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Senate

(Legislative day of Monday, June 5, 1995)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, we often come to You listing out our urgent petitions. With loving kindness and faithfulness, You guide and provide. You bless us beyond our expectations and give us what we need on time and in time. Today, Lord, our prayer is for a much better memory of how You have heard and answered our petitions in the past. Now we really need the gift of a grateful heart.

We commit this day to count our blessings. We thank You for the gift of life, our relationship with You, for Your grace and forgiveness, for our family and friends, for the privilege of work, for the problems and perplexities that force us to trust You more, and for the assurance that You can use even the dark threads of difficulties in weaving the tapestry of our lives. Knowing how You delight to bless a thankful person, we thank You in advance for Your strength and care today. Lord, thank You not just for what You do but for who You are, blessed God and loving Father. In that confidence, we ask for Your providential care for Cardinal Joseph Bernardin in his time of physical need and suffering. Now guide us in the work of this Senate throughout this day. In Your holy name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. PRESSLER. This morning, the leader time has been reserved, and the Senate will immediately resume consideration of S. 652, the telecommunications bill. Under the consent agreement from last night, there are approximately nine amendments that are still pending to the telecommunications bill. Members should be on notice that at 12:15 the Senate will begin a series of rollcall votes on or in relation to those pending amendments with the last vote in the order being on final passage.

The Senate is open for business. We welcome Senators to come to the floor to make their speeches and deal with their amendments.

LEAVE OF ABSENCE

Mr. DOLE. Mr. President, I announce that the Senator from Utah [Mr. HATCH] is necessarily absent from the Senate. He is attending the meeting of the International Olympic Committee in Budapest, Hungary, along with the delegation of officials from Utah and the United States Olympic Committee.

Salt Lake City was earlier selected as America's choice to host the 2002 Winter Olympic Games, and a final vote on site selection will be taken by the IOC at their meeting in Budapest. Senator HATCH is in attendance at these important meetings in support of Salt Lake City to be the host city and of the United States to be the host country for this premier international event.

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The PRESIDENT pro tempore. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A 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 Senate resumed consideration of the bill.

Pending:

Hollings (for Breaux) amendment No. 1299, to require that at least 80 percent of vessels required to implement the Global Maritime Distress and Safety System have the equipment installed and operating in good working condition.

Pressler (for McCain) amendment No. 1285, to means test the eligibility of the community users.

Simon modified amendment No. 1283, to revise the authority relating to Federal Communications Commission rules on radio ownership.

Heflin amendment No. 1367, to provide for a local exchange carrier to acquire cable systems.

Pressler (for Dole) amendment No. 1341, to strike the volume discounts provisions.

Warner modified amendment No. 1325, to require additional rules as a precondition to the authority for the Bell operating companies to engage in research and design activities relating to manufacturing.

Lieberman amendment No. 1298, to establish a determination of reasonableness of cable rates.

Rockefeller amendment No. 1292, to eliminate any possible jurisdictional question arising from universal service references in the health care providers for rural areas provision.

Stevens-Inouye amendment No. 1303, to ensure that resale of local services and functions is offered at an appropriate price for providing such services.

AMENDMENT NO. 1285

The PRESIDING OFFICER (Mr. GREGG). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I wish to take a few minutes to discuss the amendment No. 1285 that I have offered on behalf of Senators SNOWE, ROCKEFELLER, EXON, KERREY, CRAIG, and myself.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Mr. President, it is my understanding that one-half hour has been reserved for debate on this amendment. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. McCAIN. Mr. President, I intend to just use a few minutes and then reserve the remainder of that time for any of the Senators who wish to speak on the amendment any time between now and 12:15, if that is agreeable to the manager.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. I thank the Chair.

Mr. President, the amendment would effectively means test the community users provision in this bill. The amendment states that no for-profit business, school with an endowment of $50 million or more, or library that is not eligible for participation in the State-based plan qualifying for library services and Construction Act title III funds will receive preferential rates of treatment.

Mr. President, as the part of the bill that came to the floor which was added as an amendment in committee, as it states now, any school, library, or hospital would be eligible for preferential rates or treatment.

I understand the intent of that amendment. It has been made very clear and was again made clear when I proposed an amendment to remove that provision of the bill entirely.

However, I am very pleased that Senators SNOWE, ROCKEFELLER, EXON, KERREY, and others are in support of this amendment especially since Senators SNOWE and ROCKEFELLER are the prime sponsors of that amendment that was put into the bill in committee.

