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do not thank people enough. And the pages have just been terrific.

We are very proud of you, and I am sure some of you are going to be Senators someday in the future.

But it is not only the pages. It is the people who take the RECORD; it is the people at the front desk who tolerate us when we come up and say, "How did COATS vote on this? How did PRESSLER vote on this?" It is the people who are waiters and waitresses downstairs—all of the people, the people who watch the doors. I am going to get back in good graces with someone here—it is the people who write out our amendments. It is the people who provide the thousand-and-one little services that we just neglect to thank people for.

So I just wanted to get up and say we thank everyone, and wish the pages the very best. They are a fine group of young people with a bright future. We wish them the very best.

Mr. President, I see the Senator from Montana on the floor. He may wish the floor at this point.

I yield the floor.

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The Senate continued with the consideration of the bill.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Montana.

AMENDMENT NO. 1283, AS MODIFIED

Mr. BURNS. I rise in opposition to the Simon amendment.

The Senator is right; we do not thank people enough. I wish to thank the Senator from Illinois for bringing up this issue.

I think it important that the American people take a look and see exactly what is happening in the broadcast business. Radio ownership decisions should be made by owners and operators and investors and not by the Federal Government. That is why we need to eliminate all remaining caps on national and local radio ownership.

Let us take into consideration some things happening in the broadcast industry. Even if I own two radio stations in the same market, would I program them the same? Would I want the diversity to capitalize on an advertising market so that I can expand that advertising base? Because that is what pulls the wagon in the broadcast business—advertising dollars. Would I program it the same? I seriously doubt it. And there are some right now, even though they own an FM station and an AM station and operate it out of the same building, use the same engineer, sometimes the same on-the-air personalities, their programming is different. That is what is happening in the broadcast business today. Now, that is the real world.

Nationally, there are more than 11,000 radio stations providing service to every city, town, and rural community in the United States. Presently, no one can control more than 40 stations. That is 20 AM stations and 20 FM stations. Clearly, the radio market is so incredibly vast and diverse that there is no possibility that any one entity could gain control of enough stations to be able to exert any market power over either advertisers or programmers.

At the local level, while the FCC several years ago modified its duopoly rules to permit a limited combination of stations in the same service in the same market, there are still stringent limits on the ability of radio operators to grow in their markets. Further, the FCC rules permit only very restricted or no combinations in smaller markets. These restrictions handcuff broadcasters and prevent them from providing the best possible service to listeners in all of our States. And, unfortunately, the Simon amendment, whether intended or not, only addresses the national limitations and does nothing to alleviate excessive local market controls.

Increased multiple ownership opportunities will allow radio operators to obtain efficiencies from being able to purchase programming and equipment on a group basis and from combining operations such as sales and engineering which is going on today.

We do not hear any cry in just the local market of anything being really wrong in the broadcast business.

Radio stations have to face increasing competition from other radio stations and from other advertising and programming sources, such as cable television operators. Nowadays many cable operators have begun to provide music and related services that compete locally with radio stations, and soon satellite services will have the capabilities of providing 60 channels of digital audio service that will be available in communities across the Nation, of which there is no wall to receive their signal.

Also in the near future, radio stations will begin facing the need for new capital investment when the FCC authorizes terrestrial digital audio broadcasting. Without an opportunity to grow and to attract capital, our Nation's radio industry will face an increasingly difficult task in responding to these multiplying competitive pressures.

And they are competition. But we also wonder why should we in some way or other hamper a local broadcast station from supporting the local community. News, weather, sports, all the community services that we enjoy in our smaller communities, we have to be able to attract advertising dollars, yet we will be subject to the competition of direct broadcast and also the cable operators. But competition is what makes it good. I am not worried about that. We can compete. Just do not limit our ownership decisions to buy or sell based on a Government-imposed cap on what we can own.

