

"(j) EFFECT ON COMMISSION'S AUTHORITY.—Nothing in this section shall be construed to expand or limit the authority of the Commission to preserve and advance universal service under this Act.

"(k) EFFECTIVE DATE.—This section takes effect on the date of enactment of the Telecommunications Act of 1995, except for subsections (c), (d), (e), (f), and (i) which take effect one year after the date of enactment of that Act.".

(f) PROHIBITION ON EXCLUSION OF AREAS FROM SERVICE BASED ON RURAL LOCATION, HIGH COSTS, OR INCOME.—Part II of title II (47 U.S.C. 201 et seq.) as amended by this Act, is amended by adding after section 253 the following:

"SEC. 253A PROHIBITION ON EXCLUSION OF AREAS FROM SERVICE BASED ON RURAL LOCATION, HIGH COSTS, OR INCOME.

"(a) The Commission shall prohibit any telecommunications carrier from excluding from any of such carrier's services any high-cost area, or any area on the basis of the rural location or the income of the residents of such area: *Provided*, That a carrier may exclude an area in which the carrier can demonstrate that—

"(1) there will be insufficient consumer demand for the carrier to earn some return over the long term on the capital invested to provide such service to such area, and—

"(2) providing a service to such area will be less profitable for the carrier than providing the service in areas to which the carrier is already providing or has proposed to provide the service.

"(b) The Commission shall provide for public comment on the adequacy of the carrier's proposed service area on the basis of the requirements of this section.".

SEC. 104. ESSENTIAL TELECOMMUNICATIONS CARRIERS.

(a) IN GENERAL.—Section 214(d) (47 U.S.C. 214(d)) is amended—

(1) by inserting "(1) ADEQUATE FACILITIES REQUIRED.—" before "The Commission"; and

(2) by adding at the end thereof the following:

"(2) DESIGNATION OF ESSENTIAL CARRIER.—If one or more common carriers provide telecommunications service to a geographic area, and no common carrier will provide universal service to an unserved community or any portion thereof that requests such service within such area, then the Commission, with respect to interstate services, or a State, with respect to intrastate services, shall determine which common carrier serving that area is best able to provide universal service to the requesting unserved community or portion thereof, and shall designate that common carrier as an essential telecommunications carrier for that unserved community or portion thereof.

"(3) ESSENTIAL CARRIER OBLIGATIONS.—A common carrier may be designated by the Commission, or by a State, as appropriate, as an essential telecommunications carrier for a specific service area and become eligible to receive universal service support under section 253. A carrier designated as an essential telecommunications carrier shall—

"(A) provide through its own facilities or through a combination of its own facilities and resale of services using another carrier's facilities, universal service and any additional service (such as 911 service) required by the Commission or the State, to any community or portion thereof which requests such service;

"(B) offer such services at nondiscriminatory rates established by the Commission, for interstate services, and the State, for intrastate services, throughout the service area; and

"(C) advertise throughout the service area the availability of such services and the rates for such services using media of general distribution.

"(4) MULTIPLE ESSENTIAL CARRIERS.—If the Commission, with respect to interstate services, or a State, with respect to intrastate services, designates more than one common carrier as an essential telecommunications carrier for a specific service area, such carrier shall meet the service, rate, and advertising requirements imposed by the Commission or State on any other essential telecommunications carrier for that service area. A State shall require that, before designating an additional essential telecommunications carrier, the State agency authorized to make the designation shall find that—

"(A) the designation of an additional essential telecommunications carrier is in the public interest and that there will not be a significant adverse impact on users of telecommunications services or on the provision of universal service;

"(B) the designation encourages the development and deployment of advanced telecommunications infrastructure and services in rural areas; and

"(C) the designation protects the public safety and welfare, ensures the continued quality of telecommunications services, or safeguards the rights of consumers.

"(5) RESALE OF UNIVERSAL SERVICE.—The Commission, for interstate services, and the States, for intrastate services, shall establish rules to govern the resale of universal service to allocate any support received for the provision of such service in a manner that ensures that the carrier whose facilities are being resold is adequately compensated for their use, taking into account the impact of the resale on that carrier's ability to maintain and deploy its network as a whole. The Commission shall also establish, based on the recommendations of the Federal-State Joint Board instituted to implement this section, rules to permit a carrier designated as an essential telecommunications carrier to relinquish that designation for a specific service area if another telecommunications carrier is also designated as an essential telecommunications carrier for that area. The rules—

"(A) shall ensure that all customers served by the relinquishing carrier continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining essential telecommunications carrier if such remaining carrier provided universal service through resale of the facilities of the relinquishing carrier; and

"(B) shall establish criteria for determining when a carrier which intends to utilize resale to meet the requirements for designation under this subsection has adequate resources to purchase, construct, or otherwise obtain the facilities necessary to meet its obligation if the reselling carrier is no longer able or obligated to resell the service.

"(6) ENFORCEMENT.—A common carrier designated by the Commission or a State as an essential telecommunications carrier that refuses to provide universal service within a reasonable period to an unserved community or portion thereof which requests such service shall forfeit to the United States, in the case of interstate services, or the State, in the case of intrastate services, a sum of up to $10,000 for each day that such carrier refuses to provide such service. In determining a reasonable period the Commission or the State, as appropriate, shall consider the nature of any construction required to serve such requesting unserved community or portion thereof, as well as the construction intervals normally attending such construction, and shall allow adequate time for regulatory approvals and acquisition of necessary financing.

"(7) INTEREXCHANGE SERVICES.—The Commission, for interstate services, or a State, for intrastate services, shall designate an essential telecommunications carrier for interexchange services for any unserved community or portion thereof requesting such services. Any common carrier designated as an essential telecommunications carrier for interexchange services under this paragraph shall provide interexchange services included in universal service to any unserved community or portion thereof which requests such service. The service shall be provided at nationwide geographically averaged rates for interstate interexchange services and at geographically averaged rates for intrastate interexchange services, and shall be just and reasonable and not unjustly or unreasonably discriminatory. A common carrier designated as an essential telecommunications carrier for interexchange services under this paragraph that refuses to provide interexchange service in accordance with this paragraph to an unserved community or portion thereof that requests such service within 180 days of such request shall forfeit to the United States a sum of up to $50,000 for each day that such carrier refuses to provide such service. The Commission or the State, as appropriate, may extend the 180-day period for providing interexchange service upon a showing by the common carrier of good faith efforts to comply within such period.

"(8) IMPLEMENTATION.—The Commission may, by regulation, establish guidelines by which States may implement the provisions of this section.".

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(b) CONFORMING AMENDMENT.—The heading for section 214 is amended by inserting a semicolon and "essential telecommunications carriers" after "lines".

(c) TRANSITION RULE.—A rural telephone company is eligible to receive universal service support payments under section 253(e) of the Communications Act of 1934 as if such company were an essential telecommunications carrier until such time as the Commission, with respect to interstate services, or a State, with respect to intrastate services, designates an essential telecommunications carrier or carriers for the area served by such company under section 214 of that Act.

SEC. 105. FOREIGN INVESTMENT AND OWNERSHIP REFORM.

(a) IN GENERAL.—Section 310 (47 U.S.C. 310) is amended by adding at the end thereof the following new subsection:

"(f) TERMINATION OF FOREIGN OWNERSHIP RESTRICTIONS.—

"(1) RESTRICTION NOT TO APPLY WHERE RECIPROCITY FOUND.—Subsection (b) shall not apply to any common carrier license held, or for which application is made, after the date of enactment of the Telecommunications Act of 1995 with respect to any alien (or representative thereof), corporation, or foreign government (or representative thereof) if the Commission determines that the foreign country of which such alien is a citizen, in which such corporation is organized, or in which such foreign government is in control provides equivalent market opportunities for common carriers to citizens of the United States (or their representatives), corporations organized in the United States, and the United States Government (or its representative): *Provided*, That the President does not object within 15 days of such determination. If the President objects to a determination, the President shall, immediately upon such objection, submit to Congress a written report (in unclassified form, but with a classified annex if necessary) that sets forth a detailed explanation of the findings made and factors considered in objecting to the determination. The determination of whether market opportunities are equivalent shall be made on a market segment specific basis within 180 days after the application is filed. While determining whether such opportunities are equivalent on that basis, the Commission shall also conduct an evaluation of opportunities for access to all segments of the telecommunications market of the applicant.

"(2) SNAPBACK FOR RECIPROCITY FAILURE.—If the Commission determines that any foreign country with respect to which it has made a determination under paragraph (1) ceases to meet the requirements for that determination, then—

"(A) subsection (b) shall apply with respect to such aliens, corporations, and government (or their representatives) on the date on which the Commission publishes notice of its determination under this paragraph, and

"(B) any license held, or application filed, which could not be held or granted under subsection (b) shall be withdrawn, or denied, as the case may be, by the Commission under the provisions of subsection (b).".

(b) CONFORMING AMENDMENT.—Section 332(c)(6) (47 U.S.C. 332(c)(6)) is amended by adding at the end thereof the following:

"This paragraph does not apply to any foreign ownership interest or transfer of ownership to which section 310(b) does not apply because of section 310(f).".

(c) THE APPLICATION OF THE EXON-FLORIO LAW.—Nothing in this section (47 U.S.C. 310) shall limit in any way the application of the Exon-Florio law (50 U.S.C. App. 2170) to any transaction.

SEC. 106. INFRASTRUCTURE SHARING.

(a) REGULATIONS REQUIRED.—The Commission shall prescribe, within one year after the date of enactment of this Act, regulations that require local exchange carriers that were subject to Part 69 of the Commission's rules on or before that date to make available to any qualifying carrier such public switched network infrastructure, technology, information, and telecommunications facilities and functions as may be requested by such qualifying carrier for the purpose of enabling such qualifying carrier to provide telecommunications services, or to provide access to information services, in the service area in which such qualifying carrier has requested and obtained designation as an essential telecommunications carrier under section 214(d) and provides universal service by means of its own facilities.

(b) TERMS AND CONDITIONS OF REGULATIONS.—The regulations prescribed by the Commission pursuant to this section shall—

(1) not require a local exchange carrier to which this section applies to take any action that is economically unreasonable or that is contrary to the public interest;

(2) permit, but shall not require, the joint ownership or operation of public switched network infrastructure and services by or among such local exchange carrier and a qualifying carrier;

(3) ensure that such local exchange carrier will not be treated by the Commission or any State as a common carrier for hire or as offering common carrier services with respect to any infrastructure, technology, information, facilities, or functions made available to a qualifying carrier in accordance with regulations issued pursuant to this section;

(4) ensure that such local exchange carrier makes such infrastructure, technology, information, facilities, or functions available to a qualifying carrier on just and reasonable terms and conditions that permit such qualifying carrier to fully benefit from the economies of scale and scope of such local exchange carrier, as determined in accordance with guidelines prescribed by the Commission in regulations issued pursuant to this section;

(5) establish conditions that promote cooperation between local exchange carriers to which this section applies and qualifying carriers;

(6) not require a local exchange carrier to which this section applies to engage in any infrastructure sharing agreement for any services or access which are to be provided or offered to consumers by the qualifying carrier in such local exchange carrier's telephone exchange area; and

(7) require that such local exchange carrier file with the Commission or State for public inspection, any tariffs, contracts, or other arrangements showing the rates, terms, and conditions under which such carrier is making available public switched network infrastructure and functions under this section.

(c) INFORMATION CONCERNING DEPLOYMENT OF NEW SERVICES AND EQUIPMENT.—A local exchange carrier to which this section applies that has entered into an infrastructure sharing agreement under this section shall provide to each party to such agreement timely information on the planned deployment of telecommunications services and equipment, including any software or upgrades of software integral to the use or operation of such telecommunications equipment.

(d) DEFINITIONS.—For purposes of this section—

(1) QUALIFYING CARRIER.—The term "qualifying carrier" means a telecommunications carrier that—

(A) lacks economies of scale or scope, as determined in accordance with regulations prescribed by the Commission pursuant to this section; and

(B) is a common carrier which offers telephone exchange service, exchange access service, and any other service that is included in universal service, to all consumers without preference throughout the service area for which such carrier has been designated as an essential telecommunications carrier under section 214(d) of the Communications Act of 1934.

(2) OTHER TERMS.—Any term used in this section that is defined in the Communications Act of 1934 has the same meaning as it has in that Act.

SEC. 107. COORDINATION FOR TELECOMMUNICATIONS NETWORK-LEVEL INTEROPERABILITY.

(a) IN GENERAL.—To promote nondiscriminatory access to telecommunications networks by the broadest number of users and vendors of communications products and services through—

(1) coordinated telecommunications network planning and design by common carriers and other providers of telecommunications services, and

(2) interconnection of telecommunications networks, and of devices with such networks, to ensure the ability of users and information providers to seamlessly and transparently transmit and receive information between and across telecommunications networks,

the Commission may participate, in a manner consistent with its authority and practice prior to the date of enactment of this Act, in the development by appropriate voluntary industry standards-setting organizations to promote telecommunications network-level interoperability.

(b) DEFINITION OF TELECOMMUNICATIONS NETWORK-LEVEL INTEROPERABILITY.—As used in this section, the term "telecommunications network-level interoperability" means the ability of 2 or more telecommunications networks to communicate and interact in concert with each other to exchange information without degeneration.

(c) COMMISSION'S AUTHORITY NOT LIMITED.—Nothing in this section shall be construed as limiting the existing authority of the Commission.

TITLE II—REMOVAL OF RESTRICTIONS TO COMPETITION

Subtitle A—Removal of Restrictions

SEC. 201. REMOVAL OF ENTRY BARRIERS.

(a) PREEMPTION OF STATE RULES.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 253 the following:

"SEC. 254. REMOVAL OF BARRIERS TO ENTRY.

"(a) IN GENERAL.—No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications services.

"(b) STATE REGULATORY AUTHORITY.—Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 253, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

"(c) STATE AND LOCAL GOVERNMENT AUTHORITY.—Nothing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

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"(d) PREEMPTION.—If, after notice and an opportunity for public comment, the Commission determines that a State or local government has permitted or imposed any statute, regulation, or legal requirement that violates subsection (a) or (b), the Commission shall preempt the enforcement of such statute, regulation, or legal requirement to the extent necessary to correct such violation or inconsistency.

"(e) COMMERCIAL MOBILE SERVICES PROVIDERS.—Nothing in this section shall affect the application of section 332(c)(3) to commercial mobile services providers.".

(b) PROVISION OF TELECOMMUNICATIONS SERVICES BY A CABLE OPERATOR.—

(1) JURISDICTION OF FRANCHISING AUTHORITY.—Section 621(b) (47 U.S.C. 541(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) To the extent that a cable operator or affiliate thereof is engaged in the provision of telecommunications services—

"(i) such cable operator or affiliate shall not be required to obtain a franchise under this title for the provision of telecommunications services; and

"(ii) the provisions of this title shall not apply to such cable operator or affiliate for the provision of telecommunications services.

"(B) A franchising authority may not order a cable operator or affiliate thereof to discontinue the provision of a telecommunications service.

"(C) A franchising authority may not require a cable operator to provide any telecommunications service or facilities as a condition of the initial grant of a franchise, franchise renewal, or transfer of a franchise.

"(D) Nothing in this paragraph affects existing Federal or State authority with respect to telecommunications services.".

(2) FRANCHISE FEES.—Section 622(b) (47 U.S.C. 542(b)) is amended by inserting "to provide cable services" immediately before the period at the end of the first sentence.

(c) STATE AND LOCAL TAX LAWS.—Except as provided in section 202, nothing in this Act (or in the Communications Act of 1934 as amended by this Act) shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or supersession of, any State or local law pertaining to taxation that is consistent with the requirements of the Constitution of the United States, this Act, the Communications Act of 1934, or any other applicable Federal law.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 202. ELIMINATION OF CABLE AND TELEPHONE COMPANY CROSS-OWNERSHIP RESTRICTION.

(a) IN GENERAL.—Section 613(b) (47 U.S.C. 533(b)) is amended to read as follows:

"(b) VIDEO PROGRAMMING AND CABLE SERVICES.—

"(1) DISTINCTION BETWEEN VIDEO PLATFORM AND CABLE SERVICE.—To the extent that any telecommunications carrier carries video programming provided by others, or provides video programming that it owns, controls, or selects directly to subscribers, through a common carrier video platform, neither the telecommunications carrier nor any video programming provider making use of such platform shall be deemed to be a cable operator providing cable service. To the extent that any telecommunications carrier provides video programming directly to subscribers through a cable system, the carrier shall be deemed to be a cable operator providing cable service.

"(2) BELL OPERATING COMPANY ACTIVITIES.—

"(A) Notwithstanding the provisions of section 252, to the extent that a Bell operating company carries video programming provided by others or provides video programming that it owns, controls, or selects over a common carrier video platform, it need not use a separate affiliate if—

"(i) the carrier provides facilities, services, or information to all programmers on the same terms and conditions as it provides such facilities, services, or information to its own video programming operations, and

"(ii) the carrier does not use its telecommunications services to subsidize its provision of video programming.

"(B) To the extent that a Bell operating company provides cable service as a cable operator, it shall provide such service through an affiliate that meets the requirements of section 252 (a), (b), and (d) and the Bell operating company's telephone exchange services and exchange access services shall meet the requirements of subparagraph (A)(ii) and section 252(c); except that, to the extent the Bell operating company provides cable service utilizing its own telephone exchange facilities, section 252(c) shall not require the Bell operating company to make video programming services capacity available on a non-discriminatory basis to other video programming services providers.

"(C) Upon a finding by the Commission that the requirement of a separate affiliate under the preceding subparagraph is no longer necessary to protect consumers, competition, or the public interest, the Commission shall exempt a Bell operating company from that requirement.

"(3) COMMON CARRIER VIDEO PLATFORM.—Nothing in this Act precludes a telecommunications carrier from carrying video programming provided by others directly to subscribers over a common carrier video platform. Nothing in this Act precludes a video programming provider making use of a common carrier video platform from being treated as an operator of a cable system for purposes of section 111 of title 17, United States Code.

"(4) RATES; ACCESS.—Notwithstanding paragraph (2)(A)(i), a provider of common carrier video platform services shall provide local broadcast stations, and to those public, educational, and governmental entities required by local franchise authorities to be given access to cable systems operating in the same market as the common carrier video platform, with access to that platform for the transmission of television broadcast programming at rates no higher than the incremental-cost-based rates of providing such access. Local broadcast stations shall be entitled to obtain access on the first tier of programming on the common carrier video platform. If the area covered by the common carrier video platform includes more than one franchising area, then the Commission shall determine the number of channels allocated to public, educational, and governmental entities that may be eligible for such rates for that platform.

"(5) COMPETITIVE NEUTRALITY.—A provider of video programming may be required to pay fees in lieu of franchise fees (as defined in section 622(g)(1)) if the fees—

"(A) are competitively neutral; and

"(B) are separately identified in consumer billing.

"(6) ACQUISITIONS; JOINT VENTURES; PARTNERSHIPS; JOINT USE OF FACILITIES.—

"(A) LOCAL EXCHANGE CARRIERS.—No local exchange carrier or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier may purchase or otherwise acquire more than a 10 percent financial interest, or any management interest, in any cable operator providing cable service within the local exchange carrier's telephone service area.

"(B) CABLE OPERATORS.—No cable operator or affiliate of a cable operator that is owned by, operated by, controlled by, or under common ownership with such cable operator may purchase or otherwise acquire, directly or indirectly, more than a 10 percent financial interest, or any management interest, in any local exchange carrier providing telephone exchange service within such cable operator's franchise area.

"(C) JOINT VENTURE.—A local exchange carrier and a cable operator whose telephone service area and cable franchise area, respectively, are in the same market may not enter into any joint venture or partnership to provide video programming directly to subscribers or to provide telecommunications services within such market.

"(D) EXCEPTION.—Notwithstanding subparagraphs (A), (B), and (C) of this paragraph, a local exchange carrier (with respect to a cable system located in its telephone service area) and a cable operator (with respect to the facilities of a local exchange carrier used to provide telephone exchange service in its cable franchise area) may obtain a controlling interest in, management interest in, or enter into a joint venture or partnership with such system or facilities to the extent that such system or facilities only serve incorporated or unincorporated—

"(i) places or territories that have fewer than 50,000 inhabitants; and

"(ii) are outside an urbanized area, as defined by the Bureau of the Census.

"(E) WAIVER.—The Commission may waive the restrictions of subparagraph (A), (B), or (C) only if the Commission determines that, because of the nature of the market served by the affected cable system or facilities used to provide telephone exchange service—

"(i) the incumbent cable operator or local exchange carrier would be subjected to undue economic distress by the enforcement of such provisions,

"(ii) the system or facilities would not be economically viable if such provisions were enforced, or

"(iii) the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

"(F) JOINT USE.—Notwithstanding subparagraphs (A), (B), and (C), a telecommunications carrier may obtain within such carrier's telephone service area, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that portion of the transmission facilities of such a cable system extending from the last multiuser terminal to the premises of the end user in excess of the capacity that the cable operator uses to provide its own cable services. A cable operator that provides access to such portion of its transmission facilities to one telecommunications carrier shall provide nondiscriminatory access to such portion of its transmission facilities to any other telecommunications carrier requesting such access.

"(G) SAVINGS CLAUSE.—Nothing in this paragraph affects—

"(i) the authority of a local franchising authority (in the case of the purchase or acquisition of a cable operator, or a joint venture to provide cable service) or a State Commission (in the case of the acquisition of a local exchange carrier, or a joint venture to provide telephone exchange service) to approve or disapprove a purchase, acquisition, or joint venture, or

"(ii) the antitrust laws, as described in section 7(a) of the Telecommunications Competition and Deregulation Act of 1995.".

(b) NO PERMIT REQUIRED FOR VIDEO PROGRAMMING SERVICES.—Section 214 (47 U.S.C.

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214) is amended by adding at the end thereof the following:

"(e) SPECIAL RULE.—No certificate is required under this section for a carrier to construct facilities to provide video programming services.".

(c) SAFEGUARDS.—Within one year after the date of enactment of this Act, the Commission shall prescribe regulations that—

(1) require a telecommunications carrier that provides video programming directly to subscribers to ensure that subscribers are offered the means to obtain access to the signals of local broadcast television stations identified under section 614 as readily as they are today;

(2) require such a carrier to display clearly and prominently at the beginning of any program guide or menu of program offerings the identity of any signal of any television broadcast station that is carried by the carrier;

(3) require such a carrier to ensure that viewers are able to access the signal of any television broadcast station that is carried by that carrier without first having to view advertising or promotional material, or a navigational device, guide, or menu that omits broadcasting services as an available option;

(4) except as required by paragraphs (1) through (3), prohibit such carrier and a multichannel video programming distributor using the facilities of such carrier from discriminating among video programming providers with respect to material or information provided by the carrier to subscribers for the purposes of selecting programming, or in the way such material or information is presented to subscribers;

(5) require such carrier and a multichannel video programming distributor using the facilities of such carrier to ensure that video programming providers or copyright holders (or both) are able suitably and uniquely to identify their programming services to subscribers;

(6) if such identification is transmitted as part of the programming signal, require a telecommunications carrier that provides video programming directly to subscribers and a multichannel video programming distributor using the facilities of such carrier to transmit such identification without change or alteration;

(7) prohibit such carrier from discriminating among video programming providers with regard to carriage and ensure that the rates, terms, and conditions for such carriage are just, reasonable, and nondiscriminatory;

(8) extend to such carriers and multichannel video programming distributors using the facilities of such carrier the Commission's regulations concerning network nonduplication (47 C.F.R. 76.92 et seq.) and syndicated exclusivity (47 C.F.R. 76.171 et seq.); and

(9) extend to such carriers and multichannel video programming distributors using the facilities of such carrier the protections afforded to local broadcast signals in section 614(b)(3), 614(b)(4)(A), and 615(g)(1) and (2) of such Act (47 U.S.C. 534(b)(3), 534(b)(4)(A), and 535(g)(1) and (2)).

(d) ENFORCEMENT.—The Commission shall resolve disputes under subsection (c) and the regulations prescribed under that subsection. Any such dispute shall be resolved with 180 days after notice of the dispute is submitted to the Commission. At that time, or subsequently in a separate proceeding, the Commission may award damages sustained in consequence of any violation of this section to any person denied carriage, or require carriage, or both. Any aggrieved party may also seek any other remedy available under the law.

(e) EFFECTIVE DATES.—The amendment made by subsection (a) takes effect on the date of enactment of this Act. The amendment made by subsection (b) takes effect 1 year after that date.

SEC. 303. CABLE ACT REFORM.

(a) CHANGE IN DEFINITION OF CABLE SYSTEM.—Section 602(7) (47 U.S.C. 522(7)) is amended by striking out "(B) a facility that serves only subscribers in 1 or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way;" and inserting "(B) a facility that serves subscribers without using any public right-of-way;".

(b) RATE DEREGULATION.—

(1) Section 623(c) (47 U.S.C. 543(c)) is amended—

(A) by striking "subscriber," and the comma after "authority" in paragraph (1)(B);

(B) by striking paragraph (2) and inserting the following:

"(2) STANDARD FOR UNREASONABLE RATES.—The Commission may only consider a rate for cable programming services to be unreasonable if it substantially exceeds the national average rate for comparable cable programming services provided by cable systems other than small cable systems, determined on a per-channel basis as of June 1, 1995, and redetermined, and adjusted if necessary, every 2 years thereafter.".

(2) Section 623(l)(1) (47 U.S.C. 543(l)(1)) is amended—

(A) by striking "or" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon and "or"; and

(C) by adding at the end the following:

"(D) a local exchange carrier offers video programming services directly to subscribers, either over a common carrier video platform or as a cable operator, in the franchise area of an unaffiliated cable operator which is providing cable service in that franchise area, but only if the video programming services offered by the carrier in that area are comparable to the video programming services provided by the unaffiliated cable operator in that area.".

(c) GREATER DEREGULATION FOR SMALLER CABLE COMPANIES.—Section 623 (47 U.S.C. 543) is amended by adding at the end thereof the following:

"(m) SPECIAL RULES FOR SMALL COMPANIES.—

"(1) IN GENERAL.—Subsection (a), (b), or (c) does not apply to a small cable operator with respect to—

"(A) cable programming services, or

"(B) a basic service tier that was the only service tier subject to regulation as of December 31, 1994,

in any franchise area in which that operator serves 35,000 or fewer subscribers.

"(2) DEFINITION OF SMALL CABLE OPERATOR.—For purposes of this subsection, the term 'small cable operator' means a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.".

(d) PROGRAM ACCESS.—Section 628 (47 U.S.C. 628) is amended by adding at the end the following:

"(j) COMMON CARRIERS.—Any provision that applies to a cable operator under this section shall apply to a telecommunications carrier or its affiliate that provides video programming by any means directly to subscribers. Any such provision that applies to a satellite cable programming vendor in which a cable operator has an attributable interest shall apply to any satellite cable programming vendor in which such common carrier has an attributable interest.".

(e) EXPEDITED DECISION-MAKING FOR MARKET DETERMINATIONS UNDER SECTION 614.—

(1) IN GENERAL.—Section 614(h)(1)(C)(iv) (47 U.S.C. 614(h)(1)(C)(iv)) is amended to read as follows:

"(iv) Within 120 days after the date on which a request is filed under this subparagraph, the Commission shall grant or deny the request.".

(2) APPLICATION TO PENDING REQUESTS.—The amendment made by paragraph (1) shall apply to—

(A) any request pending under section 614(h)(1)(C) of the Communications Act of 1934 (47 U.S.C. 614(h)(1)(C)) on the date of enactment of this Act; and

(B) any request filed under that section after that date.

(f) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 304. POLE ATTACHMENTS.

Section 224 (47 U.S.C. 224) is amended—

(1) by inserting the following after subsection (a)(4):

"(5) The term 'telecommunications carrier' shall have the meaning given such term in subsection 3(nn) of this Act, except that, for purposes of this section, the term shall not include any person classified by the Commission as a dominant provider of telecommunications services as of January 1, 1995.";

(2) by inserting after "conditions" in subsection (c)(1) a comma and the following: "or access to poles, ducts, conduits, and rights-of-way as provided in subsection (f),";

(3) by inserting after subsection (d)(2) the following:

"(3) This subsection shall apply to the rate for any pole attachment used by a cable television system solely to provide cable service. Until the effective date of the regulations required under subsection (e), this subsection shall also apply to the pole attachment rates for cable television systems (or for any telecommunications carrier that was not a party to any pole attachment agreement prior to the date of enactment of the Telecommunications Act of 1995) to provide any telecommunications service or any other service subject to the jurisdiction of the Commission."; and

(4) by adding at the end thereof the following:

"(e)(1) The Commission shall, no later than 2 years after the date of enactment of the Telecommunications Act of 1995, prescribe regulations in accordance with this subsection to govern the charges for pole attachments by telecommunications carriers. Such regulations shall ensure that utilities charge just and reasonable and non-discriminatory rates for pole attachments.

"(2) A utility shall apportion the cost of providing space on a pole, duct, conduit, or right-of-way other than the usable space among entities so that such apportionment equals the sum of—

"(A) two-thirds of the costs of providing space other than the usable space that would be allocated to such entity under an equal apportionment of such costs among all attachments, plus

"(B) the percentage of usable space required by each such entity multiplied by the costs of space other than the usable space;

but in no event shall such proportion exceed the amount that would be allocated to such entity under an equal apportionment of such costs among all attachments.

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"(3) A utility shall apportion the cost of providing usable space among all entities according to the percentage of usable space required for each entity. Costs shall be apportioned between the usable space and the space on a pole, duct, conduit, or right-of-way other than the usable space on a proportionate basis.

"(4) The regulations required under paragraph (1) shall become effective 5 years after the date of enactment of the Telecommunications Act of 1995. Any increase in the rates for pole attachments that result from the adoption of the regulations required by this subsection shall be phased in equal annual increments over a period of 5 years beginning on the effective date of such regulations.

"(f)(1) *A utility shall provide a cable* television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it.

"(2) Notwithstanding paragraph (1), a utility providing electric service may deny a cable television system or telecommunications carrier access to its poles, ducts, conduits, or rights-of-way, on a non-discriminatory basis where there is insufficient capacity and for reasons of safety, reliability, and generally applicable engineering purposes.

"(g) A utility that engages in the provision of telecommunications services shall impute to its costs of providing such services (and charge any affiliate, subsidiary, or associate company engaged in the provision of such services) an amount equal to the pole attachment rate for which such company would be liable under this section.".

SEC. 205. ENTRY BY UTILITY COMPANIES.

(a) IN GENERAL.—

(1) AUTHORIZED ACTIVITIES OF UTILITIES.—Notwithstanding any other provision of law to the contrary (including the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.)), an electric, gas, water, or steam utility, and any subsidiary company, affiliate, or associate company of such a utility, other than a public utility company that is an associate company of a registered holding company, may engage, directly or indirectly, in any activity whatsoever, wherever located, necessary or appropriate to the provision of—

(A) telecommunications services,

(B) information services,

(C) other services or products subject to the jurisdiction of the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.), or

(D) products or services that are related or incidental to a product or service described in subparagraph (A), (B), or (C).

(2) REMOVAL OF SEC JURISDICTION.—The Securities and Exchange Commission has no jurisdiction under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) over a holding company, or a subsidiary company, affiliate, or associate company of a holding company, to grant any authorization to enforce any requirement with respect to, or approve or otherwise review, any activity described in paragraph (1), including financing, investing in, acquiring, or maintaining any interest in, or entering into affiliate transactions or contracts, and any authority over audits or access to books and records.

(3) APPLICABILITY OF TELECOMMUNICATIONS REGULATION.—Nothing in this section shall affect the authority of the Federal Communications Commission under the Communications Act of 1934, or the authority of State commissions under State laws concerning the provision of telecommunications services, to regulate the activities of an associate company engaged in activities described in paragraph (1).

(4) COMMISSION RULES.—The Commission shall consider and adopt, as necessary, rules to protect the customers of a public utility company that is a subsidiary company of a registered holding company against potential detriment from the telecommunications activities of any other subsidiary of such registered holding company.

(b) PROHIBITION OF CROSS-SUBSIDIZATION.—Nothing in the Public Utility Holding Company Act of 1935 shall preclude the Federal Energy Regulatory Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company may recover in rates the costs of any activity described in subsection (a)(1) which is performed by an associate company regardless of whether such costs are incurred through the direct or indirect purchase of goods and services from such associate company.

(c) ASSUMPTION OF LIABILITIES.—Any public utility company that is an associate company of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not issue any security for the purpose of financing the acquisition, ownership, or operation of an associate company engaged in activities described in subsection (a)(1) without the prior approval of the State commission. Any public utility company that is an associate company of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not assume any obligation or liability as guarantor, endorser, surety, or otherwise by the public utility in respect of any security of an associate company engaged in activities described in subsection (a)(1) without the prior approval of the State commission.

(d) PLEDGING OR MORTGAGING UTILITY ASSETS.—Any public utility company that is an associate company of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not pledge, mortgage, or otherwise use as collateral any utility assets of the public utility or utility assets of any subsidiary company thereof for the benefit of an associate company engaged in activities described in subsection (a)(1) without the prior approval of the State commission.

(e) BOOKS AND RECORDS.—An associate company engaged in activities described in subsection (a)(1) which is an associate company of a registered holding company shall maintain books, records, and accounts separate from the registered holding company which identify all transactions with the registered holding company and its other associate companies, and provide access to books, records, and accounts to State commissions and the Federal Energy Regulatory Commission under the same terms of access, disclosure, and procedures as provided in section 201(g) of the Federal Power Act.

(f) INDEPENDENT AUDIT AUTHORITY FOR STATE COMMISSIONS.—

(1) STATE MAY ORDER AUDIT.—Any State commission with jurisdiction over a public utility company that—

(A) is an associate company of a registered holding company, and

(B) transacts business, directly or indirectly, with a subsidiary company, affiliate, or associate company of that holding company engaged in any activity described in subsection (a)(1),

may order an independent audit to be performed, no more frequently than on an annual basis, of all matters deemed relevant by the selected auditor that reasonably relate to retail rates: *Provided*, That such matters relate, directly or indirectly, to transactions or transfers between the public utility company subject to its jurisdiction and the subsidiary company, affiliate, or associate company engaged in that activity.

(2) SELECTION OF FIRM TO CONDUCT AUDIT.—

(A) If a State commission orders an audit in accordance with paragraph (1), the public utility company and the State commission shall jointly select within 60 days a firm to perform the audit. The firm selected to perform the audit shall possess demonstrated qualifications relating to:

(i) competency, including adequate technical training and professional proficiency in each discipline necessary to carry out the audit, and

(ii) independence and objectivity, including that the firm be free from personal or external impairments to independence, and should assume an independent position with the State commission and auditee, making certain that the audit is based upon an impartial consideration of all pertinent facts and responsible opinions.

(B) The public utility company and the company engaged in activities under subsection (a)(1) shall cooperate fully with all reasonable requests necessary to perform the audit and the public utility company shall bear all costs of having the audit performed.

(3) AVAILABILITY OF AUDITOR'S REPORT.—The auditor's report shall be provided to the State commission within 6 months after the selection of the auditor, and provided to the public utility company 60 days thereafter.

(g) REQUIRED NOTICES.—

(1) AFFILIATE CONTRACTS.—A State commission may order any public utility company that is an associate company of a registered holding company and that is subject to the jurisdiction of the State commission to provide quarterly reports listing any contracts, leases, transfers, or other transactions with an associate company engaged in activities described in subsection (a)(1).

(2) ACQUISITION OF AN INTEREST IN ASSOCIATE COMPANIES.—Within 10 days after the acquisition by a registered holding company of an interest in an associate company that will engage in activities described in subsection (a)(1), any public utility company that is an associate company of such company shall notify each State commission having jurisdiction over the retail rates of such public utility company of such acquisition. In the notice an officer on behalf of the public utility company shall attest that, based on then current information, such acquisition and related financing will not materially impair the ability of such public utility company to meet its public service responsibility, including its ability to raise necessary capital.

(h) DEFINITIONS.—Any term used in this section that is defined in the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) has the same meaning as it has in that Act. The terms "telecommunications service" and "information service" shall have the same meanings as those terms have in the Communications Act of 1934.

(i) IMPLEMENTATION.—Not later than 1 year after the date of enactment of this Act, the Federal Communications Commission shall promulgate such regulations as may be necessary to implement this section.

(j) EFFECTIVE DATE.—This section takes effect on the date of enactment of this Act.

SEC. 206. BROADCAST REFORM.

(a) SPECTRUM REFORM.—

(1) ADVANCED TELEVISION SPECTRUM SERVICES.—If the Commission by rule permits licensees to provide advanced television services, then—

(A) it shall adopt regulations that allow such licensees to make use of the advanced

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television spectrum for the transmission of ancillary or supplementary services if the licensees provide without charge to the public at least one advanced television program service as prescribed by the Commission that is intended for and available to the general public on the advanced television spectrum; and

(B) it shall apply similar rules to use of existing television spectrum.

(2) COMMISSION TO COLLECT FEES.—To the extent that a television broadcast licensee provides ancillary or supplementary services using existing or advanced television spectrum—

(A) for which payment of a subscription fee is required in order to receive such services, or

(B) for which the licensee directly or indirectly receives compensation from a third party in return for transmitting material furnished by such third party, other than payments to broadcast stations by third parties for transmission of program material or commercial advertising,

the Commission may collect from each such licensee an annual fee to the extent the existing or advanced television spectrum is used for such ancillary or supplementary services. In determining the amount of such fees, the Commission shall take into account the portion of the licensee's total existing or advanced television spectrum which is used for such services and the amount of time such services are provided. The amount of such fees to be collected for any such service shall not, in any event, exceed an amount equivalent on an annualized basis to the amount paid by providers of a competing service on spectrum subject to auction under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).

(3) PUBLIC INTEREST REQUIREMENT.—Nothing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience, and necessity. In the Commission's review of any application for renewal of a broadcast license for a television station that provides ancillary or supplementary services, the television licensee shall establish that all of its program services on the existing or advanced television spectrum are in the public interest. Any violation of the Commission rules applicable to ancillary or supplementary services shall reflect upon the licensee's qualifications for renewal of its license.

(4) DEFINITIONS.—As used in this subsection—

(A) The term "advanced television services" means television services provided using digital or other advanced technology to enhance audio quality and video resolution.

(B) The term "existing" means spectrum generally in use for television broadcast purposes on the date of enactment of this Act.

(b) OWNERSHIP REFORM.—

(1) IN GENERAL.—The Commission shall modify its rules for multiple ownership set forth in 47 CFR 73.3555 by—

(A) eliminating the restrictions on the number of television stations owned under subdivisions (e)(1) (ii) and (iii); and

(B) changing the percentage set forth in subdivision (e)(2)(ii) from 25 percent to 35 percent.

(2) RADIO OWNERSHIP.—The Commission shall modify its rules set forth in 47 CFR 73.3555 by eliminating any provisions limiting the number of AM or FM broadcast stations which may be owned or controlled by one entity either nationally or in a particular market. The Commission may refuse to approve the transfer or issuance of an AM or FM broadcast license to a particular entity if it finds that the entity would thereby obtain an undue concentration of control or would thereby harm competition. Nothing in this section shall require or prevent the Commission from modifying its rules contained in 47 CFR 73.3555(c) governing the ownership of both a radio and television broadcast stations in the same market.

(3) LOCAL MARKETING AGREEMENT.—Nothing in this Act shall be construed to prohibit the continuation or renewal of any television local marketing agreement that is in effect on the date of enactment of this Act and that is in compliance with the Commission's regulations.

(4) STATUTORY RESTRICTIONS.—Section 613 (47 U.S.C. 533) is amended by striking subsection (a) and inserting the following:

"(a) The Commission shall review its ownership rules biennially as part of its regulatory reform review under section 259.".

(5) CONFORMING CHANGES.—The Commission shall amend its rules to make any changes necessary to reflect the effect of this section on its rules.

(6) EFFECTIVE DATE.—The Commission shall make the modifications required by paragraphs (1) and (2) effective on the date of enactment of this Act.

(c) TERM OF LICENSES.—Section 307(c) (47 U.S.C. 307(c)) is amended by striking the first four sentences and inserting the following:

"No license shall be granted for a term longer than 10 years. Upon application, a renewal of such license may be granted from time to time for a term of not to exceed 10 years, if the Commission finds that the public interest, convenience, and necessity would be served thereby.".

(d) BROADCAST LICENSE RENEWAL PROCEDURES.—

(1) Section 309 (47 U.S.C. 309) is amended by adding at the end thereof the following:

"(k)(1)(A) Notwithstanding subsections (c) and (d), if the licensee of a broadcast station submits an application to the Commission for renewal of such license, the Commission shall grant the application if it finds, after notice and opportunity for comment, with respect to that station during the preceding term of its license, that—

"(i) the station has served the public interest, convenience, and necessity;

"(ii) there have been no serious violations by the licensee of this Act or the rules and regulations of the Commission; and

"(iii) there have been no other violations by the licensee of this Act or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse.

