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What we are saying is those who provide the services will contribute to the fund. It will broaden the base, as the Senator indicated.

I accept the Senator's amendment. If nothing else, it will give Congress notice every year how the cost of this system is going down by virtue of what we have done.

Mr. KERREY. I would, in fact, love to have the FCC provide in notification some explanation of how this fund works. I would not mind that at all, if I could understand the thing once and for all.

The question I have is really the 120-day period. Notification is not a problem for me. The question is, does this delay? Would this have the impact, do you believe, of delaying an opportunity for reducing the levy on other carriers?

Mr. McCAIN. I say to my friend from Nebraska, if he will yield, it is only if there is an indication of an increase would the 120-day prior notification——

Mr. KERREY. The language of the amendment says "may not take action to impose universal service contributions under subsection (c), or take action to increase the amount of such contributions, until—".

Subsection (c) is an attempt to broaden the base of contributions, to get new providers of services who are currently not contributing to the universal service fund to make a contribution to the universal service fund.

My concern is that if that is what we are trying to do, we could delay the actual reduction that is currently being imposed on other carriers. I do not know if that is right or not. I just raise the question.

Mr. McCAIN. Mr. President, I will say to my friend from Nebraska, that is not the intent of the legislation. I can see how it would possibly be interpreted that way. But what we were trying to say is they may change the formula, which would not have an immediate impact, but then would have an impact later on.

That is why the first part of it says "may not take action to impose universal service contributions." In other words, the immediate impact may not be an increase in rates but the long-term impact would be. As I say, I will glad to modify the amendment in such a fashion that if there is a rate reduction, which would be contemplated in any event, this would not apply.

I ask unanimous consent to modify the amendment to reflect the colloquy just discussed between myself and the Senator from Nebraska. We will write it up.

The PRESIDING OFFICER. The Chair advises the Senator he can modify his amendment, but the Chair will need the modification. The Chair does not have the modification.

Mr. McCAIN. With the indulgence of the Chair, we will have it in approximately 1 minute. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1260, AS MODIFIED

Mr. McCAIN. Mr. President, I send a modification to the desk and ask for the appropriate portion to be read by the clerk. It is a new paragraph.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

On page 2, after line 6 of the amendment, add the following: (3) The provisions of this paragraph shall not apply to any action taken that would reduce costs to carriers or consumers.

The amendment, as modified, is as follows:

On page 42, strike out line 23 and all that follows through page 43, line 2, and insert in lieu thereof the following;

"(j) CONGRESSIONAL NOTIFICATION OF UNIVERSAL SERVICE CONTRIBUTIONS.—The Commission may not take action to impose universal service contributions under subsection (c), or take action to increase the amount of such contributions, until—

"(1) 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 contributions, or increase in such contributions, to be imposed; and

"(2) a period of 120 days has elapsed after the date of the submittal of the report.

"(3) The provisions of this paragraph shall not apply to any action taken that would reduce costs to carriers or consumers.

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

Mr. McCAIN. Mr. President, I hope that will satisfy the Senator from Nebraska.

Mr. KERREY. It most assuredly does. I appreciate the change made, and I believe it is an improvement. I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

So the amendment (No. 1260), as modified, was agreed to.

Mr. PRESSLER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1261

(Purpose: To prevent excessive FCC regulatory activities)

Mr. McCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. PACKWOOD, Mr. CRAIG, Mr. KYL, Mr. GRAMM, Mr. ABRAHAM, and Mr. BURNS, proposes an amendment numbered 1261.

Mr. McCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 90, line 6, after "necessity.", insert: "Full implementation of the checklist found in subsection (b)(2) shall be deemed in full satisfaction of the public interest, convenience, and necessity requirement of this subparagraph."

Mr. McCAIN. Mr. President, I uhderstand that my colleague from Alaska has a very important commitment. He wanted this amendment raised at this time. I am more than happy to do so. I understand that it is a very important one, in his view. As always, I look forward to vigorous discussion of this amendment.

Mr. President, this amendment would clarify the role of the FCC regarding public interest tests contained in the bill. It is supported by Senators PACKWOOD, CRAIG, ABRAHAM, KYL, and GRAMM and a letter supporting this amendment was signed by Senators PACKWOOD, MCCAIN, CRAIG, BURNS, KYL, GRAMM, HATCH, THOMAS, and BREAUX.

As S. 652 is currently drafted, it contains two substantial hurdles for a regional Bell operating company before the company can fully compete in any marketplace. I believe the consumer would be better off if such hurdles did not exist and companies were allowed to compete at a date certain.

I understand that some believe there is a need for a competitive checklist. Originally, the approach that others and myself favored allowed competition at a date certain. It was my understanding, in dealing with my colleagues on this issue, that the compromise would be a checklist that the regional Bell operating companies would have to comply with.

During the compromise, obviously, that changed. And so in addition to the checklist, we went back and placed judgment of this in the hands of the FCC in the form of public interest.

Entrepreneurs, not the Congress, nor the FCC, should make these kinds of decisions, in my view. Neither I nor anyone else in the Senate wants the FCC to act contrary to public interest. My concern is that different individuals will have different interpretations of what is in the public interest. I strongly believe that our interpretation and that of the commissioner of the FCC would be different.

A finding of public interest is an ill-defined, arbitrary standard which implies almost limitless policymaking authority to the FCC. The public interest test gives the FCC policymaking authority. The purpose of this bill should be to lessen the FCC's authority, not to enhance it. The public interest test allows the FCC to act to establish a policy and control private companies and whole industries. I believe that it can prevent full competition for a very long period of time.

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