I received a letter from Benny Bee, President of Bee Broadcasting up at Whitefish, MT. Benny writes, and I quote:

I can't express how important it is that the markets be opened up and the ownership caps be taken off. Broadcasters like myself need to be able to compete. . . . I urge you to defeat the Simon amendment and help move broadcasters forward as we go into the Twenty First century.

Larry Roberts, who operates stations in my home State of Montana, has written me stating:

[Radio deregulation] would provide us with the freedom to excel and succeed. It will not only allow us to compete more effectively, it will also increase the value of our radio stations.

And in the 1980's we had an explosion, Mr. President, of licenses granted to stations when really there was no market analysis done that the market could even handle another radio station.

There are many more examples that I could leave you with. One final one from Ray Lockhart of KOGA, an AM and FM station in Ogallala, NE, not my constituents but I know Ray very well. My wife comes from that part of the country. And he writes:

Soon, one DBS operator will be able to deliver 50 to 60 radio channels into every market in the country with none of the rules that I labor under. The Baby Bells will be able to do the same thing at even less cost. Help broadcasters by not protecting us. Cut us loose from ownership . . . regulation so we can take advantage of our abilities to compete.

And I think that is the argument here, the ability to compete. Do not shut the doors of opportunity.

So we need to look at the true picture of the challenge that the industry faces. For the longest time we have viewed radio as competing only with itself, as if it exists in a vacuum. And basically I know something about that because my main competition basically in the advertising business was from the print media. You have to deal with that—and there is competition there—in order to stay economically viable.

Radio goes head-on with other forms of mass media for the audience and for those advertising dollars that fuel its well-being. We need to start acknowledging this important distinction and give radio the tools it needs to compete with all other information providers. That is why I urge you to vote against the Simon amendment.

Mr. President, I ask unanimous consent that the attached letters from the broadcasters that I mentioned be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

BEE BROADCASTING, INC.,
Whitefish, MT, June 14, 1995.

Senator CONRAD BURNS,
Washington, DC.

DEAR SENATOR BURNS: It was great visiting with you the other day when you were home in Montana and I hope the conference went well.

The reason I am writing is I know that you will be introducing legislation that is going

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to have a tremendous impact on small market broadcasters like myself. I can't express how important it is that the markets be opened up and the ownership caps be taken off. Broadcasters like myself need to be able to compete with the large cable companies, which offer several channels as well as bulk discounts. Also, the "Information Super Highway" is just around the corner, which will allow large market radio stations to come in via satellites, competing with the smaller market operators for audience and advertising dollars. For us to compete at the local level, we need to be able to own and market several different formats. By owning four or five stations and formats, operating costs would drop dramatically, allowing us to pass tremendous savings on to the advertiser. Also, the audience benefits by having multiple choices of formats to listen to. And of course, we the broadcasters benefit by being able to compete with the "big boys" in our much smaller markets.

Senator, I urge you to defeat the Simon Amendment and help move broadcasters forward as we go into the Twenty First century. If I can be of ANY assistance on this matter, please don't hesitate to call.

Yours sincerely,

BENNY BEE, SR.,
President.

SUNBROOK COMMUNICATIONS,
Spokane, WA, April 3, 1995.

DEAR FELLOW BROADCASTERS: We have very little time to act on a matter which will significantly impact our future. As you know, Congress is rewriting the Communications Act to reflect the new realities in which media operate. This bill is expected to be brought to the floor of the Senate so soon, that we have little time to make our feelings known to our Senators. However, it's imperative that we do so.

I urge you to support the Lott/Bryan Amendment on Radio Ownership. Here's why.

All of us are likely to soon be competing against an additional 30-60 new over-the-air radio stations in each of our markets. They will broadcast in digital stereo direct from a satellite, provided by 1 or 2 owners. If you add these stations to the recent addition of audio channels from your local cable company, plus still more channels from your telephone company which is likely to get into the cable biz, plus the additional channels offered by DirecTV satellite, it's obvious that local radio broadcasters are facing a serious threat.