"(B) If any licensee of a broadcast station fails to meet the requirements of this subsection, the Commission may deny the application for renewal in accordance with paragraph (2), or grant such application on appropriate terms and conditions, including renewal for a term less than the maximum otherwise permitted.

"(2) If the Commission determines, after notice and opportunity for a hearing, that a licensee has failed to meet the requirements specified in paragraph (1)(A) and that no mitigating factors justify the imposition of lesser sanctions, the Commission shall—

"(A) issue an order denying the renewal application filed by such licensee under section 308; and

"(B) only thereafter accept and consider such applications for a construction permit as may be filed under section 308 specifying the channel or broadcasting facilities of the former licensee.

"(3) In making the determinations specified in paragraphs (1) or (2)(A), the Commission shall not consider whether the public interest, convenience, and necessity might be served by the grant of a license to a person other than the renewal applicant.".

(2) Section 309(d) (47 U.S.C. 309(d)) is amended by inserting "(or subsection (k) in the case of renewal of any broadcast station license)" after "with subsection (a)" each place it appears.

(3) The amendments made by this subsection apply to applications filed after May 31, 1995.

(4) This section shall operate only if the Commission shall amend its "Application for renewal of License for AM, FM, TV, Translator or LPTV Station" (FCC Form 303-S) to require that, for commercial TV applicants only, the applicant attach as an exhibit to the application a summary of written comments and suggestions received from the public and maintained by the licensee in accordance with section 73.1202 of title 47, Code of Federal Regulations, that comment on the applicant's programming, if any, characterized by the commentor as constituting violent programming.

Subtitle B—Termination of Modification of Final Judgment

SEC. 221. REMOVAL OF LONG DISTANCE RESTRICTIONS.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 254 the following new section:

"SEC. 255. INTEREXCHANGE TELECOMMUNICATIONS SERVICES.

"(a) IN GENERAL.—Notwithstanding any restriction or obligation imposed before the date of enactment of the Telecommunications Act of 1995 under section II(D) of the Modification of Final Judgment, a Bell operating company, or any subsidiary or affiliate of a Bell operating company, that meets the requirements of this section may provide—

"(1) interLATA telecommunications services originating in any region in which it is the dominant provider of wireline telephone exchange service or exchange access service after the Commission determines that it has fully implemented the competitive checklist found in subsection (b)(2) in the area in which it seeks to provide interLATA telecommunications services, in accordance with the provisions of subsection (c);

"(2) interLATA telecommunications services originating in any area where that company is not the dominant provider of wireline telephone exchange service or exchange access service in accordance with the provisions of subsection (d); and

"(3) interLATA services that are incidental services in accordance with the provisions of subsection (e).

"(b) SPECIFIC INTERLATA INTERCONNECTION REQUIREMENTS.—

"(1) IN GENERAL.—A Bell operating company may provide interLATA services in accordance with this section only if that company has reached an interconnection agreement under section 251 and that agreement provides, at a minimum, for interconnection that meets the competitive checklist requirements of paragraph (2).

"(2) COMPETITIVE CHECKLIST.—Interconnection provided by a Bell operating company to other telecommunications carriers under section 251 shall include:

"(A) Nondiscriminatory access on an unbundled basis to the network functions and services of the Bell operating company's telecommunications network that is at least equal in type, quality, and price to the access the Bell operating company affords to itself or any other entity.

"(B) The capability to exchange telecommunications between customers of the Bell operating company and the telecommunications carrier seeking interconnection.

"(C) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way

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owned or controlled by the Bell operating company at just and reasonable rates where it has the legal authority to permit such access.

"(D) Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.

"(E) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.

"(F) Local switching unbundled from transport, local loop transmission, or other services.

"(G) Nondiscriminatory access to—

"(i) 911 and E911 services;

"(ii) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and

"(iii) operator call completion services.

"(H) White pages directory listings for customers of the other carrier's telephone exchange service.

"(I) Until the date by which neutral telephone number administration guidelines, plan, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, compliance with such guidelines, plan, or rules.

"(J) Nondiscriminatory access to databases and associated signaling, including signaling links, signaling service control points, and signaling service transfer points, necessary for call routing and completion.

"(K) Until the date by which the Commission determines that final telecommunications number portability is technically feasible and must be made available, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with final telecommunications number portability.

"(L) Nondiscriminatory access to whatever services or information may be necessary to allow the requesting carrier to implement local dialing parity in a manner that permits consumers to be able to dial the same number of digits when using any telecommunications carrier providing telephone exchange service or exchange access service.

"(M) Reciprocal compensation arrangements on a nondiscriminatory basis for the origination and termination of telecommunications.

"(N) Telecommunications services and network functions provided on an unbundled basis without any conditions or restrictions on the resale or sharing of those services or functions, including both origination and termination of telecommunications services, other than reasonable conditions required by the Commission or a State. For purposes of this subparagraph, it is not an unreasonable condition for the Commission or a State to limit the resale—

"(i) of services included in the definition of universal service to a telecommunications carrier who intends to resell that service to a category of customers different from the category of customers being offered that universal service by such carrier if the Commission or State orders a carrier to provide the same service to different categories of customers at different prices necessary to promote universal service; or

"(ii) of subsidized universal service in a manner that allows companies to charge another carrier rates which reflect the actual cost of providing those services to that carrier, exclusive of any universal service support received for providing such services in accordance with section 214(d)(5).

"(3) JOINT MARKETING OF LOCAL AND LONG DISTANCE SERVICES.—Until a Bell operating company is authorized to provide interLATA services in a telephone exchange area where that company is the dominant provider of wireline telephone exchange service or exchange access service, or until 36 months have passed since the enactment of the Telecommunications Act of 1995, whichever is earlier, a telecommunications carrier that serves greater than 5 percent of the Nation's presubscribed access lines may not jointly market in such telephone exchange area telephone exchange service purchased from such company with interLATA services offered by that telecommunications carrier.

"(4) COMMISSION MAY NOT EXPAND COMPETITIVE CHECKLIST.—The Commission may not, by rule or otherwise, limit or extend the terms used in the competitive checklist.

"(c) IN-REGION SERVICES.—

"(1) APPLICATION.—Upon the enactment of the Telecommunications Act of 1995, a Bell operating company or its affiliate may apply to the Commission for authorization notwithstanding the Modification of Final Judgment to provide interLATA telecommunications service originating in any area where such Bell operating company is the dominant provider of wireline telephone exchange service or exchange access service. The application shall describe with particularity the nature and scope of the activity and of each product market or service market, and each geographic market for which authorization is sought.

"(2) DETERMINATION BY COMMISSION.—

"(A) DETERMINATION.—Not later than 90 days after receiving an application under paragraph (1), the Commission shall issue a written determination, on the record after a hearing and opportunity for comment, granting or denying the application in whole or in part. Before making any determination under this subparagraph, the Commission shall consult with the Attorney General regarding the application. In consulting with the Commission under this subparagraph, the Attorney General may apply any appropriate standard.

"(B) APPROVAL.—The Commission may only approve the authorization requested in an application submitted under paragraph (1) if it finds that—

"(i) the petitioning Bell operating company has fully implemented the competitive checklist found in subsection (b)(2); and

"(ii) the requested authority will be carried out in accordance with the requirements of section 252,

and if the Commission determines that the requested authorization is consistent with the public interest, convenience, and necessity. If the Commission does not approve an application under this subparagraph, it shall state the basis for its denial of the application.

"(3) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (2), the Commission shall publish in the Federal Register a brief description of the determination.

"(4) JUDICIAL REVIEW.—

"(A) COMMENCEMENT OF ACTION.—Not later than 45 days after a determination by the Commission is published under paragraph (3), the Bell operating company or its subsidiary or affiliate that applied to the Commission under paragraph (1), or any person who would be threatened with loss or damage as a result of the determination regarding such company's engaging in the activity described in its application, may commence an action in any United States Court of Appeals against the Commission for judicial review of the determination regarding the application.

"(B) JUDGMENT.—

"(i) The Court shall enter a judgment after reviewing the determination in accordance with section 706 of title 5 of the United State Code.

"(ii) A judgment—

"(I) affirming any part of the determination that approves granting all or part of the requested authorization, or

"(II) reversing any part of the determination that denies all or part of the requested authorization,

shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, to which the affirmance or reversal applies.

"(5) REQUIREMENTS RELATING TO SEPARATE AFFILIATE; SAFEGUARDS; AND INTRALATA TOLL DIALING PARITY.—

"(A) SEPARATE AFFILIATE; SAFEGUARDS.—Other than interLATA services authorized by an order entered by the United States District Court for the District of Columbia pursuant to the Modification of Final Judgment before the date of enactment of the Telecommunications Act of 1995, a Bell operating company, or any affiliate of such a company, providing interLATA services authorized under this subsection may provide such interLATA services in that market only in accordance with the requirements of section 252.

"(B) INTRALATA TOLL DIALING PARITY.—

"(i) A Bell operating company granted authority to provide interLATA services under this subsection shall provide intraLATA toll dialing parity throughout that market coincident with its exercise of that authority. If the Commission finds that such a Bell operating company has provided interLATA service authorized under this clause before its implementation of intraLATA toll dialing parity throughout that market, or fails to maintain intraLATA toll dialing parity throughout that market, the Commission, except in cases of inadvertent interruptions or other events beyond the control of the Bell operating company, shall suspend the authority to provide interLATA service for that market until the Commission determines that intraLATA toll dialing parity is implemented or reinstated.

"(ii) Except for single-LATA States and States which have issued an order by June 1, 1995 requiring a Bell operating company to implement toll dialing parity, a State may not require a Bell operating company to implement toll dialing parity in an intraLATA area before a Bell operating company has been granted authority under this subsection to provide interLATA services in that area *or before three years after the date of enactment* of the Telecommunications Act of 1995, whichever is earlier. Nothing in this clause precludes a State from issuing an order requiring toll dialing parity in an intraLATA area prior to either such date so long as such order does not take effect until after the earlier of either such dates.

"(iii) In any State in which intraLATA toll dialing parity has been implemented prior to the earlier date specified in clause (ii), no telecommunications carrier that serves greater than five percent of the Nation's presubscribed access lines may jointly market interLATA telecommunications services and intraLATA toll telecommunications services in a telephone exchange area in such State until a Bell operating company is authorized under this subsection to provide interLATA services in such telephone exchange area or until three years after the date of enactment of the Telecommunications Act of 1995, whichever is earlier.

"(d) OUT-OF-REGION SERVICES.—Effective on the date of enactment of the Telecommunications Act of 1995, a Bell operating

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company or its affiliate may provide interLATA telecommunications services originating in any area where such company is not the dominant provider of wireline telephone exchange service or exchange access service.

"(e) INCIDENTAL SERVICES.—

"(1) IN GENERAL.—Effective on the date of enactment of the Telecommunications Act of 1995, a Bell operating company or its affiliate may provide interLATA services that are incidental to—

"(A)(i) providing audio programming, video programming, or other programming services to subscribers of such company,

"(ii) providing the capability for interaction by such subscribers to select or respond to such audio programming, video programming, or other programming services, to order, or control transmission of the programming, polling or balloting, and ordering other goods or services,

"(iii) providing to distributors audio programming or video programming that such company owns, controls, or is licensed by the copyright owner of such programming, or by an assignee of such owner, to distribute, or

"(iv) providing alarm monitoring services,

"(B) providing—

"(i) a telecommunications service, using the transmission facilities of a cable system that is an affiliate of such company, between LATAs within a cable system franchise area in which such company is not, on the date of enactment of the Telecommunications Act of 1995, a provider of wireline telephone exchange service, or

"(ii) two-way interactive video services or Internet services over dedicated facilities to or for elementary and secondary schools as defined in section 264(d),

"(C) providing a service that permits a customer that is located in one LATA to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another LATA area, so long as the customer acts affirmatively to initiate the storage or retrieval of information, except that—

"(i) such service shall not cover any service that establishes a direct connection between end users or any real-time voice and data transmission,

"(ii) such service shall not include voice, data, or facsimile distribution services in which the Bell operating company or affiliate forwards customer-supplied information to customer- or carrier-selected recipients,

"(iii) such service shall not include any service in which the Bell operating company or affiliate searches for and connects with the intended recipient of information, or any service in which the Bell operating company or affiliate automatically forwards stored voicemail or other information to the intended recipient, and

"(iv) customers of such service shall not be billed a separate charge for the interLATA telecommunications furnished in conjunction with the provision of such service,

"(D) providing signaling information used in connection with the provision of telephone exchange service or exchange access service to another local exchange carrier; or

"(E) providing network control signaling information to, and receiving such signaling information from, interexchange carriers at any location within the area in which such company provides telephone exchange service or exchange access service.

"(2) LIMITATIONS.—The provisions of paragraph (1) are intended to be narrowly construed. The transmission facilities used by a Bell operating company or affiliate thereof to provide interLATA telecommunications under paragraph (1)(C) and subsection (f) shall be leased by that company from unaffiliated entities on terms and conditions (including price) no more favorable than those available to the competitors of that company until that Bell operating company receives authority to provide interLATA services under subsection (c). The interLATA services provided under paragraph (1)(A) are limited to those interLATA transmissions incidental to the provision by a Bell operating company or its affiliate of video, audio, and other programming services that the company or its affiliate is engaged in providing to the public. A Bell operating company may not provide telecommunications services not described in paragraph (1) without receiving the approvals required by subsection (c). The provision of services authorized under this subsection by a Bell operating company or its affiliate shall not adversely affect telephone exchange ratepayers or competition in any telecommunications market.

"(f) COMMERCIAL MOBILE SERVICE.—A Bell operating company may provide interLATA commercial mobile service except where such service is a replacement for land line telephone exchange service for a substantial portion of the land line telephone exchange service in a State in accordance with section 332(c) and with the regulations prescribed by the Commission.

"(g) DEFINITIONS.—As used in this section—

"(1) AUDIO PROGRAMMING SERVICES.—The term 'audio programming services' means programming provided by, or generally considered to be comparable to programming provided by, a radio broadcast station.

"(2) VIDEO PROGRAMMING SERVICES; OTHER PROGRAMMING SERVICES.—The terms 'video programming service' and 'other programming services' have the same meanings as such terms have under section 602 of this Act.

"(h) CERTAIN SERVICE APPLICATIONS TREATED AS IN-REGION SERVICE APPLICATIONS.—For purposes of this section, a Bell operating company application to provide 800 service, private line service, or their equivalents that—

"(1) terminate in an area where the Bell operating company is the dominant provider of wireline telephone exchange service or exchange access service, and

"(2) allow the called party to determine the interLATA carrier,

shall be considered an in-region service subject to the requirements of subsection (c) and not of subsection (d).".

(b) LONG DISTANCE ACCESS FOR COMMERCIAL MOBILE SERVICES.—

(1) IN GENERAL.—Notwithstanding any restriction or obligation imposed pursuant to the Modification of final Judgment or other consent decree or proposed consent decree prior to the date of enactment of this Act, a person engaged in the provision of commercial mobile services (as defined in section 332(d)(1) of the Communications Act of 1934), insofar as such person is so engaged, shall not be required by court order or otherwise to provide equal access to interexchange telecommunications carriers, except as provided by this section. Such a person shall ensure that its subscribers can obtain unblocked access to the provider of interexchange services of the subscriber's choice through the use of an interexchange carrier identification code assigned to such provider, except that the requirements for unblocking shall not apply to mobile satellite services unless the Commission finds it to be in the public interest.

(2) EQUAL ACCESS REQUIREMENT CONDITIONS.—The Commission may only require a person engaged in the provision of commercial mobile services to provide equal access to interexchange carriers if—

(A) such person, insofar as such person is so engaged, is subject to the interconnection obligations of section 251(a) of the Communications Act of 1934, and

(B) the Commission finds that such requirement is in the public interest.

SEC. 222. REMOVAL OF MANUFACTURING RESTRICTIONS.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 255 the following new section:

"SEC. 256. REGULATION OF MANUFACTURING BY BELL OPERATING COMPANIES.

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—Notwithstanding any restriction or obligation imposed before the date of enactment of the Telecommunications Act of 1995 pursuant to the Modification of Final Judgment on the lines of business in which a Bell operating company may engage, if the Commission authorizes a Bell operating company to provide interLATA services under section 255, then that company may be authorized by the Commission to manufacture and provide telecommunications equipment, and to manufacture customer premises equipment, at any time after that determination is made, subject to the requirements of this section and the regulations prescribed, except that neither a Bell operating company nor any of its affiliates may engage in such manufacturing in conjunction with a Bell operating company not so affiliated or any of its affiliates.

"(2) CERTAIN RESEARCH AND DESIGN ARRANGEMENTS; ROYALTY AGREEMENTS.—Upon adoption of rules by the Commission under section 252, a Bell operating company may—

"(A) engage in research and design activities related to manufacturing, and

"(B) enter into royalty agreements with manufacturers of telecommunications equipment.

"(b) SEPARATE AFFILIATE; SAFEGUARDS.—Any manufacturing or provision of equipment authorized under subsection (a) shall be conducted in accordance with the requirements of section 252.

"(c) PROTECTION OF SMALL TELEPHONE COMPANY INTERESTS.—

"(1) EQUIPMENT TO BE MADE AVAILABLE TO OTHERS.—A manufacturing affiliate of a Bell operating company shall make available, without discrimination or self-preference as to price, delivery, terms, or conditions, to all local exchange carriers, for use with the public telecommunications network, any telecommunications equipment, including software integral to such telecommunications equipment, including upgrades, manufactured by such affiliate if each such purchasing carrier—

"(A) does not manufacture telecommunications equipment or have an affiliate which manufactures telecommunications equipment; or

"(B) agrees to make available, to the Bell operating company that is the parent of the manufacturing affiliate or any of the local exchange carrier affiliates of such Bell company, any telecommunications equipment, including software integral to such telecommunications equipment, including upgrades, manufactured for use with the public telecommunications network by such purchasing carrier or by any entity or organization with which such purchasing carrier is affiliated.

"(2) NON-DISCRIMINATION STANDARDS.—

"(A) A Bell operating company and any entity acting on its behalf shall make procurement decisions and award all supply contracts for equipment, services, and software on the basis of open, competitive bidding, and an objective assessment of price, quality, delivery, and other commercial factors.

"(B) A Bell operating company and any entity it owns or otherwise controls, or which

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is acting on its behalf or on behalf of its affiliate, shall permit any person to participate fully on a non-discriminatory basis in the process of establishing standards and certifying equipment used in or interconnected to the public telecommunications network.

"(C) A Bell operating company shall, consistent with the antitrust laws, engage in joint network planning and design with local exchange carriers operating in the same area of interest. No participant in such planning shall be allowed to delay the introduction of new technology or the deployment of facilities to provide telecommunications services, and agreement with such other carriers shall not be required as a prerequisite for such introduction or deployment. A Bell operating company shall provide, to other local exchange carriers operating in the same area of interest, timely information on the planned deployment of telecommunications equipment, including software integral to such telecommunications equipment and upgrades of that software.

"(D) A manufacturing affiliate of a Bell operating company may not restrict sales to any local exchange carrier of telecommunications equipment, including software integral to the operation of such equipment and related upgrades.

"(E) A Bell operating company and any entity it owns or otherwise controls shall protect the proprietary information submitted with contract bids and in the standards and certification processes from release not specifically authorized by the owner of such information.

"(d) COLLABORATION WITH OTHER MANUFACTURERS.—A Bell operating company and its affiliates may engage in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment not affiliated with a Bell operating company during the design and development of hardware, software, or combinations thereof relating to such equipment.

"(e) INFORMATION ON PROTOCOLS AND TECHNICAL REQUIREMENTS.—The Commission shall prescribe regulations to require that each Bell operating company shall maintain and file with the Commission full and complete information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities. Such regulations shall require each such Bell company to report promptly to the Commission any material changes or planned changes to such protocols and requirements, and the schedule for implementation of such changes or planned changes.

"(f) ADDITIONAL RULES AND REGULATIONS.—The Commission may prescribe such additional rules and regulations as the Commission determines are necessary to carry out the provisions of this section, and otherwise to prevent discrimination and cross-subsidization in a Bell operating company's dealings with its affiliate and with third parties.

"(g) ADMINISTRATION AND ENFORCEMENT.—

"(1) COMMISSION AUTHORITY.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed under this section, the Commission shall have the same authority, power, and functions with respect to any Bell operating company as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

"(2) CIVIL ACTIONS BY INJURED PARTIES.—Any party injured by an act or omission of a Bell operating company or its manufacturing affiliate which violates the requirements of paragraph (1) or (2) of subsection (c), or the Commission's regulations implementing such paragraphs, may initiate an action in a district court of the United States to recover the full amount of damages sustained in consequence of any such violation and obtain such orders from the court as are necessary to terminate existing violations and to prevent future violations; or such party may seek relief from the Commission pursuant to sections 206 through 209.

"(h) APPLICATION TO BELL COMMUNICATIONS RESEARCH.—Nothing in this section—

"(1) provides any authority for Bell Communications Research, or any successor entity, to manufacture or provide telecommunications equipment or to manufacture customer premises equipment; or

"(2) prohibits Bell Communications Research, or any successor entity, from engaging in any activity in which it is lawfully engaged on the date of enactment of the Telecommunications Act of 1995, including providing a centralized organization for the provision of engineering, administrative, and other services (including serving as a single point of contact for coordination of the Bell operating companies to meet national security and emergency preparedness requirements).

"(i) DEFINITIONS.—As used in this section—

"(1) The term 'customer premises equipment' means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

"(2) The term 'manufacturing' has the same meaning as such term has in the Modification of Final Judgment.

"(3) The term 'telecommunications equipment' means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services.".

(b) EFFECT ON PRE-EXISTING MANUFACTURING AUTHORITY.—Nothing in this section, or in section 256 of the Communications Act of 1934 as added by this section, prohibits any Bell operating company from engaging, directly or through any affiliate, in any manufacturing activity in which any Bell operating company or affiliate was authorized to engage on the date of enactment of this Act.

SEC. 223. EXISTING ACTIVITIES.

Nothing in this Act, or any amendment made by this Act, prohibits a Bell operating company from engaging, at any time after the date of enactment of this Act, in any activity authorized by an order entered by the United States District Court for the District of Columbia pursuant to section VII or VIII(C) of the Modification of Final Judgment, if such order was entered on or before the date of enactment of this Act.

SEC. 224. ENFORCEMENT.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 256 the following:

"SEC. 257. ENFORCEMENT.

"(a) IN GENERAL.—In addition to any penalty, fine, or other enforcement remedy under this Act, the failure by a telecommunications carrier to implement the requirements of section 251 or 255, including a failure to comply with the terms of an interconnection agreement approved under section 251, is punishable by a civil penalty of not to exceed $1,000,000 per offense. Each day of a continuing offense shall be treated as a separate violation for purposes of levying any penalty under this subsection.

"(b) NONCOMPLIANCE WITH INTERCONNECTION OR SEPARATE SUBSIDIARY REQUIREMENTS.—

"(1) A Bell operating company that repeatedly, knowingly, and without reasonable cause fails to implement an interconnection agreement approved under section 251, to comply with the requirements of such agreement after implementing them, or to comply with the separate affiliate requirements of this part may be fined up to $500,000,000 by a district court of the United States of competent jurisdiction.

"(2) A Bell operating company that repeatedly, knowingly, and without reasonable cause fails to meet its obligations under section 255 for the provision of interLATA service may have its authority to provide any service suspended if its right to provide that service is conditioned upon its meeting those obligations.

"(c) ENFORCEMENT BY PRIVATE RIGHT OF ACTION.—

"(1) DAMAGES.—Any person who is injured in its business or property by reason of a violation of section 251 or 255 may bring a civil action in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy.

"(2) INTEREST.—The court may award under this section, pursuant to a motion by such person promptly made, simple interest on actual damages for the period beginning on the date of service of such person's pleading setting forth a claim under this title and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances.

"(d) PAYMENT OF CIVIL PENALTIES, DAMAGES, OR INTEREST.—No civil penalties, damages, or interest assessed against any local exchange carrier as a result of a violation referred to in this section will be charged directly or indirectly to that company's rate payers.".

(b) CERTAIN BROADCASTS.—Section 1307(a)(2) of title 18, United States Code, is amended—

(1) by striking "or" after the semicolon at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(C) conducted by a commercial organization and is contained in a publication published in a State in which such activities or the publication of such activities are authorized or not otherwise prohibited, or broadcast by a radio or television station licensed in a State in which such activities or the broadcast of such activities are authorized or not otherwise prohibited.".

SEC. 225. ALARM MONITORING SERVICES.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 257 the following new section:

"SEC. 258. REGULATION OF ENTRY INTO ALARM MONITORING SERVICES.

"(a) IN GENERAL.—Except as provided in this section, a Bell operating company, or any affiliate of that company, may not provide alarm monitoring services for the protection of life, safety, or property. A Bell operating company may transport alarm monitoring service signals on a common carrier basis only.

"(b) AUTHORITY TO PROVIDE ALARM MONITORING SERVICES.—Beginning 4 years after the date of enactment of the Telecommunications Act of 1995, a Bell operating company may provide alarm monitoring services for the protection of life, safety, or property if it has been authorized to provide interLATA services under section 255 unless the Commission finds that the provision of alarm monitoring services by such company is not in the public interest. The Commission may not find that provision of alarm monitoring services by a Bell operating company is in the public interest until it finds that it has the capability effectively to enforce any requirements, limitations, or conditions that may be placed upon a Bell operating company in the provision of alarm monitoring

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services, including the regulations prescribed under subsection (c).

"(c) REGULATIONS REQUIRED.—

"(1) Not later than 1 year after the date of enactment of the Telecommunications Act of 1995, the Commission shall prescribe regulations—

"(A) to establish such requirements, limitations, or conditions as are—

"(i) necessary and appropriate in the public interest with respect to the provision of alarm monitoring services by Bell operating companies and their affiliates, and

"(ii) effective at such time as a Bell operating company or any of its subsidiaries or affiliates is authorized to provide alarm monitoring services; and

"(B) to establish procedures for the receipt and review of complaints concerning violations by such companies of such regulations, or of any other provision of this Act or the regulations thereunder, that result in material financial harm to a provider of alarm monitoring services.

"(2) A Bell operating company, its affiliates, and any local exchange carrier are prohibited from recording or using in any fashion the occurrence or contents of calls received by providers of alarm monitoring services for the purposes of marketing such services on behalf of the Bell operating company, any of its affiliates, the local exchange carrier, or any other entity. Any regulations necessary to enforce this paragraph shall be issued initially within 6 months after the date of enactment of the Telecommunications Act of 1995.

"(d) EXPEDITED CONSIDERATION OF COMPLAINTS.—The procedures established under subsection (c) shall ensure that the Commission will make a final determination with respect to any complaint described in such subsection within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, as determined by the Commission in accordance with such regulations, the Commission shall, within 60 days after receipt of the complaint, issue a cease and desist order to prevent the Bell operating company and its subsidiaries and affiliates from continuing to engage in such violation pending such final determination.

"(e) REMEDIES.—The Commission may use any remedy available under title V of this Act to terminate and to impose sanctions on violations described in subsection (c). Such remedies may include, if the Commission determines that such violation was willful or repeated, ordering the Bell operating company or its affiliate to cease offering alarm monitoring services.

"(f) SAVINGS PROVISION.—Subsections (a) and (b) do not prohibit or limit the provision of alarm monitoring services by a Bell operating company or an affiliate that was engaged in providing those services as of June 1, 1995, to the extent that such company—

"(1) continues to provide those services through the affiliate through which it was providing them on that date; and

"(2) does not acquire, directly or indirectly, an equity interest in another entity engaged in providing alarm monitoring services.

"(g) ALARM MONITORING SERVICES DEFINED.—As used in this section, the term 'alarm monitoring services' means services that detect threats to life, safety, or property by burglary, fire, vandalism, bodily injury, or other emergency through the use of devices that transmit signals to a central point in a customer's residence, place of business, or other fixed premises which—

"(1) retransmits such signals to a remote monitoring center by means of telecommunications facilities of the Bell operating company and any subsidiary or affiliate; and

"(2) serves to alert persons at the monitoring center of the need to inform customers, other persons, or police, fire, rescue, or other security or public safety personnel of the threat at such premises.

Such term does not include medical monitoring devices attached to individuals for the automatic surveillance of ongoing medical conditions.".

SEC. 226. NONAPPLICABILITY OF MODIFICATION OF FINAL JUDGMENT.

Notwithstanding any other provision of law or of any judicial order, no person shall be subject to the provisions of the Modification of Final Judgment solely by reason of having acquired commercial mobile service or private mobile service assets or operations previously owned by a Bell operating company or an affiliate of a Bell operating company.

TITLE III—AN END TO REGULATION

SEC. 301. TRANSITION TO COMPETITIVE PRICING.

(a) PRICING FLEXIBILITY.—

(1) IN GENERAL.—The Commission and the States shall provide to telecommunications carriers price flexibility in the rates charged consumers for the provision of telecommunications services within one year after the date of enactment of this Act. The Commission or a State may establish the rate consumers may be charged for services included in the definition of universal service, as well as the contribution, if any, that all carriers must contribute for the preservation and advancement of universal service. Pricing flexibility implemented pursuant to this section for the purpose of allowing a regulated telecommunications provider to respond to competition by repricing services subject to competition shall not have the effect of using noncompetitive services to subsidize competitive services.

(2) CONSUMER PROTECTION.—The Commission and the States shall ensure that rates for telephone service remain just, reasonable, and affordable as competition develops for telephone exchange service and telephone exchange access service. Until sufficient competition exists in a market, the Commission or a State may establish the rate that a carrier may charge for any such service if such rate is necessary for the protection of consumers. Any such rate shall cease to be regulated whenever the Commission or a State determines that it is no longer necessary for the protection of consumers. The Commission shall establish cost allocation guidelines for facilities owned by an essential telecommunications carrier that are used for the provision of both services included in the definition of universal service and video programming sold by such carrier directly to subscribers, if such allocation is necessary for the protection of consumers.

(3) RATE-OF-RETURN REGULATION ELIMINATED.—

(A) In instituting the price flexibility required under paragraph (1) the Commission and the States shall establish alternative forms of regulation for Tier 1 telecommunications carriers that do not include regulation of the rate of return earned by such carrier as part of a plan that provides for any or all of the following—

(i) the advancement of competition in the provision of telecommunications services;

(ii) improvements in productivity;

(iii) improvements in service quality;

(iv) measures to ensure customers of noncompetitive services do not bear the risks associated with the provision of competitive services;

(v) enhanced telecommunications services for educational institutions; or

(vi) any other measures Commission or a State, as appropriate, determines to be in the public interest.

(B) The Commission or a State, as appropriate, may apply such alternative forms of regulation to any other telecommunications carrier that is subject to rate of return regulation under this Act.

(C) Any such alternative form of regulation—

(i) shall be consistent with the objectives of preserving and advancing universal service, guaranteeing high quality service, ensuring just, reasonable, and affordable rates, and encouraging economic efficiency; and

(ii) shall meet such other criteria as the Commission or a State, as appropriate, finds to be consistent with the public interest, convenience, and necessity.

(D) Nothing in this section shall prohibit the Commission, for interstate services, and the States, for intrastate services, from considering the profitability of telecommunications carriers when using alternative forms of regulation other than rate of return regulation (including price regulation and incentive regulation) to ensure that regulated rates are just and reasonable.

(b) TRANSITION PLAN REQUIRED.—If the Commission or a State adopts rules for the distribution of support payments under section 253 of the Communications Act of 1934, as amended by this Act, such rules shall include a transition plan to allow essential telecommunications carriers to provide for an orderly transition from the universal service support mechanisms in existence upon the date of enactment of this Act and the support mechanisms established by the Commission and the States under this Act or the Communications Act of 1934 as amended by this Act. Any such transition plan shall—

(1) provide a phase-in of the price flexibility requirements under subsection (a) for an essential telecommunications carrier that is also a rural telephone company; and

(2) require the United States Government and the States, where permitted by law, to modify any regulatory requirements (including conditions for the repayment of loans and the depreciation of assets) applicable to carriers designated as essential telecommunications carriers in order to more accurately reflect the conditions that would be imposed in a competitive market for similar assets or services.

(c) DUTY TO PROVIDE SUBSCRIBER LIST INFORMATION.—

(1) IN GENERAL.—A carrier that provides local exchange telephone service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person requesting such information for the purpose of publishing directories in any format.

(2) SUBSCRIBER LIST INFORMATION DEFINED.—As used in this subsection, the term "subscriber list information" means any information—

(A) identifying the listed names of subscribers of a carrier and such subscribers' listed telephone numbers, addresses, or primary advertising classifications, as such classifications are assigned at the time of the establishment of service, or any combination of such names, numbers, addresses, or classifications; and

(B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in a directory in any format.

(d) CONFIDENTIALITY.—A telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other common carriers and customers, including common carriers reselling the telecommunications services provided by a telecommunications carrier. A telecommunications carrier that receives such information from another carrier for

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purposes of provisioning, billing, or facilitating the resale of its service shall use such information only for such purpose, and shall not use such information for its own marketing efforts. Nothing in this subsection prohibits a carrier from using customer information obtained from its customers, either directly or indirectly through its agents—

(1) to provide, market, or bill for its services; or

(2) to perform credit evaluations on existing or potential customers.

(e) REGULATORY RELIEF.—

(1) STREAMLINED PROCEDURES FOR CHANGES IN CHARGES, CLASSIFICATIONS, REGULATIONS, OR PRACTICES.—

(A) Section 204(a) (47 U.S.C. 204(a)) is amended—

(i) by striking "12 months" the first place it appears in paragraph (2)(A) and inserting "5 months";

(ii) by striking "effective," and all that follows in paragraph (2)(A) and inserting "effective."; and

(iii) by adding at the end thereof the following:

"(3) A local exchange carrier may file with the Commission a new or revised charge, classification, regulation, or practice on a streamlined basis. Any such charge, classification, regulation, or practice shall be deemed lawful and shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission unless the Commission takes action under paragraph (1) before the end of that 7-day or 15-day period, as is appropriate.".

(B) Section 208(b) (47 U.S.C. 208(b)) is amended—

(i) by striking "12 months" the first place it appears in paragraph (1) and inserting "5 months"; and

(ii) by striking "filed," and all that follows *in paragraph (1) and inserting "filed.".*

(2) EXTENSIONS OF LINES UNDER SECTION 214; ARMIS REPORTS.—Notwithstanding section 305, the Commission shall permit any local exchange carrier—

(A) to be exempt from the requirements of section 214 of the Communications Act of 1934 for the extension of any line; and

(B) to file cost allocation manuals and ARMIS reports annually, to the extent such carrier is required to file such manuals or reports.

(3) FOREBEARANCE AUTHORITY NOT LIMITED.—Nothing in this subsection shall be construed to limit the authority of the Commission or a State to waive, modify, or forebear from applying any of the requirements to which reference is made in paragraph (1) under any other provision of this Act or other law.

SEC. 302. BIENNIAL REVIEW OF REGULATIONS; ELIMINATION OF UNNECESSARY REGULATIONS AND FUNCTIONS.

(a) BIENNIAL REVIEW.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 258 the following new section:

"SEC. 259. REGULATORY REFORM.

"(a) BIENNIAL REVIEW OF REGULATIONS.—In every odd-numbered year (beginning with 1997), the Commission, with respect to its regulations under this Act, and a Federal-State Joint Board established under section 410, for State regulations—

"(1) shall review all regulations issued under this Act, or under State law, in effect at the time of the review that apply to operations or activities of providers of any telecommunications services; and

"(2) shall determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between the providers of such service.

"(b) EFFECT OF DETERMINATION.—The Commission shall repeal any regulation it determines to be no longer necessary in the public interest. The Joint Board shall notify the Governor of any State of any State regulation it determines to be no longer necessary in the public interest.

"(c) CLASSIFICATION OF CARRIERS.—In classifying carriers according to 47 CFR 32.11 and in establishing reporting requirements pursuant to 47 CFR part 43 and 47 CFR 64.903, the Commission shall adjust the revenue requirements to account for inflation as of the release date of the Commission's Report and Order in CC Docket No. 91-141, and annually thereafter. This subsection shall take effect on the date of enactment of the Telecommunications Act of 1995.".

(b) ELIMINATION OF UNNECESSARY COMMISSION REGULATIONS AND FUNCTIONS.—

(1) REPEAL SETTING OF DEPRECIATION RATES.—The first sentence of section 220(b) (47 U.S.C. 220(b)) is amended by striking "shall prescribe for such carriers" and inserting "may prescribe, for such carriers as it determines to be appropriate,".

(2) USE OF INDEPENDENT AUDITORS.—Section 220(c) (47 U.S.C. 220(c)) is amended by adding at the end thereof the following: "The Commission *may obtain the services of any* person licensed to provide public accounting services under the law of any State to assist with, or conduct, audits under this section. While so employed or engaged in conducting an audit for the Commission under this section, any such person shall have the powers granted the Commission under this subsection and shall be subject to subsection (f) in the same manner as if that person were an employee of the Commission.".

(3) SIMPLIFICATION OF FEDERAL-STATE COORDINATION PROCESS.—The Commission shall simplify and expedite the Federal-State coordination process under section 410 of the Communications Act of 1934.

(4) PRIVATIZATION OF SHIP RADIO INSPECTIONS.—Section 385 (47 U.S.C. 385) is amended by adding at the end thereof the following: "In accordance with such other provisions of law as apply to Government contracts, the Commission may enter into contracts with any person for the purpose of carrying out such inspections and certifying compliance with those requirements, and may, as part of any such contract, allow any such person to accept reimbursement from the license holder for travel and expense costs of any employee conducting an inspection or certification.".

(5) MODIFICATION OF CONSTRUCTION PERMIT REQUIREMENT.—Section 319(d) (47 U.S.C. 319(d)) is amended by striking the third sentence and inserting the following: "The Commission may waive the requirement for a construction permit with respect to a broadcasting station in circumstances in which it deems prior approval to be unnecessary. In those circumstances, a broadcaster shall file any related license application within 10 days after completing construction.".

(6) LIMITATION ON SILENT STATION AUTHORIZATIONS.—Section 312 (47 U.S.C. 312) is amended by adding at the end the following:

"(g) If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary.".

(7) EXPEDITING INSTRUCTIONAL TELEVISION FIXED SERVICE PROCESSING.—The Commission shall delegate, under section 5(c) of the Communications Act of 1934, the conduct of routine instructional television fixed service cases to its staff for consideration and final action.

(8) DELEGATION OF EQUIPMENT TESTING AND CERTIFICATION TO PRIVATE LABORATORIES.—Section 302 (47 U.S.C. 302) is amended by adding at the end the following:

"(e) The Commission may—

"(1) authorize the use of private organizations for testing and certifying the compliance of devices or home electronic equipment and systems with regulations promulgated under this section;

"(2) accept as prima facie evidence of such compliance the certification by any such organization; and

"(3) establish such qualifications and standards as it deems appropriate for such private organizations, testing, and certification.".

(9) MAKING LICENSE MODIFICATION UNIFORM.—Section 303(f) (47 U.S.C. 303(f)) is amended by striking "unless, after a public hearing," and inserting "unless".

(10) PERMIT OPERATION OF DOMESTIC SHIP AND AIRCRAFT RADIOS WITHOUT LICENSE.—Section 307(e) (47 U.S.C. 307(e)) is amended by—

(A) striking "service and the citizens band radio service" in paragraph (1) and inserting "service, citizens band radio service, domestic ship radio service, domestic aircraft radio service, and personal radio service"; and

(B) striking "'service' and 'citizens band radio service'" in paragraph (3) and inserting "'service', 'citizens band radio service', 'domestic ship radio service', 'domestic aircraft radio service', and 'personal radio service'".

(11) EXPEDITED LICENSING FOR FIXED MICROWAVE SERVICE.—Section 309(b)(2) (47 U.S.C. 309(b)(2)) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (G) as (A) through (F), respectively.

(12) ELIMINATE FCC JURISDICTION OVER GOVERNMENT-OWNED SHIP RADIO STATIONS.—

(A) Section 305 (47 U.S.C. 305) is amended by striking subsection (b) and redesignating subsections (c) and (d) as (b) and (c), respectively.

(B) Section 382(2) (47 U.S.C. 382(2)) is amended by striking "except a vessel of the United States Maritime Administration, the Inland and Coastwise Waterways Service, or the Panama Canal Company,".

(13) MODIFICATION OF AMATEUR RADIO EXAMINATION PROCEDURES.—

(A) Section 4(f)(H)(N) (47 U.S.C. 4(f)(4)(B)) is amended by striking "transmissions, or in the preparation or distribution of any publication used in preparation for obtaining amateur station operator licenses," and inserting "transmission".