This amendment would ensure that those who most need it, a rural health clinic or small school in any part of America including West Virginia, receive the most help. If this amendment is adopted, every public and nonprofit grade and secondary school in this country will receive preferential rates, every public library will receive preferential rates, and every nonprofit community health clinic will receive preferential rates. But this amendment will prevent some of the wealthiest in this country from unduly benefiting at the same time.

As I mentioned earlier, I offered an amendment that would have eliminated the Snowe-Rockefeller provisions. I believe it is unnecessary for us to federalize this role of the States. I am disappointed that the Senate disagrees. I pointed out that in nearly all of the 50 States in America, the States have acted to provide some kind of help for schools, libraries, and health care providers in various ways, each of these States tailoring specific programs to specific needs in those States. And again I question seriously that we in the Senate can tailor programs that fit as diverse a nation as we have today.

I listened to my colleagues from West Virginia, Nebraska, and Maine very closely. While they commented extensively on the need to ensure that we do not have technology haves and have-nots, surely they would agree we should not subsidize those who can well afford telecommunications services. My friend from Nebraska, Senator KERREY, specifically expressed his cogent argument on the need to help the poorest and most in need in our country. I believe this amendment addresses the issues raised by my friend, and I am pleased to offer this amendment with the support of the Senator from Nebraska.

Mr. President, I agree we must do what we can to prevent that from occurring. I believe that the free market will accomplish that goal. I also believe that vouchers will end up someday being the method by which we best address these problems of people who cannot afford basic telecommunications services. But at this time it is clear that neither the Senate nor the country is prepared for that.

I was interested in the opposition to the vouchers amendment that I put forward. If there was ever ample testimony to the clout of the special interests that are involved in this issue, it was the size of the defeat of that amendment—not because I believe it was a perfect amendment but there is no doubt in my mind that every player in this very complex issue, whether it be AT&T, the Bell telephone companies, the manufacturers, every other entity involved was opposed to this voucher idea, which has been supported by the Heritage Foundation, the Cato Institute, every objective observer of this situation that does not have any monetary involvement.

However, we received 18 votes, and if there was ever any testimony needed to the influence of the special interests in shaping this legislation, I believe when historians look at 18 votes, which was the purest and simplest way to provide the poor and the needy in this country with the ability to acquire telephone and telecommunications services, that was ample and compelling evidence and why I believe, Mr. President, that this bill, despite the great efforts of our distinguished chairman, who has done a magnificent job in shepherding this legislation this last nearly 2 weeks through the Senate, still has a lot of hurdles to overcome because of the inordinate influence of the special interests on this bill as opposed, very frankly, to the interests of the American public, which is not represented very well in this debate nor in the issues before the Senate.

Back to the amendment, Mr. President, the provisions in this bill would enable some of the wealthiest in our country to benefit. Rural hospitals will receive benefits. Certainly some rural hospitals need help. But there are rural hospitals operated by large parent companies that make hundreds of millions of dollars. There is no reason to subsidize these corporations.

Although the managers' amendment adopted allows the FCC to evaluate the subsidy scheme according to means, there is still a necessity to means test the provision. First, the FCC is going to pass regulations that treat all fairly and do not discriminate or which have a disparate impact. Such regulations benefit rich and poor equally. The amendment solves that problem.

Harvard University operates a library. The university also currently has a $6 billion endowment. Should the American people, many who do not have the resources of Harvard University, be forced to subsidize the school library's telecommunications services? I do not think so.

Do we want the well-to-do Humana Hospital Corp. which operates some rural hospitals to have a Government-sanctioned telephone discount? No, but we do want the small rural clinic to receive help. This amendment accomplishes that goal.

If the Congress is going to endorse a Federal role in ensuring technology to be available to all, then let us tailor it so we are helping those who need our help. It is a balanced, fair amendment. I have confidence in its adoption. I am greatly appreciative that Senators SNOWE, ROCKEFELLER, and KERREY in particular are in support of this amendment.

Mr. President, I reserve the remainder of my time. I believe that Senators SNOWE, ROCKEFELLER, and KERREY have expressed interest in speaking on this amendment. I ask the manager if he will allow them my time to do so when they come to the floor to speak.

Mr. President, I yield the floor.

