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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

(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—

AMENDMENT NO. 1265, AS MODIFIED

Mr. THURMOND. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 1265), as modified, is as follows:

Strike all after the first word of the pending amendment and insert the following:

(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.

SUBTITLE B—TERMINATION OF MODIFICATION OF FINAL JUDGMENT

SEC. 231. 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, 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 to the extent approved by the Commission and the Attorney General of the United States, 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 action 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 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 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," a telecommunications carrier may not jointly market telephone exchange service in such telephone exchange area 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 and the Attorney General 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 AND ATTORNEY GENERAL.—

"(A) DETERMINATION.—Not later than 90 days after receiving an application under paragraph (1), the Commission and the Attorney General shall each issue a written determination, on the record after a hearing and opportunity for comment, granting or denying the application in whole or in part.

"(B) APPROVAL BY COMMISSION.—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. In making its determination whether the requested authorization is consistent with the public interest convenience, and necessity, the Commission shall not consider the antitrust effects of such authorization in any market for which authorization is sought. If the Commission does not approve an application under this subparagraph, it shall state the basis for its denial of the application.

"(C) APPROVAL BY ATTORNEY GENERAL.—The Attorney General may only approve the authorization requested in an application submitted under paragraph (1) if the Attorney General finds that the effect of such authorization will not substantially lessen

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competition, or tend to create a monopoly in any line of commerce in any section of the country. The Attorney General may approve all or part of the request. If the Attorney General does not approve an application under this subparagraph, the Attorney General shall state the basis for the denial of the application.".

"(3) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (2), the Commission and the Attorney General shall each 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 or the Attorney General is published under paragraph (3), the Bell operating company or its subsidiary or affiliate that applied to the Commission and the Attorney General 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 or the Attorney General 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 States 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 au-".

AMENDMENT NO. 1264, AS MODIFIED

Mr. HOLLINGS. I thank the distinguished Senator.

(7) telecommunications services and network functions of the local exchange carrier to be available to the telecommunications carrier 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 the purposes of this paragraph, it is not an unreasonable condition for a State to limit the resale—

(A) of services included—

I could keep on reading. I hope the colleagues will refer right on past page 19.

How this was developed is powerfully interesting, Mr. President, because we had the lawyers. I said earlier today 60,000 lawyers are licensed to practice before the District of Columbia bar; 59,000 of them are communications lawyers, and they have all been meeting here for the last 2 years. They know every little motion, every little twist, every little word, every little turn.

This is nothing about the Department of Justice. All of this has to be done by the Federal Communications Commission. Talk about expertise. How high and mighty and what a great aura of austerity and other things we have to have here for the Department of Justice. The Department of Justice looks out at the market and finds out if there is any unreasonable monopolistic practices in restraint of trade. They have a very broad thing. They do not look at any of these things. They would not be equipped to and would not know.

When you get through having done all of this, which really ends up into actual and demonstrable competition, which ends up actually being the 8(c) test under the modified final judgment, when you have done all of that, there is one other catchall, and that was referred to earlier today in an overwhelming vote of the public interest standard. That is why you had it, Mr. President. For everybody's understanding, if you wanted to know why they were fighting to get rid of the public interest standard, we had the catchall in there that the public interest standard had to be adhered to, and that was measured by the Federal Communications Commission.

Here is how that reads:

If the commission determines the requested authorization is consistent with the public interest convenience and necessity. . .

Now that is a tremendous body of law under the present and continuing to be 1934 Communications Act. Oh, it would be great to come and have the Pressler Act, the Hollings Act. We could go down in history.

But there is a tremendous body of law under the 1934 Communications Act, and if we started anew with an entirely new communications act for our own egos around here, then we would have really messed up 60 years of law and decisions, res adjudicata, understandings, and we would have caused tremendous mischief. We would not have deregulated anybody. We would have thrown the information superhighway into the ditch.

So what we did is refer back to that where it is referred as a public interest matter 73 times under the original 1934 act.

The Commission, after doing all of that, has at its hand a duty affirmatively—you are talking about affirmative action in Washington these days. The affirmative action imposed upon the Federal Communications Commission is found on page 89 where 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."

Then if the colleagues would turn to page 43 of the committee report:

Within 90 days of receiving an application, the FCC must issue a written determination, after notice and opportunity for a hearing on the record, granting or denying the application in whole or in part. The FCC is required to consult with the Attorney General regarding the application during that 90-day period. The Attorney General may analyze a Bell operating company application under any legal standard (including the Clayton Act, Sherman Act, other antitrust laws, section 8(c) of the modified final judgment, Robinson-Patman Act or any other antitrust standard).

I can tell you, Mr. President, that you cannot do a better job than that. I have no misgivings for the wonderful vote on the good bill, 1822. We were ready, willing and able to pass it as it was. I was passing it the best way we could. But on second thought, looking at the votes, the support, the determination of the colleagues—and that is what we all said in the very beginning, that this is a good balance, we do not disregard the public on a fundamental here. What we do—and it is well to be argued—is that we consider the public. If you go down all the particular things required, plus the public interest standard, if you go into the Attorney General coming in, you know that is going to raise a question if the Attorney General sees any substantial possibility of monopoly power being used to impede competition or the other Clayton 7 act substantially lessening competition.

Either way, or any other way, under the Sherman Act, the Attorney General has an affirmative duty to advise, and that is right quick like, because they have to do it under a stated time here in our act. I do not know how to more deliberately go about the particular granting of licensing and opening up of markets, allowing the Bell operating companies into long distance and the long distance into the Bell operating companies and to let competition ensue.

So both of these amendments—the amendment of the distinguished Senator from South Carolina to the second degree under the Clayton 7 test is cared for under this S. 652. The 8(c) test of no substantial possibility, of impeding competition, is taken care of here. And over and above it all, it is stated clear on page 8 of the particular bill that all standards can be used by the Attorney General. The Attorney General has its duties. They are generally criminal duties, and we should not have our wonderful carriers, whether they be Bell operating companies, long distance companies, or any other telecommunications carriers, even calling over there and trying to find a Justice department lawyer, rather than a Federal Communication Commission lawyer. It is like ailments physically, when you have to get a special doctor. Well, you need a special lawyer for that. Once he gets into that and they get the billable hours and the motions and clarifications and everything else, you can forget about your communications company. It has gone down the tubes financially. We put it in there to make sure that the Antitrust Division of the United States Justice Department is not impeded in any fashion.

"Nothing in this act shall be construed to modify, impair, or supersede

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