(B) The Commission shall modify its rules governing the amateur radio examination process by eliminating burdensome record maintenance and annual financial certification requirements.

(14) STREAMLINE NON-BROADCAST RADIO LICENSE RENEWALS.—The Commission shall modify its rules under section 309 of the Communications Act of 1934 (47 U.S.C. 309) relating to renewal of nonbroadcast radio licenses so as to streamline or eliminate comparative renewal hearings where such hearings are unnecessary or unduly burdensome.

SEC. 303. REGULATORY FOREBEARANCE.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 259 the following new section:

"SEC. 260. COMPETITION IN PROVISION OF TELECOMMUNICATIONS SERVICE.

"(a) REGULATORY FLEXIBILITY.—Notwithstanding section 332(c)(1)(A) of this Act, the Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier or service, or class of carriers or services, in any or some of its or their geographic markets if the Commission determines that—

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"(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that carrier or service are just and reasonable and are not unjustly or unreasonably discriminatory;

"(2) enforcement of such regulation or provision is not necessary for the protection of consumers or the preservation and advancement of universal service; and

"(3) forbearance from applying such regulation or provision is consistent with the public interest.

"(b) COMPETITIVE EFFECT TO BE WEIGHED.—In making the determination under subsection (a)(3), the Commission shall consider whether forbearance from enforcing the regulation or provision will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services. If the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the public interest.

"(c) END OF REGULATION PROCESS.—Any telecommunications carrier, or class of telecommunications carriers, may submit a petition to the Commission requesting that the Commission exercise the authority granted under this section with respect to that carrier or those carriers, or any service offered by that carrier or carriers. Any such petition shall be deemed granted if the Commission does not deny the petition for failure to meet the requirements for forebearance under subsection (a) within 90 days after the Commission receives it, unless the 90-day period is extended by the Commission. The Commission may extend the initial 90-day period by an additional 60 days if the Commission finds that an extension is necessary to meet the requirements of subsection (a). The Commission may grant or deny a petition in whole or in part and shall explain its decision in writing.

"(d) LIMITATION.—Except as provided in section 251(i)(3), the Commission may not waive the unbundling requirements of section 251(b) or 255(b)(2) under subsection (a) until it determines that those requirements have been fully implemented.".

SEC. 304. ADVANCED TELECOMMUNICATIONS INCENTIVES.

(a) IN GENERAL.—The Commission and each State commission with regulatory jurisdiction over telecommunications services shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, or other regulating methods that remove barriers to infrastructure investment.

(b) INQUIRY.—The Commission shall, within 2 years after the date of enactment of this Act, and regularly thereafter, initiate a notice of inquiry concerning the availability of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) and shall complete the inquiry within 180 days after its initiation. In the inquiry, the Commission shall determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion. If the Commission's determination is negative, it shall take immediate action under this section, and it may preempt State commissions that fail to act to ensure such availability.

(c) DEFINITIONS.—For purposes of this section—

(1) COMMUNICATIONS ACT TERMS.—Any term used in this section which is defined in the Communications Act of 1934 shall have the same meaning as it has in that Act.

(2) ADVANCED TELECOMMUNICATIONS CAPABILITY.—The term "advanced telecommunications capability" means high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications.

(3) ELEMENTARY AND SECONDARY SCHOOLS.—The term "elementary and secondary schools" means elementary schools and secondary schools, as defined in paragraphs (14) and (25), respectively, of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

SEC. 305. REGULATORY PARITY.

Within 3 years after the date of enactment of this Act, and periodically thereafter, the Commission shall—

(1) issue such modifications or terminations of the regulations applicable to persons offering telecommunications or information services under title II, III, or VI of the Communications Act of 1934 as are necessary to implement the changes in such Act made by this Act;

(2) in the regulations that apply to integrated telecommunications service providers, take into account the unique and disparate histories associated with the development and relative market power of such providers, making such modifications and adjustments as are necessary in the regulation of such providers as are appropriate to enhance competition between such providers in light of that history; and

(3) provide for periodic reconsideration of any modifications or terminations made to such regulations, with the goal of applying the same set of regulatory requirements to all integrated telecommunications service providers, regardless of which particular telecommunications or information service may have been each provider's original line of business.

SEC. 306. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

Notwithstanding any provision of the Communications Act of 1934 or any other provision of law or regulation, a ship documented under the laws of the United States operating in accordance with the Global Maritime Distress and Safety System provisions of the Safety of Life at Sea Convention shall not be required to be equipped with a radio telegraphy station operated by one or more radio officers or operators. This section shall take effect for each vessel upon a determination by the United States Coast Guard that such vessel has the equipment required to implement the Global Maritime Distress and Safety System installed and operating in good working condition.

SEC. 307. TELECOMMUNICATIONS NUMBERING ADMINISTRATION.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 260 the following new section:

"SEC. 261. TELECOMMUNICATIONS NUMBERING ADMINISTRATION.

"(a) INTERIM NUMBER PORTABILITY.—In connection with any interconnection agreement reached under section 251 of this Act, a local exchange carrier shall make available interim telecommunications number portability, upon request, beginning on the date of enactment of the Telecommunications Act of 1995.

"(b) FINAL NUMBER PORTABILITY.—In connection with any interconnection agreement reached under section 251 of this Act, a local exchange carrier shall make available final telecommunications number portability, upon request, when the Commission determines that final telecommunications number portability is technically feasible.

"(c) NEUTRAL ADMINISTRATION OF NUMBERING PLANS.—

"(1) NATIONWIDE NEUTRAL NUMBER SYSTEM COMPLIANCE.— A telecommunications carrier providing telephone exchange service shall comply with the guidelines, plan, or rules established by an impartial entity designated or created by the Commission for the administration of a nationwide neutral number system.

"(2) OVERLAY OF AREA CODES NOT PERMITTED.—All telecommunications carriers providing telephone exchange service in the same telephone service area shall be permitted to use the same numbering plan area code under such guideline, plan, or rules.

"(d) COSTS.—The cost of establishing neutral number administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.".

SEC. 308. ACCESS BY PERSONS WITH DISABILITIES.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 261 the following new section:

"SEC. 262. ACCESS BY PERSONS WITH DISABILITIES.

"(a) DEFINITIONS.—As used in this section—

"(1) DISABILITY.—The term 'disability' has the meaning given to it by section 3(2)(A) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)(A)).

"(2) READILY ACHIEVABLE.—The term 'readily achievable' has the meaning given to it by section 301(9) of that Act (42 U.S.C. 12181(9)).

"(b) MANUFACTURING.—A manufacturer of telecommunications equipment and customer premises equipment shall ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable.

"(c) TELECOMMUNICATIONS SERVICES.—A provider of telecommunications service shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.

"(d) COMPATIBILITY.—Whenever the requirements of subsections (b) and (c) are not readily achievable, such a manufacturer or provider shall ensure that the equipment or service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

"(e) GUIDELINES.—Within 18 months after the date of enactment of the Telecommunications Act of 1995, the Architectural and Transportation Barriers Compliance Board shall develop guidelines for accessibility of telecommunications equipment and customer premises equipment in conjunction with the Commission, the National Telecommunications and Information Administration and the National Institute of Standards and Technology. The Board shall review and update the guidelines periodically.

"(f) CLOSED CAPTIONING.—

"(1) IN GENERAL.—The Commission shall ensure that—

"(A) video programming is accessible through closed captions, if readily achievable, except as provided in paragraph (2); and

"(B) video programming providers or owners maximize the accessibility of video programming previously published or exhibited through the provision of closed captions, if readily achievable, except as provided in paragraph (2).

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"(2) EXEMPTIONS.—Notwithstanding paragraph (1)—

"(A) the Commission may exempt programs, classes of programs, locally produced programs, providers, classes of providers, or services for which the Commission has determined that the provision of closed captioning would not be readily achievable to the provider or owner of such programming;

"(B) a provider of video programming or the owner of any program carried by the provider shall not be obligated to supply closed captions if such action would be inconsistent with a binding contract in effect on the date of enactment of the Telecommunications Act of 1995 for the remaining term of that contract (determined without regard to any extension of such term), except that nothing in this subparagraph relieves a video programming provider of its obligation to provide services otherwise required by Federal law; and

"(C) a provider of video programming or a program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such a petition upon a showing that the requirements contained in this section would not be readily achievable.

"(g) REGULATIONS.—The Commission shall, not later than 24 months after the date of enactment of the Telecommunications Act of 1995, prescribe regulations to implement this section. The regulations shall be consistent with the guidelines developed by the Architectural and Transportation Barriers Compliance Board in accordance with subsection (e).

"(h) ENFORCEMENT.—The Commission shall enforce this section. The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date on which the complaint is filed with the Commission.".

(b) VIDEO DESCRIPTION.—Within 18 months after the date of enactment of this Act, the Commission shall commence a study of the feasibility of requiring the use of video descriptions on video programming in order to ensure the accessibility of video programming to individuals with visual impairments. For purposes of this subsection, the term "video description" means the insertion of audio narrative descriptions of a television program's key visual elements into natural pauses between the program's dialogue.

SEC. 308. RURAL MARKETS.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 262 the following new section:

"SEC. 263. RURAL MARKETS.

"(a) STATE AUTHORITY IN RURAL MARKETS.—Except as provided in section 251(f)(3), a State may not waive or modify any requirements of section 251, but may adopt statutes or regulations that are no more restrictive than—

"(1) to require an enforceable commitment by each competing provider of telecommunications service to offer universal service comparable to that offered by the rural telephone company currently providing service in that service area, and to make such service available within 24 months of the approval date to all consumers throughout that service area on a common carrier basis, either using the applicant's facilities or through its own facilities and resale of services using another carrier's facilities (including the facilities of the rural telephone company), and subject to the same terms, conditions, and rate structure requirements as those applicable to the rural telephone company currently providing universal service;

"(2) to require that the State must approve an application by a competing telecommunications carrier to provide services in a market served by a rural telephone company and that approval be based on sufficient written public findings and conclusions to demonstrate that such approval is in the public interest and that there will not be a significant adverse impact on users of telecommunications services or on the provision of universal service;

"(3) to encourage the development and deployment of advanced telecommunications and information infrastructure and services in rural areas; or

"(4) to protect the public safety and welfare, ensure the continued quality of telecommunications and information services, or safeguard the rights of consumers.

"(b) PREEMPTION.—Upon a proper showing, the Commission may preempt any State statute or regulation that the Commission finds to be inconsistent with the Commission's regulations implementing this section, or an arbitrary or unreasonably discriminatory application of such statute or regulation. The Commission shall act upon any bona fide petition filed under this subsection within 180 days of receiving such petition. Pending such action, the Commission may, in the public interest, suspend or modify application of any statute or regulation to which the petition applies.".

SEC. 310. TELECOMMUNICATIONS SERVICES FOR HEALTH CARE PROVIDERS FOR RURAL AREAS, EDUCATIONAL PROVIDERS, AND LIBRARIES.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 263 the following:

"SEC. 264. TELECOMMUNICATIONS SERVICES FOR CERTAIN PROVIDERS.

"(a) IN GENERAL.—

"(1) HEALTH CARE PROVIDERS FOR RURAL AREAS.—A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services, including instruction relating to such services, at rates that are reasonably comparable to rates charged for similar services in urban areas to any public or nonprofit health care provider that serves persons who reside in rural areas. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the difference, if any, between the price for services provided to health care providers for rural areas and the price for similar services provided to other customers in comparable urban areas treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service under section 253(c).

"(2) EDUCATIONAL PROVIDERS AND LIBRARIES.—All telecommunications carriers serving a geographic area shall, upon a bona fide request, provide to elementary schools, secondary schools, and libraries universal services (as defined in section 253) that permit such schools and libraries to provide or receive telecommunications services for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount that the Commission and the States determine is appropriate and necessary to ensure affordable access to and use of such telecommunications by such entities. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the amount of the discount treated as a service obligation as part of its obligation to participate in the mechanisms to preserve and advance universal service under section 253(c).

"(b) UNIVERSAL SERVICE MECHANISMS.—The Commission shall include consideration of the universal service provided to public institutional telecommunications users in any universal service mechanism it may establish under section 253.

"(c) ADVANCED SERVICES.—The Commission shall establish rules—

"(1) to enhance, to the extent technically feasible and economically reasonable, the availability of advanced telecommunications and information services to all public and nonprofit elementary and secondary school classrooms, health care providers, and libraries;

"(2) to ensure that appropriate functional requirements or performance standards, or both, including interconnection standards, are established for telecommunications carriers that connect such public institutional telecommunications users with the public switched network;

"(3) to define the circumstances under which a telecommunications carrier may be required to connect its network to such public institutional telecommunications users; and

"(4) to address other matters as the Commission may determine.

"(d) DEFINITIONS.—

"(1) ELEMENTARY AND SECONDARY SCHOOLS.—The term 'elementary and secondary schools' means elementary schools and secondary schools, as defined in paragraphs (14) and (25), respectively, of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(2) UNIVERSAL SERVICE.—The Commission may in the public interest provide a separate definition of universal service under section 253(b) for application only to public institutional telecommunications users.

"(3) HEALTH CARE PROVIDER.—The term 'health care provider' means—

"(A) Post-secondary educational institutions, teaching hospitals, and medical schools.

"(B) Community health centers or health centers providing health care to migrants.

"(C) Local health departments or agencies.

"(D) Community mental health centers.

"(E) Not-for-profit hospitals.

"(F) Rural health clinics.

"(G) Consortia of health care providers consisting of one or more entities described in subparagraphs (A) through (F).

"(4) PUBLIC INSTITUTIONAL TELECOMMUNICATIONS USER.—The term 'public institutional telecommunications user' means an elementary or secondary school, a library, or a health care provider as those terms are defined in this subsection.

"(e) TERMS AND CONDITIONS.—Telecommunications services and network capacity provided under this section may not be sold, resold, or otherwise transferred in consideration for money or any other thing of value.

"(f) ELIGIBILITY OF COMMUNITY USERS.—No entity listed in this section shall be entitled for preferential rates or treatment as required by this section, if such entity operates as a for-profit business, is a school as defined in section 264(d)(1) with an endowment of more than $50,000,000, or is a library not eligible for participation in State-based plans for Library Services and Construction Act Title III funds.".

SEC. 311. PROVISION OF PAYPHONE SERVICE AND TELEMESSAGING SERVICE.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by adding after section 264 the following new section:

"SEC. 265. PROVISION OF PAYPHONE SERVICE AND TELEMESSAGING SERVICE.

"(a) NONDISCRIMINATION SAFEGUARDS.—Any Bell operating company that provides payphone service or telemessaging service—

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"(1) shall not subsidize its payphone service or telemessaging service directly or indirectly with revenue from its telephone exchange service or its exchange access service; and

"(2) shall not prefer or discriminate in favor of its payphone service or telemessaging service.

"(b) DEFINITIONS.—As used in this section—

"(1) The term 'payphone service' means the provision of telecommunications service through public or semi-public pay telephones, and includes the provision of service to inmates in correctional institutions.

"(2) The term 'telemessaging service' means voice mail and voice storage and retrieval services, any live operator services used to record, transcribe, or relay messages (other than telecommunications relay services), and any ancillary services offered in combination with these services.

"(c) REGULATIONS.—Not later than 18 months after the date of enactment of the Telecommunications Act of 1995, the Commission shall complete a rulemaking proceeding to prescribe regulations to carry out this section. In that rulemaking proceeding, the Commission shall determine whether, in order to enforce the requirements of this section, it is appropriate to require the Bell operating companies to provide payphone service or telemessaging service through a separate subsidiary that meets the requirements of section 252.".

SEC. 312. DIRECT BROADCAST SATELLITE.

(a) DBS SIGNAL SECURITY.—Section 705(e)(4) (47 U.S.C. 605(e)(4)) is amended by inserting "satellite delivered video or audio programming intended for direct receipt by subscribers in their residences or in their commercial or business premises," after "programming,".

(b) FCC JURISDICTION OVER DIRECT-TO-HOME SATELLITE SERVICES.—Section 303 (47 U.S.C. 303) is amended by adding at the end thereof the following new subsection:

"(v) Have exclusive jurisdiction to regulate the provision of direct-to-home satellite services. For purposes of this subsection, the term 'direct-to-home satellite services' means the distribution or broadcasting of programming or services by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises, or used in the initial uplink process to the direct-to-home satellite.".

TITLE IV—OBSCENE, HARRASSING, AND WRONGFUL UTILIZATION OF TELECOMMUNICATIONS FACILITIES

SEC. 401. SHORT TITLE.

This title may be cited as the "Communications Decency Act of 1995".

SEC. 402. OBSCENE OR HARASSING USE OF TELECOMMUNICATIONS FACILITIES UNDER THE COMMUNICATIONS ACT OF 1934.

(a) OFFENSES.—Section 223 (47 U.S.C. 223) is amended—

"(1) by striking subsection (a) and inserting in lieu thereof:

"(a) Whoever—

"(1) in the District of Columbia or in interstate or foreign communications—

"(A) by means of telecommunications device knowingly—

"(i) makes, creates, or solicits, and

"(ii) initiates the transmission of,

any comment, request, suggestion, proposal, image, or other communication which is obscene, lewd, lascivious, filthy, or indecent, with intent to annoy, abuse, threaten, or harass another person;

"(B) makes a telephone call or utilizes a telecommunications device, whether or not conversation or communication ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number or who receives the communications;

"(C) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

"(D) makes repeated telephone calls or repeatedly initiates communication with a telecommunications device, during which conversation or communication ensues, solely to harass any person at the called number or who receives the communication;

"(2) knowingly permits any telecommunications facility under his control to be used for any activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined not more than $100,000 or imprisoned not more than two years, or both.";

and

(2) by adding at the end the following new subsections:

"(d) Whoever—

"(1) knowingly within the United States or in foreign communications with the United States by means of telecommunications device makes or makes available any obscene communication in any form including any comment, request, suggestion, proposal, or image regardless of whether the maker of such communication placed the call or initiated the communications; or

"(2) knowingly permits any telecommunications facility under such person's control to be used for an activity prohibited by subsection (d)(1) with the intent that it be used for such activity;

shall be fined not more than $100,000 or imprisoned not more than two years, or both.

"(e) Whoever—

"(1) knowingly within the United States or in foreign communications with the United States by means of telecommunications device makes or makes available any indecent communication in any form including any comment, request, suggestion, proposal, image, to any person under 18 years of age regardless of whether the maker of such communication placed the call or initiated the communication; or

"(2) knowingly permits any telecommunications facility under such person's control to be used for an activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined not more than $100,000 or imprisoned not more than two years, or both.

"(f) Defenses to the subsections (a), (d), and (e), restrictions on access, judicial remedies respecting restrictions for persons providing information services and access to information services—

"(1) No person shall be held to have violated subsections (a), (d), or (e) solely for providing access or connection to or from a facility, system, or network over which that person has no control, including related capabilities which are incidental to providing access or connection. This subsection shall not be applicable to a person who is owned or controlled by, or a conspirator with, an entity actively involved in the creation, editing or knowing distribution of communications which violate this section.

"(2) No employer shall be held liable under this section for the actions of an employee or agent unless the employee's or agent's conduct is within the scope of his employment or agency and the employer has knowledge of, authorizes, or ratifies the employee's or agent's conduct.

"(3) It is a defense to prosecution under subsection (a), (d)(2), or (e) that a person has taken reasonable, effective and appropriate actions in good faith to restrict or prevent the transmission of, or access to a communication specified in such subsections, or complied with procedures as the Commission may prescribe in furtherance of this section. Until such regulations become effective, it is a defense to prosecution that the person has complied with the procedures prescribed by regulation pursuant to subsection (b)(3). Nothing in this subsection shall be construed to treat enhanced information services as common carriage.

"(4) No cause of action may be brought in any court or administrative agency against any person on account of any activity which is not in violation of any law punishable by criminal or civil penalty, which activity the person has taken in good faith to implement a defense authorized under this section or otherwise to restrict or prevent the transmission of, or access to, a communication specified in this section.

"(g) No State or local government may impose any liability for commercial activities or actions by commercial entities in connection with an activity or action which constitutes a violation described in subsection (a)(2), (d)(2), or (e)(2) that is inconsistent with the treatment of those activities or actions under this section: *Provided, however,* That nothing herein shall preclude any State or local government from enacting and enforcing complementary oversight, liability, and regulatory systems, procedures, and requirements, so long as such systems, procedures, and requirements govern only intrastate services and do not result in the imposition of inconsistent rights, duties or obligations on the provision of interstate services. Nothing in this subsection shall preclude any State or local government from governing conduct not covered by this section.

"(h) Nothing in subsection (a), (d), (e), or (f) or in the defenses to prosecution under (a), (d), or (e) shall be construed to affect or limit the application or enforcement of any other Federal law.

"(i) The use of the term 'telecommunications device' in this section shall not impose new obligations on (one-way) broadcast radio or (one-way) broadcast television operators licensed by the Commission or (one-way) cable service registered with the Federal Communications Commission and covered by obscenity and indecency provisions elsewhere in this Act.

"(j) Within two years from the date of enactment and every two years thereafter, the Commission shall report on the effectiveness of this section.".

SEC. 403. OBSCENE PROGRAMMING ON CABLE TELEVISION.

Section 639 (47 U.S.C. 559) is amended by striking "$10,000" and inserting "$100,000".

SEC. 404. BROADCASTING OBSCENE LANGUAGE ON RADIO.

Section 1464 of title 18, United States Code, is amended by striking out "$10,000" and inserting "$100,000".

SEC. 405. SEPARABILITY.

(a) If any provision of this title, including amendments to this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 406. ADDITIONAL PROHIBITION ON BILLING FOR TOLL-FREE TELEPHONE CALLS.

Section 228(c)(7) (47 U.S.C. 228(c)(7)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting a semicolon and "or"; and

(3) by adding at the end thereof the following:

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"(E) the calling party being assessed, by virtue of being asked to connect or otherwise transfer to a pay-per-call service, a charge for the call.".

SEC. 407. SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS.

Part IV of title VI (47 U.S. C. 551 et seq.) is amended by adding at the end the following:

"SEC. 640. SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS.

"(a) REQUIREMENT.—In providing video programming unsuitable for children to any subscriber through a cable system, a cable operator shall fully scramble or otherwise fully block the video and audio portion of each channel carrying such programming upon subscriber request and without any charge so that one not a subscriber does not receive it.

"(b) DEFINITION.—As used in this section, the term 'scramble' means to rearrange the content of the signal of the programming so that the programming cannot be received by persons unauthorized to receive the programming.".

SEC. 408. SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING.

(a) REQUIREMENT.—Part IV of title VI (47 U.S.C. 551 et seq.), as amended by this Act, is further amended by adding at the end the following:

"SEC. 641. SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING.

"(a) REQUIREMENT.—In providing sexually explicit adult programming or other programming that is indecent and harmful to children on any channel of its service primarily dedicated to sexually-oriented programming, a multichannel video programming distributor shall fully scramble or otherwise fully block the video and audio portion of such channel so that one not a subscriber to such channel or programming does not receive it.

"(b) IMPLEMENTATION.—Until a multichannel video programming distributor complies with the requirement set forth in subsection (a), the distributor shall limit the access of children to the programming referred to in that subsection by not providing such programming during the hours of the day (as determined by the Commission) when a significant number of children are likely to view it.

"(c) DEFINITION.—As used in this section, the term 'scramble' means to rearrange the content of the signal of the programming so that audio and video portions of the programming cannot be received by persons unauthorized to receive the programming.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 30 days after the date of the enactment of this Act.

SEC. 409. CABLE OPERATOR REFUSAL TO CARRY CERTAIN PROGRAMS.

(a) PUBLIC, EDUCATIONAL, AND GOVERNMENTAL CHANNELS.—Section 611(e) (47 U.S.C. 531(e)) is amended by inserting before the period the following: ", except a cable operator may refuse to transmit any public access program or portion of a public access program which contains obscenity, indecency, or nudity".

(b) CABLE CHANNELS FOR COMMERCIAL USE.—Section 612(c)(2) (47 U.S.C. 532(c)(2)) is amended by striking "an operator" and inserting "a cable operator may refuse to transmit any leased access program or portion of a leased access program which contains obscenity, indecency, or nudity".

SEC. 410. RESTRICTIONS ON ACCESS BY CHILDREN TO OBSCENE AND INDECENT MATERIAL ON ELECTRONIC INFORMATION NETWORKS OPEN TO THE PUBLIC.

(a) AVAILABILITY OF TAG INFORMATION.—In order—

(1) to encourage the voluntary use of tags in the names, addresses, or text of electronic files containing obscene, indecent, or mature text or graphics that are made available to the public through public information networks in order to ensure the ready identification of files containing such text or graphics;

(2) to encourage developers of computer software that provides access to or interface with a public information network to develop software that permits users of such software to block access to or interface with text or graphics identified by such tags; and

(3) to encourage the telecommunications industry and the providers and users of public information networks to take practical actions (including the establishment of a board consisting of appropriate members of such industry, providers, and users) to develop a highly effective means of preventing the access of children through public information networks to electronic files that contain such text or graphics,

the Secretary of Commerce shall take appropriate steps to make information on the tags established and utilized in voluntary compliance with this subsection available to the public through public information networks.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the tags established and utilized in voluntary compliance with this section. The report shall—

(1) describe the tags so established and utilized;

(2) assess the effectiveness of such tags in preventing the access of children to electronic files that contain obscene, indecent, or mature text or graphics through public information networks; and

(3) provide recommendations for additional means of preventing such access.

(c) DEFINITIONS.—In this section:

(1) The term "public information network" means the Internet, electronic bulletin boards, and other electronic information networks that are open to the public.

(2) The term "tag" means a part or segment of the name, address, or text of an electronic file.

TITLE V—PARENTAL CHOICE IN TELEVISION

SEC. 501. SHORT TITLE.

This title may be cited as the "Parental Choice in Television Act of 1995".

SEC. 502. FINDINGS.

Congress makes the following findings:

(1) On average, a child in the United States is exposed to 27 hours of television each week and some children are exposed to as much as 11 hours of television each day.

(2) The average American child watches 8,000 murders and 100,000 acts of other violence on television by the time the child completes elementary school.

(3) By the age of 18 years, the average American teenager has watched 200,000 acts of violence on television, including 40,000 murders.

(4) On several occasions since 1975, The Journal of the American Medical Association has alerted the medical community to the adverse effects of televised violence on child development, including an increase in the level of aggressive behavior and violent behavior among children who view it.

(5) The National Commission on Children recommended in 1991 that producers of television programs exercise greater restraint in the content of programming for children.

(6) A report of the Harry Frank Guggenheim Foundation, dated May 1993, indicates that there is an irrefutable connection between the amount of violence depicted in the television programs watched by children and increased aggressive behavior among children.

(7) It is a compelling National interest that parents be empowered with the technology to block the viewing by their children of television programs whose content is overly violent or objectionable for other reasons.

(8) Technology currently exists to permit the manufacture of television receivers that are capable of permitting parents to block television programs having violent or otherwise objectionable content.

SEC. 503. RATING CODE FOR VIOLENCE AND OTHER OBJECTIONABLE CONTENT ON TELEVISION.

(a) SENSE OF CONGRESS ON VOLUNTARY ESTABLISHMENT OF RATING CODE.—It is the sense of Congress—

(1) to encourage appropriate representatives of the broadcast television industry and the cable television industry to establish in a voluntary manner rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming;

(2) to encourage such representatives to establish such rules in consultation with appropriate public interest groups and interested individuals from the private sector; and

(3) to encourage television broadcasters and cable operators to comply voluntarily with such rules upon the establishment of such rules.

(b) REQUIREMENT FOR ESTABLISHMENT OF RATING CODE.—

(1) IN GENERAL.—If the representatives of the broadcast television industry and the cable television industry do not establish the rules referred to in subsection (a)(1) by the end of the 1-year period beginning on the date of the enactment of this Act, there shall be established on the day following the end of that period a commission to be known as the Television Rating Commission (hereafter in this section referred to as the "Television Commission"). The Television Commission shall be an independent establishment in the executive branch as defined under section 104 of title 5, United States Code.

(2) MEMBERS.—

(A) IN GENERAL.—The Television Commission shall be composed of 5 members appointed by the President, by and with the advice and consent of the Senate, of whom—

(i) three shall be individuals who are members of appropriate public interest groups or are interested individuals from the private sector; and

(ii) two shall be representatives of the broadcast television industry and the cable television industry.

(B) NOMINATION.—Individuals shall be nominated for appointment under subparagraph (A) not later than 60 days after the date of the establishment of the Television Commission.

(D) TERMS.—Each member of the Television Commission shall serve until the termination of the commission.

(E) VACANCIES.—A vacancy on the Television Commission shall be filled in the same manner as the original appointment.

(2) DUTIES OF TELEVISION COMMISSION.—The Television Commission shall establish rules

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for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming.

(3) COMPENSATION OF MEMBERS.—

(A) CHAIRMAN.—The Chairman of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including traveltime) during which the Chairman is engaged in the performance of duties vested in the commission.

(B) OTHER MEMBERS.—Except for the Chairman who shall be paid as provided under subparagraph (A), each member of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level V of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the performance of duties vested in the commission.

(4) STAFF.—

(A) IN GENERAL.—The Chairman of the Television Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the commission to perform its duties. The employment of an executive director shall be subject to confirmation by the commission.

(B) COMPENSATION.—The Chairman of the Television Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(5) CONSULTANTS.—The Television Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants under section 3109 of title 5, United States Code. The commission shall give public notice of any such contract before entering into such contract.

(6) FUNDING.—There is authorized to be appropriated to the Commission such sums as are necessary to enable the Commission to carry out its duties under this Act.

SEC. 504. REQUIREMENT FOR MANUFACTURE OF TELEVISIONS THAT BLOCK PROGRAMS.

(a) REQUIREMENT.—Section 303 (47 U.S.C. 303), as amended by this Act, is further amended by adding at the end the following:

"(w) Require, in the case of apparatus designed to receive television signals that are manufactured in the United States or imported for use in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus—

"(1) be equipped with circuitry designed to enable viewers to block the display of channels during particular time slots; and

"(2) enable viewers to block display of all programs with a common rating.".

(b) IMPLEMENTATION.—In adopting the requirement set forth in section 303(w) of the Communications Act of 1934, as added by subsection (a), the Federal Communications Commission, in consultation with the television receiver manufacturing industry, shall determine a date for the applicability of the requirement to the apparatus covered by that section.

SEC. 505. SHIPPING OR IMPORTING OF TELEVISIONS THAT BLOCK PROGRAMS.

(a) REGULATIONS.—Section 330 (47 U.S.C. 330) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new subsection (c):

"(c)(1) Except as provided in paragraph (2), no person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States any apparatus described in section 303(w) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section.

"(2) This subsection shall not apply to carriers transporting apparatus referred to in paragraph (1) without trading it.

"(3) The rules prescribed by the Commission under this subsection shall provide performance standards for blocking technology. Such rules shall require that all such apparatus be able to receive transmitted rating signals which conform to the signal and blocking specifications established by the Commission.

"(4) As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers.".

(b) CONFORMING AMENDMENT.—Section 330(d), as redesignated by subsection (a)(1), is amended by striking "section 303(s), and section 303(u)" and inserting in lieu thereof "and sections 303(s), 303(u), and 303(w)".

TITLE VI—NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION

SEC. 601. SHORT TITLE.

This title may be cited as the "National Education Technology Funding Corporation Act of 1995".

SEC. 602. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) CORPORATION.—There has been established in the District of Columbia a private, nonprofit corporation known as the National Education Technology Funding Corporation which is not an agency or independent establishment of the Federal Government.

(2) BOARD OF DIRECTORS.—The Corporation is governed by a Board of Directors, as prescribed in the Corporation's articles of incorporation, consisting of 15 members, of which—

(A) five members are representative of public agencies representative of schools and public libraries;

(B) five members are representative of State government, including persons knowledgeable about State finance, technology and education; and

(C) five members are representative of the private sector, with expertise in network technology, finance and management.

(3) CORPORATE PURPOSES.—The purposes of the Corporation, as set forth in its articles of incorporation, are—

(A) to leverage resources and stimulate private investment in education technology infrastructure;

(B) to designate State education technology agencies to receive loans, grants or other forms of assistance from the Corporation;

(C) to establish criteria for encouraging States to—

(i) create, maintain, utilize and upgrade interactive high capacity networks capable of providing audio, visual and data communications for elementary schools, secondary schools and public libraries;

(ii) distribute resources to assure equitable aid to all elementary schools and secondary schools in the State and achieve universal access to network technology; and

(iii) upgrade the delivery and development of learning through innovative technology-based instructional tools and applications;

(D) to provide loans, grants and other forms of assistance to State education technology agencies, with due regard for providing a fair balance among types of school districts and public libraries assisted and the disparate needs of such districts and libraries;

(E) to leverage resources to provide maximum aid to elementary schools, secondary schools and public libraries; and

(F) to encourage the development of education telecommunications and information technologies through public-private ventures, by serving as a clearinghouse for information on new education technologies, and by providing technical assistance, including assistance to States, if needed, to establish State education technology agencies.

(b) PURPOSE.—The purpose of this title is to recognize the Corporation as a nonprofit corporation operating under the laws of the District of Columbia, and to provide authority for Federal departments and agencies to provide assistance to the Corporation.

SEC. 603. DEFINITIONS.

For the purpose of this title—

(1) the term "Corporation" means the National Education Technology Funding Corporation described in section 602(a)(1);

(2) the terms "elementary school" and "secondary school" have the same meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965; and

(3) the term "public library" has the same meaning given such term in section 3 of the Library Services and Construction Act.

SEC. 604. ASSISTANCE FOR EDUCATION TECHNOLOGY PURPOSES.

(a) RECEIPT BY CORPORATION.—Notwithstanding any other provision of law, in order to carry out the corporate purposes described in section 602(a)(3), the Corporation shall be eligible to receive discretionary grants, contracts, gifts, contributions, or technical assistance from any Federal department or agency, to the extent otherwise permitted by law.

(b) AGREEMENT.—In order to receive any assistance described in subsection (a) the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(1) to use such assistance to provide funding and technical assistance only for activities which the Board of Directors of the Corporation determines are consistent with the corporate purposes described in section 602(a)(3);

(2) to review the activities of State education technology agencies and other entities receiving assistance from the Corporation to assure that the corporate purposes described in section 602(a)(3) are carried out;

(3) that no part of the assets of the Corporation shall accrue to the benefit of any member of the Board of Directors of the Corporation, any officer or employee of the Corporation, or any other individual, except as salary or reasonable compensation for services;

(4) that the Board of Directors of the Corporation will adopt policies and procedures to prevent conflicts of interest;

(5) to maintain a Board of Directors of the Corporation consistent with section 602(a)(2);

(6) that the Corporation, and any entity receiving the assistance from the Corporation, are subject to the appropriate oversight procedures of the Congress; and

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(7) to comply with—

(A) the audit requirements described in section 605; and

(B) the reporting and testimony requirements described in section 606.

(c) CONSTRUCTION.—Nothing in this title shall be construed to establish the Corporation as an agency or independent establishment of the Federal Government, or to establish the members of the Board of Directors of the Corporation, or the officers and employees of the Corporation, as officers or employees of the Federal Government.

SEC. 605. AUDITS

(a) AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(1) IN GENERAL.—The Corporation's financial statements shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants who are members of a nationally recognized accounting firm and who are certified by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) REPORTING REQUIREMENTS.—The report of each annual audit described in paragraph (1) shall be included in the annual report required by section 606(a).

(b) RECORDKEEPING REQUIREMENTS; AUDIT AND EXAMINATION OF BOOKS.—

(1) RECORDKEEPING REQUIREMENTS.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to fully disclose—

(i) the amount and the disposition by such recipient of the proceeds of such assistance;

(ii) the total cost of the project or undertaking in connection with which such assistance is given or used; and

(iii) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(C) such other records as will facilitate an effective audit.

(2) AUDIT AND EXAMINATION OF BOOKS.—The Corporation shall ensure that the Corporation, or any of the Corporation's duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance from the Corporation that are pertinent to such assistance. Representatives of the Comptroller General shall also have such access for such purpose.

SEC. 606. ANNUAL REPORT; TESTIMONY TO THE CONGRESS.

(a) ANNUAL REPORT.—Not later than April 30 of each year, the Corporation shall publish an annual report for the preceding fiscal year and submit that report to the President and the Congress. The report shall include a comprehensive and detailed evaluation of the Corporation's operations, activities, financial condition, and accomplishments under this title and may include such recommendations as the Corporation deems appropriate.

(b) TESTIMONY BEFORE CONGRESS.—The members of the Board of Directors, and officers, of the Corporation shall be available to testify before appropriate committees of the Congress with respect to the report described in subsection (a), the report of any audit made by the Comptroller General pursuant to this title, or any other matter which any such committee may determine appropriate.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. SPECTRUM AUCTIONS.

(a) *FINDINGS.—The Congress finds that*—

(1) the National Telecommunications and Information Administration of the Department of Commerce recently submitted to the Congress a report entitled "U.S. National Spectrum Requirements" as required by section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923);

(2) based on the best available information the report concludes that an additional 179 megahertz of spectrum will be needed within the next ten years to meet the expected demand for land mobile and mobile satellite radio services such as cellular telephone service, paging services, personal communication services, and low earth orbiting satellite communications systems;

(3) a further 85 megahertz of additional spectrum, for a total of 264 megahertz, is needed if the United States is to fully implement the Intelligent Transportation System currently under development by the Department of Transportation;

(4) as required by part B of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 921 et seq.) the Federal Government will transfer 235 megahertz of spectrum from exclusive government use to non-governmental or mixed governmental and non-governmental use between 1994 and 2004;

(5) the Spectrum Reallocation Final Report submitted to Congress under section 113 of the National Telecommunications and Information Administration Organization Act by the National Telecommunications and Information Administration states that, of the 235 megahertz of spectrum identified for reallocation from governmental to non-governmental or mixed use—

(A) 50 megahertz has already been reallocated for exclusive non-governmental use,

(B) 45 megahertz will be reallocated in 1995 for both exclusive non-governmental and mixed governmental and non-governmental use,

(C) 25 megahertz will be reallocated in 1997 for exclusive non-governmental use,

(D) 70 megahertz will be reallocated in 1999 for both exclusive non-governmental and mixed governmental and non-governmental use, and

(E) the final 45 megahertz will be reallocated for mixed governmental and non-governmental use by 2004;

(6) the 165 megahertz of spectrum that are not yet reallocated, combined with 80 megahertz that the Federal Communications Commission is currently holding in reserve for emerging technologies, are less than the best estimates of projected spectrum needs in the United States;

(7) the authority of the Federal Communications Commission to assign radio spectrum frequencies using an auction process expires on September 30, 1998;

(8) a significant portion of the reallocated spectrum will not yet be assigned to non-governmental users before that authority expires;

(9) the transfer of Federal governmental users from certain valuable radio frequencies to other reserved frequencies could be expedited if Federal governmental users are permitted to accept reimbursement for relocation costs from non-governmental users; and

(10) non-governmental reimbursement of Federal governmental users relocation costs would allow the market to determine the most efficient use of the available spectrum.

(b) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—Section 309(j) (47 U.S.C. 309(j)) is amended—

(1) by striking paragraph (1) and inserting in lieu thereof the following:

"(1) GENERAL AUTHORITY.—If mutually exclusive applications or requests are accepted for any initial license or construction permit which will involve a use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection. The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission for public safety radio services or for licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses.";

(2) by striking paragraph (2) and renumbering paragraphs (3) through (13) as (2) through (12), respectively; and

(3) by striking "1998" in paragraph (10), as renumbered, and inserting in lieu thereof "2000".

(c) REIMBURSEMENT OF FEDERAL RELOCATION COSTS.—Section 113 of the National Telecommunications and Information Administration Act (47 U.S.C. 923) is amended by adding at the end the following new subsections:

"(f) RELOCATION OF FEDERAL GOVERNMENT STATIONS.—

"(1) IN GENERAL.—In order to expedite the efficient use of the electromagnetic spectrum and notwithstanding section 3302(b) of title 31, United States Code, any Federal entity which operates a Federal Government station may accept reimbursement from any person for the costs incurred by such Federal entity for any modification, replacement, or reissuance of equipment, facilities, operating manuals, regulations, or other expenses incurred by that entity in relocating the operations of its Federal Government station or stations from one or more radio spectrum frequencies to any other frequency or frequencies. Any such reimbursement shall be deposited in the account of such Federal entity in the Treasury of the United States. Funds deposited according to this section shall be available, without appropriation or fiscal year limitation, only for the operations of the Federal entity for which such funds were deposited under this section.