Ms. SNOWE. Mr. President, I rise in support as a cosponsor of Senator MCCAIN'S amendment to clarify how universal service discounts to schools, libraries, and rural hospitals under section 310 of the telecommunications bill should be targeted.

As I noted last week in my remarks, I support targeting of discounts. For example, elementary and secondary schools with large endowments simply do not have the same need as public schools for discounts in order to assure affordable access to telecommunications services. In my view, the language in the bill gave the FCC, the States, and the Joint Board some flexibility to target discounts. Specifically, the language guaranteed schools and libraries an affordable rate, which implicitly takes into account both the price of the service and the ability of an entity to pay.

I appreciate the time and effort Senator MCCAIN has invested in working with the sponsors of section 310 to build upon the affordability concept, to develop a solid, responsible test of when schools, libraries, and rural hospitals should receive discounts in order

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to promote the goal of affordable access to telecommunications services.

Under the McCain amendment, public elementary and secondary schools would be eligible for discounts, as would private, nonprofit schools without large endowments. Libraries would be eligible for discounts if they participated in State-based plans under title III of the Library Services and Construction Act, which coordinate library development within the State. Nonprofit rural health care providers would also be eligible for discounts.

This amendment meets the twin goals which I am sure are supported by most Members of this Senate. First, it guarantees affordable access to telemedicine and educational telecommunications services for those key institutions in our society which need assistance in order to take full advantage of the information age. Second, by targeting the discounts, this amendment ensures that the universal service fund is used wisely and efficiently.

Mr. President, the provision of the bill sponsored by myself, Senators ROCKEFELLER, EXON, AND KERREY, is in my view one of the most important provisions of the bill. We know that competition will bring an array of improved services and exciting new services at a lower cost. Technology allows the transmission of information across traditional boundaries of time and space, dramatically changing the way that American school children learn, and the way that health care is provided. The Snowe-Rockefeller-Exon-Kerrey provision in the bill ensures that competition ultimately achieves this goal for all Americans, regardless of where they live. I realize that the distinguished Senator from Arizona believes that a deregulated market will take care of everyone, but I simply do not share that belief. Furthermore, the stakes are too great to leave affordable access to the marketplace. Again, I appreciate Senator MCCAIN'S willingness to work with myself and Senators ROCKEFELLER, EXON, and KERREY to clarify how discounts should be targeted, and I urge my colleagues to support the McCain amendment.

Mr. PRESSLER. Mr. President, I note that we have limited time. I urge Senators to come early to make their statements, as we are on a time agreement at this point. Any Senator wishing to speak should come forth.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent to be recognized as in morning business.

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

CARRYING OUT THE MANDATE

Mr. INHOFE. Mr. President, I just want to make a few comments while we are waiting for those referred to by the Senator from South Dakota to come and be heard.

Those of us who are in the freshman class have recently had a number of town hall meetings back in our respective States. As a matter of fact, I think I lead the group. I have had 77 since January.

Last week, I had some, and I want to just reaffirm that, in spite of the fact there are many people who are here in the U.S. Senate who do not spend as much time back in the districts, back talking to real people, that the revolution that was voted on back on November 8, 1994, is very real and it is alive at home. Some people are skeptical and do not think things are going on the way they should be going on here.

So I just share with you that I sometimes have a difficult time in conveying to people that the Senate is actually doing some things here. They hear about the House, they hear about the Contract With America, and some of the personalities over there that have dominated the national media. I have to remind people that in the first 3 months of this year in the U.S. Senate, we passed a number of reforms: One being the unfunded mandates reform; one being congressional accountability, forcing us to live under the same laws that we pass for other people; we also did a line-item veto; a type of moratorium on endangered species; we are getting ready to do regulation reform, to get the Government off the backs of the people who are paying for all the fun we are having up here.

The Senate may be slower and more deliberate, but we are performing, and a revolution is going on here.

But I say, Mr. President, that the people at home are just as adamant today as they were on November 8, 1994. The people at home are demanding that we do something about and carry out the mandate to eliminate the deficit. I think that they are a little impatient with the fact that we passed a resolution that would do this in 7 years, by the year 2002. I find it rather interesting the response that we are having right now as to the President coming out with his revised budget a couple of days ago.

We have talked to people and told them the President had his budget before this body some 3 weeks ago, and it was the typical large tax-and-spend, high-deficit budget that was rejected by this body, the U.S. Senate, by a vote of 99-0, and then Republicans passed our budget resolution which would eliminate the deficit by the year 2002.