If this weren't bad enough, the terrible news is that we local radio broadcasters . . . we who have worked so hard to provide service to our communities . . . are currently being left out of the deregulation of audio services. The rewrite of the telecommunications bill, as it stands today, would take the handcuffs off of the cable companies, the phone companies, and the national satellite broadcasters, giving each of them the ability to flood our markets with dozens of new channels. But as it stands, the bill leaves the handcuffs on local radio broadcasters!

Without the economies of scale provided by multiple-station ownership, we will be left unable to compete. To have just a single channel (or even 4 in the largest markets) would make our survival highly unlikely, in a world where other audio providers are operating without ownership restrictions, and without public service obligations.

Therefore, it's imperative that we support the Lott/Bryan Amendment. It would remove all radio ownership rules. It would put us on a level playing field with all of these new competitors. It would provide us with the freedom to excel and succeed. It will not only allow us to compete more effectively, it will also increase the value of our radio stations.

No matter how comfortable the past has been, with its artificial barriers to ownership, the times have changed. The issue before us is not whether radio's ownership environment will be changed from the past. It is being changed. The only question is whether it will be changed for the better, by the adoption of the Lott/Bryan Amendment, or whether it will be changed for the worse, by not allowing radio broadcasters the same freedoms of ownership that are being provided to non-traditional radio broadcasters.

Please call your Senators now and ask them to support the Lott/Bryan Amendment!

Sincerely,

LARRY ROBERTS,
President.

THE CROMWELL GROUP, INC.,
Nashville, TN, March 25, 1995.

Re lifting ownership restrictions—Locally, Nationally.

To: Small/Medium Market Licensees.

DEAR ASSOCIATES: As you know, the NAB Radio Board has supported the idea of eliminating restrictions on the number of radio station licenses that an individual operator/company can hold. If approved, the net effect will be to permit you or others to own/operate all the stations in your market area. Before you say "no", read on and consider what is happening:

(1) Cable systems operate 30, 40, 100 channels in your town under one owner locally . . . selling local advertising

(2) The telephone company may be offering 30, 40, 100 channels to your home as one owner . . . selling local advertising

(3) Direct TV (Satellite) now offers 30 channels plus to your home with two owners nationally . . . selling regional advertising.

(4) DARS Satellite Radio in a few years will offer 30 plus channels heard in your town with one/two owners nationally . . . selling regional advertising.

(5) Internet is fast growing and offers multiple information sources to the home in your community . . . selling who knows what with lots of options.

All of the above have/will have a subscription source of revenue plus compete with you and other broadcasters for local advertising.

As a small market broadcaster of the old school and with "localism" in my blood, I do not like the idea that my station could be owned by the newspaper, my competitor, a national company, Walmart, or others. It goes against my grain.

However, the Congress and the FCC are on track to permit telephone and cable companies, Satellite providers, and others to be single owners with multiple channels serving your and our communities. In the future the competition will be fierce. For a small market broadcaster with only one product (ie: one format) competing against other broadcasters AND the new technologies, survival will be a real difficult challenge.

Current rules hinder only the local broadcaster. All the others are free to operate. We may think we are protected by having ownership rules, but in the future we will be hamstrung. We won't be able to compete and we won't be able to sell because our value will have declined. Historically regulation has held broadcasters back in the face of new technology. Unless we act now, that could again be the case.

Eliminating ownership rules (as distasteful as it sounds to me today) makes it possible to have "localism" in the future. You or your buyer will be able to provide "multiple" signals in your community and be able to compete with the new technologies. As you think "NO" today, please consider that you might wish tomorrow you'd said "YES" and supported a chance to get in a position to compete. We can't use old regulation to protect against a horse that's already out of the barn.

Large and small market broadcasters (corporate vs small operators) do have different business objectives. But remember, one Baby Bell Operating Company is larger than the entire Radio-TV industry. There are seven Bell Operating Companies, plus all the cable, satellite, and others, so you can see that's coming and what we're up against.