"(2) PROCESS FOR RELOCATION.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band allocated for mixed Federal and non-Federal use may submit a petition for such relocation to NTIA. The NTIA shall limit the Federal Government station's operating license to secondary status when the following requirements are met—

"(A) the person seeking relocation of the Federal Government station has guaranteed reimbursement through money or in-kind payment of all relocation costs incurred by the Federal entity, including all engineering, equipment, site acquisition and construction, and regulatory fee costs;

"(B) the person seeking relocation completes all activities necessary for implementing the relocation, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining on the Federal entity's behalf new frequencies for use by the relocated Federal Government station (where such station is not relocating to spectrum reserved exclusively for Federal use); and

"(C) any necessary replacement facilities, equipment modifications, or other changes

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have been implemented and tested to ensure that the Federal Government station is able to successfully accomplish its purposes.

"(3) RIGHT TO RECLAIM.—If within one year after the relocation the Federal Government station demonstrates to the Commission that the new facilities or spectrum are not comparable to the facilities or spectrum from which the Federal Government station was relocated, the person seeking such relocation must take reasonable steps to remedy any defects or reimburse the Federal entity for the costs of returning the Federal Government station to the spectrum from which such station was relocated.

"(g) FEDERAL ACTION TO EXPEDITE SPECTRUM TRANSFER.—Any Federal Government station which operates on electromagnetic spectrum that has been identified for reallocation for mixed Federal and non-Federal use in the Spectrum Reallocation Final Report shall, to the maximum extent practicable through the use of the authority granted under subsection (f) and any other applicable provision of law, take action to relocate its spectrum use to other frequencies that are reserved for Federal use or to consolidate its spectrum use with other Federal Government stations in a manner that maximizes the spectrum available for non-Federal use. Notwithstanding the timetable contained in the Spectrum Reallocation Final Report, the President shall seek to implement the reallocation of the 1710 to 1755 megahertz frequency band by January 1, 2000. Subsection (c)(4) of this section shall not apply to the extent that a non-Federal user seeks to relocate or relocates a Federal power agency under subsection (f).

"(h) DEFINITIONS.—For purposes of this section—

"(1) FEDERAL ENTITY.—The term 'Federal entity' means any Department, agency, or other element of the Federal Government that utilizes radio frequency spectrum in the conduct of its authorized activities, including a Federal power agency.

"(2) SPECTRUM REALLOCATION FINAL REPORT.—The term 'Spectrum Reallocation Final Report' means the report submitted by the Secretary to the President and Congress in compliance with the requirements of subsection (a).".

(d) REALLOCATION OF ADDITIONAL SPECTRUM.—The Secretary of Commerce shall, within 9 months after the date of enactment of this Act, prepare and submit to the President and the Congress a report and timetable recommending the reallocation of the two frequency bands (3625–3650 megahertz and 5850–5925 megahertz) that were discussed but not recommended for reallocation in the Spectrum Reallocation Final Report under section 113(a) of the National Telecommunications and Information Administration Organization Act. The Secretary shall consult with the Federal Communications Commission and other Federal agencies in the preparation of the report, and shall provide notice and an opportunity for public comment before submitting the report and timetable required by this section.

(e) BROADCAST AUXILIARY SPECTRUM RELOCATION.—

(1) ALLOCATION OF SPECTRUM FOR BROADCAST AUXILIARY USES.—Within one year after the date of enactment of this Act, the Commission shall allocate the 4635–4685 megahertz band transferred to the Commission under section 113(b) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(b)) for broadcast auxiliary uses.

(2) MANDATORY RELOCATION OF BROADCAST AUXILIARY USES.—Within 7 years after the date of enactment of this Act, all licensees of broadcast auxiliary spectrum in the 2025–2075 megahertz band shall relocate into spectrum allocated by the Commission under paragraph (1). The Commission shall assign and grant licenses for use of the spectrum allocated under paragraph (1)—

(A) in a manner sufficient to permit timely completion of relocation; and

(B) without using a competitive bidding process.

(3) ASSIGNING RECOVERED SPECTRUM.—Within 5 years after the date of enactment of this Act, the Commission shall allocate the spectrum recovered in the 2025–2075 megahertz band under paragraph (2) for use by new licensees for commercial mobile services or other similar services after the relocation of broadcast auxiliary licensees, and shall assign such licenses by competitive bidding.

SEC. 702. RENEWED EFFORTS TO REGULATE VIOLENT PROGRAMMING.

(a) FINDINGS.—The Senate finds that:

(1) Violence is a pervasive and persistent feature of the entertainment industry. According to the Carnegie Council on Adolescent Development, by the age of 18, children will have been exposed to nearly 18,000 televised murders and 800 suicides.

(2) Violence on television is likely to have a serious and harmful effect on the emotional development of young children. The American Psychological Association has reported that children who watch "a large number of aggressive programs tend to hold attitudes and values that favor the use of aggression to solve conflicts". The National Institute of Mental Health has stated similarly that "violence on television does lead to aggressive behavior by children and teenagers".

(3) The Senate recognizes that television violence is not the sole cause of violence in society.

(4) There is a broad recognition in the United States Congress that the television industry has an obligation to police the content of its own broadcasts to children. That understanding was reflected in the Television Violence Act of 1990, which was specifically designed to permit industry participants to work together to create a self-monitoring system.

(5) After years of denying that television violence has any detrimental effect, the entertainment industry has begun to address the problem of television violence. In the spring of 1994, for example, the network and cable industries announced the appointment of an independent monitoring group to assess the amount of violence on television. These reports are due out in the fall of 1995 and winter of 1996, respectively.

(6) The Senate recognizes that self-regulation by the private sector is generally preferable to direct regulation by the Federal Government.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the entertainment industry should do everything possible to limit the amount of violent and aggressive entertainment programming, particularly during the hours when children are most likely to be watching.

SEC. 703. PREVENTION OF UNFAIR BILLING PRACTICES FOR INFORMATION OR SERVICES PROVIDED OVER TOLL-FREE TELEPHONE CALLS.

(a) FINDINGS.—Congress makes the following findings:

(1) Reforms required by the Telephone Disclosure and Dispute Resolution Act of 1992 have improved the reputation of the pay-per-call industry and resulted in regulations that have reduced the incidence of misleading practices that are harmful to the public interest.

(2) Among the successful reforms is a restriction on charges being assessed for calls to 800 telephone numbers or other telephone numbers advertised or widely understood to be toll free.

(3) Nevertheless, certain interstate pay-per-call businesses are taking advantage of an exception in the restriction on charging for information conveyed during a call to a "toll-free" number to continue to engage in misleading practices. These practices are not in compliance with the intent of Congress in passing the Telephone Disclosure and Dispute Resolution Act.

(4) It is necessary for Congress to clarify that its intent is that charges for information provided during a call to an 800 number or other number widely advertised and understood to be toll free shall not be assessed to the calling party unless the calling party agrees to be billed according to the terms of a written subscription agreement or by other appropriate means.

(b) PREVENTION OF UNFAIR BILLING PRACTICES.—

(1) IN GENERAL.—Section 228(c) (47 U.S.C. 228(c)) is amended—

(A) by striking out subparagraph (C) of paragraph (7) and inserting in lieu thereof the following:

"(C) the calling party being charged for information conveyed during the call unless—

"(i) the calling party has a written agreement (including an agreement transmitted through electronic medium) that meets the requirements of paragraph (8); or

"(ii) the calling party is charged for the information in accordance with paragraph (9); or"; and

(B) by adding at the end the following new paragraphs:

"(8) SUBSCRIPTION AGREEMENTS FOR BILLING FOR INFORMATION PROVIDED VIA TOLL-FREE CALLS.—

"(A) IN GENERAL.—For purposes of paragraph (7)(C), a written subscription does not meet the requirements of this paragraph unless the agreement specifies the material terms and conditions under which the information is offered and includes—

"(i) the rate at which charges are assessed for the information;

"(ii) the information provider's name;

"(iii) the information provider's business address;

"(iv) the information provider's regular business telephone number;

"(v) the information provider's agreement to notify the subscriber of all future changes in the rates charged for the information; and

"(vi) the subscriber's choice of payment method, which may be by direct remit, debit, prepaid account, phone bill or credit or calling card.

"(B) BILLING ARRANGEMENTS.—If a subscriber elects, pursuant to subparagraph (A)(vi), to pay by means of a phone bill—

"(i) the agreement shall clearly explain that charges for the service will appear on the subscriber's phone bill;

"(ii) the phone bill shall include, in prominent type, the following disclaimer:

'Common carriers may not disconnect local or long distance telephone service for failure to pay disputed charges for information services.'; and

"(iii) the phone bill shall clearly list the 800 number dialed.

"(C) USE OF PINS TO PREVENT UNAUTHORIZED USE.—A written agreement does not meet the requirements of this paragraph unless it requires the subscriber to use a personal identification number to obtain access to the information provided, and includes instructions on its use.

"(D) EXCEPTIONS.—Notwithstanding paragraph (7)(C), a written agreement that meets the requirements of this paragraph is not required—

"(i) for calls utilizing telecommunications devices for the deaf;

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"(ii) for services provided pursuant to a tariff that has been approved or permitted to take effect by the Commission or a State commission; or

"(iii) for any purchase of goods or of services that are not information services.

"(E) TERMINATION OF SERVICE.—On receipt by a common carrier of a complaint by any person that an information provider is in violation of the provisions of this section, a carrier shall—

"(i) promptly investigate the complaint; and

"(ii) if the carrier reasonably determines that the complaint is valid, it may terminate the provision of service to an information provider unless the provider supplies evidence of a written agreement that meets the requirements of this section.

"(F) TREATMENT OF REMEDIES.—The remedies provided in this paragraph are in addition to any other remedies that are available under title V of this Act.

"(9) CHARGES IN ABSENCE OF AGREEMENT.—A calling party is charged for a call in accordance with this paragraph if the provider of the information conveyed during the call—

"(A) clearly states to the calling party the total cost per minute of the information provided during the call and for any other information or service provided by the provider to which the calling party requests connection during the call; and

"(B) receives from the calling party—

"(i) an agreement to accept the charges for any information or services provided by the provider during the call; and

"(ii) a credit, calling, or charge card number or verification of a prepaid account to which such charges are to be billed.

"(10) DEFINITION.—As used in paragraphs (8) and (9), the term 'calling card' means an identifying number or code unique to the individual, that is issued to the individual by a common carrier and enables the individual to be charged by means of a phone bill for charges incurred independent of where the call originates."

(2) REGULATIONS.—The Federal Communications Commission shall revise its regulations to comply with the amendment made by paragraph (1) not later than 180 days after the date of the enactment of this Act.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) CLARIFICATION OF "PAY-PER-CALL SERVICES" UNDER TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT.—Section 204(1) of the Telephone Disclosure and Dispute Resolution Act (15 U.S.C. 5714(1)) is amended to read as follows:

"(1) The term 'pay-per-call services' has the meaning provided in section 228(j)(1) of the Communications Act of 1934, except that the Commission by rule may, notwithstanding subparagraphs (B) and (C) of such section, extend such definition to other similar services providing audio information or audio entertainment if the Commission determines that such services are susceptible to the unfair and deceptive practices that are prohibited by the rules prescribed pursuant to section 201(a).".

SEC. 704. DISCLOSURE OF CERTAIN RECORDS FOR INVESTIGATIONS OF TELEMARKETING FRAUD.

Section 2703(c)(1)(B) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following:

"(iv) submits a formal written request for information relevant to a legitimate law enforcement investigation of the governmental entity for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is in section 2325 of this title).".

SEC. 705. TELECOMMUTING PUBLIC INFORMATION PROGRAM.

(a) FINDINGS.—Congress makes the following findings—

(1) Telecommuting is the practice of allowing people to work either at home or in nearby centers located closer to home during their normal working hours, substituting telecommunications services, either partially or completely, for transportation to a more traditional workplace;

(2) Telecommuting is now practiced by an estimated two to seven million Americans, including individuals with impaired mobility, who are taking advantage of computer and telecommunications advances in recent years;

(3) Telecommuting has the potential to dramatically reduce fuel consumption, mobile source air pollution, vehicle miles traveled, and time spent commuting, thus contributing to an improvement in the quality of life for millions of Americans; and

(4) It is in the public interest for the Federal Government to collect and disseminate information encouraging the increased use of telecommuting and identifying the potential benefits and costs of telecommuting.

(b) TELECOMMUTING RESEARCH PROGRAMS AND PUBLIC INFORMATION DISSEMINATION.—The Secretary of Transportation, in consultation with the Secretary of Labor and the Administrator of the Environmental Protection Agency, shall, within three months of the date of enactment of this Act, carry out research to identify successful telecommuting programs in the public and private sectors and provide for the dissemination to the public of information regarading—

(1) the establishment of successful telecommuting programs; and

(2) the benefits and costs of telecommuting.

(c) REPORT.—Within one year of the date of enactment of this Act, the Secretary of Transportation shall report to Congress its findings, conclusions, and recommendations regarding telecommuting developed under this section.

SEC. 706. AUTHORITY TO ACQUIRE CABLE SYSTEMS.

(a) IN GENERAL.—Notwithstanding the provisions of section 613(b)(6) of the Communications Act of 1934, as added by section 203(a) of this Act, a local exchange carrier (or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier) may purchase or otherwise acquire more than a 10 percent financial interest, or any management interest, or enter into a joint venture or partnership with any cable system described in subsection (b) within the local exchange carrier's telephone service area.

(b) COVERED CABLE SYSTEMS.—Subsection (a) applies to any cable system serving no more than 20,000 cable subscribers of which no more than 12,000 of those subscribers live within an urbanized area, as defined by the Bureau of the Census.

(c) DEFINITION.—For purposes of this section, the term "local exchange carrier" has the meaning given such term in section 3 (kk) of the Communications Act of 1934, as added by section 8(b) of this Act.

MOTION OFFERED BY MR. BLILEY

Mr. BLILEY. Mr. Speaker, pursuant to section 2 of House Resolution 207, I offer a motion.

The Clerk read as follows:

Mr. BLILEY moves to strike out all after the enacting clause of the Senate bill, S. 652, and insert in lieu thereof the provisions of H.R. 1555 as passed by the House, as follows:

S. 652

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Communications Act of 1995".

(b) REFERENCES.—References in this Act to "the Act" are references to the Communications Act of 1934.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; references; table of contents.
TITLE I—DEVELOPMENT OF COMPETITIVE TELECOMMUNICATIONS MARKETS
Sec. 101. Establishment of part II of title II.
"PART II—DEVELOPMENT OF COMPETITIVE MARKETS
"Sec. 241. Interconnection.
"Sec. 242. Equal access and interconnection to the local loop for competing providers.
"Sec. 243. Removal of barriers to entry.
"Sec. 244. Statements of terms and conditions for access and interconnection.
"Sec. 245. Bell operating company entry into interLATA services.
"Sec. 246. Competitive safeguards.
"Sec. 247. Universal service.
"Sec. 248. Pricing flexibility and abolition of rate-of-return regulation.
"Sec. 249. Network functionality and accessibility.
"Sec. 250. Market entry barriers.
"Sec. 251. Illegal changes in subscriber carrier selections.
"Sec. 252. Study.".
Sec. 102. Competition in manufacturing, information services, alarm services, and pay phone services.
"PART III—SPECIAL AND TEMPORARY PROVISIONS
"Sec. 271. Manufacturing by Bell operating companies.
"Sec. 272. Electronic publishing by Bell operating companies.
"Sec. 273. Alarm monitoring and telemessaging services by Bell operating companies.
"Sec. 274. Provision of payphone service.".
Sec. 103. Forbearance from regulation.
"Sec. 230. Protection for private blocking and screening of offensive material; FCC regulation of computer services prohibited.".
Sec. 104. Online family empowerment.
Sec. 105. Privacy of customer information.
"Sec. 222. Privacy of customer proprietary network information.".
Sec. 106. Pole attachments.
Sec. 107. Preemption of franchising authority regulation of telecommunications services.
Sec. 108. Facilities siting; radio frequency emission standards.
Sec. 109. Mobile service access to long distance carriers.
Sec. 110. Freedom from toll fraud.
Sec. 111. Report on means of restricting access to unwanted material in interactive telecommunications systems.
Sec. 112. Telecommunications development fund.
"Sec. 10. Telecommunication development fund.".
Sec. 113. Report on the use of advanced telecommunications services for medical purposes.
Sec. 114. Telecommuting public information program.
Sec. 115. Authorization of appropriations.

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TITLE II—CABLE COMMUNICATIONS COMPETITIVENESS
Sec. 201. Cable service provided by telephone companies.
"PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES
"Sec. 651. Definitions.
"Sec. 652. Separate video programming affiliate.
"Sec. 653. Establishment of video platform.
"Sec. 654. Authority to prohibit cross-subsidization.
"Sec. 655. Prohibition on buy outs.
"Sec. 656. Applicability of parts I through IV.
"Sec. 657. Rural area exemption.".
Sec. 202. Competition from cable systems.
Sec. 203. Competitive availability of navigation devices.
"Sec. 713. Competitive availability of navigation devices.".
Sec. 204. Video programming accessibility.
Sec. 205. Technical amendments.
TITLE III—BROADCAST COMMUNICATIONS COMPETITIVENESS
Sec. 301. Broadcaster spectrum flexibility.
"Sec. 336. Broadcast spectrum flexibility.".
Sec. 302. Broadcast ownership.
"Sec. 337. Broadcast ownership.".
Sec. 303. Foreign investment and ownership.
Sec. 304. Family viewing empowerment.
Sec. 305. Parental choice in television programming.
Sec. 306. Term of licenses.
Sec. 307. Broadcast license renewal procedures.
Sec. 308. Exclusive Federal jurisdiction over direct broadcast satellite service.
Sec. 309. Automated ship distress and safety systems.
Sec. 310. Restrictions on over-the-air reception devices.
Sec. 311. DBS signal security.
Sec. 312. Delegation of equipment testing and certification to private laboratories.
TITLE IV—EFFECT ON OTHER LAWS
Sec. 401. Relationship to other laws.
Sec. 402. Preemption of local taxation with respect to DBS services.
Sec. 403. Protection of minors and clarification of current laws regarding communication of obscene and indecent materials through the use of computers.
TITLE V—DEFINITIONS
Sec. 501. Definitions.
TITLE VI—SMALL BUSINESS COMPLAINT PROCEDURE
Sec. 601. Complaint procedure.

TITLE I—DEVELOPMENT OF COMPETITIVE TELECOMMUNICATIONS MARKETS

SEC. 101. ESTABLISHMENT OF PART II OF TITLE II.

(a) AMENDMENT.—Title II of the Act is amended by inserting after section 229 (47 U.S.C. 229) the following new part:

"PART II—DEVELOPMENT OF COMPETITIVE MARKETS

"SEC. 241. INTERCONNECTION.

"The duty of a common carrier under section 201(a) includes the duty to interconnect with the facilities and equipment of other providers of telecommunications services and information services.

"SEC. 242. EQUAL ACCESS AND INTERCONNECTION TO THE LOCAL LOOP FOR COMPETING PROVIDERS.

"(a) OPENNESS AND ACCESSIBILITY OBLIGATIONS.—The duty under section 201(a) of a local exchange carrier includes the following duties:

"(1) INTERCONNECTION.—The duty to provide, in accordance with subsection (b), equal access to and interconnection with the facilities of the carrier's networks to any other carrier or person offering (or seeking to offer) telecommunications services or information services reasonably requesting such equal access and interconnection, so that such networks are fully interoperable with such telecommunications services and information services. For purposes of this paragraph, a request is not reasonable unless it contains a proposed plan, including a reasonable schedule, for the implementation of the requested access or interconnection.

"(2) UNBUNDLING OF NETWORK ELEMENTS.—The duty to offer unbundled services, elements, features, functions, and capabilities whenever technically feasible, at just, reasonable, and nondiscriminatory prices and in accordance with subsection (b)(4).

"(3) RESALE.—The duty—

(A) to offer services, elements, features, functions, and capabilities for resale at wholesale rates, and

(B) not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such services, elements, features, functions, and capabilities, on a bundled or unbundled basis, except that a carrier may prohibit a reseller that obtains at wholesale rates a service, element, feature, function, or capability that is available at retail only to a category of subscribers from offering such service, element, feature, function, or capability to a different category of subscribers.

For the purposes of this paragraph, wholesale rates shall be determined on the basis of retail rates for the service, element, feature, function, or capability provided, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that are avoided by the local exchange carrier.

"(4) NUMBER PORTABILITY.—The duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.

"(5) DIALING PARITY.—The duty to provide, in accordance with subsection (c), dialing parity to competing providers of telephone exchange service and telephone toll service.

"(6) ACCESS TO RIGHTS-OF-WAY.—The duty to afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services in accordance with section 224(d).

"(7) NETWORK FUNCTIONALITY AND ACCESSIBILITY.—The duty not to install network features, functions, or capabilities that do not comply with any standards established pursuant to section 249.

"(8) GOOD FAITH NEGOTIATION.—The duty to negotiate in good faith, under the supervision of State commissions, the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (7). The other carrier or person requesting interconnection shall also be obligated to negotiate in good faith the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (7).

"(b) INTERCONNECTION, COMPENSATION, AND EQUAL ACCESS.—

"(1) INTERCONNECTION.—A local exchange carrier shall provide access to and interconnection with the facilities of the carrier's network at any technically feasible point within the carrier's network on just and reasonable terms and conditions, to any other carrier or person offering (or seeking to offer) telecommunications services or information services requesting such access.

"(2) INTERCARRIER COMPENSATION BETWEEN FACILITIES-BASED CARRIERS.—

"(A) IN GENERAL.—For the purposes of paragraph (1), the terms and conditions for interconnection of the network facilities of a competing provider of telephone exchange service shall not be considered to be just and reasonable unless—

"(i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the termination on such carrier's network facilities of calls that originate on the network facilities of the other carrier;

"(ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls; and

"(iii) the recovery of costs permitted by such terms and conditions are reasonable in relation to the prices for termination of calls that would prevail in a competitive market.

"(B) RULES OF CONSTRUCTION.—This paragraph shall not be construed—

"(i) to preclude arrangements that afford such mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements); or

"(ii) to authorize the Commission or any State commission to engage in any rate regulation proceeding to establish with particularity the additional costs of terminating calls, or to require carriers to maintain records with respect to the additional costs of terminating calls.

"(3) EQUAL ACCESS.—A local exchange carrier shall afford, to any other carrier or person offering (or seeking to offer) a telecommunications service or an information service, reasonable and nondiscriminatory access on an unbundled basis—

"(A) to databases, signaling systems, billing and collection services, poles, ducts, conduits, and rights-of-way owned or controlled by a local exchange carrier, or other facilities, functions, or information (including subscriber numbers) integral to the efficient transmission, routing, or other provision of telephone exchange services or exchange access;

"(B) that is equal in type and quality to the access which the carrier affords to itself or to any other person, and is available at nondiscriminatory prices; and

"(C) that is sufficient to ensure the full interoperability of the equipment and facilities of the carrier and of the person seeking such access.

"(4) COMMISSION ACTION REQUIRED.—

"(A) IN GENERAL.—Within 6 months after the date of enactment of this part, the Commission shall complete all actions necessary (including any reconsideration) to establish regulations to implement the requirements of this section. The Commission shall establish such regulations after consultation with the Joint Board established pursuant to section 247.

"(B) ACCOMMODATION OF STATE ACCESS REGULATIONS.—In prescribing and enforcing regulations to implement the requirements of this section, the Commission shall not preclude the enforcement of any regulation, order, or policy of a State commission that—

"(i) establishes access and interconnection obligations of local exchange carriers;

"(ii) is consistent with the requirements of this section; and

"(iii) does not substantially prevent the Commission from fulfilling the requirements of this section and the purposes of this part.

"(C) COLLOCATION.—Such regulations shall provide for actual collocation of equipment necessary for interconnection for telecommunications services at the premises of a local exchange carrier, except that the regulations shall provide for virtual collocation where the local exchange carrier demonstrates that actual collocation is not practical for technical reasons or because of space limitations.

"(D) USER PAYMENT OF COSTS.—Such regulations shall require that the costs that a carrier incurs in offering access, interconnection, number portability, or unbundled services, elements, features, functions, and capabilities shall be borne by the users of such access, interconnection, number portability, or services, elements, features, functions, and capabilities.

"(E) IMPUTED CHARGES TO CARRIER.—Such regulations shall require the carrier, to the extent it provides a telecommunications service or an information service that requires access or

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interconnection to its network facilities, to impute such access and interconnection charges to itself.

"(c) NUMBER PORTABILITY AND DIALING PARITY.—

"(1) AVAILABILITY.—A local exchange carrier shall ensure that—

"(A) number portability shall be available on request in accordance with subsection (a)(4); and

"(B) dialing parity shall be available upon request, except that, in the case of a Bell operating company, such company shall ensure that dialing parity for intraLATA telephone toll service shall be available not later than the date such company is authorized to provide interLATA services.

"(2) NUMBER ADMINISTRATION.—The Commission shall designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis. The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States. Nothing in this paragraph shall preclude the Commission from delegating to State commissions or other entities any portion of such jurisdiction.

"(d) JOINT MARKETING OF RESOLD ELEMENTS.—

"(1) RESTRICTION.—Except as provided in paragraph (2), no service, element, feature, function, or capability that is made available for resale in any State by a Bell operating company may be jointly marketed directly or indirectly with any interLATA telephone toll service until such Bell operating company is authorized pursuant to section 245(c) to provide interLATA services in such State.

"(2) COMPETING PROVIDERS.—Paragraph (1) shall not prohibit joint marketing of services, elements, features, functions, or capabilities acquired from a Bell operating company by an unaffiliated provider that, together with its affiliates, has in the aggregate less than 2 percent of the access lines installed nationwide.

"(e) MODIFICATIONS AND WAIVERS.—The Commission may modify or waive the requirements of this section for any local exchange carrier (or class or category of such carriers) that has, in the aggregate nationwide, fewer than 500,000 access lines installed, to the extent that the Commission determines that compliance with such requirements (without such modification) would be unduly economically burdensome or technologically infeasible.

"(f) EXEMPTION FOR CERTAIN RURAL TELEPHONE COMPANIES.—Subsections (a) through (d) of this section shall not apply to a rural telephone company, until such company has received a bona fide request for services, elements, features or capabilities described in subsections (a) through (d). Following a bona fide request to the carrier and notice of the request to the State commission, the State commission shall determine within 120 days whether the request would be unduly economically burdensome, be technologically infeasible, and be consistent with subsections (b)(1) through (b)(5), (c)(1), and (c)(3) of section 247. The exemption provided by this subsection shall not apply if such carrier provides video programming services over its telephone exchange facilities in its telephone service area.

"(g) TIME AND MANNER OF COMPLIANCE.—The State shall establish, after determining pursuant to subsection (f) that a bona fide request is not economically burdensome, is technologically feasible, and is consistent with subsections (b)(1) through (b)(5), (c)(1), and (c)(3) of section 247, an implementation schedule for compliance with such approved bona fide request that is consistent in time and manner with Commission rules.

"(h) AVOIDANCE OF REDUNDANT REGULATIONS.—

"(1) COMMISSION REGULATIONS.—Nothing in this section shall be construed to prohibit the Commission from enforcing regulations prescribed prior to the date of enactment of this part in fulfilling the requirements of this section, to the extent that such regulations are consistent with the provisions of this section.

"(2) STATE REGULATIONS.—Nothing in this section shall be construed to prohibit any State commission from enforcing regulations prescribed prior to the date of enactment of this part, or from prescribing regulations after such date of enactment, in fulfilling the requirements of this section, if (A) such regulations are consistent with the provisions of this section, and (B) the enforcement of such regulations has not been precluded under subsection (b)(4)(B).

"SEC. 243. REMOVAL OF BARRIERS TO ENTRY.

(a) IN GENERAL.—No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide interstate or intrastate telecommunications services.

(b) STATE AND LOCAL AUTHORITY.—Nothing in this section shall affect the ability of a State or local government to impose, on a competitively neutral basis and consistent with section 247 (relating to universal service), requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

(c) LOCAL GOVERNMENT AUTHORITY.—Nothing in this Act affects the authority of a local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of the rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

(d) EXCEPTION.—In the case of commercial mobile services, the provisions of section 332(c)(3) shall apply in lieu of the provisions of this section.

"SEC. 244. STATEMENTS OF TERMS AND CONDITIONS FOR ACCESS AND INTERCONNECTION.

"(a) IN GENERAL.—Within 18 months after the date of enactment of this part, and from time to time thereafter, a local exchange carrier shall prepare and file with a State commission statements of the terms and conditions that such carrier generally offers within that State with respect to the services, elements, features, functions, or capabilities provided to comply with the requirements of section 242 and the regulations thereunder. Any such statement pertaining to the charges for interstate services, elements, features, functions, or capabilities shall be filed with the Commission.

"(b) REVIEW.—

"(1) STATE COMMISSION REVIEW.—A State commission to which a statement is submitted under subsection (a) shall review such statement in accordance with State law. A State commission may not approve such statement unless such statement complies with section 242 and the regulations thereunder. Except as provided in section 243, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of such statement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

"(2) FCC REVIEW.—The Commission shall review such statements to ensure that—

"(A) the charges for interstate services, elements, features, functions, or capabilities are just, reasonable, and nondiscriminatory; and

"(B) the terms and conditions for such interstate services or elements unbundle any separable services, elements, features, functions, or capabilities in accordance with section 242(a)(2) and any regulations thereunder.

"(c) TIME FOR REVIEW.—

"(1) SCHEDULE FOR REVIEW.—The Commission and the State commission to which a statement is submitted shall, not later than 60 days after the date of such submission—

"(A) complete the review of such statement under subsection (b) (including any reconsideration thereof), unless the submitting carrier agrees to an extension of the period for such review; or

"(B) permit such statement to take effect.

"(2) AUTHORITY TO CONTINUE REVIEW.—Paragraph (1) shall not preclude the Commission or a State commission from continuing to review a statement that has been permitted to take effect under subparagraph (B) of such paragraph.

"(d) EFFECT OF AGREEMENTS.—Nothing in this section shall prohibit a carrier from filing an agreement to provide services, elements, features, functions, or capabilities affording access and interconnection as a statement of terms and conditions that the carrier generally offers for purposes of this section. An agreement affording access and interconnection shall not be approved under this section unless the agreement contains a plan, including a reasonable schedule, for the implementation of the requested access or interconnection. The approval of a statement under this section shall not operate to prohibit a carrier from entering into subsequent agreements that contain terms and conditions that differ from those contained in a statement that has been reviewed and approved under this section, but—

"(1) each such subsequent agreement shall be filed under this section; and

"(2) such carrier shall be obligated to offer access to such services, elements, features, functions, or capabilities to other carriers and persons (including carriers and persons covered by previously approved statements) requesting such access on terms and conditions that, in relation to the terms and conditions in such subsequent agreements, are not discriminatory.

"(e) SUNSET.—The provisions of this section shall cease to apply in any local exchange market, defined by geographic area and class or category of service, that the Commission and the State determines has become subject to full and open competition.

"SEC. 245. BELL OPERATING COMPANY ENTRY INTO INTERLATA SERVICES.

"(a) VERIFICATION OF ACCESS AND INTERCONNECTION COMPLIANCE.—At any time after 8 months after the date of enactment of this part, a Bell operating company may provide to the Commission verification by such company with respect to one or more States that such company is in compliance with the requirements of this part. Such verification shall contain the following:

"(1) CERTIFICATION.—A certification by each State commission of such State or States that such carrier has fully implemented the conditions described in subsection (b), except as provided in subsection (c)(2).

"(2) AGREEMENT OR STATEMENT.—For each such State, either of the following:

"(A) PRESENCE OF A FACILITIES-BASED COMPETITOR.—An agreement that has been approved under section 244 specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network facilities in accordance with section 242 for the network facilities of an unaffiliated competing provider of telephone exchange service (as defined in section 3(44)(A), but excluding exchange access service) to residential and business subscribers. For the purpose of this subparagraph, such telephone exchange service may be offered by such competing provider either exclusively over its own telephone exchange service facilities or predominantly over its own telephone exchange service facilities in combination with the resale of the services of another carrier. For the purpose of this subparagraph, services provided pursuant to subpart K of part 22 of the Commission's regulations (47 C.F.R. 22.901 et seq.) shall not be considered to be telephone exchange services.

"(B) FAILURE TO REQUEST ACCESS.—If no such provider has requested such access and interconnection before the date which is 3 months before the date the company makes its submission

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under this subsection, a statement of the terms and conditions that the carrier generally offers to provide such access and interconnection that has been approved or permitted to take effect by the State commission under section 244.

For purposes of subparagraph (B), a Bell operating company shall be considered not to have received any request for access or interconnection if the State commission of such State or States certifies that the only provider or providers making such request have (i) failed to bargain in good faith under the supervision of such State commission pursuant to section 242(a)(6), or (ii) have violated the terms of their agreement by failure to comply, within a reasonable period of time, with the implementation schedule contained in such agreement.

"(b) CERTIFICATION OF COMPLIANCE WITH PART II.—For the purposes of subsection (a)(1), a Bell operating company shall submit to the Commission a certification by a State commission of compliance with each of the following conditions in any area where such company provides local exchange service or exchange access in such State:

"(1) INTERCONNECTION.—The Bell operating company provides access and interconnection in accordance with subsections (a)(1) and (b) of section 242 to any other carrier or person offering telecommunications services requesting such access and interconnection, and complies with the Commission regulations pursuant to such section concerning such access and interconnection.

"(2) UNBUNDLING OF NETWORK ELEMENTS.—The Bell operating company provides unbundled services, elements, features, functions, and capabilities in accordance with subsection (a)(2) of section 242 and the regulations prescribed by the Commission pursuant to such section.

"(3) RESALE.—The Bell operating company offers services, elements, features, functions, and capabilities for resale in accordance with section 242(a)(3), and neither the Bell operating company, nor any unit of State or local government within the State, imposes any restrictions on resale or sharing of telephone exchange service (or unbundled services, elements, features, or functions of telephone exchange service) in violation of section 242(a)(3).

"(4) NUMBER PORTABILITY.—The Bell operating company provides number portability in compliance with the Commission's regulations pursuant to subsections (a)(4) and (c) of section 242.

"(5) DIALING PARITY.—The Bell operating company provides dialing parity in accordance with subsections (a)(5) and (c) of section 242, and will, not later than the effective date of its authority to commence providing interLATA services, take such actions as are necessary to provide dialing parity for intraLATA telephone toll service in accordance with such subsections.

"(6) ACCESS TO CONDUITS AND RIGHTS OF WAY.—The poles, ducts, conduits, and rights of way of such Bell operating company are available to competing providers of telecommunications services in accordance with the requirements of sections 242(a)(6) and 224(d).

"(7) ELIMINATION OF FRANCHISE LIMITATIONS.—No unit of the State or local government in such State or States enforces any prohibition or limitation in violation of section 243.

"(8) NETWORK FUNCTIONALITY AND ACCESSIBILITY.—The Bell operating company will not install network features, functions, or capabilities that do not comply with the standards established pursuant to section 249.

"(9) NEGOTIATION OF TERMS AND CONDITIONS.—The Bell operating company has negotiated in good faith, under the supervision of the State commission, in accordance with the requirements of section 242(a)(8) with any other carrier or person requesting access or interconnection.

"(c) COMMISSION REVIEW.—

"(1) REVIEW OF STATE DECISIONS AND CERTIFICATIONS.—The Commission shall review any verification submitted by a Bell operating company pursuant to subsection (a). The Commission may require such company to submit such additional information as is necessary to validate any of the items of such verification.

"(2) DE NOVO REVIEW.—If—

"(A) a State commission does not have the jurisdiction or authority to make the certification required by subsection (b);

"(B) the State commission has failed to act within 90 days after the date a request for such certification is filed with such State commission; or

"(C) the State commission has sought to impose a term or condition in violation of section 243;

the local exchange carrier may request the Commission to certify the carrier's compliance with the conditions specified in subsection (b).

"(3) CONSULTATION WITH THE ATTORNEY GENERAL.—The Commission shall notify the Attorney General promptly of any verification submitted for approval under this subsection, and shall identify any verification that, if approved, would relieve the Bell operating company and its affiliates of the prohibition concerning manufacturing contained in section 271(a). Before making any determination under this subsection, the Commission shall consult with the Attorney General, and if the Attorney General submits any comments in writing, such comments shall be included in the record of the Commission's decision. In consulting with and submitting comments to the Commission under this paragraph, the Attorney General shall provide to the Commission an evaluation of whether there is a dangerous probability that the Bell operating company or its affiliates would successfully use market power to substantially impede competition in the market such company seeks to enter. In consulting with and submitting comments to the Commission under this paragraph with respect to a verification that, if approved, would relieve the Bell operating company and its affiliates of the prohibition concerning manufacturing contained in section 271(a), the Attorney General shall also provide to the Commission an evaluation of whether there is a dangerous probability that the Bell operating company or its affiliates would successfully use market power to substantially impede competition in manufacturing.

"(4) TIME FOR DECISION; PUBLIC COMMENT.—Unless such Bell operating company consents to a longer period of time, the Commission shall approve, disapprove, or approve with conditions such verification within 90 days after the date of its submission. During such 90 days, the Commission shall afford interested persons an opportunity to present information and evidence concerning such verification.

"(5) STANDARD FOR DECISION.—The Commission shall not approve such verification unless the Commission determines that—

"(A) the Bell operating company meets each of the conditions required to be certified under subsection (b); and

"(B) the agreement or statement submitted under subsection (a)(2) complies with the requirements of section 242 and the regulations thereunder.

"(d) ENFORCEMENT OF CONDITIONS.—

"(1) COMMISSION AUTHORITY.—If at any time after the approval of a verification under subsection (c), the Commission determines that a Bell operating company has ceased to meet any of the conditions required to be certified under subsection (b), the Commission may, after notice and opportunity for a hearing—

"(A) issue an order to such company to correct the deficiency;

"(B) impose a penalty on such company pursuant to title V; or

"(C) suspend or revoke such approval.

"(2) RECEIPT AND REVIEW OF COMPLAINTS.—The Commission shall establish procedures for the review of complaints concerning failures by Bell operating companies to meet conditions required to be certified under subsection (b). Unless the parties otherwise agree, the Commission shall act on such complaint within 90 days.

"(3) STATE AUTHORITY.—The authority of the Commission under this subsection shall not be construed to preempt any State commission from taking actions to enforce the conditions required to be certified under subsection (b).

"(e) AUTHORITY TO PROVIDE INTERLATA SERVICES.—

"(1) PROHIBITION.—Except as provided in paragraph (2) and subsections (f), (g), and (h), a Bell operating company or affiliate thereof may not provide interLATA services.

"(2) AUTHORITY SUBJECT TO CERTIFICATION.—A Bell operating company or affiliate thereof may, in any States to which its verification under subsection (a) applies, provide interLATA services—

"(A) during any period after the effective date of the Commission's approval of such verification pursuant to subsection (c), and

"(B) until the approval of such verification is suspended or revoked by the Commission pursuant to subsection (c).

"(f) EXCEPTION FOR PREVIOUSLY AUTHORIZED ACTIVITIES.—Subsection (e) shall not prohibit a Bell operating company or affiliate from engaging, at any time after the date of the enactment of this part, in any activity as authorized by an order entered by the United States District Court for the District of Columbia pursuant to section VII or VIII(C) of the Modification of Final Judgment, if—

"(1) such order was entered on or before the date of the enactment of this part, or

"(2) a request for such authorization was pending before such court on the date of the enactment of this part.

"(g) EXCEPTIONS FOR INCIDENTAL SERVICES.—Subsection (e) shall not prohibit a Bell operating company or affiliate thereof, at any time after the date of the enactment of this part, from providing interLATA services for the purpose of—

"(1)(A) providing audio programming, video programming, or other programming services to subscribers to such services of such company;

"(B) providing the capability for interaction by such subscribers to select or respond to such audio programming, video programming, or other programming services; or

"(C) providing to distributors audio programming or video programming that such company owns or controls, or is licensed by the copyright owner of such programming (or by an assignee of such owner) to distribute;

"(2) providing a telecommunications service, using the transmission facilities of a cable system that is an affiliate of such company, and that is located within a State in which such company is not, on the date of the enactment of this part, a provider of wireline telephone exchange service;

"(3) providing commercial mobile services in accordance with section 332(c) of this Act and with the regulations prescribed by the Commission pursuant to paragraph (8) of such section;

"(4) providing a service that permits a customer that is located in one local access and transport area to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another local access and transport area;

"(5) providing signaling information used in connection with the provision of telephone exchange services to a local exchange carrier that, together with any affiliated local exchange carriers, has aggregate annual revenues of less than $100,000,000; or

"(6) providing network control signaling information to, and receiving such signaling information from, common carriers offering interLATA services at any location within the area in which such Bell operating company provides telephone exchange services or exchange access.