I think we were all taken aback and a little surprised when the President came out with his announcement a couple days ago. In essence, what he said was, Well, we tried my budget, and that did not work. I'll just join the Republicans. Some people thought maybe the train went by, but I do not think so. I think there is room on the caboose for the President, and he came out and said, "Instead of that, let's not be quite as severe, let's do it over 10 years, not 7 years."

I cannot speak for the people of America, but I can speak for the people of Oklahoma. I am talking about Democrats and Republicans alike. People in Oklahoma think that even 7 years is too long. When you stop and realize what goes with high deficits, that means more Government involvement in our lives.

Today, I will be going over and testifying in the other body on a Superfund bill. That is just one area of overregulation in our lives, of abuse, of bureaucracy on the businesses and the industries that are paying taxes to support this monster in Washington, and it is going to change.

So I would like to give the assurance that there has been a change in the majority party that is controlling both the Senate and the House, and the Republicans are now in charge.

As we talk to our fellow Republicans and remind them that the mandate that gave the Republicans a majority in the House and a majority in the Senate cannot be ignored, because if we ignore it we cannot fulfill the provisions of that mandate—that is, less Government in our lives, a balanced budget we can see in the near future, and the Government more in concert with what was foreseen by our Forefathers many years ago—if we do not carry out that mandate, the Republicans will not be in power.

Right now, I honestly believe we are on schedule to carry out the mandates. I think the whole United States, and I know my State of Oklahoma, is rejoicing in this.

It is not that the people who want more Government involved in our lives are bad people—they are not bad people; they are well-meaning people—but they have just forgotten what this country is all about.

So we have a new era, and we are providing the leadership in that era. I was very pleased to see the President of the United States joining us 2 days ago when he came with his revised budget.

I yield the floor. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COATS). THE CLERK WILL CALL THE ROLL.

The assistant legislative clerk proceeded to call the roll.

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

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

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The Senate continued with the consideration of the bill.

Mr. PRESSLER. Mr. President, I urge Senators to come to the floor to use the time. Mr. President, is time running on amendments if Senators are not present?

The PRESIDING OFFICER. Time is not running.

Mr. PRESSLER. Time only runs when they actually speak?

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The PRESIDING OFFICER. The 30 minutes allocated to Senators for discussion of amendments is running only when those Senators are on the floor speaking as to that amendment.

Mr. PRESSLER. In view of the fact that the majority leader has stated a desire to vote by about noon, I hope that Senators will come to the floor.

Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes on a separate subject.

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

Mr. PRESSLER. Let me emphasize, that upon the arrival of any Senator with business on the telecommunications bill, I will immediately yield the floor.

UNITED STATES-JAPAN AVIATION DISPUTE

Mr. PRESSLER. Mr. President, I rise today to discuss a matter of great importance to the Group of Seven summit meeting to be held this week in Canada. I refer to the current aviation dispute between the United States and Japan. The United States must stand firm in this dispute. It is vital to our long-term U.S. international aviation policy. It is critical to the future of our passenger and cargo carriers. The millions of consumers who use air passenger and cargo services in the Pacific rim deserve the best possible service at competitive prices set by the market.

In recent months, many Senators have expressed views on the bilateral aviation negotiations between the United States and the United Kingdom. That interest was well-placed. In 1994, revenue for United States carriers between the United States and the United Kingdom was approximately $2.5 billion. To put the significance of the United States-Japan aviation dispute in perspective, in 1994 the total revenue value of passenger and freight traffic for United States carriers between the United States and Japan was approximately $6 billion.

First, let me put to rest a misconception. The United States-Japan aviation dispute is a bona fide, stand alone trade issue. It unquestionably is a separate trade issue. Commentators who suggest our current aviation disagreement is inextricably linked to our automobile dispute with Japan are wrong. Others who cynically suggest it is more than coincidence that the aviation dispute has come to a head at the same time as the automobile dispute obviously do not know the recent history of the United States-Japan aviation relations.

Plain and simple, this dispute arose as a result of actions by the Government of Japan to protect its less efficient air carriers from competing against more cost-efficient United States carriers for service beyond Japan to points throughout Asia. The issue is straightforward: Should the United States allow the Government of Japan to unilaterally deny United States carriers rights that are guaranteed to our carriers by the United States-Japan bilateral aviation agreement? As chairman of the Commerce, Science, and Transportation Committee, I believe the clear and unequivocal answer is "no."