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"(h) OUT-OF-REGION SERVICES.—When a Bell operating company and its affiliates have obtained Commission approval under subsection (c) for each State in which such Bell operating company and its affiliates provide telephone exchange service on the date of enactment of this part, such Bell operating company and any affiliate thereof may, notwithstanding subsection (e), provide interLATA services—

"(1) for calls originating in, and billed to a customer in, a State in which neither such company nor any affiliate provided telephone exchange service on such date of enactment; or

"(2) for calls originating outside the United States.

"(i) INTRALATA TOLL DIALING PARITY.—Neither the Commission nor any State may order any Bell operating company to provide dialing parity for intraLATA telephone toll service in any State before the date such company is authorized to provide interLATA services in such State pursuant to this section.

"(j) FORBEARANCE.—The Commission may not, pursuant to section 230, forbear from applying any provision of this section or any regulation thereunder until at least 5 years after the date of enactment of this part.

"(k) SUNSET.—The provisions of this section shall cease to apply in any local exchange market, defined by geographic area and class or category of service, that the Commission and the State determines has become subject to full and open competition.

"(l) DEFINITIONS.—As used in this section—

"(1) AUDIO PROGRAMMING.—The term 'audio programming' means programming provided by, or generally considered comparable to programming provided by, a radio broadcast station.

"(2) VIDEO PROGRAMMING.—The term 'video programming' has the meaning provided in section 602.

"(3) OTHER PROGRAMMING SERVICES.—The term 'other programming services' means information (other than audio programming or video programming) that the person who offers a video programming service makes available to all subscribers generally. For purposes of the preceding sentence, the terms 'information' and 'makes available to all subscribers generally' have the same meaning such terms have under section 602(13) of this Act.

"SEC. 246. COMPETITIVE SAFEGUARDS.

"(a) IN GENERAL.—In accordance with the requirements of this section and the regulations adopted thereunder, a Bell operating company or any affiliate thereof providing any interLATA telecommunications or interLATA information service, shall do so through a subsidiary that is separate from the Bell operating company or any affiliate thereof that provides telephone exchange service. The requirements of this section shall not apply with respect to (1) activities in which a Bell operating company or affiliate may engage pursuant to section 245(f), or (2) incidental services in which a Bell operating company or affiliate may engage pursuant to section 245(g), other than services described in paragraph (4) of such section.

"(b) TRANSACTION REQUIREMENTS.—Any transaction between such a subsidiary and a Bell operating company and any other affiliate of such company shall be conducted on an arm's-length basis, in the same manner as the Bell operating company conducts business with unaffiliated persons, and shall not be based upon any preference or discrimination in favor of the subsidiary arising out of the subsidiary's affiliation with such company.

"(c) SEPARATE OPERATION AND PROPERTY.—A subsidiary required by this section shall—

"(1) operate independently from the Bell operating company or any affiliate thereof,

"(2) have separate officers, directors, and employees who may not also serve as officers, directors, or employees of the Bell operating company or any affiliate thereof,

"(3) not enter into any joint venture activities or partnership with a Bell operating company or any affiliate thereof,

"(4) not own any telecommunications transmission or switching facilities in common with the Bell operating company or any affiliate thereof, and

"(5) not jointly own or share the use of any other property with the Bell operating company or any affiliate thereof.

"(d) BOOKS, RECORDS, AND ACCOUNTS.—Any subsidiary required by this section shall maintain books, records, and accounts in a manner prescribed by the Commission which shall be separate from the books, records, and accounts maintained by a Bell operating company or any affiliate thereof.

"(e) PROVISION OF SERVICES AND INFORMATION.—A Bell operating company or any affiliate thereof may not discriminate between a subsidiary required by this section and any other person in the provision or procurement of goods, services, facilities, or information, or in the establishment of standards, and shall not provide any goods, services, facilities or information to a subsidiary required by this section unless such goods, services, facilities or information are made available to others on reasonable, nondiscriminatory terms and conditions.

"(f) PREVENTION OF CROSS-SUBSIDIES.—A Bell operating company or any affiliate thereof required to maintain a subsidiary under this section shall establish and administer, in accordance with the requirements of this section and the regulations prescribed thereunder, a cost allocation system that prohibits any cost of providing interLATA telecommunications or interLATA information services from being subsidized by revenue from telephone exchange services and telephone exchange access services. The cost allocation system shall employ a formula that ensures that—

"(1) the rates for telephone exchange services and exchange access are no greater than they would have been in the absence of such investment in interLATA telecommunications or interLATA information services (taking into account any decline in the real costs of providing such telephone exchange services and exchange access); and

"(2) such interLATA telecommunications or interLATA information services bear a reasonable share of the joint and common costs of facilities used to provide telephone exchange, exchange access, and competitive services.

"(g) ASSETS.—The Commission shall, by regulation, ensure that the economic risks associated with the provision of interLATA telecommunications or interLATA information services by a Bell operating company or any affiliate thereof (including any increases in such company's cost of capital that occur as a result of the provision of such services) are not borne by customers of telephone exchange services and exchange access in the event of a business loss or failure. Investments or other expenditures assigned to interLATA telecommunications or interLATA information services shall not be reassigned to telephone exchange service or exchange access.

"(h) DEBT.—A subsidiary required by this section shall not obtain credit under any arrangement that would—

"(1) permit a creditor, upon default, to have resource to the assets of a Bell operating company; or

"(2) induce a creditor to rely on the tangible or intangible assets of a Bell operating company in extending credit.

"(i) FULFILLMENT OF CERTAIN REQUESTS.—A Bell operating company or an affiliate thereof shall—

"(1) fulfill any requests from an unaffiliated entity for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or to its affiliates;

"(2) fulfill any such requests with telephone exchange service and exchange access of a quality that meets or exceeds the quality of telephone exchange services and exchange access provided by the Bell operating company or its affiliates to itself or its affiliates; and

"(3) provide telephone exchange service and exchange access to all providers of intraLATA or interLATA telephone toll services and interLATA information services at cost-based rates that are not unreasonably discriminatory.

"(j) CHARGES FOR ACCESS SERVICES.—A Bell operating company or an affiliate thereof shall charge the subsidiary required by this section an amount for telephone exchange services, exchange access, and other necessary associated inputs no less than the rate charged to any unaffiliated entity for such access and inputs.

"(k) SUNSET.—The provisions of this section shall cease to apply to any Bell operating company in any State 18 months after the date such Bell operating company is authorized pursuant to section 245(c) to provide interLATA telecommunications services in such State.

"SEC. 247. UNIVERSAL SERVICE.

"(a) JOINT BOARD TO PRESERVE UNIVERSAL SERVICE.—Within 30 days after the date of enactment of this part, the Commission shall convene a Federal-State Joint Board under section 410(c) for the purpose of recommending actions to the Commission and State commissions for the preservation of universal service in furtherance of the purposes set forth in section 1 of this Act. In addition to the members required under section 410(c), one member of the Joint Board shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates.

"(b) PRINCIPLES.—The Joint Board shall base policies for the preservation of universal service on the following principles:

"(1) JUST AND REASONABLE RATES.—A plan adopted by the Commission and the States should ensure the continued viability of universal service by maintaining quality services at just and reasonable rates.

"(2) DEFINITIONS OF INCLUDED SERVICES; COMPARABILITY IN URBAN AND RURAL AREAS.—Such plan should recommend a definition of the nature and extent of the services encompassed within carriers' universal service obligations. Such plan should seek to promote access to advanced telecommunications services and capabilities, and to promote reasonably comparable services for the general public in urban and rural areas, while maintaining just and reasonable rates.

"(3) ADEQUATE AND SUSTAINABLE SUPPORT MECHANISMS.—Such plan should recommend specific and predictable mechanisms to provide adequate and sustainable support for universal service.

"(4) EQUITABLE AND NONDISCRIMINATORY CONTRIBUTIONS.—All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation of universal service.

"(5) EDUCATIONAL ACCESS TO ADVANCED TELECOMMUNICATIONS SERVICES.—To the extent that a common carrier establishes advanced telecommunications services, such plan should include recommendations to ensure access to advanced telecommunications services for students in elementary and secondary schools.

"(6) ADDITIONAL PRINCIPLES.—Such other principles as the Board determines are necessary and appropriate for the protection of the public interest, convenience, and necessity and consistent with the purposes of this Act.

"(c) DEFINITION OF UNIVERSAL SERVICE.—In recommending a definition of the nature and extent of the services encompassed within carriers' universal service obligations under subsection (b)(2), the Joint Board shall consider the extent to which—

"(1) a telecommunications service has, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;

"(2) such service or capability is essential to public health, public safety, or the public interest;

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"(3) such service has been deployed in the public switched telecommunications network; and

"(4) inclusion of such service within carriers' universal service obligations is otherwise consistent with the public interest, convenience, and necessity.

The Joint Board may, from time to time, recommend to the Commission modifications in the definition proposed under subsection (b).

"(d) REPORT; COMMISSION RESPONSE.—The Joint Board convened pursuant to subsection (a) shall report its recommendations within 6 months after the date of enactment of this part. The Commission shall complete any proceeding to act upon such recommendations and to comply with the principles set forth in subsection (b) within one year after such date of enactment.

"(e) STATE AUTHORITY.—Nothing in this section shall be construed to restrict the authority of any State to adopt regulations imposing universal service obligations on the provision of intrastate telecommunications services.

"(f) SUNSET.—The Joint Board established by this section shall cease to exist 5 years after the date of enactment of this part.

"SEC. 248. PRICING FLEXIBILITY AND ABOLITION OF RATE-OF-RETURN REGULATION.

"(a) PRICING FLEXIBILITY.—

"(1) COMMISSION CRITERIA.—Within 270 days after the date of enactment of this part, the Commission shall complete all actions necessary (including any reconsideration) to establish—

"(A) criteria for determining whether a telecommunications service or provider of such service has become, or is substantially certain to become, subject to competition, either within a geographic area or within a class or category of service; and

"(B) appropriate flexible pricing procedures that afford a regulated provider of a service described in subparagraph (A) the opportunity to respond fairly to such competition and that are consistent with the protection of subscribers and the public interest, convenience, and necessity.

In establishing criteria and procedures pursuant to this paragraph, the Commission shall take into account and accommodate, to the extent reasonable and consistent with the purposes of this section, the criteria and procedures established for such purposes by State commissions prior to the effective date of the Commission's criteria and procedures under this section.

"(2) STATE SELECTION.—A State commission may utilize the flexible pricing procedures or procedures (established under paragraph (1)(B)) that are appropriate in light of the criteria established under paragraph (1)(A).

"(3) DETERMINATIONS.—The Commission, with respect to rates for interstate or foreign communications, and State commissions, with respect to rates for intrastate communications, shall, upon application—

"(A) render determinations in accordance with the criteria established under paragraph (1)(A) concerning the services or providers that are the subject of such application; and

"(B) upon a proper showing, implement appropriate flexible pricing procedures consistent with paragraphs (1)(B) and (2) with respect to such services or providers.

The Commission and such State commission shall approve or reject any such application within 180 days after the date of its submission.

"(4) RESPONSE TO COMPETITION.—Pricing flexibility implemented pursuant to this subsection shall permit regulated telecommunications providers to respond fairly to competition by repricing services subject to competition, but shall not have the effect of changing prices for noncompetitive services or using noncompetitive services to subsidize competitive services.

"(b) ABOLITION OF RATE-OF-RETURN REGULATION.—Notwithstanding any other provision of law, to the extent that a carrier has complied with sections 242 and 244 of this part, the Commission, with respect to rates for interstate or foreign communications, and State commissions, with respect to rates for intrastate communications, shall not require rate-of-return regulation.

"(c) TERMINATION OF PRICE AND OTHER REGULATION.—Notwithstanding any other provision of law, to the extent that a carrier has complied with sections 242 and 244 of this part, the Commission, with respect to interstate or foreign communications, and State commissions, with respect to intrastate communications, shall not, for any service that is determined, in accordance with the criteria established under subsection (a)(1)(A), to be subject to competition that effectively prevents prices for such service that are unjust or unreasonable or unjustly or unreasonably discriminatory—

"(1) regulate the prices for such service;

"(2) require the filing of a schedule of charges for such service;

"(3) require the filing of any cost or revenue projections for such service;

"(4) regulate the depreciation charges for facilities used to provide such service; or

"(5) require prior approval for the construction or extension of lines or other equipment for the provision of such service.

"(d) ABILITY TO CONTINUE AFFORDABLE VOICE-GRADE SERVICE.—Notwithstanding subsections (a), (b), and (c), each State commission shall, for a period of not more than 3 years, permit residential subscribers to continue to receive only basic voice-grade local telephone service equivalent to the service generally available to residential subscribers on the date of enactment of this part, at just, reasonable, and affordable rates. Determinations concerning the affordability of rates for such services shall take into account the rates generally available to residential subscribers on such date of enactment and the pricing rules established by the States. Any increases in the rates for such services for residential subscribers that are not attributable to changes in consumer prices generally shall be permitted in any proceeding commenced after the date of enactment of this section upon a showing that such increase is necessary to ensure the continued availability of universal service, prevent economic disadvantages for one or more service providers, and is in the public interest. Such increase in rates shall be minimized to the greatest extent practical and shall be implemented over a time period of not more than 3 years after the the date of enactment of this section. The requirements of this subsection shall not apply to any rural telephone company if the rates for basic voice-grade local telephone service of that company are not subject to regulation by a State commission on the date of enactment of this part.

"(e) INTEREXCHANGE SERVICE.—The rates charged by providers of interexchange telecommunications service to customers in rural and high cost areas shall be maintained at levels no higher than those charged by each such provider to its customers in urban areas.

"(f) EXCEPTION.—In the case of commercial mobile services, the provisions of section 332(c)(1) shall apply in lieu of the provisions of this section.

"(g) AVOIDANCE OF REDUNDANT REGULATIONS.—

"(1) COMMISSION REGULATIONS.—Nothing in this section shall be construed to prohibit the Commission from enforcing regulations prescribed prior to the date of enactment of this part in fulfilling the requirements of this section, to the extent that such regulations are consistent with the provisions of this section.

"(2) STATE REGULATIONS.—Nothing in this section shall be construed to prohibit any State commission from enforcing regulations prescribed prior to the effective date of the Commission's criteria and procedures under this section in fulfilling the requirements of this section, or from prescribing regulations after such date, to the extent such regulations are consistent—

"(A) with the provisions of this section; and

"(B) after such effective date, with such criteria and procedures.

"SEC. 249. NETWORK FUNCTIONALITY AND ACCESSIBILITY.

"(a) FUNCTIONALITY AND ACCESSIBILITY.—The duty of a common carrier under section 201(a) to furnish communications service includes the duty to furnish that service in accordance with any standards established pursuant to this section.

"(b) COORDINATION FOR INTERCONNECTIVITY.—The Commission—

"(1) shall establish procedures for Commission oversight of coordinated network planning by common carriers and other providers of telecommunications services for the effective and efficient interconnection of public switched networks; and

"(2) may participate, in a manner consistent with its authority and practice prior to the date of enactment of this section, in the development by appropriate industry standards-setting organizations of interconnection standards that promote access to—

"(A) network capabilities and services by individuals with disabilities; and

"(B) information services by subscribers to telephone exchange service furnished by a rural telephone company.

"(c) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES.—

"(1) ACCESSIBILITY.—Within 1 year after the date of enactment of this section, the Commission shall prescribe such regulations as are necessary to ensure that, if readily achievable, advances in network services deployed by common carriers, and telecommunications equipment and customer premises equipment manufactured for use in conjunction with network services, shall be accessible and usable by individuals with disabilities, including individuals with functional limitations of hearing, vision, movement, manipulation, speech, and interpretation of information. Such regulations shall permit the use of both standard and special equipment, and seek to minimize the need of individuals to acquire additional devices beyond those used by the general public to obtain such access. Throughout the process of developing such regulations, the Commission shall coordinate and consult with representatives of individuals with disabilities and interested equipment and service providers to ensure their concerns and interests are given full consideration in such process.

"(2) COMPATIBILITY.—Such regulations shall require that whenever the requirements of paragraph (1) are not readily achievable, the local exchange carrier that deploys the network service shall ensure that the network service in question is compatible with existing peripheral devices or specialized customer premises equipment commonly used by persons with disabilities to achieve access, unless doing so is not readily achievable.

"(3) READILY ACHIEVEABLE.—The term 'readily achievable' has the meaning given it by section 301(g) of the Americans with Disabilities Act 1990 (42 U.S.C. 12102(g)).

"(4) EFFECTIVE DATE.—The regulations required by this subsection shall become effective 18 months after the date of enactment of this part.

"(d) PRIVATE RIGHTS OF ACTIONS PROHIBITED.—Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation thereunder. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

"SEC. 250. MARKET ENTRY BARRIERS.

"(a) ELIMINATION OF BARRIERS.—Within 15 months after the date of enactment of this part, the Commission shall complete a proceeding for the purpose of identifying and eliminating, by regulations pursuant to its authority under this

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Act (other than this section), market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services, or in the provision of parts or services to providers of telecommunications services and information services.

"(b) NATIONAL POLICY.—In carrying out subsection (a), the Commission shall seek to promote the policies and purposes of this Act favoring diversity of media voices, vigorous economic competition, technological advancement, and promotion of the public interest, convenience, and necessity.

"(c) PERIODIC REVIEW.—Every 3 years following the completion of the proceeding required by subsection (a), the Commission shall review and report to Congress on—

"(1) any regulations prescribed to eliminate barriers within its jurisdiction that are identified under subsection (a) and that can be prescribed consistent with the public interest, convenience, and necessity; and

"(2) the statutory barriers identified under subsection (a) that the Commission recommends be eliminated, consistent with the public interest, convenience, and necessity.

"SEC. 261. ILLEGAL CHANGES IN SUBSCRIBER CARRIER SELECTIONS.

"(a) PROHIBITION .—No common carrier shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe. Nothing in this section shall preclude any State commission from enforcing such procedures with respect to intrastate services.

"(b) LIABILITY FOR CHARGES.—Any common carrier that violates the verification procedures described in subsection (a) and that collects charges for telephone exchange service or telephone toll service from a subscriber shall be liable to the carrier previously selected by the subscriber in an amount equal to all charges paid by such subscriber after such violation, in accordance with such procedures as the Commission may prescribe. The remedies provided by this subsection are in addition to any other remedies available by law.

"SEC. 262. STUDY.

"Within 3 years after the date of enactment of this part, the Commission shall conduct a study that—

"(1) reviews the definition of, and the adequacy of support for, universal service, and evaluates the extent to which universal service has been protected and access to advanced services has been facilitated pursuant to this part and the plans and regulations thereunder;

"(2) evaluates the extent to which access to advanced telecommunications services for students in elementary and secondary school classrooms has been attained pursuant to section 247(b)(5); and

"(3) determines whether the regulations established under section 249(c) have ensured that advances in network services by providers of telecommunications services and information services are accessible and usable by individuals with disabilities.".

(b) CONSOLIDATED RULEMAKING PROCEEDING.—The Commission shall conduct a single consolidated rulemaking proceeding to prescribe or amend regulations necessary to implement the requirements of—

(1) part II of title II of the Act as added by subsection (a) of this section;

(2) section 222 as amended by section 104 of this Act; and

(3) section 224 as amended by section 105 of this Act.

(c) DESIGNATION OF PART I.—Title II of the Act is further amended by inserting before the heading of section 201 the following new heading:

"PART I—REGULATION OF DOMINANT COMMON CARRIERS".

(d) STYLISTIC CONSISTENCY.—The Act is amended so that—

(1) the designation and heading of each title of the Act shall be in the form and typeface of the designation and heading of this title of this Act; and

(2) the designation and heading of each part of each title of the Act shall be in the form and typeface of the designation and heading of part I of title II of the Act, as amended by subsection (c).

(e) CONFORMING AMENDMENTS.—

(1) FEDERAL-STATE JURISDICTION.—Section 2(b) of the Act (47 U.S.C. 152(b)) is amended by inserting "part II of title II," after "227, inclusive,".

(2) FORFEITURES.—Sections 503(b)(1) and 504(b) of such Act (47 U.S.C. 503(b)) are each amended by inserting "part I of" before "title II".

SEC. 103. COMPETITION IN MANUFACTURING, INFORMATION SERVICES, ALARM SERVICES, AND PAY-PHONE SERVICES.

(a) COMPETITION IN MANUFACTURING, INFORMATION SERVICES, AND ALARM SERVICES.—Title II of the Act is amended by adding at the end of part II (as added by section 101) the following new part:

"PART III—SPECIAL AND TEMPORARY PROVISIONS

"SEC. 271. MANUFACTURING BY BELL OPERATING COMPANIES.

"(a) LIMITATIONS ON MANUFACTURING.—

"(1) ACCESS AND INTERCONNECTION REQUIRED.—It shall be unlawful for a Bell operating company, directly or through an affiliate, to manufacture telecommunications equipment or customer premises equipment, until the Commission has approved under section 245(c) verifications that such Bell operating company, and each Bell operating company with which it is affiliated, are in compliance with the access and interconnection requirements of part II of this title.

"(2) SEPARATE SUBSIDIARY REQUIRED.—During the first 18 months after the expiration of the limitation contained in paragraph (1), a Bell operating company may engage in manufacturing telecommunications equipment or customer premises equipment only through a separate subsidiary established and operated in accordance with section 245.

"(b) COLLABORATION; RESEARCH AND ROYALTY AGREEMENTS.—

"(1) COLLABORATION.—Subsection (a) shall not prohibit a Bell operating company from engaging in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment during the design and development of hardware, software, or combinations thereof related to such equipment.

"(2) RESEARCH; ROYALTY AGREEMENTS.—Subsection (a) shall not prohibit a Bell operating company, directly or through an subsidiary, from—

"(A) engaging in any research activities related to manufacturing, and

"(B) entering into royalty agreements with manufacturers of telecommunications equipment.

"(c) INFORMATION REQUIREMENTS.—

"(1) INFORMATION ON PROTOCOLS AND TECHNICAL REQUIREMENTS.—Each Bell operating company shall, in accordance with regulations prescribed by the Commission, maintain and file with the Commission full and complete information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities. Each such company shall report promptly to the Commission any material changes or planned changes to such protocols and requirements, and the schedule for implementation of such changes or planned changes.

"(2) DISCLOSURE OF INFORMATION.—A Bell operating company shall not disclose any information required to be filed under paragraph (1) unless that information has been filed promptly, as required by regulation by the Commission.

"(3) ACCESS BY COMPETITORS TO INFORMATION.—The Commission may prescribe such additional regulations under this subsection as may be necessary to ensure that manufacturers have access to the information with respect to the protocols and technical requirements for connection with and use of telephone exchange service facilities that a Bell operating company makes available to any manufacturing affiliate or any unaffiliated manufacturer.

"(4) PLANNING INFORMATION.—Each Bell operating company shall provide, to contiguous common carriers providing telephone exchange service, timely information on the planned deployment of telecommunications equipment.

"(d) MANUFACTURING LIMITATIONS FOR STANDARD-SETTING ORGANIZATIONS.—

"(1) APPLICATION TO BELL COMMUNICATIONS RESEARCH OR MANUFACTURERS.—Bell Communications Research, Inc., or any successor entity or affiliate—

"(A) shall not be considered a Bell operating company or a successor or assign of a Bell operating company at such time as it is no longer an affiliate of any Bell operating company; and

"(B) notwithstanding paragraph (3), shall not engage in manufacturing telecommunications equipment or customer premises equipment as long as it is an affiliate of more than 1 otherwise unaffiliated Bell operating company or successor or assign of any such company.

Nothing in this subsection prohibits Bell Communications Research, Inc., or any successor entity, from engaging in any activity in which it is lawfully engaged on the date of enactment of this subsection. Nothing provided in this subsection shall render Bell Communications Research, Inc., or any successor entity, a common carrier under title II of this Act. Nothing in this section restricts any manufacturer from engaging in any activity in which it is lawfully engaged on the date of enactment of this section.

"(2) PROPRIETARY INFORMATION.—Any entity which establishes standards for telecommunications equipment or customer premises equipment, or generic network requirements for such equipment, or certifies telecommunications equipment, or customer premises equipment, shall be prohibited from releasing or otherwise using any proprietary information, designated as such by its owner, in its possession as a result of such activity, for any purpose other than purposes authorized in writing by the owner of such information, even after such entity ceases to be so engaged.

"(3) MANUFACTURING SAFEGUARDS.—(A) Except as prohibited in paragraph (1), and subject to paragraph (8), any entity which certifies telecommunications equipment or customer premises equipment manufactured by an unaffiliated entity shall only manufacture a particular class of telecommunications equipment or customer premises equipment for which it is undertaking or has undertaken, during the previous 18 months, certification activity for such class of equipment through a separate affiliate.

"(B) Such separate affiliate shall—

"(i) maintain books, records, and accounts separate from those of the entity that certifies such equipment, consistent with generally acceptable accounting principles;

"(ii) not engage in any joint manufacturing activities with such entity; and

"(iii) have segregated facilities and separate employees with such entity.

"(C) Such entity that certifies such equipment shall—

"(i) not discriminate in favor of its manufacturing affiliate in the establishment of standards, generic requirements, or product certification;

"(ii) not disclose to the manufacturing affiliate any proprietary information that has been received at any time from an unaffiliated manufacturer, unless authorized in writing by the owner of the information; and

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"(iii) not permit any employee engaged in product certification for telecommunications equipment or customer premises equipment to engage jointly in sales or marketing of any such equipment with the affiliated manufacturer.

"(4) STANDARD-SETTING ENTITIES.—Any entity which is not an accredited standards development organization and which establishes industry-wide standards for telecommunications equipment or customer premises equipment, or industry-wide generic network requirements for such equipment, or which certifies telecommunications equipment or customer premises equipment manufactured by an unaffiliated entity, shall—

"(A) establish and publish any industry-wide standard for, industry-wide generic requirement for, or any substantial modification of an existing industry-wide standard or industry-wide generic requirement for, telecommunications equipment or customer premises equipment only in compliance with the following procedure:

"(i) such entity shall issue a public notice of its consideration of a proposed industry-wide standard or industry-wide generic requirement;

"(ii) such entity shall issue a public invitation to interested industry parties to fund and participate in such efforts on a reasonable and nondiscriminatory basis, administered in such a manner as not to unreasonably exclude any interested industry party;

"(iii) such entity shall publish a text for comment by such parties as have agreed to participate in the process pursuant to clause (ii), provide such parties a full opportunity to submit comments, and respond to comments from such parties;

"(iv) such entity shall publish a final text of the industry-wide standard or industry-wide generic requirement, including the comments in their entirety, of any funding party which requests to have its comments so published; and

"(v) such entity shall attempt, prior to publishing a text for comment, to agree with the funding parties as a group on a mutually satisfactory dispute resolution process which such parties shall utilize as their sole recourse in the event of a dispute on technical issues as to which there is disagreement between any funding party and the entity conducting such activities, except that if no dispute resolution process is agreed to by all the parties, a funding party may utilize the dispute resolution procedures established pursuant to paragraph (5) of this subsection;

"(B) engage in product certification for telecommunications equipment or customer premises equipment manufactured by unaffiliated entities only if—

"(i) such activity is performed pursuant to published criteria;

"(ii) such activity is performed pursuant to auditable criteria; and

"(iii) such activity is performed pursuant to available industry-accepted testing methods and standards, where applicable, unless otherwise agreed upon by the parties funding and performing such activity;

"(C) not undertake any actions to monopolize or attempt to monopolize the market for such services; and

"(D) not preferentially treat its own telecommunications equipment or customer premises equipment, or that of its affiliate, over that of any other entity in establishing and publishing industry-wide standards or industry-wide generic requirements for, and in certification of, telecommunications equipment and customer premises equipment.

"(5) ALTERNATE DISPUTE RESOLUTION.—Within 90 days after the date of enactment of this section, the Commission shall prescribe a dispute resolution process to be utilized in the event that a dispute resolution process is not agreed upon by all the parties when establishing and publishing any industry-wide standard or industry-wide generic requirement for telecommunications equipment or customer premises equipment, pursuant to paragraph (4)(A)(v). The Commission shall not establish itself as a party to the dispute resolution process. Such dispute resolution process shall permit any funding party to resolve a dispute with the entity conducting the activity that significantly affects such funding party's interests, in an open, nondiscriminatory, and unbiased fashion, within 30 days after the filing of such dispute. Such disputes may be filed within 15 days after the date the funding party receives a response to its comments from the entity conducting the activity. The Commission shall establish penalties to be assessed for delays caused by referral of frivolous disputes to the dispute resolution process. The overall intent of establishing this dispute resolution provision is to enable all interested funding parties an equal opportunity to influence the final resolution of the dispute without significantly impairing the efficiency, timeliness, and technical quality of the activity.

"(6) SUNSET.—The requirements of paragraphs (3) and (4) shall terminate for the particular relevant activity when the Commission determines that there are alternative sources of industry-wide standards, industry-wide generic requirements, or product certification for a particular class of telecommunications equipment or customer premises equipment available in the United States. Alternative sources shall be deemed to exist when such sources provide commercially viable alternatives that are providing such services to customers. The Commission shall act on any application for such a determination within 90 days after receipt of such application, and shall receive public comment on such application.

"(7) ADMINISTRATION AND ENFORCEMENT AUTHORITY.—For the purposes of administering this subsection and the regulations prescribed thereunder, the Commission shall have the same remedial authority as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

"(8) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'affiliate' shall have the same meaning as in section 3 of this Act, except that, for purposes of paragraph (1)(B)—

"(i) an aggregate voting equity interest in Bell Communications Research, Inc., of at least 5 percent of its total voting equity, owned directly or indirectly by more than 1 otherwise unaffiliated Bell operating company, shall constitute an affiliate relationship; and

"(ii) a voting equity interest in Bell Communications Research, Inc., by any otherwise unaffiliated Bell operating company of less than 1 percent of Bell Communications Research's total voting equity shall not be considered to be an equity interest under this paragraph.

"(B) The term 'generic requirement' means a description of acceptable product attributes for use by local exchange carriers in establishing product specifications for the purchase of telecommunications equipment, customer premises equipment, and software integral thereto.

"(C) The term 'industry-wide' means activities funded by or performed on behalf of local exchange carriers for use in providing wireline local exchange service whose combined total of deployed access lines in the United States constitutes at least 30 percent of all access lines deployed by telecommunications carriers in the United States as of the date of enactment.

"(D) The term 'certification' means any technical process whereby a party determines whether a product, for use by more than one local exchange carrier, conforms with the specified requirements pertaining to such product.

"(E) The term 'accredited standards development organization' means an entity composed of industry members which has been accredited by an institution vested with the responsibility for standards accreditation by the industry.

"(e) BELL OPERATING COMPANY EQUIPMENT PROCUREMENT AND SALES.—

"(1) OBJECTIVE BASIS.—Each Bell operating company and any entity acting on behalf of a Bell operating company shall make procurement decisions and award all supply contracts for equipment, services, and software on the basis of an objective assessment of price, quality, delivery, and other commercial factors.

"(2) SALES RESTRICTIONS.—A Bell operating company engaged in manufacturing may not restrict sales to any local exchange carrier of telecommunications equipment, including software integral to the operation of such equipment and related upgrades.

"(3) PROTECTION OF PROPRIETARY INFORMATION.—A Bell operating company and any entity it owns or otherwise controls shall protect the proprietary information submitted for procurement decisions from release not specifically authorized by the owner of such information.

"(f) ADMINISTRATION AND ENFORCEMENT AUTHORITY.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to any Bell operating company or any affiliate thereof as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

"(g) EXCEPTION FOR PREVIOUSLY AUTHORIZED ACTIVITIES.—Nothing in this section shall prohibit a Bell operating company or affiliate from engaging, at any time after the date of the enactment of this part, in any activity as authorized by an order entered by the United States District Court for the District of Columbia pursuant to section VII or VIII(C) of the Modification of Final Judgment, if—

"(1) such order was entered on or before the date of the enactment of this part, or

"(2) a request for such authorization was pending before such court on the date of the enactment of this part.

"(h) ANTITRUST LAWS.—Nothing in this section shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.

"(i) DEFINITION.—As used in this section, the term 'manufacturing' has the same meaning as such term has under the Modification of Final Judgment.

"SEC. 272. ELECTRONIC PUBLISHING BY BELL OPERATING COMPANIES.

"(a) LIMITATIONS.—No Bell operating company or any affiliate may engage in the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service, except that nothing in this section shall prohibit a separated affiliate or electronic publishing joint venture operated in accordance with this section from engaging in the provision of electronic publishing.

"(b) SEPARATED AFFILIATE OR ELECTRONIC PUBLISHING JOINT VENTURE REQUIREMENTS.—A separated affiliate or electronic publishing joint venture shall be operated independently from the Bell operating company. Such separated affiliate or joint venture and the Bell operating company with which it is affiliated shall—

"(1) maintain separate books, records, and accounts and prepare separate financial statements;

"(2) not incur debt in a manner that would permit a creditor of the separated affiliate or joint venture upon default to have recourse to the assets of the Bell operating company;

"(3) carry out transactions (A) in a manner consistent with such independence, (B) pursuant to written contracts or tariffs that are filed with the Commission and made publicly available, and (C) in a manner that is auditable in accordance with generally accepted auditing standards;

"(4) value any assets that are transferred directly or indirectly from the Bell operating company to a separated affiliate or joint venture, and record any transactions by which such assets are transferred, in accordance with such

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regulations as may be prescribed by the Commission or a State commission to prevent improper cross subsidies:

"(5) between a separated affiliate and a Bell operating company—

"(A) have no officers, directors, and employees in common after the effective date of this section; and

"(B) own no property in common;

"(6) not use for the marketing of any product or service of the separated affiliate or joint venture, the name, trademarks, or service marks of an existing Bell operating company except for names, trademarks, or service marks that are or were used in common with the entity that owns or controls the Bell operating company;

"(7) not permit the Bell operating company—

"(A) to perform hiring or training of personnel on behalf of a separated affiliate;

"(B) to perform the purchasing, installation, or maintenance of equipment on behalf of a separated affiliate, except for telephone service that it provides under tariff or contract subject to the provisions of this section; or

"(C) to perform research and development on behalf of a separated affiliate;

"(8) each have performed annually a compliance review—

"(A) that is conducted by an independent entity for the purpose of determining compliance during the preceding calendar year with any provision of this section; and

"(B) the results of which are maintained by the separated affiliate or joint venture and the Bell operating company for a period of 5 years subject to review by any lawful authority; and

"(9) within 90 days of receiving a review described in paragraph (8), file a report of any exceptions and corrective action with the Commission and allow any person to inspect and copy such report subject to reasonable safeguards to protect any proprietary information contained in such report from being used for purposes other than to enforce or pursue remedies under this section.

"(c) JOINT MARKETING.—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"(A) a Bell operating company shall not carry out any promotion, marketing, sales, or advertising for or in conjunction with a separated affiliate; and

"(B) a Bell operating company shall not carry out any promotion, marketing, sales, or advertising for or in conjunction with an affiliate that is related to the provision of electronic publishing.

"(2) PERMISSIBLE JOINT ACTIVITIES.—

"(A) JOINT TELEMARKETING.—A Bell operating company may provide inbound telemarketing or referral services related to the provision of electronic publishing for a separated affiliate, electronic publishing joint venture, affiliate, or unaffiliated electronic publisher, provided that if such services are provided to a separated affiliate, electronic publishing joint venture, or affiliate, such services shall be made available to all electronic publishers on request, on nondiscriminatory terms.

"(B) TEAMING ARRANGEMENTS.—A Bell operating company may engage in nondiscriminatory teaming or business arrangements to engage in electronic publishing with any separated affiliate or with any other electronic publisher if (i) the Bell operating company only provides facilities, services, and basic telephone service information as authorized by this section, and (ii) the Bell operating company does not own such teaming or business arrangement.

"(C) ELECTRONIC PUBLISHING JOINT VENTURES.—A Bell operating company or affiliate may participate on a nonexclusive basis in electronic publishing joint ventures with entities that are not any Bell operating company, affiliate, or separated affiliate to provide electronic publishing services, if the Bell operating company or affiliate has not more than a 50 percent direct or indirect equity interest (or the equivalent thereof) or the right to more than 50 percent of the gross revenues under a revenue sharing or royalty agreement in any electronic publishing joint venture. Officers and employees of a Bell operating company or affiliate participating in an electronic publishing joint venture may not have more than 50 percent of the voting control over the electronic publishing joint venture. In the case of joint ventures with small, local electronic publishers, the Commission for good cause shown may authorize the Bell operating company or affiliate to have a larger equity interest, revenue share, or voting control but not to exceed 80 percent. A Bell operating company participating in an electronic publishing joint venture may provide promotion, marketing, sales, or advertising personnel and services to such joint venture.

"(d) BELL OPERATING COMPANY REQUIREMENT.—A Bell operating company under common ownership or control with a separated affiliate or electronic publishing joint venture shall provide network access and interconnections for basic telephone service to electronic publishers at just and reasonable rates that are tariffed (so long as rates for such services are subject to regulation) and that are not higher on a per-unit basis than those charged for such services to any other electronic publisher or any separated affiliate engaged in electronic publishing.

"(e) PRIVATE RIGHT OF ACTION.—

"(1) DAMAGES.—Any person claiming that any act or practice of any Bell operating company, affiliate, or separated affiliate constitutes a violation of this section may file a complaint with the Commission or bring suit as provided in section 207 of this Act, and such Bell operating company, affiliate, or separated affiliate shall be liable as provided in section 206 of this Act; except that damages may not be awarded for a violation that is discovered by a compliance review as required by subsection (b)(7) of this section and corrected within 90 days.

"(2) CEASE AND DESIST ORDERS.—In addition to the provisions of paragraph (1), any person claiming that any act or practice of any Bell operating company, affiliate, or separated affiliate constitutes a violation of this section may make application to the Commission for an order to cease and desist such violation or may make application in any district court of the United States of competent jurisdiction for an order enjoining such acts or practices or for an order compelling compliance with such requirement.

"(f) SEPARATED AFFILIATE REPORTING REQUIREMENT.—Any separated affiliate under this section shall file with the Commission annual reports in a form substantially equivalent to the Form 10–K required by regulations of the Securities and Exchange Commission.

"(g) EFFECTIVE DATES.—

"(1) TRANSITION.—Any electronic publishing service being offered to the public by a Bell operating company or affiliate on the date of enactment of this section shall have one year from such date of enactment to comply with the requirements of this section.

"(2) SUNSET.—The provisions of this section shall not apply to conduct occurring after June 30, 2000.

"(h) DEFINITION OF ELECTRONIC PUBLISHING.—

"(1) IN GENERAL.—The term 'electronic publishing' means the dissemination, provision, publication, or sale to an unaffiliated entity or person, of any one or more of the following: news (including sports); entertainment (other than interactive games); business, financial, legal, consumer, or credit materials; editorials, columns, or features; advertising; photos or images; archival or research material; legal notices or public records; scientific, educational, instructional, technical, professional, trade, or other literary materials; or other like or similar information.

"(2) EXCEPTIONS.—The term 'electronic publishing' shall not include the following services:

"(A) Information access, as that term is defined by the Modification of Final Judgment.

"(B) The transmission of information as a common carrier.

"(C) The transmission of information as part of a gateway to an information service that does not involve the generation or alteration of the content of information, including data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access electronic publishing services, which do not affect the presentation of such electronic publishing services to users.

"(D) Voice storage and retrieval services, including voice messaging and electronic mail services.

"(E) Data processing or transaction processing services that do not involve the generation or alteration of the content of information.

"(F) Electronic billing or advertising of a Bell operating company's regulated telecommunications services.

"(G) Language translation or data format conversion.

"(H) The provision of information necessary for the management, control, or operation of a telephone company telecommunications system.

"(I) The provision of directory assistance that provides names, addresses, and telephone numbers and does not include advertising.

"(J) Caller identification services.

"(K) Repair and provisioning databases and credit card and billing validation for telephone company operations.

"(L) 911–E and other emergency assistance databases.

"(M) Any other network service of a type that is like or similar to these network services and that does not involve the generation or alteration of the content of information.

"(N) Any upgrades of these network services that do not involve the generation or alteration of the content of information.

"(O) Video programming or full motion video entertainment on demand.

"(i) ADDITIONAL DEFINITIONS.—As used in this section—

"(1) The term 'affiliate' means any entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with, a Bell operating company. Such term shall not include a separated affiliate.

"(2) The term 'basic telephone service' means any wireline telephone exchange service, or wireline telephone exchange service facility, provided by a Bell operating company in a telephone exchange area, except that such term does not include—

"(A) a competitive wireline telephone exchange service provided in a telephone exchange area where another entity provides a wireline telephone exchange service that was provided on January 1, 1984, and

"(B) a commercial mobile service.

"(3) The term 'basic telephone service information' means network and customer information of a Bell operating company and other information acquired by a Bell operating company as a result of its engaging in the provision of basic telephone service.

"(4) The term 'control' has the meaning that it has in 17 C.F.R. 240.12b–2, the regulations promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or any successor provision to such section.

"(5) The term 'electronic publishing joint venture' means a joint venture owned by a Bell operating company or affiliate that engages in the provision of electronic publishing which is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(6) The term 'entity' means any organization, and includes corporations, partnerships, sole proprietorships, associations, and joint ventures.

"(7) The term 'inbound telemarketing' means the marketing of property, goods, or services by

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telephone to a customer or potential customer who initiated the call.

"(8) The term 'own' with respect to an entity means to have a direct or indirect equity interest (or the equivalent thereof) of more than 10 percent of an entity, or the right to more than 10 percent of the gross revenues of an entity under a revenue sharing or royalty agreement.

"(9) The term 'separated affiliate' means a corporation under common ownership or control with a Bell operating company that does not own or control a Bell operating company and is not owned or controlled by a Bell operating company and that engages in the provision of electronic publishing which is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(10) The term 'Bell operating company' has the meaning provided in section 3, except that such term includes any entity or corporation that is owned or controlled by such a company (as so defined) but does not include an electronic publishing joint venture owned by such an entity or corporation.

"SEC. 273. ALARM MONITORING AND TELEMESSAGING SERVICES BY BELL OPERATING COMPANIES.

"(a) DELAYED ENTRY INTO ALARM MONITORING.—

"(1) PROHIBITION.—No Bell operating company or affiliate thereof shall engage in the provision of alarm monitoring services before the date which is 6 years after the date of enactment of this part.

"(2) EXISTING ACTIVITIES.—Paragraph (1) shall not apply to any provision of alarm monitoring services in which a Bell operating company or affiliate is lawfully engaged as of January 1, 1995.

"(b) NONDISCRIMINATION.—A common carrier engaged in the provision of alarm monitoring services or telemessaging services shall—

"(1) provide nonaffiliated entities, upon reasonable request, with the network services it provides to its own alarm monitoring or telemessaging operations, on nondiscriminatory terms and conditions; and

"(2) not subsidize its alarm monitoring services or its telemessaging services either directly or indirectly from telephone exchange service operations.

"(c) EXPEDITED CONSIDERATION OF COMPLAINTS.—The Commission shall establish procedures for the receipt and review of complaints concerning violations of subsection (b) or the regulations thereunder that result in material financial harm to a provider of alarm monitoring service or telemessaging service. Such procedures shall ensure that the Commission will make a final determination with respect to any such complaint within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, as determined by the Commission in accordance with such regulations, the Commission shall, within 60 days after receipt of the complaint, order the common carrier and its affiliates to cease engaging in such violation pending such final determination.

"(d) DEFINITIONS.—As used in this section:

"(1) ALARM MONITORING SERVICE.—The term 'alarm monitoring service' means a service that uses a device located at a residence, place of business, or other fixed premises—

"(A) to receive signals from other devices located at or about such premises regarding a possible threat at such premises to life, safety, or property, from burglary, fire, vandalism, bodily injury, or other emergency, and

"(B) to transmit a signal regarding such threat by means of transmission facilities of a Bell operating company or one of its affiliates to a remote monitoring center to alert a person at such center of the need to inform the customer or another person or police, fire, rescue, security, or public safety personnel of such threat,

but does not include a service that uses a medical monitoring device attached to an individual for the automatic surveillance of an ongoing medical condition.

"(2) TELEMESSAGING SERVICES.—The term 'telemessaging services' means voice mail and voice storage and retrieval services provided over telephone lines for telemessaging customers and any live operator services used to answer, record, transcribe, and relay messages (other than telecommunications relay services) from incoming telephone calls on behalf of the telemessaging customers (other than any service incidental to directory assistance).

"SEC. 274. PROVISION OF PAYPHONE SERVICE.

"(a) NONDISCRIMINATION SAFEGUARDS.—After the effective date of the rules prescribed pursuant to subsection (b), any Bell operating company that provides payphone service—

"(1) shall not subsidize its payphone service directly or indirectly with revenue from its telephone exchange service or its exchange access service; and

"(2) shall not prefer or discriminate in favor of it payphone service.

"(b) REGULATIONS.—

"(1) CONTENTS OF REGULATIONS.—In order to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public, within 9 months after the date of enactment of this section, the Commission shall take all actions necessary (including any reconsideration) to prescribe regulations that—

"(A) establish a per call compensation plan to ensure that all payphone services providers are fairly compensated for each and every completed intrastate and interstate call using their payphone, except that emergency calls and telecommunications relay service calls for hearing disabled individuals shall not be subject to such compensation;

"(B) discontinue the intrastate and interstate carrier access charge payphone service elements and payments in effect on the date of enactment of this section, and all intrastate and interstate payphone subsidies from basic exchange and exchange access revenues, in favor of a compensation plan as specified in subparagraph (A);

"(C) prescribe a set of nonstructural safeguards for Bell operating company payphone service to implement the provisions of paragraphs (1) and (2) of subsection (a), which safeguards shall, at a minimum, include the nonstructural safeguards equal to those adopted in the Computer Inquiry-III CC Docket No. 90-623 proceeding; and

"(D) provide for Bell operating company payphone service providers to have the same right that independent payphone providers have to negotiate with the location provider on selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with the carriers that carry interLATA calls from their payphones, and provide for all payphone service providers to have the right to negotiate with the location provider on selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with the carriers that carry intraLATA calls from their payphones.

"(2) PUBLIC INTEREST TELEPHONES.—In the rulemaking conducted pursuant to paragraph (1), the Commission shall determine whether public interest payphones, which are provided in the interest of public health, safety, and welfare, in locations where there would otherwise not be a payphone, should be maintained, and if so, ensure that such public interest payphones are supported fairly and equitably.

"(3) EXISTING CONTRACTS.—Nothing in this section shall affect any existing contracts between location providers and payphone service providers or interLATA or intraLATA carriers that are in force and effect as of the date of the enactment of this Act.

"(c) STATE PREEMPTION.—To the extent that any State requirements are inconsistent with the Commission's regulations, the Commission's regulations on such matters shall preempt State requirements.

"(d) DEFINITION.—As used in this section, the term 'payphone service' means the provision of public or semi-public pay telephones, the provision of inmate telephone service in correctional institutions, and any ancillary services.".

SEC. 103. FORBEARANCE FROM REGULATION.

Part I of title II of the Act (as redesignated by section 101(c) of this Act) is amended by inserting after section 229 (47 U.S.C. 229) the following new section:

"SEC. 230. FORBEARANCE FROM REGULATION.

"(a) AUTHORITY TO FORBEAR.—The Commission shall forbear from applying any provision of this part or part II (other than sections 201, 202, 206, 243, and 248), or any regulation of the Commission thereunder, to a common carrier or service, or class of carriers or services, in any or some of its or their geographic markets, unless the Commission determines that—

"(1) enforcement of such provision or regulation is necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that carrier or service are just and reasonable and are not unjustly or unreasonably discriminatory;

"(2) enforcement of such regulation or provision is not necessary for the protection of consumers; or

"(3) forbearance from applying such provision or regulation is inconsistent with the public interest.

"(b) COMPETITIVE EFFECT TO BE WEIGHED.—In making the determination under subsection (a)(3), the Commission shall consider whether forbearance from enforcing the provision or regulation will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services. If the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the public interest.

"(c) COMMERCIAL MOBILE SERVICE JOINT MARKETING.—Notwithstanding section 22.903 of the Commission's regulations (47 C.F.R. 22.903) or any other Commission regulation, or any judicial decree or proposed judicial decree, a Bell operating company or any other company may, except as provided in sections 242(d) and 246 as they relate to wireline service, jointly market and sell commercial mobile services in conjunction with telephone exchange service, exchange access, intraLATA telecommunications service, interLATA telecommunications service, and information services.".

SEC. 104. ONLINE FAMILY EMPOWERMENT.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"SEC. 230. PROTECTION FOR PRIVATE BLOCKING AND SCREENING OF OFFENSIVE MATERIAL; FCC REGULATION OF COMPUTER SERVICES PROHIBITED.

"(a) FINDINGS.—The Congress finds the following:

"(1) The rapidly developing array of Internet and other interactive computer services available to individual Americans represent an extraordinary advance in the availability of educational and informational resources to our citizens.

"(2) These services offer users a great degree of control over the information that they receive, as well as the potential for even greater control in the future as technology develops.

"(3) The Internet and other interactive computer services offer a forum for a true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity.

"(4) The Internet and other interactive computer services have flourished, to the benefit of

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all Americans, with a minimum of government regulation.

"(5) Increasingly Americans are relying on interactive media for a variety of political, educational, cultural, and entertainment services.

"(b) POLICY.—It is the policy of the United States to—

"(1) promote the continued development of the Internet and other interactive computer services and other interactive media;

"(2) preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by State or Federal regulation;

"(3) encourage the development of technologies which maximize user control over the information received by individuals, families, and schools who use the Internet and other interactive computer services;

"(4) remove disincentives for the development and utilization of blocking and filtering technologies that empower parents to restrict their children's access to objectionable or inappropriate online material; and

"(5) ensure vigorous enforcement of criminal laws to deter and punish trafficking in obscenity, stalking, and harassment by means of computer.

"(c) PROTECTION FOR 'GOOD SAMARITAN' BLOCKING AND SCREENING OF OFFENSIVE MATERIAL.—No provider or user of interactive computer services shall be treated as the publisher or speaker of any information provided by an information content provider. No provider or user of interactive computer services shall be held liable on account of—

"(1) any action voluntarily taken in good faith to restrict access to material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or

"(2) any action taken to make available to information content providers or others the technical means to restrict access to material described in paragraph (1).

"(d) FCC REGULATION OF THE INTERNET AND OTHER INTERACTIVE COMPUTER SERVICES PROHIBITED.—Nothing in this Act shall be construed to grant any jurisdiction or authority to the Commission with respect to content or any other regulation of the Internet or other interactive computer services.

"(e) EFFECT ON OTHER LAWS.—

"(1) NO EFFECT ON CRIMINAL LAW.—Nothing in this section shall be construed to impair the enforcement of section 223 of this Act, chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of title 18, United States Code, or any other Federal criminal statute.

"(2) NO EFFECT ON INTELLECTUAL PROPERTY LAW.—Nothing in this section shall be construed to limit or expand any law pertaining to intellectual property.

"(3) IN GENERAL.—Nothing in this section shall be construed to prevent any State from enforcing any State law that is consistent with this section.

"(f) DEFINITIONS.—As used in this section:

"(1) INTERNET.—The term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

"(2) INTERACTIVE COMPUTER SERVICE.—The term 'interactive computer service' means any information service that provides computer access to multiple users via modem to a remote computer server, including specifically a service that provides access to the Internet.

"(3) INFORMATION CONTENT PROVIDER.—The term 'information content provider' means any person or entity that is responsible, in whole or in part, for the creation or development of information provided by the Internet or any other interactive computer service, including any person or entity that creates or develops blocking or screening software or other techniques to permit user control over offensive material.

"(4) INFORMATION SERVICE.—The term 'information service' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.".

SEC. 105. PRIVACY OF CUSTOMER INFORMATION.

(a) PRIVACY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.—Title II of the Act is amended by inserting after section 221 (47 U.S.C. 221) the following new section:

"SEC. 222. PRIVACY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.

"(a) SUBSCRIBER LIST INFORMATION.—Notwithstanding subsections (b), (c), and (d), a carrier that provides local exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.

"(b) PRIVACY REQUIREMENTS FOR COMMON CARRIERS.—A carrier—

"(1) shall not, except as required by law or with the approval of the customer to which the information relates—

"(A) use customer proprietary network information in the provision of any service except to the extent necessary (i) in the provision of common carrier services, (ii) in the provision of a service necessary to or used in the provision of common carrier services, including the publishing of directories, or (iii) to continue to provide a particular information service that the carrier provided as of May 1, 1995, to persons who were customers of such service on that date;

"(B) use customer proprietary network information in the identification or solicitation of potential customers for any service other than the telephone exchange service or telephone toll service from which such information is derived;

"(C) use customer proprietary network information in the provision of customer premises equipment; or

"(D) disclose customer proprietary network information to any person except to the extent necessary to permit such person to provide services or products that are used in and necessary to the provision by such carrier of the services described in subparagraph (A);

"(2) shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer;

"(3) shall, whenever such carrier provides any aggregate information, notify the Commission of the availability of such aggregate information and shall provide such aggregate information on reasonable terms and conditions to any other service or equipment provider upon reasonable request therefor; and

"(4) except for disclosures permitted by paragraph (1)(D), shall not unreasonably discriminate between affiliated and unaffiliated service or equipment providers in providing access to, or in the use and disclosure of, individual and aggregate information made available consistent with this subsection.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to prohibit the use or disclosure of customer proprietary network information as necessary—

"(1) to render, bill, and collect for the services identified in subsection (b)(1)(A);

"(2) to render, bill, and collect for any other service that the customer has requested;

"(3) to protect the rights or property of the carrier;

"(4) to protect users of any of those services and other carriers from fraudulent, abusive, or unlawful use of or subscription to such service; or

"(5) to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call if such call was initiated by the customer and the customer approves of the use of such information to provide such service.

"(d) EXEMPTION PERMITTED.—The Commission may, by rule, exempt from the requirements of subsection (b) carriers that have, together with any affiliated carriers, in the aggregate nationwide, fewer than 500,000 access lines installed if the Commission determines that such exemption is in the public interest or if compliance with the requirements would impose an undue economic burden on the carrier.

"(e) DEFINITIONS.—As used in this section:

"(1) CUSTOMER PROPRIETARY NETWORK INFORMATION.—The term 'customer proprietary network information' means—

"(A) information which relates to the quantity, technical configuration, type, destination, and amount of use of telephone exchange service or telephone toll service subscribed to by any customer of a carrier, and is made available to the carrier by the customer solely by virtue of the carrier-customer relationship;

"(B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier; and

"(C) such other information concerning the customer as is available to the local exchange carrier by virtue of the customer's use of the carrier's telephone exchange service or telephone toll services, and specified as within the definition of such term by such rules as the Commission shall prescribe consistent with the public interest;

except that such term does not include subscriber list information.

"(2) SUBSCRIBER LIST INFORMATION.—The term 'subscriber list information' means any information—

"(A) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and

"(B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format.

"(3) AGGREGATE INFORMATION.—The term 'aggregate information' means collective data that relates to a group or category of services or customers, from which individual customer identities and characteristics have been removed.".

(b) CONVERGING COMMUNICATIONS TECHNOLOGIES AND CONSUMER PRIVACY.—

(1) COMMISSION EXAMINATION.—Within one year after the date of enactment of this Act, the Commission shall commence a proceeding—

(A) to examine the impact of the integration into interconnected communications networks of wireless telephone, cable, satellite, and other technologies on the privacy rights and remedies of the consumers of those technologies;

(B) to examine the impact that the globalization of such integrated communications networks has on the international dissemination of consumer information and the privacy rights and remedies to protect consumers;

(C) to propose changes in the Commission's regulations to ensure that the effect on consumer privacy rights is considered in the introduction of new telecommunications services and that the protection of such privacy rights is incorporated as necessary in the design of such services or the rules regulating such services;

(D) to propose changes in the Commission's regulations as necessary to correct any defects identified pursuant to subparagraph (A) in such rights and remedies; and

(E) to prepare recommendations to the Congress for any legislative changes required to correct such defects.

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(2) SUBJECTS FOR EXAMINATION.—In conducting the examination required by paragraph (1), the Commission shall determine whether consumers are able, and, if not, the methods by which consumers may be enabled—

(A) to have knowledge that consumer information is being collected about them through their utilization of various communications technologies;

(B) to have notice that such information could be used, or is intended to be used, by the entity collecting the data for reasons unrelated to the original communications, or that such information could be sold (or is intended to be sold) to other companies or entities; and

(C) to stop the reuse or sale of that information.

(3) SCHEDULE FOR COMMISSION RESPONSES.—The Commission shall, within 18 months after the date of enactment of this Act—

(A) complete any rulemaking required to revise Commission regulations to correct defects in such regulations identified pursuant to paragraph (1); and

(B) submit to the Congress a report containing the recommendations required by paragraph (1)(C).

SEC. 108. POLE ATTACHMENTS.

Section 224 of the Act (47 U.S.C. 224) is amended—

(1) in subsection (a)(4)—

(A) by inserting after "system" the following: "or a provider of telecommunications service"; and

(B) by inserting after "utility" the following: ", which attachment may be used by such entities to provide cable service or any telecommunications service";

(2) in subsection (c)(2)(B), by striking "cable television services" and inserting "the services offered via such attachments";

(3) by redesignating subsection (d)(2) as subsection (d)(4); and

(4) by striking subsection (d)(1) and inserting the following:

"(d)(1) For purposes of subsection (b) of this section, the Commission shall, no later than 1 year after the date of enactment of the Communications Act of 1995, prescribe regulations for ensuring that, when the parties fail to negotiate a mutually agreeable rate, utilities charge just and reasonable and nondiscriminatory rates for pole attachments provided to all providers of telecommunications services, including such attachments used by cable television systems to provide telecommunications services (as defined in section 3 of this Act). Such regulations shall—

"(A) recognize that the entire pole, duct, conduit, or right-of-way other than the usable space is of equal benefit to all entities attaching to the pole and therefore apportion the cost of the space other than the usable space equally among all such attaching entities;

"(B) recognize that the usable space is of proportional benefit to all entities attaching to the pole, duct, conduit or right-of-way and therefore apportion the cost of the usable space according to the percentage of usable space required for each entity;

"(C) recognize that the pole, duct, conduit, or right-of-way has a value that exceeds costs and that value shall be reflected in any rate; and

"(D) allow for reasonable terms and conditions relating to health, safety, and the provision of reliable utility service.

"(2) The final regulations prescribed by the Commission pursuant to paragraph (1) shall not apply to a cable television system that solely provides cable service as defined in section 602(6) of this Act; instead, the pole attachment rate for such systems shall assure a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way.

"(3) Whenever the owner of a conduit or right-of-way intends to modify or alter such conduit or right-of-way, the owner shall provide written notification of such action to any entity that has obtained an attachment to such conduit or right-of-way so that such entity may have a reasonable opportunity to add to or modify its existing attachment. Any entity that adds to or modifies its existing attachment after receiving such notification shall bear a proportionate share of the costs incurred by the owner in making such conduit or right-of-way accessible.".

SEC. 107. PREEMPTION OF FRANCHISING AUTHORITY REGULATION OF TELECOMMUNICATIONS SERVICES.

(a) TELECOMMUNICATIONS SERVICES.—Section 621(b) of the Act (47 U.S.C. 541(c)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) To the extent that a cable operator or affiliate thereof is engaged in the provision of telecommunications services—

"(i) such cable operator or affiliate shall not be required to obtain a franchise under this title; and

"(ii) the provisions of this title shall not apply to such cable operator or affiliate.

"(B) A franchising authority may not impose any requirement that has the purpose or effect of prohibiting, limiting, restricting, or conditioning the provision of a telecommunications service by a cable operator or an affiliate thereof.

"(C) A franchising authority may not order a cable operator or affiliate thereof—

"(i) to discontinue the provision of a telecommunications service, or

"(ii) to discontinue the operation of a cable system, to the extent such cable system is used for the provision of a telecommunications service, by reason of the failure of such cable operator or affiliate thereof to obtain a franchise or franchise renewal under this title with respect to the provision of such telecommunications service.

"(D) Except as otherwise permitted by sections 611 and 612, a franchising authority may not require a cable operator to provide any telecommunications service or facilities, other than intragovernmental telecommunications services, as a condition of the initial grant of a franchise or a franchise renewal.".

(b) FRANCHISE FEES.—Section 622(b) of the Act (47 U.S.C. 542(b)) is amended by inserting "to provide cable services" immediately before the period at the end of the first sentence thereof.

SEC. 108. FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.

(a) NATIONAL WIRELESS TELECOMMUNICATIONS SITING POLICY.—Section 332(c) of the Act (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

"(7) FACILITIES SITING POLICIES.—(A) Within 180 days after enactment of this paragraph, the Commission shall prescribe and make effective a policy to reconcile State and local regulation of the siting of facilities for the provision of commercial mobile services or unlicensed services with the public interest in fostering competition through the rapid, efficient, and nationwide deployment of commercial mobile services or unlicensed services.

"(B) Pursuant to subchapter III of chapter 5, title 5, United States Code, the Commission shall establish a negotiated rulemaking committee to negotiate and develop a proposed policy to comply with the requirements of this paragraph. Such committee shall include representatives from State and local governments, affected industries, and public safety agencies.

"(C) The policy prescribed pursuant to this subparagraph shall take into account—

"(i) the need to enhance the coverage and quality of commercial mobile services and unlicensed services and foster competition in the provision of commercial mobile services and unlicensed services on a timely basis;

"(ii) the legitimate interests of State and local governments in matters of exclusively local concern, and the need to provide State and local government with maximum flexibility to address such local concerns, while ensuring that such interests do not prohibit or have the effect of precluding any commercial mobile service or unlicensed service;

"(iii) the effect of State and local regulation of facilities siting on interstate commerce;

"(iv) the administrative costs to State and local governments of reviewing requests for authorization to locate facilities for the provision of commercial mobile services or unlicensed services; and

"(v) the need to provide due process in making any decision by a State or local government or instrumentality thereof to grant or deny a request for authorization to locate, construct, modify, or operate facilities for the provision of commercial mobile services or unlicensed services.

"(D) The policy prescribed pursuant to this paragraph shall provide that no State or local government or any instrumentality thereof may regulate the placement, construction, modification, or operation of such facilities on the basis of the environmental effects of radio frequency emissions, to the extent that such facilities comply with the Commission's regulations concerning such emissions.

"(E) The proceeding to prescribe such policy pursuant to this paragraph shall supercede any proceeding pending on the date of enactment of this paragraph relating to preemption of State and local regulation of tower siting for commercial mobile services, unlicensed services, and providers thereof. In accordance with subchapter III of chapter 5, title 5, United States Code, the Commission shall periodically establish a negotiated rulemaking committee to review the policy prescribed by the Commission under this paragraph and to recommend revisions to such policy.

"(F) For purposes of this paragraph, the term 'unlicensed service' means the offering of telecommunications using duly authorized devices which do not require individual licenses.".

(b) RADIO FREQUENCY EMISSIONS.—Within 180 days after the enactment of this Act, the Commission shall complete action in ET Docket 93-62 to prescribe and make effective rules regarding the environmental effects of radio frequency emissions.

(c) AVAILABILITY OF PROPERTY.—Within 180 days of the enactment of this Act, the Commission shall prescribe procedures by which Federal departments and agencies may make available on a fair, reasonable, and nondiscriminatory basis, property, rights-of-way, and easements under their control for the placement of new telecommunications facilities by duly licensed providers of telecommunications services that are dependent, in whole or in part, upon the utilization of Federal spectrum rights for the transmission or reception of such services. These procedures may establish a presumption that requests for the use of property, rights-of-way, and easements by duly authorized providers should be granted absent unavoidable direct conflict with the department or agency's mission, or the current or planned use of the property, rights-of-way, and easements in question. Reasonable fees may be charged to providers of such telecommunications services for use of property, rights-of-way, and easements. The Commission shall provide technical support to States to encourage them to make property, rights-of-way, and easements under their jurisdiction available for such purposes.

SEC. 109. MOBILE SERVICE ACCESS TO LONG DISTANCE CARRIERS.

(a) AMENDMENT.—Section 332(c) of the Act (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

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"(8) MOBILE SERVICES ACCESS.—(A) The Commission shall prescribe regulations to afford subscribers of two-way switched voice commercial mobile radio services access to a provider of telephone toll service of the subscriber's choice, except to the extent that the commercial mobile radio service is provided by satellite. The Commission may exempt carriers or classes of carriers from the requirements of such regulations to the extent the Commission determines such exemption is consistent with the public interest, convenience, and necessity. For purposes of this paragraph, 'access' shall mean access to a provider of telephone toll service through the use of carrier identification codes assigned to each such provider.

"(B) The regulations prescribed by the Commission pursuant to subparagraph (A) shall supersede any inconsistent requirements imposed by the Modification of Final Judgment or any order in United States v. AT&T Corp. and McCaw Cellular Communications, Inc., Civil Action No. 94-01555 (United States District Court, District of Columbia).".

(b) EFFECTIVE DATE CONFORMING AMENDMENT.—Section 6002(c)(2)(B) of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "section 332(c)(6)" and inserting "paragraphs (6) and (8) of section 332(c)".

SEC. 110. FREEDOM FROM TOLL FRAUD.

(a) AMENDMENT.—Section 228(c) of the Act (47 U.S.C. 228(c)) is amended—

(1) by striking subparagraph (C) of paragraph (7) and inserting the following:

"(C) the calling party being charged for information conveyed during the call unless—

"(i) the calling party has a written subscription agreement with the information provider that meets the requirements of paragraph (8); or

"(ii) the calling party is charged in accordance with paragraph (9); or"; and

(2) by adding at the end the following new paragraphs:

"(8) SUBSCRIPTION AGREEMENTS FOR BILLING FOR INFORMATION PROVIDED VIA TOLL-FREE CALLS.—

"(A) IN GENERAL.—For purposes of paragraph (7)(C)(i), a written subscription agreement shall specify the terms and conditions under which the information is offered and include—

"(i) the rate at which charges are assessed for the information;

"(ii) the information provider's name;

"(iii) the information provider's business address;

"(iv) the information provider's regular business telephone number;

"(v) the information provider's agreement to notify the subscriber at least 30 days in advance of all future changes in the rates charged for the information;

"(vi) the signature of a legally competent subscriber agreeing to the terms of the agreement; and

"(vii) the subscriber's choice of payment method, which may be by phone bill or credit, prepaid, or calling card.

"(B) BILLING ARRANGEMENTS.—If a subscriber elects, pursuant to subparagraph (A)(vii), to pay by means of a phone bill—

"(i) the agreement shall clearly explain that the subscriber will be assessed for calls made to the information service from the subscriber's phone line;

"(ii) the phone bill shall include, in prominent type, the following disclaimer:

'Common carriers may not disconnect local or long distance telephone service for failure to pay disputed charges for information services.'; and

"(iii) the phone bill shall clearly list the 800 number dialed.

"(C) USE OF PIN'S TO PREVENT UNAUTHORIZED USE.—A written agreement does not meet the requirements of this paragraph unless it provides the subscriber a personal identification number to obtain access to the information provided, and includes instructions on its use.

"(D) EXCEPTIONS.—Notwithstanding paragraph (7)(C), a written agreement that meets the requirements of this paragraph is not required—

"(i) for services provided pursuant to a tariff that has been approved or permitted to take effect by the Commission or a State commission; or

"(ii) for any purchase of goods or of services that are not information services.

"(E) TERMINATION OF SERVICE.—On complaint by any person, a carrier may terminate the provision of service to an information provider unless the provider supplies evidence of a written agreement that meets the requirements of this section. The remedies provided in this paragraph are in addition to any other remedies that are available under title V of this Act.

"(9) CHARGES BY CREDIT, PREPAID, OR CALLING CARD IN ABSENCE OF AGREEMENT.—For purposes of paragraph (7)(C)(ii), a calling party is not charged in accordance with this paragraph unless the calling party is charged by means of a credit, prepaid, or calling card and the information service provider includes in response to each call an introductory disclosure message that—

"(A) clearly states that there is a charge for the call;

"(B) clearly states the service's total cost per minute and any other fees for the service or for any service to which the caller may be transferred;

"(C) explains that the charges must be billed on either a credit, prepaid, or calling card;

"(D) asks the caller for the credit or calling card number;

"(E) clearly states that charges for the call begin at the end of the introductory message; and

"(F) clearly states that the caller can hang up at or before the end of the introductory message without incurring any charge whatsoever.

"(10) DEFINITION OF CALLING CARD.—As used in this subsection, the term 'calling card' means an identifying number or code unique to the individual, that is issued to the individual by a common carrier and enables the individual to be charged by means of a phone bill for charges incurred independent of where the call originates.".

(b) REGULATIONS.—The Federal Communications Commission shall revise its regulations to comply with the amendment made by subsection (a) of this section within 180 days after the date of enactment of this Act.

SEC. 111. REPORT ON MEANS OF RESTRICTING ACCESS TO UNWANTED MATERIAL IN INTERACTIVE TELECOMMUNICATIONS SYSTEMS.

(a) REPORT.—Not later than 150 days after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary and Commerce, Science, and Transportation of the Senate and the Committees on the Judiciary and Commerce of the House of Representatives a report containing—

(1) an evaluation of the enforceability with respect to interactive media of current criminal laws governing the distribution of obscenity over computer networks and the creation and distribution of child pornography by means of computers;

(2) an assessment of the Federal, State, and local law enforcement resources that are currently available to enforce such laws;

(3) an evaluation of the technical means available—

(A) to enable parents to exercise control over the information that their children receive by interactive telecommunications systems so that children may avoid violent, sexually explicit, harassing, offensive, and other unwanted material on such systems;

(B) to enable other users of such systems to exercise control over the commercial and noncommercial information that they receive by such systems so that such users may avoid violent, sexually explicit, harassing, offensive, and other unwanted material on such systems; and

(C) to promote the free flow of information, consistent with the values expressed in the Constitution, in interactive media; and

(4) recommendations on means of encouraging the development and deployment of technology, including computer hardware and software, to enable parents and other users of interactive telecommunications systems to exercise the control described in subparagraphs (A) and (B) of paragraph (3).

(b) CONSULTATION.—In preparing the report under subsection (a), the Attorney General shall consult with the Assistant Secretary of Commerce for Communications and Information.

SEC. 112. TELECOMMUNICATIONS DEVELOPMENT FUND.

(a) DEPOSIT AND USE OF AUCTION ESCROW ACCOUNTS.—Section 309(j)(8) of the Act (47 U.S.C. 309(j)(8)) is amended by adding at the end the following new subparagraph:

"(C) DEPOSIT AND USE OF AUCTION ESCROW ACCOUNTS.—Any deposits the Commission may require for the qualification of any person to bid in a system of competitive bidding pursuant to this subsection shall be deposited in an interest bearing account at a financial institution designated for purposes of this subsection by the Commission (after consultation with the Secretary of the Treasury). Within 45 days following the conclusion of the competitive bidding—

"(i) the deposits of successful bidders shall be paid to the Treasury;

"(ii) the deposits of unsuccessful bidders shall be returned to such bidders; and

"(iii) the interest accrued to the account shall be transferred to the Telecommunications Development Fund established pursuant to section 10 of this Act.".

(b) ESTABLISHMENT AND OPERATION OF FUND.—Title I of the Act is amended by adding at the end the following new section:

"SEC. 10. TELECOMMUNICATIONS DEVELOPMENT FUND.

"(a) PURPOSE OF SECTION.—It is the purpose of this section—

"(1) to promote access to capital for small businesses in order to enhance competition in the telecommunications industry;

"(2) to stimulate new technology development, and promote employment and training; and

"(3) to support universal service and promote delivery of telecommunications services to underserved rural and urban areas.

"(b) ESTABLISHMENT OF FUND.—There is hereby established a body corporate to be known as the Telecommunications Development Fund, which shall have succession until dissolved. The Fund shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof.

"(c) BOARD OF DIRECTORS.—

"(1) COMPOSITION OF BOARD; CHAIRMAN.—The Fund shall have a Board of Directors which shall consist of 7 persons appointed by the Chairman of the Commission. Four of such directors shall be representative of the private sector and three of such directors shall be representative of the Commission, the Small Business Administration, and the Department of the Treasury, respectively. The Chairman of the Commission shall appoint one of the representatives of the private sector to serve as chairman of the Fund within 30 days after the date of enactment of this section, in order to facilitate rapid creation and implementation of the Fund. The directors shall include members with experience in a number of the following areas: finance, investment banking, government banking, communications law and administrative practice, and public policy.

"(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors shall be eligible to serve for terms of 5 years, except of the initial members, as designated at the time of their appointment—

"(A) 1 shall be eligible to service for a term of 1 year;

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"(B) 1 shall be eligible to service for a term of 2 years;

"(C) 1 shall be eligible to service for a term of 3 years;

"(D) 2 shall be eligible to service for a term of 4 years; and

"(E) 2 shall be eligible to service for a term of 5 years (1 of whom shall be the Chairman).

Directors may continue to serve until their successors have been appointed and have qualified.

"(3) MEETINGS AND FUNCTIONS OF THE BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least quarterly. The Board shall determine the general policies which shall govern the operations of the Fund. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Fund and shall discharge all such functions, powers, and duties.

"(d) ACCOUNTS OF THE FUND.—The Fund shall maintain its accounts at a financial institution designated for purposes of this section by the Chairman of the Board (after consultation with the Commission and the Secretary of the Treasury). The accounts of the Fund shall consist of—

"(1) interest transferred pursuant to section 309(j)(8)(C) of this Act;

"(2) such sums as may be appropriated to the Commission for advances to the Fund;

"(3) any contributions or donations to the Fund that are accepted by the Fund; and

"(4) any repayment of, or other payment made with respect to, loans, equity, or other extensions of credit made from the Fund.

"(e) USE OF THE FUND.—All moneys deposited into the accounts of the Fund shall be used solely for—

"(1) the making of loans, investments, or other extensions of credits to eligible small businesses in accordance with subsection (f);

"(2) the provision of financial advise to eligible small businesses;

"(3) expenses for the administration and management of the Fund;

"(4) preparation of research, studies, or financial analyses; and

"(5) other services consistent with the purposes of this section.

"(f) LENDING AND CREDIT OPERATIONS.—Loans or other extensions of credit from the Fund shall be made available to eligible small business on the basis of—

"(1) the analysis of the business plan of the eligible small business;

"(2) the reasonable availability of collateral to secure the loan or credit extension;

"(3) the extent to which the loan or credit extension promotes the purposes of this section; and

"(4) other lending policies as defined by the Board.

"(g) RETURN OF ADVANCES.—Any advances appropriated pursuant to subsection (b)(2) shall be upon such terms and conditions (including conditions relating to the time or times of repayment) as the Board determines will best carry out the purposes of this section, in light of the maturity and solvency of the Fund.

"(h) GENERAL CORPORATE POWERS.—The Fund shall have power—

"(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

"(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

"(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

"(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Fund;

"(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and

"(9) to enter into contracts, to execute instruments, to incur liabilities, to make loans and equity investment, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(i) ACCOUNTING, AUDITING, AND REPORTING.—The accounts of the Fund shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants. A report of each such audit shall be furnished to the Secretary of the Treasury and the Commission. The representatives of the Secretary and the Commission shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Fund and necessary to facilitate the audit.

"(j) REPORT ON AUDITS BY TREASURY.—A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than 6 months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Fund, together with such recommendations with respect thereto as the Secretary may deem advisable.

"(k) DEFINITIONS.—As used in this section:

"(1) ELIGIBLE SMALL BUSINESS.—The term 'eligible small business' means business enterprises engaged in the telecommunications industry that have $50,000,000 or less in annual revenues, on average over the past 3 years prior to submitting the application under this section.

"(2) FUND.—The term 'Fund' means the Telecommunications Development Fund established pursuant to this section.

"(3) TELECOMMUNICATIONS INDUSTRY.—The term 'telecommunications industry' means communications businesses using regulated or unregulated facilities or services and includes the broadcasting, telephony, cable, computer, data transmission, software, programming, advanced messaging, and electronics businesses.".

SEC. 113. REPORT ON THE USE OF ADVANCED TELECOMMUNICATIONS SERVICES FOR MEDICAL PURPOSES.

The Assistant Secretary of Commerce for Communications and Information, in consultation with the Secretary of Health and Human Services and other appropriate departments and agencies, shall submit a report to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate concerning the activities of the Joint Working Group on Telemedicine, together with any findings reached in the studies and demonstrations on telemedicine funded by the Public Health Service or other Federal agencies. The report shall examine questions related to patient safety, the efficacy and quality of the services provided, and other legal, medical, and economic issues related to the utilization of advanced telecommunications services for medical purposes. The report shall be submitted to the respective Committees annually, by January 31, beginning in 1996.

SEC. 114. TELECOMMUTING PUBLIC INFORMATION PROGRAM.

(a) TELECOMMUTING RESEARCH PROGRAMS AND PUBLIC INFORMATION DISSEMINATION.—The Assistant Secretary of Commerce for Communications and Information, in consultation with the Secretary of Transportation, the Secretary of Labor, and the Administrator of the Environmental Protection Agency, shall, within three months of the date of enactment of this Act, carry out research to identify successful telecommuting programs in the public and private sectors and provide for the dissemination to the public of information regarding—

(1) the establishment of successful telecommuting programs; and

(2) the benefits and costs of telecommuting.

(b) REPORT.—Within one year of the date of enactment of this Act, the Assistant Secretary of Commerce for Communications and Information shall report to Congress the findings, conclusions, and recommendations regarding telecommuting developed under this section.

SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to any other sums authorized by law, there are authorized to be appropriated to the Federal Communications Commission such sums as may be necessary to carry out this Act and the amendments made by this Act.

(b) EFFECT ON FEES.—For the purposes of section 9(b)(2) of the Act (47 U.S.C. 159(b)(2)), additional amounts appropriated pursuant to subsection (a) shall be construed to be changes in the amounts appropriated for the performance of activities described in section 9(a) of such Act.

TITLE II—CABLE COMMUNICATIONS COMPETITIVENESS

SEC. 201. CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.

(a) GENERAL REQUIREMENT.—

(1) AMENDMENT.—Section 613(b) of the Act (47 U.S.C. 533(b)) is amended to read as follows:

"(b)(1) Subject to the requirements of part V and the other provisions of this title, any common carrier subject in whole or in part to title II of this Act may, either through its own facilities or through an affiliate, provide video programming directly to subscribers in its telephone service area.

"(2) Subject to the requirements of part V and the other provisions of this title, any common carrier subject in whole or in part to title II of this Act may provide channels of communications or pole, line, or conduit space, or other rental arrangements, to any entity which is directly or indirectly owned, operated, or controlled by, or under common control with, such common carrier, if such facilities or arrangements are to be used for, or in connection with, the provision of video programming directly to subscribers in its telephone service area.

"(3)(A) Notwithstanding paragraphs (1) and (2), an affiliate described in subparagraph (B) shall not be subject to the requirements of part V (other than section 652), but—

"(i) if providing video programming as a cable service using a cable system, shall be subject to the requirements of this part and parts III and IV; and

"(ii) if providing such video programming by means of radio communication, shall be subject to the requirements of title III.

"(B) For purposes of subparagraph (A), an affiliate is described in this subparagraph if such affiliate—

"(i) is, consistently with section 655, owned, operated, or controlled by, or under common control with, a common carrier subject in whole or in part to title II of this Act;

"(ii) provides video programming to subscribers in the telephone service area of such carrier; and

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"(iii) has not established a video platform in accordance with section 653.".

(2) CONFORMING AMENDMENT.—Section 602 of the Act (47 U.S.C. 521) is amended—

(A) by redesignating paragraphs (18) and (19) as paragraphs (19) and (20) respectively; and

(B) by inserting after paragraph (17) the following new paragraph:

"(18) the term 'telephone service area' when used in connection with a common carrier subject in whole or in part to title II of this Act means the area within which such carrier provides telephone exchange service as of January 1, 1993, but if any common carrier after such date transfers its exchange service facilities to another common carrier, the area to which such facilities provide telephone exchange service shall be treated as part of the telephone service area of the acquiring common carrier and not of the selling common carrier;".

(b) PROVISIONS FOR REGULATION OF CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.—Title VI of the Act (47 U.S.C. 521 et seq.) is amended by adding at the end the following new part:

"PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES

"SEC. 651. DEFINITIONS.

"For purposes of this part—

"(1) the term 'control' means—

"(A) an ownership interest in which an entity has the right to vote more than 50 percent of the outstanding common stock or other ownership interest; or

"(B) if no single entity directly or indirectly has the right to vote more than 50 percent of the outstanding common stock or other ownership interest, actual working control, in whatever manner exercised, as defined by the Commission by regulation on the basis of relevant factors and circumstances, which shall include partnership and direct ownership interests, voting stock interests, the interests of officers and directors, and the aggregation of voting interests; and

"(2) the term 'rural area' means a geographic area that does not include either—

"(A) any incorporated or unincorporated place of 10,000 inhabitants or more, or any part thereof; or

"(B) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census.

"SEC. 652. SEPARATE VIDEO PROGRAMMING AFFILIATE.

"(a) IN GENERAL.—Except as provided in subsection (d) of this section and section 613(b)(3), a common carrier subject to title II of this Act shall not provide video programming directly to subscribers in its telephone service area unless such video programming is provided through a video programming affiliate that is separate from such carrier.