The dispute relates to our bilateral aviation agreement which has been in effect for more than 40 years. Over the years, that agreement has been modified and otherwise amended to reflect changes in the aviation relationship between our two countries. Pursuant to the United States-Japan bilateral agreement, three carriers have the right to fly to Japan, take on additional passengers and cargo in Japan, and then fly from Japan to cities throughout Asia. the U.S. carriers who are guaranteed fifth freedom rights, or so-called beyond rights, are United Airlines, Federal Express, and Northwest Airlines.

Recently, Federal Express and United Airlines tried to exercise their beyond rights and notified the Government of Japan that they would start new service from Japan to numerous Asian cities. The Government of Japan refused to authorize these new routes. The bilateral agreement requires that such requests be expeditiously approved. In violation of the bilateral agreement, the Government of Japan has said it will not consider these route requests until the United States holds talks aimed at renegotiating the bilateral agreement.

Mr. President, the consequences of the Government of Japan's unilateral denial of beyond rights have been significant. For example, Federal Express, relying on its rights under the bilateral agreement, invested millions of dollars in a new, Pacific rim cargo hub at Subic Bay in the Philippines. The Subic Bay hub is scheduled to be fully operational in several weeks. The Government of Japan's refusal to respect the terms of the bilateral agreement threatens Federal Express' multimillion-dollar investment. Similarly, United Airlines has already essentially lost the chance to provide service between Osaka and Seoul during the busy summer season.

There is no doubt that the economic impact of Japan's refusal to recognize Federal Express and United Airlines' beyond rights has already been great for each of these carriers. The burden has also been shouldered by consumers who have been denied the benefits of a more competitive marketplace. As each day passes, the costs become more significant. Yesterday, Federal Express was forced to postpone for 30 days its proposed July 3, 1995, opening of its Subic Bay cargo hubs.

I point out to the Senate, that is a great loss not only for Federal Express but to the United States. It is our rights of moving our airplanes around the world, as we allow other countries to move them into our country.

How did the United States and Japan get to the brink of an aviation trade war? Let me first dispel three myths.

First, the aviation dispute has nothing to do with a bilateral aviation agreement that is fundamentally unfair to Japan. Nor does it really have anything to do with so-called imbalances in treaty rights that must be remedied. Yet, United States carriers do have an approximately 65 percent share of the transpacific between the United States and Japan. However, this is due to market forces. It has nothing to do with fundamental imbalances in the bilateral agreement.

Since this goes to the heart of the issue, let me reiterate this point. The reason United States carriers have a larger share of the transpacific market than Japan carriers is due to market forces. Just 10 years ago, under the very same bilateral agreement that the Government of Japan now criticizes, Japanese carriers had a larger market share on transpacific routes than United States competitors.

Japanese carriers lost transpacific market share and they lost it fast. The reason why is simple economics. The root of this dispute also is simple economics. Japanese carriers have operating costs nearly double United States air carriers and they cannot compete with our carriers. For example, a passenger flying from New York to Tokyo on a Japanese carrier pays approximately 23 to 33 percent more for that service. Japanese carriers have priced themselves out of market share. Passengers have, so to speak, voted with their feet and selected U.S. carriers that have significantly lower air fares.

Second, the aviation dispute has nothing to do with unequal beyond rights for Japanese carriers to serve beyond markets from the United States. Yes, Japan only has the right to serve on destination beyond the United States while United States carriers currently have the right to serve 10 points beyond Japan. This, however, is a statistic without any real significance. Higher operating costs would prevent Japanese carriers from competing for traffic beyond the United States even if Japanese carriers had a greater right to do so.

The beyond markets the Government of Japan truly wants are the Asian markets. These markets, particularly service from Japan to China, are cash cows for Japanese carriers. There is nothing the Japanese want less on these routes than a good dose of American competition.

U.S. air carriers are not the only victim of this protectionist effort to restrict competition in the Asian beyond markets. Consumers, including Japanese citizens, are big losers. For example, service on Japanese carriers between Hong Kong and Tokyo, a beyond route, is approximately 24 percent higher than on a United States carrier. Air fares on a Japanese carrier between Tokyo and Seoul are approximately 20 percent higher.

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