"(b) BOOKS AND MARKETING.—

"(1) IN GENERAL.—A video programming affiliate of a common carrier shall—

"(A) maintain books, records, and accounts separate from such carrier which identify all transactions with such carrier;

"(B) carry out directly (or through any nonaffiliated person) its own promotion, except that institutional advertising carried out by such carrier shall be permitted so long as each party bears its pro rata share of the costs; and

"(C) not own real or personal property in common with such carrier.

"(2) INBOUND TELEMARKETING AND REFERRAL.—Notwithstanding paragraph (1)(B), a common carrier may provide telemarketing or referral services in response to the call of a customer or potential customer related to the provision of video programming by a video programming affiliate of such carrier. If such services are provided to a video programming affiliate, such services shall be made available to any video programmer or cable operator on request, on nondiscriminatory terms, at fair and reasonable prices.

"(3) JOINT MARKETING.—Notwithstanding paragraph (1)(B) or section 613(b)(3), a common carrier may market video programming directly upon a showing to the Commission that a cable operator or other entity directly or indirectly provides telecommunications services within the telephone service area of the common carrier, and markets such telecommunications services jointly with video programming services. The common carrier shall specify the geographic region covered by the showing. The Commission shall approve or disapprove such showing within 60 days after the date of its submission.

"(c) BUSINESS TRANSACTIONS WITH CARRIER.—Any contract, agreement, arrangement, or other manner of conducting business, between a common carrier and its video programming affiliate, providing for—

"(1) the sale, exchange, or leasing of property between such affiliate and such carrier,

"(2) the furnishing of goods or services between such affiliate and such carrier, or

"(3) the transfer to or use by such affiliate for its benefit of any asset or resource of such carrier,

shall be on a fully compensatory and auditable basis, shall be without cost to the telephone service ratepayers of the carrier, and shall be in compliance with regulations established by the Commission that will enable the Commission to assess the compliance of any transaction.

"(d) WAIVER.—

"(1) CRITERIA FOR WAIVER.—The Commission may waive any of the requirements of this section for small telephone companies or telephone companies serving rural areas, if the Commission determines, after notice and comment, that—

"(A) such waiver will not affect the ability of the Commission to ensure that all video programming activity is carried out without any support from telephone ratepayers;

"(B) the interests of telephone ratepayers and cable subscribers will not be harmed if such waiver is granted;

"(C) such waiver will not adversely affect the ability of persons to obtain access to the video platform of such carrier; and

"(D) such waiver otherwise is in the public interest.

"(2) DEADLINE FOR ACTION.—The Commission shall act to approve or disapprove a waiver application within 180 days after the date it is filed.

"(3) CONTINUED APPLICABILITY OF SECTION 656.—In the case of a common carrier that obtains a waiver under this subsection, any requirement that section 656 applies to a video programming affiliate shall instead apply to such carrier.

"(e) SUNSET OF REQUIREMENTS.—The provisions of this section shall cease to be effective on July 1, 2000.

"SEC. 653. ESTABLISHMENT OF VIDEO PLATFORM.

"(a) VIDEO PLATFORM.—

"(1) IN GENERAL.—Except as provided in section 613(b)(3), any common carrier subject to title II of this Act, and that provides video programming directly to subscribers in its telephone service area, may establish a video platform. This paragraph shall not apply to any carrier to the extent that it provides video programming directly to subscribers in its telephone service area solely through a cable system acquired in accordance with section 655(b).

"(2) IDENTIFICATION OF DEMAND FOR CARRIAGE.—Any common carrier subject to the requirements of paragraph (1) shall, prior to establishing a video platform, submit a notice to the Commission of its intension to establish channel capacity for the provision of video programming to meet the bona fide demand for such capacity. Such notice shall—

"(A) be in such form and contain information concerning the geographic area intended to be served and such information as the Commission may require by regulations pursuant to subsection (b);

"(B) specify the methods by which any entity seeking to use such channel capacity should submit to such carrier a specification of its channel capacity requirements; and

"(C) specify the procedures by which such carrier will determine (in accordance with the Commission's regulations under subsection (b)(1)(B)) whether such requests for capacity are bona fide.

The Commission shall submit any such notice for publication in the Federal Register within 5 working days.

"(3) RESPONSE TO REQUEST FOR CARRIAGE.—After receiving and reviewing the requests for capacity submitted pursuant to such notice, such common carrier shall establish channel capacity that is sufficient to provide carriage for—

"(A) all bona fide requests submitted pursuant to such notice,

"(B) any additional channels required pursuant to section 656, and

"(C) any additional channels required by the Commission's regulations under subsection (b)(1)(C).

"(4) RESPONSES TO CHANGES IN DEMAND FOR CAPACITY.—Any common carrier that establishes a video platform under this section shall—

"(A) immediately notify the Commission and each video programming provider of any delay in or denial of channel capacity or service, and the reasons therefor;

"(B) continue to receive and grant, to the extent of available capacity, carriage in response to bona fide requests for carriage from existing or additional video programming providers;

"(C) if at any time the number of channels required for bona fide requests for carriage may reasonably be expected soon to exceed the existing capacity of such video platform, immediately notify the Commission of such expectation and of the manner and date by which such carrier will provide sufficient capacity to meet such excess demand; and

"(D) construct such additional capacity as may be necessary to meet such excess demand.

"(5) DISPUTE RESOLUTION.—The Commission shall have the authority to resolve disputes under this section and the regulations prescribed thereunder. Any such dispute shall be resolved within 180 days after notice of such dispute is submitted to the Commission. At that time or subsequently in a separate damages proceeding, the Commission may award damages sustained in consequence of any violation of this section to any person denied carriage, or require carriage, or both. Any aggrieved party may seek any other remedy available under this Act.

"(b) COMMISSION ACTIONS.—

"(1) IN GENERAL.—Within 6 months after the date of the enactment of this section, the Commission shall complete all actions necessary (including any reconsideration) to prescribe regulations that—

"(A) consistent with the requirements of section 656, prohibit a common carrier from discriminating among video programming providers with regard to carriage on its video platform, and ensure that the rates, terms, and conditions for such carriage are just, reasonable, and nondiscriminatory;

"(B) prescribe definitions and criteria for the purposes of determining whether a request shall be considered a bona fide request for purposes of this section;

"(C) permit a common carrier to carry on only one channel any video programming service that is offered by more than one video programming provider (including the common carrier's video programming affiliate), provided that subscribers have ready and immediate access to any such video programming service;

"(D) extend to the distribution of video programming over video platforms the Commission's regulations concerning sports exclusivity (47 C.F.R. 76.67), network nonduplication (47 C.F.R. 76.92 et seq.), and syndicated exclusivity (47 C.F.R. 76.151 et seq.);

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"(E) require the video platform to provide service, transmission, and interconnection for unaffiliated or independent video programming providers that is equivalent to that provided to the common carrier's video programming affiliate, except that the video platform shall not discriminate between analog and digital video programming offered by such unaffiliated or independent video programming providers;

"(F)(i) prohibit a common carrier from unreasonably discriminating in favor of its video programming affiliate with regard to material or information provided by the common carrier to subscribers for the purposes of selecting programming on the video platform, or in the way such material or information is presented to subscribers;

"(ii) require a common carrier to ensure that video programming providers or copyright holders (or both) are able suitably and uniquely to identify their programming services to subscribers; and

"(iii) if such identification is transmitted as part of the programming signal, require the carrier to transmit such identification without change or alteration; and

"(G) prohibit a common carrier from excluding areas from its video platform service area on the basis of the ethnicity, race, or income of the residents of that area, and provide for public comments on the adequacy of the proposed service area on the basis of the standards set forth under this subparagraph.

Nothing in this section prohibits a common carrier or its affiliate from negotiating mutually agreeable terms and conditions with over-the-air broadcast stations and other unaffiliated video programming providers to allow consumer access to their signals on any level or screen of any gateway, menu, or other program guide, whether provided by the carrier or its affiliate.

"(2) REGULATORY STREAMLINING.—With respect to the establishment and operation of a video platform, the requirements of this section shall apply in lieu of, and not in addition to, the requirements of title II.

"SEC. 654. AUTHORITY TO PROHIBIT CROSS-SUBSIDIZATION.

"Nothing in this part shall prohibit a State commission that regulates the rates for telephone exchange service or exchange access based on the cost of providing such service or access from—

"(1) prescribing regulations to prohibit a common carrier from engaging in any practice that results in the inclusion in rates for telephone exchange service or exchange access of any operating expenses, costs, depreciation charges, capital investments, or other expenses directly associated with the provision of competing video programming services by the common carrier or affiliate; or

"(2) ensuring such competing video programming services bear a reasonable share of the joint and common costs of facilities used to provide telephone exchange service or exchange access and competing video programming services.

"SEC. 655. PROHIBITION ON BUY OUTS.

"(a) GENERAL PROHIBITION.—No common carrier that provides telephone exchange service, and no entity owned by or under common ownership or control with such carrier, may purchase or otherwise obtain control over any cable system that is located within its telephone service area and is owned by an unaffiliated person.

"(b) EXCEPTIONS.—Notwithstanding subsection (a), a common carrier may—

"(1) obtain a controlling interest in, or form a joint venture or other partnership with, a cable system that serves a rural area;

"(2) obtain, in addition to any interest, joint venture, or partnership obtained or formed pursuant to paragraph (1), a controlling interest in, or form a joint venture or other partnership with, any cable system or systems if—

"(A) such systems in the aggregate serve less than 10 percent of the households in the telephone service area of such carrier; and

"(B) no such system serves a franchise area with more than 35,000 inhabitants, except that a common carrier may obtain such interest or form such joint venture or other partnership with a cable system that serves a franchise area with more than 35,000 but not more than 50,000 inhabitants if such system is not affiliated with any other system whose franchise area is contiguous to the franchise area of the acquired system;

"(3) obtain, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that part of the transmission facilities of such a cable system extending from the last multi-user terminal to the premises of the end user, if such use is reasonably limited in scope and duration, as determined by the Commission; or

"(4) obtain a controlling interest in, or form a joint venture or other partnership with, or provide financing to, a cable system (hereinafter in this paragraph referred to as 'the subject cable system'), if—

"(A) the subject cable system operates in a television market that is not in the top 25 markets, and that has more than 1 cable system operator, and the subject cable system is not the largest cable system in such television market;

"(B) the subject cable system and the largest cable system in such television market held on May 1, 1995, cable television franchises from the largest municipality in the television market and the boundaries of such franchises were identical on such date;

"(C) the subject cable system is not owned by or under common ownership or control of any one of the 50 largest cable system operators as existed on May 1, 1995; and

"(D) the largest system in the television market is owned by or under common ownership or control of any one of the 10 largest cable system operators as existed on May 1, 1995.

"(c) WAIVER.—

"(1) CRITERIA FOR WAIVER.—The Commission may waive the restrictions in subsection (a) of this section only upon a showing by the applicant that—

"(A) because of the nature of the market served by the cable system concerned—

"(i) the incumbent cable operator would be subjected to undue economic distress by the enforcement of such subsection; or

"(ii) the cable system would not be economically viable if such subsection were enforced; and

"(B) the local franchising authority approves of such waiver.

"(2) DEADLINE FOR ACTION.—The Commission shall act to approve or disapprove a waiver application within 180 days after the date it is filed.

"SEC. 656. APPLICABILITY OF PARTS I THROUGH IV.

"(a) IN GENERAL.—Any provision that applies to a cable operator under—

"(1) sections 613 (other than subsection (a)(2) thereof), 616, 617, 628, 631, 632, and 634 of this title, shall apply,

"(2) sections 611, 612, 614, and 615 of this title, and section 325 of title III, shall apply in accordance with the regulations prescribed under subsection (b), and

"(3) parts III and IV (other than sections 628, 631, 632, and 634) of this title shall not apply,

to any video programming affiliate established by a common carrier in accordance with the requirements of this part.

"(b) IMPLEMENTATION.—

"(1) COMMISSION ACTION.—The Commission shall prescribe regulations to ensure that a common carrier in the operation of its video platform shall provide (A) capacity, services, facilities, and equipment for public, educational, and governmental use, (B) capacity for commercial use, (C) carriage of commercial and non-commercial broadcast television stations, and (D) an opportunity for commercial broadcast stations to choose between mandatory carriage and retransmission for retransmission of the signal of such station. In prescribing such regulations, the Commission shall, to the extent possible, impose obligations that are no greater or lesser than the obligations contained in the provisions described in subsection (a)(2) of this section.

"(2) FEES.—A video programming affiliate of any common carrier that establishes a video platform under this part, and any multichannel video programming distributor offering a competing service using such video platform (as determined in accordance with regulations of the Commission), shall be subject to the payment of fees imposed by a local franchising authority, in lieu of the fees required under section 622. The rate at which such fees are imposed shall not exceed the rate at which franchise fees are imposed on any cable operator transmitting video programming in the same service area.

"SEC. 657. RURAL AREA EXEMPTION.

"The provisions of sections 652, 653, and 655 shall not apply to video programming provided in a rural area by a common carrier that provides telephone exchange service in the same area.".

SEC. 203. COMPETITION FROM CABLE SYSTEMS.

(a) DEFINITION OF CABLE SERVICE.—Section 602(6)(B) of the Act (47 U.S.C. 522(6)(B)) is amended by inserting "or use" after "the selection".

(b) CLUSTERING.—Section 613 of the Act (47 U.S.C. 533) is amended by adding at the end the following new subsection:

"(i) ACQUISITION OF CABLE SYSTEMS.—Except as provided in section 655, the Commission may not require divestiture of, or restrict or prevent the acquisition of, an ownership interest in a cable system by any person based in whole or in part on the geographic location of such cable system.".

(c) EQUIPMENT.—Section 623(a) of the Act (47 U.S.C. 543(a)) is amended—

(1) in paragraph (6)—

(A) by striking "paragraph (4)" and inserting "paragraph (5)";

(B) by striking "paragraph (5)" and inserting "paragraph (6)"; and

(C) by striking "paragraph (3)" and inserting "paragraph (4)";

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) EQUIPMENT.—If the Commission finds that a cable system is subject to effective competition under subparagraph (D) of subsection (l)(1), the rates for equipment, installations, and connections for additional television receivers (other than equipment, installations, and connections furnished by such system to subscribers who receive only a rate regulated basic service tier) shall not be subject to regulation by the Commission or by a State or franchising authority. If the Commission finds that a cable system is subject to effective competition under subparagraph (A), (B), or (C) of subsection (l)(1), the rates for any equipment, installations, and connections furnished by such system to any subscriber shall not be subject to regulation by the Commission, or by a State or franchising authority. No Federal agency, State, or franchising authority may establish the price or rate for the installation, sale, or lease of any equipment furnished to any subscriber by a cable system solely in connection with video programming offered on a per channel or per program basis.".

(d) LIMITATION ON BASIC TIER RATE INCREASES; SCOPE OF REVIEW.—Section 623(a) of the Act (47 U.S.C. 543(a)) is further amended by adding at the end the following new paragraph:

"(8) LIMITATION ON BASIC TIER RATE INCREASES; SCOPE OF REVIEW.—A cable operator may not increase its basic service tier rate more than once every 6 months. Such increase may be implemented, using any reasonable billing or proration method, 30 days after providing notice

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to subscribers and the appropriate regulatory authority. The rate resulting from such increase shall be deemed reasonable and shall not be subject to reduction or refund if the franchising authority or the Commission, as appropriate, does not complete its review and issue a final order within 90 days after implementation of such increase. The review by the franchising authority or the Commission of any future increase in such rate shall be limited to the incremental change in such rate effected by such increase.".

(e) NATIONAL INFORMATION INFRASTRUCTURE DEVELOPMENT.—Section 623(a) of the Act (47 U.S.C. 543) is further amended by adding at the end the following new paragraph:

"(9) NATIONAL INFORMATION INFRASTRUCTURE.—

"(A) PURPOSE.—It is the purpose of this paragraph to—

"(i) promote the development of the National Information Infrastructure;

"(ii) enhance the competitiveness of the National Information Infrastructure by ensuring that cable operators have incentives comparable to other industries to develop such infrastructure; and

"(iii) encourage the rapid deployment of digital technology necessary to the development of the National Information Infrastructure.

"(B) AGGREGATION OF EQUIPMENT COSTS.—The Commission shall allow cable operators, pursuant to any rules promulgated under subsection (b)(3), to aggregate, on a franchise, system, regional, or company level, their equipment costs into broad categories, such as converter boxes, regardless of the varying levels of functionality of the equipment within each such broad category. Such aggregation shall not be permitted with respect to equipment used by subscribers who receive only a rate regulated basic service tier.

"(C) REVISION TO COMMISSION RULES; FORMS.—Within 120 days of the date of enactment of this paragraph, the Commission shall issue revisions to the appropriate rules and forms necessary to implement subparagraph (B).".

(f) COMPLAINT THRESHOLD; SCOPE OF COMMISSION REVIEW.—Section 623(c) of the Act (47 U.S.C. 543(c)) is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) REVIEW OF COMPLAINTS.—

"(A) COMPLAINT THRESHOLD.—The Commission shall have the authority to review any increase in the rates for cable programming services implemented after the date of enactment of the Communications Act of 1995 only if, within 90 days after such increase becomes effective, at least 10 subscribers to such services or 3 percent of the subscribers to such services, whichever is greater, file separate, individual complaints against such increase with the Commission in accordance with the requirements established under paragraph (1)(B).

"(B) TIME PERIOD FOR COMMISSION REVIEW.—The Commission shall complete its review of any such increase and issue a final order within 90 days after it receives the number of complaints required by subparagraph (A).

"(4) TREATMENT OF PENDING CABLE PROGRAMMING SERVICES COMPLAINTS.—Upon enactment of the Communications Act of 1995, the Commission shall suspend the processing of all pending cable programming services rate complaints. These pending complaints shall be counted by the Commission toward the complaint threshold specified in paragraph (3)(A). Parties shall have an additional 90 days from the date of enactment of such Act to file complaints about prior increases in cable programming services rates if such rate increases were already subject to a valid, pending complaint on such date of enactment. At the expiration of such 90-day period, the Commission shall dismiss all pending cable programming services rate cases for which the complaint threshold has not been met, and may resume its review of those pending cable programming services rate cases for which the complaint threshold has been met, which review shall be completed within 180 days after the date of enactment of the Communications Act of 1995.

"(5) SCOPE OF COMMISSION REVIEW.—A cable programming services rate shall be deemed not unreasonable and shall not be subject to reduction or refund if—

"(A) such rate was not the subject of a pending complaint at the time of enactment of the Communications Act of 1995;

"(B) such rate was the subject of a complaint that was dismissed pursuant to paragraph (4);

"(C) such rate resulted from an increase for which the complaint threshold specified in paragraph (3)(A) has not been met;

"(D) the Commission does not complete its review and issue a final order in the time period specified in paragraph (3)(B) or (4); or

"(E) the Commission issues an order finding such rate to be not unreasonable.

The review by the Commission of any future increase in such rate shall be limited to the incremental change in such rate effected by such increase.";

(2) in paragraph (1)(B) by striking "obtain Commission consideration and resolution of whether the rate in question is unreasonable" and inserting "be counted toward the complaint threshold specified in paragraph (3)(A)"; and

(3) in paragraph (1)(C) by striking "such complaint" and inserting in lieu thereof "the first complaint".

(g) UNIFORM RATE STRUCTURE.—Section 623(d) of the Act (47 U.S.C. 543(d)) is amended to read as follows:

"(d) UNIFORM RATE STRUCTURE.—A cable operator shall have a uniform rate structure throughout its franchise area for the provision of cable services that are regulated by the Commission or the franchising authority. Bulk discounts to multiple dwelling units shall not be subject to this requirement.".

(h) EFFECTIVE COMPETITION.—Section 623(l)(1) of the Act (47 U.S.C. 543(l)(1)) is amended—

(1) in subparagraph (B)(ii)—

(A) by inserting "all" before "multichannel video programming distributors"; and

(B) by striking "or" at the end thereof;

(2) by striking the period at the end of subparagraph (C) and inserting "; or"; and

(3) by adding at the end the following:

"(D) with respect to cable programming services and subscriber equipment, installations, and connections for additional television receivers (other than equipment, installations, and connections furnished to subscribers who receive only a rate regulated basic service tier)—

"(i) a common carrier has been authorized by the Commission to construct facilities to provide video dialtone service in the cable operator's franchise area;

"(ii) a common carrier has been authorized by the Commission or pursuant to a franchise to provide video programming directly to subscribers in the franchise area; or

"(iii) 270 days have elapsed since the Commission has completed all actions necessary (including any reconsideration) to prescribe regulations pursuant to section 653(b)(1) relating to video platforms.".

(i) RELIEF FOR SMALL CABLE OPERATORS.—Section 623 of the Act (47 U.S.C. 543) is amended by adding at the end the following new subsection:

"(m) SMALL CABLE OPERATORS.—

"(1) SMALL CABLE OPERATOR RELIEF.—A small cable operator shall not be subject to subsections (a), (b), (c), or (d) in any franchise area with respect to the provision of cable programming services, or a basic service tier where such tier was the only tier offered in such area on December 31, 1994.

"(2) DEFINITION OF SMALL CABLE OPERATOR.—For purposes of this subsection, 'small cable operator' means a cable operator that—

"(A) directly or through an affiliate, serves in the aggregate fewer than 1 percent of all cable subscribers in the United States; and

"(B) is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.".

(j) TECHNICAL STANDARDS.—Section 624(e) of the Act (47 U.S.C. 544(e)) is amended by striking the last two sentences and inserting the following: "No State or franchising authority may prohibit, condition, or restrict a cable system's use of any type of subscriber equipment or any transmission technology.".

(k) CABLE SECURITY SYSTEMS.—Section 624A(b)(2) of the Act (47 U.S.C. 544a(b)(2)) is amended to read as follows:

"(2) CABLE SECURITY SYSTEMS.—No Federal agency, State, or franchising authority may prohibit a cable operator's use of any security system (including scrambling, encryption, traps, and interdiction), except that the Commission may prohibit the use of any such system solely with respect to the delivery of a basic service tier that, as of January 1, 1995, contained only the signals and programming specified in section 623(b)(7)(A), unless the use of such system is necessary to prevent the unauthorized reception of such tier.".

(l) CABLE EQUIPMENT COMPATIBILITY.—Section 624A of the Act (47 U.S.C. 544A), is amended—

(1) in subsection (a) by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and"; and by adding at the end the following new paragraph:

"(4) compatibility among televisions, video cassette recorders, and cable systems can be assured with narrow technical standards that mandate a minimum degree of common design and operation, leaving all features, functions, protocols, and other product and service options for selection through open competition in the market.";

(2) in subsection (c)(1)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting before such redesignated subparagraph (B) the following new subparagraph:

"(A) the need to maximize open competition in the market for all features, functions, protocols, and other product and service options of converter boxes and other cable converters unrelated to the descrambling or decryption of cable television signals;"; and

(3) in subsection (c)(2)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) to ensure that any standards or regulations developed under the authority of this section to ensure compatibility between televisions, video cassette recorders, and cable systems do not affect features, functions, protocols, and other product and service options other than those specified in paragraph (1)(B), including telecommunications interface equipment, home automation communications, and computer network services;".

(m) RETIERING OF BASIC TIER SERVICES.—Section 625(d) of the Act (47 U.S.C. 543(d)) is amended by adding at the end the following new sentence: "Any signals or services carried on the basic service tier but not required under section 623(b)(7)(A) may be moved from the basic service tier at the operator's sole discretion, provided that the removal of such a signal or service from the basic service tier is permitted by contract. The movement of such signals or services to an unregulated package of services shall not subject such package to regulation.".

(n) SUBSCRIBER NOTICE.—Section 632 of the Act (47 U.S.C. 552) is amended—

(1) by redesignating subsection (c) as subsection (d); and

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(2) by inserting after subsection (b) the following new subsection:

"(c) SUBSCRIBER NOTICE.—A cable operator may provide notice of service and rate changes to subscribers using any reasonable written means at its sole discretion. Notwithstanding section 623(b)(6) or any other provision of this Act, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.".

(c) TREATMENT OF PRIOR YEAR LOSSES.—

(1) AMENDMENT.—Section 623 (48 U.S.C. 543) is amended by adding at the end thereof the following:

"(n) TREATMENT OF PRIOR YEAR LOSSES.—Notwithstanding any other provision of this section or of section 612, losses (including losses associated with the acquisitions of such franchise) that were incurred prior to September 4, 1992, with respect to a cable system that is owned and operated by the original franchisee of such system shall not be disallowed, in whole or in part, in the determination of whether the rates for any tier of service or any type of equipment that is subject to regulation under this section are lawful.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and shall be applicable to any rate proposal filed on or after September 4, 1993.

SEC. 303. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

Title VII of the Act is amended by adding at the end the following new section:

"SEC. 713. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

"(a) DEFINITIONS.—As used in this section:

"(1) The term 'telecommunications subscription service' means the provision directly to subscribers of video, voice, or data services for which a subscriber charge is made.

"(2) The term 'telecommunications system' or a 'telecommunications system operator' means a provider of telecommunications subscription service.

"(b) COMPETITIVE CONSUMER AVAILABILITY OF CUSTOMER PREMISES EQUIPMENT.—The Commission shall adopt regulations to assure competitive availability, to consumers of telecommunications subscription services, of converter boxes, interactive communications devices, and other customer premises equipment from manufacturers, retailers, and other vendors not affiliated with any telecommunications system operator. Such regulations shall not prohibit any telecommunications system operator from also offering devices and customer premises equipment to consumers, provided that the system operator's charges to consumers for such devices and equipment are separately stated and not subsidized by charges for any telecommunications subscription service.

"(c) PROTECTION OF SYSTEM SECURITY.—The Commission shall not prescribe regulations pursuant to subsection (b) which would jeopardize the security of a telecommunications system or impede the legal rights of a provider of such service to prevent theft of service.

"(d) WAIVER FOR NEW NETWORK SERVICES.—The Commission shall waive a regulation adopted pursuant to subsection (b) for a limited time upon an appropriate showing by a telecommunications system operator that such waiver is necessary to assist the development or introduction of a new or improved telecommunications subscription service or technology.

"(e) AVOIDANCE OF REDUNDANT REGULATIONS.—

"(1) MARKET COMPETITIVENESS DETERMINATIONS.—Determinations made or regulations prescribed by the Commission with respect to market competitiveness of customer premises equipment prior to the date of enactment of this section shall fulfill the requirements of this section.

"(2) REGULATIONS.—Nothing in this section affects the Commission's regulations governing the interconnection and competitive provision of customer premises equipment used in connection with basic telephone service.

"(f) SUNSET.—The regulations adopted pursuant to this section shall cease to apply to any market for the acquisition of converter boxes, interactive communications devices, or other customer premises equipment when the Commission determines that such market is competitive.".

SEC. 304. VIDEO PROGRAMMING ACCESSIBILITY.

(a) COMMISSION INQUIRY.—Within 180 days after the date of enactment of this section, the Federal Communications Commission shall complete an inquiry to ascertain the level at which video programming is closed captioned. Such inquiry shall examine the extent to which existing or previously published programming is closed captioned, the size of the video programming provider or programming owner providing closed captioning, the size of the market served, the relative audience shares achieved, or any other related factors. The Commission shall submit to the Congress a report on the results of such inquiry.

(b) ACCOUNTABILITY CRITERIA.—Within 18 months after the date of enactment, the Commission shall prescribe such regulations as are necessary to implement this section. Such regulations shall ensure that—

(1) video programming first published or exhibited after the effective date of such regulations is fully accessible through the provision of closed captions, except as provided in subsection (d); and

(2) video programming providers or owners maximize the accessibility of video programming first published or exhibited prior to the effective date of such regulations through the provision of closed captions, except as provided in subsection (d).

(c) DEADLINES FOR CAPTIONING.—Such regulations shall include an appropriate schedule of deadlines for the provision of closed captioning of video programming.

(d) EXEMPTIONS.—Notwithstanding subsection (b)—

(1) the Commission may exempt by regulation programs, classes of programs, or services for which the Commission has determined that the provision of closed captioning would be economically burdensome to the provider or owner of such programming;

(2) a provider of video programming or the owner of any program carried by the provider shall not be obligated to supply closed captions if such action would be inconsistent with contracts in effect on the date of enactment of this Act, except that nothing in this section shall be construed to relieve a video programming provider of its obligations to provide services required by Federal law; and

(3) a provider of video programming or program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such petition upon a showing that the requirements contained in this section would result in an undue burden.

(e) UNDUE BURDEN.—The term "undue burden" means significant difficulty or expense. In determining whether the closed captions necessary to comply with the requirements of this paragraph would result in an undue economic burden, the factors to be considered include—

(1) the nature and cost of the closed captions for the programming;

(2) the impact on the operation of the provider or program owner;

(3) the financial resources of the provider or program owner; and

(4) the type of operations of the provider or program owner.

(f) VIDEO DESCRIPTIONS INQUIRY.—Within 6 months after the date of enactment of this Act, the Commission shall commence an inquiry to examine the use of video descriptions on video programming in order to ensure the accessibility of video programming to persons with visual impairments, and report to Congress on its findings. The Commission's report shall assess appropriate methods and schedules for phasing video descriptions into the marketplace, technical and quality standards for video descriptions, a definition of programming for which video descriptions would apply, and other technical and legal issues that the Commission deems appropriate. Following the completion of such inquiry, the Commission may adopt regulation it deems necessary to promote the accessibility of video programming to persons with visual impairments.

(g) VIDEO DESCRIPTION.—For purposes of this section, "video description" means the insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue.

(h) PRIVATE RIGHTS OF ACTIONS PROHIBITED.—Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation thereunder. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

SEC. 305. TECHNICAL AMENDMENTS.

(a) RETRANSMISSION.—Section 325(b)(2)(D) of the Act (47 U.S.C. 325(b)(2)(D)) is amended to read as follows:

"(D) retransmission by a cable operator or other multichannel video programming distributor of the signal of a superstation if (i) the customers served by the cable operator or other multichannel video programming distributor reside outside the originating station's television market, as defined by the Commission for purposes of section 614(h)(1)(C); (ii) such signal was obtained from a satellite carrier or terrestrial microwave common carrier; and (iii) and the origination station was a superstation on May 1, 1991.".

(b) MARKET DETERMINATIONS.—Section 614(h)(1)(C)(i) of the Act (47 U.S.C. 534(h)(1)(C)(i)) is amended by striking out "in the manner provided in section 73.3555(d)(3)(i) of title 47, Code of Federal Regulations, as in effect on May 1, 1991," and inserting "by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns.".

(c) TIME FOR DECISION.—Section 614(h)(1)(C)(iv) of such Act is amended to read as follows:

"(iv) Within 120 days after the date a request is filed under this subparagraph, the Commission shall grant or deny the request.".

(d) PROCESSING OF PENDING COMPLAINTS.—The Commission shall, unless otherwise informed by the person making the request, assume that any person making a request to include or exclude additional communities under section 614(h)(1)(C) of such Act (as in effect prior to the date of enactment of this Act) continues to request such inclusion or exclusion under such section as amended under subsection (b).

TITLE III—BROADCAST COMMUNICATIONS COMPETITIVENESS

SEC. 301. BROADCASTER SPECTRUM FLEXIBILITY.

Title III of the Act is amended by inserting after section 335 (47 U.S.C. 335) the following new section:

"SEC. 336. BROADCAST SPECTRUM FLEXIBILITY.

"(a) COMMISSION ACTION.—If the Commission determines to issue additional licenses for advanced television services, the Commission shall—

"(1) limit the initial eligibility for such licenses to persons that, as of the date of such issuance, are licensed to operate a television broadcast station or hold a permit to construct such a station (or both); and

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"(2) adopt regulations that allow such licensees or permittees to offer such ancillary or supplementary services on designated frequencies as may be consistent with the public interest, convenience, and necessity.

"(b) CONTENTS OF REGULATIONS.—In prescribing the regulations required by subsection (a), the Commission shall—

"(1) only permit such licensee or permittee to offer ancillary or supplementary services if the use of a designated frequency for such services is consistent with the technology or method designated by the Commission for the provision of advanced television services;

"(2) limit the broadcasting of ancillary or supplementary services on designated frequencies so as to avoid derogation of any advanced television services, including high definition television broadcasts, that the Commission may require using such frequencies;

"(3) apply to any other ancillary or supplementary service such of the Commission's regulations as are applicable to the offering of analogous services by any other person, except that no ancillary or supplementary service shall have any rights to carriage under section 614 or 615 or be deemed a multichannel video programming distributor for purposes of section 628;

"(4) adopt such technical and other requirements as may be necessary or appropriate to assure the quality of the signal used to provide advanced television services, and may adopt regulations that stipulate the minimum number of hours per day that such signal must be transmitted; and

"(5) prescribe such other regulations as may be necessary for the protection of the public interest, convenience, and necessity.

"(c) RECOVERY OF LICENSE.—

"(1) CONDITIONS REQUIRED.—If the Commission grants a license for advanced television services to a person that, as of the date of such issuance, is licensed to operate a television broadcast station or holds a permit to construct such a station (or both), the Commission shall, as a condition of such license, require that, upon a determination by the Commission pursuant to the regulations prescribed under paragraph (2), either the additional license or the original license held by the licensee be surrendered to the Commission in accordance with such regulations for reallocation or reassignment (or both) pursuant to Commission regulations.

"(2) CRITERIA.—The Commission shall prescribe criteria for rendering determinations concerning license surrender pursuant to license conditions required by paragraph (1). Such criteria shall—

"(A) require such determinations to be based, on a market-by-market basis, on whether the substantial majority of the public have obtained television receivers that are capable of receiving advanced television services; and

"(B) not require the cessation of the broadcasting under either the original or additional license if such cessation would render the television receivers of a substantial portion of the public useless, or otherwise cause undue burdens on the owners of such television receivers.

"(3) AUCTION OF RETURNED SPECTRUM.—Any license surrendered under the requirements of this subsection shall be subject to assignment by use of competitive bidding pursuant to section 309(j), notwithstanding any limitations contained in paragraph (2) of such section.

"(d) FEES.—

"(1) SERVICES TO WHICH FEES APPLY.—If the regulations prescribed pursuant to subsection (a) permit a licensee to offer ancillary or supplementary services on a designated frequency—

"(A) for which the payment of a subscription fee is required in order to receive such services, or

"(B) for which the licensee directly or indirectly receives compensation from a third party in return for transmitting material furnished by such third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required),

the Commission shall establish a program to assess and collect from the licensee for such designated frequency an annual fee or other schedule or method of payment that promotes the objectives described in subparagraphs (A) and (B) of paragraph (2).

"(2) COLLECTION OF FEES.—The program required by paragraph (1) shall—

"(A) be designed (i) to recover for the public a portion of the value of the public spectrum resource made available for such commercial use, and (ii) to avoid unjust enrichment through the method employed to permit such uses of that resource;

"(B) recover for the public an amount that, to the extent feasible, equals but does not exceed (over the term of the license) the amount that would have been recovered had such services been licensed pursuant to the provisions of section 309(j) of this Act and the Commission's regulations thereunder; and

"(C) be adjusted by the Commission from time to time in order to continue to comply with the requirements of this paragraph.

"(3) TREATMENT OF REVENUES.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), all proceeds obtained pursuant to the regulations required by this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

"(B) RETENTION OF REVENUES.—Notwithstanding subparagraph (A), the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this section and regulating and supervising advanced television services. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis.

"(4) REPORT.—Within 5 years after the date of the enactment of this section, the Commission shall report to the Congress on the implementation of the program required by this subsection, and shall annually thereafter advise the Congress on the amounts collected pursuant to such program.

"(e) EVALUATION.—Within 10 years after the date the Commission first issues additional licenses for advanced television services, the Commission shall conduct an evaluation of the advanced television services program. Such evaluation shall include—

"(1) an assessment of the willingness of consumers to purchase the television receivers necessary to receive broadcasts of advanced television services;

"(2) an assessment of alternative uses, including public safety use, of the frequencies used for such broadcasts; and

"(3) the extent to which the Commission has been or will be able to reduce the amount of spectrum assigned to licensees.

"(f) DEFINITIONS.—As used in this section:

"(1) ADVANCED TELEVISION SERVICES.—The term 'advanced television services' means television services provided using digital or other advanced technology as further defined in the opinion, report, and order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service', MM Docket 87-268, adopted September 17, 1992, and successor proceedings.

"(2) DESIGNATED FREQUENCIES.—The term 'designated frequency' means each of the frequencies designated by the Commission for licenses for advanced television services.

"(3) HIGH DEFINITION TELEVISION.—The term 'high definition television' refers to systems that offer approximately twice the vertical and horizontal resolution of receivers generally available on the date of enactment of this section, as further defined in the proceedings described in paragraph (1) of this subsection.".

SEC. 308. BROADCAST OWNERSHIP.

Title III of the Act is amended by inserting after section 336 (as added by section 301) the following new section:

"SEC. 337. BROADCAST OWNERSHIP.

"(a) LIMITATIONS ON COMMISSION RULEMAKING AUTHORITY.—Except as expressly permitted in this section, and consistent with section 613(a) of the Act, the Commission shall not prescribe or enforce any regulation—

"(1) prohibiting or limiting, either nationally or within any particular area, a person or entity from holding any form of ownership or other interest in two or more broadcasting stations or in a broadcasting station and any other medium of mass communication; or

"(2) prohibiting a person or entity from owning, operating, or controlling two or more networks of broadcasting stations or from owning operating, or controlling a network of broadcasting stations and any other medium of mass communications.

"(b) TELEVISION OWNERSHIP LIMITATIONS.—

"(1) NATIONAL AUDIENCE REACH LIMITATIONS.—The Commission shall prohibit a person or entity from obtaining any license if such license would result in such person or entity directly or indirectly owning, operating, or controlling, or having a cognizable interest in, television stations which have an aggregate national audience reach exceeding 35 percent. Within 3 years after such date of enactment, the Commission shall conduct a study on the operation of this paragraph and submit a report to the Congress on the development of competition in the television marketplace and the need for any revisions to or elimination of this paragraph.

"(2) MULTIPLE LICENSES IN A MARKET.—

"(A) IN GENERAL.—The Commission shall prohibit a person or entity from obtaining any license if such license would result in such person or entity directly or indirectly owning, operating, or controlling, or having a cognizable interest in, two or more television stations within the same television market.

"(B) EXCEPTION FOR MULTIPLE UHF STATIONS AND FOR UHF-VHF COMBINATIONS.—Notwithstanding subparagraph (A), the Commission shall not prohibit a person or entity from directly or indirectly owning, operating, or controlling, or having a cognizable interest in, two television stations within the same television market if at least one of such stations is a UHF television, unless the Commission determines that permitting such ownership, operation, or control will harm competition or will harm the preservation of a diversity of media voices in the local television market.

"(C) EXCEPTION FOR VHF-VHF COMBINATIONS.—Notwithstanding subparagraph (A), the Commission may permit a person or entity to directly or indirectly own, operate, or control, or have a cognizable interest in, two VHF television stations within the same television market, if the Commission determines that permitting such ownership, operation, or control will not harm competition and will not harm the preservation of a diversity of media voices in the local television market.

"(c) LOCAL CROSS-MEDIA OWNERSHIP LIMITS.—In a proceeding to grant, renew, or authorize the assignment of any station license under this title, the Commission may deny the application if the Commission determines that the combination of such station and more than one other nonbroadcast media of mass communication would result in an undue concentration of media voices in the respective local market. In considering any such combination, the Commission shall not grant the application if all the media of mass communication in such local market would be owned, operated, or controlled by two or fewer persons or entities. This subsection shall not constitute authority for the

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Commission to prescribe regulations containing local cross-media ownership limitations. The Commission may not, under the authority of this subsection, require any person or entity to divest itself of any portion of any combination of stations and other media of mass communications that such person or entity owns, operates, or controls on the date of enactment of this section unless such person or entity acquires another station or other media of mass communications after such date in such local market.

"(d) TRANSITION PROVISIONS.—Any provision of any regulation prescribed before the date of enactment of this section that is inconsistent with the requirements of this section shall cease to be effective on such date of enactment. The Commission shall complete all actions (including any reconsideration) necessary to amend its regulations to conform to the requirements of this section not later than 6 months after such date of enactment. Nothing in this section shall be construed to prohibit the continuation or renewal of any television local marketing agreement that is in effect on such date of enactment and that is in compliance with Commission regulations on such date.".

SEC. 203. FOREIGN INVESTMENT AND OWNERSHIP.

(a) STATION LICENSES.—Section 310(a) (47 U.S.C. 310(a)) is amended to read as follows:

"(a) GRANT TO OR HOLDING BY FOREIGN GOVERNMENT OR REPRESENTATIVE.—No station license required under title III of this Act shall be granted to or held by any foreign government or any representative thereof. This subsection shall not apply to licenses issued under such terms and conditions as the Commission may prescribe to mobile earth stations engaged in occasional or short-term transmissions via satellite of audio or television program material and auxilliary signals if such transmissions are not intended for direct reception by the general public in the United States.".

(b) TERMINATION OF FOREIGN OWNERSHIP RESTRICTIONS.—Section 310 (47 U.S.C. 310) is amended by adding at the end thereof the following new subsection:

"(j) TERMINATION OF FOREIGN OWNERSHIP RESTRICTIONS.—

"(1) RESTRICTION NOT TO APPLY.—Subsection (b) shall not apply to any common carrier license granted, held, or for which application is made, after the date of enactment of this subsection with respect to any alien (or representative thereof), corporation, or foreign government (or representative thereof) if—

"(A) the President determines—

"(i) that the foreign country of which such alien is a citizen, in which such corporation is organized, or in which the foreign government is in control is party to an international agreement which requires the United States to provide national or most-favored-nation treatment in the grant of common carrier licenses; and

"(ii) that not applying subsection (b) would be consistent with national security and effective law enforcement; or

"(B) the Commission determines that not applying subsection (b) would serve the public interest.

"(2) COMMISSION CONSIDERATIONS.—In making its determination under paragraph (1), the Commission shall abide by any decision of the President whether application of section (b) is in the public interest due to national security, law enforcement, foreign policy or trade (including direct investment as it relates to international trade policy) concerns, or due to the interpretation of international agreements. In the absence of a decision by the President, the Commission may consider, among other public interest factors, whether effective competitive opportunities are available to United States nationals or corporations in the applicant's home market. Upon receipt of an application that requires a determination under this paragraph, the Commission shall cause notice of the application to be given to the President or any agencies designated by the President to receive such notification. The Commission shall not make a determination under paragraph (1)(B) earlier than 30 days after the end of the pleading cycle or later than 180 days after the end of the pleading cycle.

"(3) FURTHER COMMISSION REVIEW.—The Commission may determine that, due to changed circumstances relating to United States national security or law enforcement, a prior determination under paragraph (1) ought to be reversed or altered. In making this determination, the Commission shall accord great deference to any recommendation of the President with respect to United States national security or law enforcement. If a determination under this paragraph is made then—

"(A) subsection (b) shall apply with respect to such aliens, corporation, and government (or their representatives) on the date that the Commission publishes notice of its determination under this paragraph; and

"(B) any license held, or application filed, which could not be held or granted under subsection (b) shall be reviewed by the Commission under the provisions of paragraphs (1)(B) and (2).

"(4) NOTIFICATION TO CONGRESS.—The President and the Commission shall notify the appropriate committees of the Congress of any determinations made under paragraph (1), (2), or (3).

"(5) MISCELLANEOUS.—Any Presidential decisions made under the provisions of this subsection shall not be subject to judicial review.".

(c) EFFECTIVE DATES.—The amendments made by this section shall not apply to any proceeding commenced before the date of enactment of this Act.

SEC. 204. FAMILY VIEWING EMPOWERMENT.

(a) FINDINGS.—The Congress makes the following findings:

(1) Television is pervasive in daily life and exerts a powerful influence over the perceptions of viewers, especially children, concerning the society in which we live.

(2) Children completing elementary school have been exposed to 25 or more hours of television per week and as many as 11 hours per day.

(3) Children completing elementary school have been exposed to an estimated average of 8,000 murders and 100,000 acts of violence on television.

(4) Studies indicate that the exposure of young children to such levels of violent programming correlates to an increased tendency toward and tolerance of violent and aggressive behavior in later years.

(5) Studies also suggest that the depiction of other material such as sexual conduct in a cavalier and amoral context may undermine the ability of parents to instill in their children responsible attitudes regarding such activities.

(6) Studies also suggest that a significant relationship exists between exposure to television violence and antisocial acts, including serious, violent criminal offenses.

(7) Parents and other viewers are increasingly demanding that they be empowered to make and implement viewing choices for themselves and their families.

(8) The public is becoming increasingly aware of and concerned about objectionable video programming content.

(9) The broadcast television industry and other video programmers have a responsibility to assess the impact of their work and to understand the damage that comes from the incessant, repetitive, mindless violence and irresponsible content.

(10) The broadcast television industry and other video programming distributors should be committed to facilitating viewers' access to the information and capabilities required to prevent the exposure of their children to excessively violent and otherwise objectionable and harmful video programming.

(11) The technology for implementing individual viewing choices is rapidly advancing and numerous options for viewer control are or soon will be available in the marketplace at affordable prices.

(12) There is a compelling national interest in ensuring that parents are provided with the information and capabilities required to prevent the exposure of their children to excessively violent and otherwise objectionable and harmful video programming.

(b) POLICY.—It is the policy of the United States to—

(1) encourage broadcast television, cable, satellite, syndication, other video programming distributors, and relevant related industries (in consultation with appropriate public interest groups and interested individuals from the private sector) to—

(A) establish a technology fund to encourage television and electronics equipment manufacturers to facilitate the development of technology which would empower parents to block programming they deem inappropriate for their children;

(B) report to the viewing public on the status of the development of affordable, easy to use blocking technology; and

(C) establish and promote effective procedures, standards, systems, advisories, or other mechanisms for ensuring that users have easy and complete access to the information necessary to effectively utilize blocking technology; and

(2) evaluate whether, not later than 1 year after the date of enactment of this Act, industry-wide procedures, standards, systems advisories, or other mechanisms established by the broadcast television, cable satellite, syndication, other video programming distribution, and relevant related industries—

(A) are informing viewers regarding their options to utilize blocking technology; and

(B) encouraging the development of blocking technologies.

(c) GAO AUDIT.—

(1) AUDIT REQUIRED.—No later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress an evaluation of—

(A) the proliferation of new and existing blocking technology;

(B) the accessibility of information to empower viewing choices; and

(C) the consumer satisfaction with information and technological solutions.

(2) CONTENTS OF EVALUATION.—The evaluation shall—

(A) describe the blocking technology available to viewers including the costs thereof; and

(B) assess the extent of consumer knowledge and attitudes toward available blocking technologies;

(3) describe steps taken by broadcast, cable, satellite, syndication, and other video programming distribution services to inform the public and promote the availability of viewer empowerment technologies, devices, and techniques;

(4) evaluate the degree to which viewer empowerment technology is being utilized;

(5) assess consumer satisfaction with technological options; and

(6) evaluate consumer demand for information and technological solutions.

SEC. 205. PARENTAL CHOICE IN TELEVISION PROGRAMMING.

(a) FINDINGS.—The Congress makes the following findings:

(1) Television influences children's perception of the values and behavior that are common and acceptable in society.

(2) Television station operators, cable television system operators, and video programmers should follow practices in connection with video programming that take into consideration that television broadcast and cable programming has established a uniquely pervasive presence in the lives of American children.

(3) The average American child is exposed to 25 hours of television each week and some children are exposed to as much as 11 hours of television a day.

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(4) Studies have shown that children exposed to violent video programming at a young age have a higher tendency for violent and aggressive behavior later in life than children not so exposed, and that children exposed to violent video programming are prone to assume that acts of violence are acceptable behavior.

(5) Children in the United States are, on average, exposed to an estimated 8,000 murders and 100,000 acts of violence on television by the time the child completes elementary school.

(6) Studies indicate that children are affected by the pervasiveness and casual treatment of sexual material on television, eroding the ability of parents to develop responsible attitudes and behavior in their children.

(7) Parents express grave concern over violent and sexual video programming and strongly support technology that would give them greater control to block video programming in the home that they consider harmful to their children.

(8) There is a compelling governmental interest in empowering parents to limit the negative influences of video programming that is harmful to children.

(9) Providing parents with timely information about the nature of upcoming video programming and with the technological tools that allow them easily to block violent, sexual, or other programming that they believe harmful to their children is the least restrictive and most narrowly tailored means of achieving that compelling governmental interest.

(b) ESTABLISHMENT OF TELEVISION RATING CODE.—Section 303 of the Act (47 U.S.C. 303) is amended by adding at the end the following:

"(v) Prescribe—

"(1) on the basis of recommendations from an advisory committee established by the Commission that is composed of parents, television broadcasters, television programming producers, cable operators, appropriate public interest groups, and other interested individuals from the private sector and that is fairly balanced in terms of political affiliation, the points of view represented, and the functions to be performed by the committee, guidelines and recommended procedures for the identification and rating of video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children, provided that nothing in this paragraph shall be construed to authorize any rating of video programming on the basis of its political or religious content; and

"(2) with respect to any video programming that has been rated (whether or not in accordance with the guidelines and recommendations prescribed under paragraph (1)), rules requiring distributors of such video programming to transmit such rating to permit parents to block the display of video programming that they have determined is inappropriate for their children.".

(c) REQUIREMENT FOR MANUFACTURE OF TELEVISIONS THAT BLOCK PROGRAMS.—Section 303 of the Act, as amended by subsection (a), is further amended by adding at the end the following:

"(w) Require, in the case of apparatus designed to receive television signals that are manufactured in the United States or imported for use in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus be equipped with circuitry designed to enable viewers to block display of all programs with a common rating, except as otherwise permitted by regulations pursuant to section 330(c)(4).".

(d) SHIPPING OR IMPORTING OF TELEVISIONS THAT BLOCK PROGRAMS.—

(1) REGULATIONS.—Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by adding after subsection (b) the following new subsection (c):

"(c)(1) Except as provided in paragraph (2), no person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States any apparatus described in section 303(w) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section.

"(2) This subsection shall not apply to carriers transporting apparatus referred to in paragraph (1) without trading it.

"(3) The rules prescribed by the Commission under this subsection shall provide for the oversight by the Commission of the adoption of standards by industry for blocking technology. Such rules shall require that all such apparatus be able to receive the rating signals which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and blocking specifications established by industry under the supervision of the Commission.

"(4) As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers. If the Commission determines that an alternative blocking technology exists that—

"(A) enables parents to block programming based on identifying programs without ratings,

"(B) is available to consumers at a cost which is comparable to the cost of technology that allows parents to block programming based on common ratings, and

"(C) will allow parents to block a broad range of programs on a multichannel system as effectively and as easily as technology that allows parents to block programming based on common ratings,

the Commission shall amend the rules prescribed pursuant to section 303(w) to require that the apparatus described in such section be equipped with either the blocking technology described in such section or the alternative blocking technology described in this paragraph.".

(2) CONFORMING AMENDMENT.—Section 330(d) of such Act, as redesignated by subsection (a)(1), is amended by striking "section 303(s), and section 303(u)" and inserting in lieu thereof "and sections 303(s), 303(u), and 303(w)".

(e) APPLICABILITY AND EFFECTIVE DATES.—

(1) APPLICABILITY OF RATING PROVISION.—The amendment made by subsection (b) of this section shall take effect 1 year after the date of enactment of this Act, but only if the Commission determines, in consultation with appropriate public interest groups and interested individuals from the private sector, that distributors of video programming have not, by such date—

(A) established voluntary rules for rating video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children, and such rules are acceptable to the Commission; and

(B) agreed voluntarily to broadcast signals that contain ratings of such programming.

(2) EFFECTIVE DATE OF MANUFACTURING PROVISION.—In prescribing regulations to implement the amendment made by subsection (c), the Federal Communications Commission shall, after consultation with the television manufacturing industry, specify the effective date for the applicability of the requirement to the apparatus covered by such amendment, which date shall not be less than one year after the date of the enactment of this Act.

SEC. 306. TERM OF LICENSES.

Section 307(c) of the Act (47 U.S.C. 307(c)) is amended to read as follows:

"(c) TERMS OF LICENSES.—

"(1) INITIAL AND RENEWAL LICENSES.—Each license granted for the operation of a broadcasting station shall be for a term of not to exceed seven years. Upon application therefor, a renewal of such license may be granted from time to time for a term of not to exceed seven years from the date of expiration of the preceding license, if the Commission finds that public interest, convenience, and necessity would be served thereby. Consistent with the foregoing provisions of this subsection, the Commission may by rule prescribe the period or periods for which licenses shall be granted and renewed for particular classes of stations, but the Commission may not adopt or follow any rule which would preclude it, in any case involving a station of a particular class, from granting or renewing a license for a shorter period than that prescribed for stations of such class if, in its judgment, public interest, convenience, or necessity would be served by such action.

"(2) MATERIALS IN APPLICATION.—In order to expedite action on applications for renewal of broadcasting station licenses and in order to avoid needless expense to applicants for such renewals, the Commission shall not require any such applicant to file any information which previously has been furnished to the Commission or which is not directly material to the considerations that affect the granting or denial of such application, but the Commission may require any new or additional facts it deems necessary to make its findings.

"(3) CONTINUATION PENDING DECISION.—Pending any hearing and final decision on such an application and the disposition of any petition for rehearing pursuant to section 405, the Commission shall continue such license in effect.".

SEC. 307. BROADCAST LICENSE RENEWAL PROCEDURES.

(a) AMENDMENT.—Section 309 of the Act (47 U.S.C. 309) is amended by adding at the end thereof the following new subsection:

"(k) BROADCAST STATION RENEWAL PROCEDURES.—

"(1) STANDARDS FOR RENEWAL.—If the licensee of a broadcast station submits an application to the Commission for renewal of such license, the Commission shall grant the application if it finds, with respect to that station, during the preceding term of its license—

"(A) the station has served the public interest, convenience, and necessity;

"(B) there have been no serious violations by the licensee of this Act or the rules and regulations of the Commission; and

"(C) there have been no other violations by the licensee of this Act or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse.

"(2) CONSEQUENCE OF FAILURE TO MEET STANDARD.—If any licensee of a broadcast station fails to meet the requirements of this subsection, the Commission may deny the application for renewal in accordance with paragraph (3), or grant such application on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted.

"(3) STANDARDS FOR DENIAL.—If the Commission determines, after notice and opportunity for a hearing as provided in subsection (e), that a licensee has failed to meet the requirements specified in paragraph (1) and that no mitigating factors justify the imposition of lesser sanctions, the Commission shall—

"(A) issue an order denying the renewal application filed by such licensee under section 308; and

"(B) only thereafter accept and consider such applications for a construction permit as may be filed under section 308 specifying the channel or broadcasting facilities of the former licensee.

"(4) COMPETITOR CONSIDERATION PROHIBITED.—In making the determinations specified in paragraph (1) or (2), the Commission shall not consider whether the public interest, convenience, and necessity might be served by the grant of a license to a person other than the renewal applicant.".

(b) CONFORMING AMENDMENT.—Section 309(d) of the Act (47 U.S.C. 309(d)) is amended by inserting after "with subsection (a)" each place such term appears the following: "(or subsection (k) in the case of renewal of any broadcast station license)".

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(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any application for renewal pending or filed on or after the date of enactment of this Act.

SEC. 308. EXCLUSIVE FEDERAL JURISDICTION OVER DIRECT BROADCAST SATELLITE SERVICE.

Section 303 of the Act (47 U.S.C. 303) is amended by adding at the end thereof the following new subsection:

"(v) Have exclusive jurisdiction over the regulation of the direct broadcast satellite service.".

SEC. 309. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

Notwithstanding any provision of the Communications Act of 1934 or any other provision of law or regulation, a ship documented under the laws of the United States operating in accordance with the Global Maritime Distress and Safety System provisions of the Safety of Life at Sea Convention shall not be required to be equipped with a radio telegraphy station operated by one or more radio officers or operators. This section shall take effect for each vessel upon a determination by the United States Coast Guard that such vessel has the equipment required to implement the Global Maritime Distress and Safety System installed and operating in good working condition.

SEC. 310. RESTRICTIONS ON OVER-THE-AIR RECEPTION DEVICES.

Within 180 days after the enactment of this Act, the Commission shall, pursuant to section 303, promulgate regulations to prohibit restrictions that inhibit a viewer's ability to receive video programming services through signal receiving devices designed for off-the-air reception of television broadcast signals or direct broadcast satellite services.

SEC. 311. DBS SIGNAL SECURITY.

Section 705(e)(4) of the Act (47 U.S.C. 605(e)) is amended by inserting after "satellite cable programming" the following: "or programming of a licensee in the direct broadcast satellite service".

SEC. 312. DELEGATION OF EQUIPMENT TESTING AND CERTIFICATION TO PRIVATE LABORATORIES.

Section 302 of the Act (47 U.S.C. 302) is amended by adding at the end the following:

"(e) USE OF PRIVATE ORGANIZATIONS FOR TESTING AND CERTIFICATION.—The Commission may—

"(1) authorize the use of private organizations for testing and certifying the compliance of devices or home electronic equipment and systems with regulations promulgated under this section;

"(2) accept as prima facie evidence of such compliance the certification by any such organization; and

"(3) establish such qualifications and standards as it deems appropriate for such private organizations, testing, and certification.".

TITLE IV—EFFECT ON OTHER LAWS

SEC. 401. RELATIONSHIP TO OTHER LAWS.

(a) MODIFICATION OF FINAL JUDGMENT.—This Act and the amendments made by title I of this Act shall supersede only the following sections of the Modification of Final Judgment:

(1) Section II(C) of the Modification of Final Judgment, relating to deadline for procedures for equal access compliance.

(2) Section II(D) of the Modification of Final Judgment, relating to line of business restrictions.

(3) Section VIII(A) of the Modification of Final Judgment, relating to manufacturing restrictions.

(4) Section VIII(C) of the Modification of Final Judgment, relating to standard for entry into the interexchange market.

(5) Section VIII(D) of the Modification of Final Judgment, relating to prohibition on entry into electronic publishing.

(6) Section VIII(H) of the Modification of Final Judgment, relating to debt ratios at the time of transfer.

(7) Section VIII(I) of the Modification of Final Judgment, relating to prohibition on implementation of the plan of reorganization before court approval.

(b) ANTITRUST LAWS.—Nothing in this Act or in the amendments made by this Act shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.

(c) FEDERAL, STATE, AND LOCAL LAW.—(1) Parts II and III of title II of the Communications Act of 1934 shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in such part.

(2) STATE TAX SAVINGS PROVISION.—Notwithstanding paragraph (1), nothing in this Act or the amendments made by this Act shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or supersession of, any State or local law pertaining to taxation, except as provided in sections 243(e) and 622 of the Communications Act of 1934 and section 602 of this Act.

(d) APPLICATION TO OTHER ACTION.—This Act shall supersede the final judgment entered December 21, 1984 and as restated January 11, 1985, in the action styled United States v. GTE Corp., Civil Action No. 83-1298, in the United States District Court for the District of Columbia, and any judgment or order with respect to such action entered on or after December 21, 1984, and such final judgment shall not be enforced with respect to conduct occurring after the date of the enactment of this Act.

(e) INAPPLICABILITY OF FINAL JUDGMENT TO WIRELESS SUCCESSORS.—No person shall be considered to be an affiliate, a successor, or an assign of a Bell operating company under section III of the Modification of Final Judgment by reason of having acquired wireless exchange assets or operations previously owned by a Bell operating company or an affiliate of a Bell operating company.

(f) ANTITRUST LAWS.—As used in this section, the term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes the Act of June 19, 1936 (49 Stat. 1526; 15 U.S.C. 13 et seq.), commonly known as the Robinson Patman Act, and section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(g) ADDITIONAL DEFINITIONS.—As used in this section, the terms "Modification of Final Judgment" and "Bell operating company" have the same meanings provided such terms in section 3 of the Communications Act of 1934.

SEC. 402. PREEMPTION OF LOCAL TAXATION WITH RESPECT TO DBS SERVICE.

(a) PREEMPTION.—A provider of direct-to-home satellite service shall be exempt from the collection or remittance, or both, of any tax or fee imposed by any local taxing jurisdiction with respect to the provision of direct-to-home satellite service. Nothing in this section shall be construed to exempt from collection or remittance any tax or fee on the sale of equipment.

(b) DEFINITIONS.—For the purposes of this section—

(1) DIRECT-TO-HOME SATELLITE SERVICE.—The term "direct-to-home satellite service" means the transmission or broadcasting by satellite of programming directly to the subscribers' premises without the use of ground receiving or distribution equipment, except at the subscribers' premises or in the uplink process to the satellite.

(2) PROVIDER OF DIRECT-TO-HOME SATELLITE SERVICE.—For purposes of this section, a "provider of direct-to-home satellite service" means a person who transmits, broadcasts, sells, or distributes direct-to-home satellite service.

(3) LOCAL TAXING JURISDICTION.—The term "local taxing jurisdiction" means any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other local jurisdiction in the territorial jurisdiction of the United States with the authority to impose a tax or fee, but does not include a State.

(4) STATE.—The term "State" means any of the several States, the District of Columbia, or any territory or possession of the United States.

(5) TAX OR FEE.—The terms "tax" and "fee" mean any local sales tax, local use tax, local intangible tax, local income tax, business license tax, utility tax, privilege tax, gross receipts tax, excise tax, franchise fees, local telecommunications tax, or any other tax, license, or fee that is imposed for the privilege of doing business, regulating, or raising revenue for a local taxing jurisdiction.

(c) PRESERVATION OF STATE AUTHORITY.—This section shall not be construed to prevent taxation of a provider of direct-to-home satellite service by a State or to prevent a local taxing jurisdiction from receiving revenue derived from a tax or fee imposed and collected by a State.

SEC. 403. PROTECTION OF MINORS AND CLARIFICATION OF CURRENT LAWS REGARDING COMMUNICATION OF OBSCENE AND INDECENT MATERIALS THROUGH THE USE OF COMPUTERS.

(a) PROTECTION OF MINORS.—

(1) GENERALLY.—Section 1465 of title 18, United States Code, is amended by adding at the end the following:

"Whoever intentionally communicates by computer, in or affecting interstate or foreign commerce, to any person the communicator believes has not attained the age of 18 years, any material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs, or attempts to do so, shall be fined under this title or imprisoned not more than five years, or both.".

(2) CONFORMING AMENDMENTS RELATING TO FORFEITURE.—

(A) Section 1467(a)(1) of title 18, United States Code, is amended by inserting "communicated," after "transported,".

(B) Section 1467 of title 18, United States Code, is amended in subsection (a)(1), by striking "obscene".

(C) Section 1469 of title 18, United States Code, is amended by inserting "communicated," after "transported," each place it appears.

(b) CLARIFICATION OF CURRENT LAWS REGARDING COMMUNICATION OF OBSCENE MATERIALS THROUGH THE USE OF COMPUTERS.—

(1) IMPORTATION OR TRANSPORTATION.—Section 1462 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph, by inserting "(including by computer) after "thereof"; and

(B) in the second undesignated paragraph—

(i) by inserting "or receives," after "takes";

(ii) by inserting ", or by computer," after "common carrier"; and

(iii) by inserting "or importation" after "carriage".

(2) TRANSPORTATION FOR PURPOSES OF SALE OR DISTRIBUTION.—The first undesignated paragraph of section 1465 of title 18, United States Code, is amended—

(A) by striking "transports in" and inserting "transports or travels in, or uses a facility or means of,";

(B) by inserting "(including a computer in or affecting such commerce)" after "foreign commerce" the first place it appears; and

(C) by striking ", or knowingly travels in" and all that follows through "obscene material in interstate or foreign commerce," and inserting "of".

TITLE V—DEFINITIONS

SEC. 501. DEFINITIONS.

(a) ADDITIONAL DEFINITIONS.—Section 3 of the Act (47 U.S.C. 153) is amended—

(1) in subsection (r)—

(A) by inserting "(A)" after "means"; and

(B) by inserting before the period at the end the following: ", or (B) service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by

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which a subscriber can originate and terminate a telecommunications service within a State but which does not result in the subscriber incurring a telephone toll charge"; and

(2) by adding at the end thereof the following:

"(35) AFFILIATE.—The term 'affiliate', when used in relation to any person or entity, means another person or entity who owns or controls, is owned or controlled by, or is under common ownership or control with, such person or entity.

"(36) BELL OPERATING COMPANY.—The term 'Bell operating company' means—

"(A) Bell Telephone Company of Nevada, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, New England Telephone and Telegraph Company, New Jersey Bell Telephone Company, New York Telephone Company, U S West Communications Company, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, The Bell Telephone Company of Pennsylvania, The Chesapeake and Potomac Telephone Company, The Chesapeake and Potomac Telephone Company of Maryland, The Chesapeake and Potomac Telephone Company of Virginia, The Chesapeake and Potomac Telephone Company of West Virginia, The Diamond State Telephone Company, The Ohio Bell Telephone Company, The Pacific Telephone and Telegraph Company, or Wisconsin Telephone Company;

"(B) any successor or assign of any such company that provides telephone exchange service.

"(37) CABLE SYSTEM.—The term 'cable system' has the meaning given such term in section 602(7) of this Act.

"(38) CUSTOMER PREMISES EQUIPMENT.—The term 'customer premises equipment' means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

"(39) DIALING PARITY.—The term 'dialing parity' means that a person that is not an affiliated enterprise of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer's designation from among 2 or more telecommunications services providers (including such local exchange carrier).

"(40) EXCHANGE ACCESS.—The term 'exchange access' means the offering of telephone exchange services or facilities for the purpose of the origination or termination of interLATA services.

"(41) INFORMATION SERVICE.—The term 'information service' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service. For purposes of section 242, such term shall not include the provision of video programming directly to subscribers.

"(42) INTERLATA SERVICE.—The term 'interLATA service' means telecommunications between a point located in a local access and transport area and a point located outside such area.

"(43) LOCAL ACCESS AND TRANSPORT AREA.—The term 'local access and transport area' or 'LATA' means a contiguous geographic area—

"(A) established by a Bell operating company such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the Modification of Final Judgment before the date of the enactment of this paragraph; or

"(B) established or modified by a Bell operating company after the date of enactment of this paragraph and approved by the Commission.

"(44) LOCAL EXCHANGE CARRIER.—The term 'local exchange carrier' means any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under section 332(c), except to the extent that the Commission finds that such service as provided by such person in a State is a replacement for a substantial portion of the wireline telephone exchange service within such State.

"(45) MODIFICATION OF FINAL JUDGMENT.—The term 'Modification of Final Judgment' means the order entered August 24, 1982, in the antitrust action styled United States v. Western Electric, Civil Action No. 82-0192, in the United States District Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after August 24, 1982.

"(46) NUMBER PORTABILITY.—The term 'number portability' means the ability of users of telecommunications services to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when changing from one provider of telecommunications services to another, as long as such user continues to be located within the area served by the same central office of the carrier from which the user is changing.

"(47) RURAL TELEPHONE COMPANY.—The term 'rural telephone company' means a local exchange carrier operating entity to the extent that such entity—

"(A) provides common carrier service to any local exchange carrier study area that does not include either—

"(i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recent available population statistics of the Bureau of the Census; or

"(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

"(B) provides telephone exchange service, including telephone exchange access service, to fewer than 50,000 access lines;

"(C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

"(D) has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of this paragraph.

"(48) TELECOMMUNICATIONS.—The term 'telecommunications' means the transmission, between or among points specified by the subscriber, of information of the subscriber's choosing, without change in the form or content of the information as sent and received, by means of an electromagnetic transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

"(49) TELECOMMUNICATIONS EQUIPMENT.—The term 'telecommunications equipment' means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

"(50) TELECOMMUNICATIONS SERVICE.—The term 'telecommunications service' means the offering, on a common carrier basis, of telecommunications facilities, or of telecommunications by means of such facilities. Such term does not include an information service.".

(b) STYLISTIC CONSISTENCY.—Section 3 of the Act (47 U.S.C. 153) is amended—

(1) in subsections (e) and (n), by redesignating clauses (1), (2) and (3), as clauses (A), (B), and (C), respectively;

(2) in subsection (w), by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(3) in subsections (y) and (z), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(4) by redesignating subsections (a) through (ff) as paragraphs (1) through (32);

(5) by indenting such paragraphs 2 em spaces;

(6) by inserting after the designation of each such paragraph—

(A) a heading, in a form consistent with the form of the heading of this subsection, consisting of the term defined by such paragraph, or the first term so defined if such paragraph defines more than one term; and

(B) the words "The term";

(7) by changing the first letter of each defined term in such paragraphs from a capital to a lower case letter (except for "United States", "State", "State commission", and "Great Lakes Agreement"); and

(8) by reordering such paragraphs and the additional paragraphs added by subsection (a) in alphabetical order based on the headings of such paragraphs and renumbering such paragraphs as so reordered.

(c) CONFORMING AMENDMENTS.—The Act is amended—

(1) in section 225(a)(1), by striking "section 3(h)" and inserting "section 3";

(2) in section 332(d), by striking "section 3(n)" each place it appears and inserting "section 3"; and

(3) in sections 621(d)(3), 635(d), and 637(a)(2), by striking "section 3(e)" and inserting "section 3".

TITLE VI—SMALL BUSINESS COMPLAINT PROCEDURE

SEC. 601. COMPLAINT PROCEDURE.

(a) PROCEDURE REQUIRED.—The Federal Communications Commission shall establish procedures for the receipt and review of complaints concerning violations of the Communications Act of 1934, and the rules and regulations thereunder, that are likely to result, or have resulted, as a result of the violation, in material financial harm to a provider of telemessaging service, or other small business engaged in providing an information service or other telecommunications service. Such procedures shall be established within 120 days after the date of enactment of this Act.

(b) DEADLINES FOR PROCEDURES; SANCTIONS.—The procedures under this section shall ensure that the Commission will make a final determination with respect to any such complaint within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, as determined by the Commission in accordance with such regulations, the Commission shall, within 60 days after receipt of the complaint, order the common carrier and its affiliates to cease engaging in such violation pending such final determination. In addition, the Commission may exercise its authority to impose other penalties or sanctions, to the extent otherwise provided by law.

(c) DEFINITION.—For purposes of this section, a small business shall be any business entity that, along with any affiliate or subsidiary, has fewer than 300 employees.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies."

A motion to reconsider was laid on the table.

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APPOINTMENT OF CONFEREES

Mr. BLILEY. Mr. Speaker, pursuant to section 2 of H. Res. 207, I offer a motion.

The Clerk read as follows:

Mr. BLILEY moves that the House insist on its amendment to the Senate bill, S. 652, and request a conference with the Senate thereon.

The motion was agreed to.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DINGELL moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendments to the bill S. 652 be instructed to insist upon those provisions of the Senate bill and House amendment thereto which open all telecommunications markets to fair competition as expeditiously as possible in order to achieve the goal of maximizing consumer choices and benefits.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. DINGELL] will be recognized for 30 minutes, and the gentleman from Virginia [Mr. BLILEY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, just prior to our adjournment last August, the House approved H.R. 1555, the Communications Act of 1995. That landmark legislation breaks down the barriers that inhibit competition in the telecommunications industries. I am offering this motion to instruct conferees to ensure that the consumer benefits that will result from the enactment of this bill will occur as quickly as possible.

Mr. Speaker, it should come as no surprise that many of the companies that are currently shielded from competition would like to preserve their privileged position in the marketplace. As long as they are able to limit competition, however, they deprive consumers of the benefits that competition will bring. And these benefits are many: Lower prices, improved products and services, more rapid innovation, and greater sensitivity to consumer needs. We passed H.R. 1555 to expedite the delivery of these benefits to consumers. They should not be held hostage to the interests of companies that would rather compete with their lobbyists instead of in the marketplace.

I urge my colleagues to join me in support of this motion. It is my hope that the House and Senate conferees can resolve their differences quickly, and that we can send the President a bill that he can sign without further delay. To do otherwise would deprive our constituents of the many benefits that competition can bring.

I urge the adoption of the motion.

□ 1715

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in support of the motion to instruct conferees offered by the gentleman from Michigan.

I agree with the gentleman that the core principle of telecommunications reform must be the concept of promoting competition as rapidly as possible. It is competition, and not government-mandated monopolies, which will best serve the public interest.

Our job in crafting legislation of this nature is to ensure that proper guidelines are installed during the transition period as we move towards full and open competition. It is true that the two bodies of Congress have produced slightly different approaches, but these approaches are based on an identical premise—that full competition must be the end result of any attempts at telecommunications reform.

Mr. Speaker, it is also true that bringing about telecommunications policy reform will benefit the American consumer. Telecommunications reform legislation will help increase technological innovation, lower prices for services, increase choices of products and services, create high-quality jobs, and increase the quality of living for our citizens. We should not forget that this bill is intended to promote consumer welfare.

I look forward to working with conferees in producing a bill that the President will sign and I thank my good friend from Michigan, Mr. DINGELL, for his support and help throughout this process.

I urge all Members to support the motion to instruct conferees.

Thank you, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the gentleman from Michigan for yielding me this time.

Working in a bipartisan fashion with the members of the majority, it is our hope that we will be able to craft a historic telecommunications bill which will open all telecommunications marketplaces to full and open competition.

As we all know, each of these marketplaces, from cable to long-distance to local telephone markets, have been subject to historic monopoly practices. This bill will open them wide open and permanently.

We now go with the naming of the conferees to negotiate with the Senate, and it is our full intention that out of this historic negotiation we will be able to produce a bill back out here on the floor of the House within a very short period of time ready for a vote and then presentation to the President of the United States for his signature. That is the sincere, deep-felt conviction on the part of all who have participated in this process, and let us hope that the naming of the conferees today begins a very short process toward the culmination of that proceeding.

The gentleman from Virginia [Mr. BLILEY], the gentleman from Texas [Mr. FIELDS], the gentleman from Michigan [Mr. DINGELL], and I, and all the members of the committee have the full intent of making that the final product of our efforts this year.

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. FIELDS], the chairman of the Subcommittee on Telecommunications and Finance, a man who has been totally consumed by this legislation and who has done an outstanding job.

(Mr. FIELDS of Texas asked and was given permission to revise and extend his remarks.)

Mr. FIELDS of Texas. Mr. Speaker, I stand up here recognizing that is a watershed, historic moment as we enter this conference, and I want to build upon something that my good friend, the gentleman from Massachusetts [Mr. MARKEY], said just a moment ago. We are here after 2¾ years of very hard work, and I think it is a real tribute to each of the people who are here on the floor, particularly the gentleman from Michigan [Mr. DINGELL], the gentleman from Massachusetts [Mr. MARKEY], our chairman, the gentleman from Virginia [Mr. BLILEY], and others who have labored so hard in a bipartisan way to fashion a piece of legislation that catapults this country into the 21st century, moving us from the industrial age into the information age.

I am proud to say that we have worked trying very hard to keep the playing field level, not to be protelephone, procable, prosatellite, probroadcast, but to be proconsumer. I think that is what this bill really does.

As I understand the thrust of the motion to instruct by my good friend, the gentleman from Michigan [Mr. DINGELL], it talks about consumer choice in competition, and that is really what the promise and the potential of this legislation really holds, the ability of a consumer to have choice, that choice emanating from competition. We think there will be some real benefits.

We think that the consumer will have better and newer technology. We think there will be new applications for existing technology, and we think those benefits will be brought to the consumer at a lower per capita cost. That is the potential of what is there.

There is not a more important piece of legislation that comes before this body. I am convinced that, when we come to agreement with the Senate, when this legislation is taken to the President, a piece of legislation that the President will sign, we will see tens of billions of dollars invested in new infrastructure and new technology. We will see tens of thousands of new jobs created.

So this is important work. This is work that our committee is ready to engage in with the Senate.

Mr. BLILEY. Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

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Mr. DINGELL. Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. LAHOOD). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Michigan [Mr. DINGELL].

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

Conferees on S. 652, Telecommunications Act:

From the Committee on Commerce, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Messrs. BLILEY, FIELDS of Texas, OXLEY, WHITE, DINGELL, MARKEY, BOUCHER, Ms. ESHOO, and Mr. RUSH.

Provided, Mr. PALLONE is appointed in lieu of Mr. BOUCHER solely for consideration of section 205 of the Senate bill.

As additional conferees, for consideration of sections 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–311, 401–02, 405–06, 410, 601–06, 703, and 705 of the Senate bill, and title I of the House amendment, and modifications committed to conference: Messrs. SCHAEFER, BARTON of Texas, HASTERT, PAXON, KLUG, FRISA, STEARNS, BROWN of Ohio, GORDON, and Mrs. LINCOLN.

As additional conferees, for consideration of sections 102, 202–03, 403, 407–09 and 706 of the Senate bill, and title II of the House amendment, and modifications committed to conference: Messrs. SCHAEFER, HASTERT, and FRISA.

As additional conferees, for consideration of sections 105, 206, 302, 308, 312, 501–05, and 701–02 of the Senate bill, and title III of the House amendment, and modifications committed to conference: Messrs. STEARNS, PAXON, and KLUG.

As additional conferees, for consideration of sections 7–8, 226, 404, and 704 of the Senate bill, and titles IV–V of the House amendment, and modifications committed to conference: Messrs. SCHAEFER, HASTERT, and KLUG.

As additional conferees, for consideration of title VI of the House amendment, and modifications committed to conference: Messrs. SCHAEFER, BARTON of Texas, and KLUG.

As additional conferees from the Committee on the Judiciary, for consideration of the Senate bill (except sections 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–311, 401–02, 405–06, 410, 601–06, 703, and 705), and of the House amendment (except title I), and modifications committed to conference: Messrs. HYDE, MOORHEAD, GOODLATTE, BUYER, FLANAGAN, CONYERS, SCHROEDER and BRYANT of Texas.

As additional conferees, for consideration of sections 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–311, 401–02, 405–06, 410, 601–06, 703, and 705 of the Senate bill, and title I of the House amendment, and modifications committed to conference: Messrs. HYDE, MOORHEAD, GOODLATTE, BUYER, FLANAGAN, GALLEGLY, BARR, HOKE, CONYERS, Mrs. SCHROEDER, Messrs. BERMAN, BRYANT of Texas, SCOTT, and Ms. JACKSON-LEE.

There was no objection.

MOTION TO INSTRUCT CONFEREES ON S. 652 TELECOMMUNICATIONS BILL

(Mr. CONYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, I rise in support of this motion to instruct the conferees.

As ranking member of the Judiciary Committee which has jurisdiction over the antitrust laws which lie at the heart of the M-F-J, I believe we in Congress should be doing everything we can to foster fair competition.

I am, therefore, encouraged by the fact that my good friend and Michigan colleague and distinguished ranking member of the Commerce Committee, Mr. DINGELL, agreed to specify in this motion that the conferees support those provisions which promote fair competition in telecommunications.

That means that we should open telecommunications markets only to the extent that we can be sure that monopolies will not abuse the principles of fair and open competition in the marketplace. Such abuse of monopolistic power would surely lead to higher consumer prices.

During the conference I will be doing everything within my power to ensure that the final bill provides for fair competition without the possibility of monopoly abuse. I fought for fair competition in the Judiciary Committee with Chairman HYDE, I fought for fair competition on the House floor, and I hope that as the House and Senate bills are reconciled we can achieve an accommodation providing fair competition for the American people.

If the final legislative product does not achieve such an accommodation, but instead allows monopolies to abuse their market power, this would be a dramatic step backward from the M-F-J. In such an event, I believe it would be preferable for the President to veto the legislation so we can begin work again next Congress.

Finally, I note that nothing in this motion preempts conferees from being very flexible. Nothing prevents the conferees from looking at a whole variety of alternatives that will promote fair competition.

Nothing in this motion should prevent the conferees from engaging in serious discussions with the administration so that a consensus package can be arrived at, and so that we can have meaningful telecommunications reform this year.

I urge a "yes" vote on this motion and a vote for fair competition.

OMNIBUS CIVILIAN SCIENCE AUTHORIZATION ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 234 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2405.

□ 1727

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2405) to authorize appropriations for fiscal years 1996 and 1997 for civilian science activities of the Federal Government, and for other purposes, with Mr. KINGSTON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Massachusetts [Mr. KENNEDY] had been disposed of and title V was open for amendment at any point.

Are there further amendments to title V?

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California: Page 133, line 5, strike subparagraph (A).

Page 133, lines 6 and 7, redesignate subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

Mr. BROWN of California. Mr. Chairman, this is the third of three amendments all in one paragraph on page 133, which seeks to strike language which disallows funding for three existing EPA programs which, in our opinion on this side, are vitally important to the improvement of our environment. The previous two have been offered by the gentlewoman from California [Ms. LOFGREN] and the gentleman from Massachusetts [Mr. KENNEDY], dealing with indoor air pollution research and with the climate change action plan.

My amendment would eliminate the paragraph, the line, which deauthorizes funding for the environmental technology initiative. My amendment strikes this because we believe that the philosophy behind the deauthorization is incorrect, and as I indicated earlier, this debate is aimed at exploring philosophical differences rather than any hopes of getting a really good bill.

□ 1750

On the other side, this particular program in environmental technology, which is aimed at providing encouragement and assistance to private industry to develop environmentally safe and benign technologies and to create and exploit markets based upon this, is considered to be a form of corporate welfare.

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