I know it may go against your grain to support eliminating ownership limits today, but please do it to insure you have positive options in the future.

Sincerely,

BUD.

SORENSON BROADCASTING,
Sioux Falls, SD, March 27, 1995.

JOHN DAVID,
NAB Radio
Washington, DC.

DEAR FELLOW BROADCASTERS: Broadcast Ownership Rules, particularly Radio Ownership Rules are "up for grabs" in Washington, D.C. As a broadcaster who has built a career on Local-Service-Radio, I feel it's imperative you and I protect our Stations, Communities, and the concept of Local-Service-Radio. . . . Now.

What am I asking? (1) You and I must consider strong support of the position voted by our NAB (National Association of Broadcasters) Board of Directors, and (2) You and I need to contact our Congressmen . . . especially Senators on the Commerce Committee.

I grew up in a different world than we're now experiencing. It's excitingly scary what is being proposed for the future. However, I am certain. . . . I want to be able . . . as a local radio broadcaster to play in the new technologies . . . whatever they happen to end up being.

Experience shows it's hard to "Out localize" the local radio station. However, if the Ownership Rules are changed to give the "trump card" to other media in the changing and future world of technologies . . . we could find ourselves embarrassed into a "position of weakness." This could also affect the present and future value of the radio stations you and I own and operate.

In the communities where we operate . . . Cable systems are now offering 45-75 channels, complete with 10 channels of music (radio)! Telephone companies are throwing serious money at new business opportunities, and if satellite radio comes to my town, as Direct TV already has. . . . I'm not certain yet what those changes mean. But . . . I do realize the importance of my company . . . as the local radio folks . . . being able to compete on a level field.

And if ownership of the local newspaper makes sense. . . . I would like not to be forbidden from the chance to own it.

I have talked personally with our friends who serve on the NAB's Radio Board of Directors. They have thoughtfully presented a position which deserves our support. I ask simply that you familiarize yourself with that position . . . then begin explaining your position to your Congressman.

Enthusiastically,

DEAN SORENSON,
President.

OGALLALA BROADCASTING CO., INC.,
Ogallala, NE.

DEAR FELLOW BROADCASTERS: I was stunned to hear that some Senators and the NAB were receiving calls from some broadcasters opposing the idea of deregulation for the radio industry. Are you kidding me? In my tiny market my local TCI cable system

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with 3500 paid subscribers delivers 30 Music Express channels, sells local commercials for $1.25 per 30 second spot and they have plans to deliver more TV signals with more local access all over the country. No ownership limits, no FCC intervention in anything but technical standards. Why shouldn't I as a broadcaster be afforded the same?

Soon (by year 2000) one DBS operator will be able to deliver 50 to 60 radio channels into every market in the country with none of the rules I labor under (localism, main studio, public file, lowest unit rate, FCC rules, etc.). The Baby Bell's will be able to do the same thing at even less cost. Our Public Interest Standard is a one way street that keeps us 2nd class and Government controlled. (1st Amendment freedoms do not apply to us, right?) We do have a shot at these freedoms if we're not afraid to take it.

Some local operators say, the FCC must protect us from someone buying everything up. Why? They protected us in the 80's with 80/90. Wasn't that fun? If I can't compete with the big boys that can and will buy multiple markets (yes, maybe even WalMart) at least a market has been created for my stations that will bring a better price than if we don't have a level playing field with the new technologies and players.

I am fortunate enough to have been able to take advantage of the small market duopoly rule and buy the other station in this town of 5,000. It is a very worthwhile venture that everyone should be able to do if they so desire.

Tell your Senators to help broadcasters by not protecting us. Cut us loose from ownership and everything but technical regulation so we can take advantage of our abilities to compete. It is the future of our "over the air" broadcast industry we're dealing with. Get involved if you're not!

Remember, a Government that is big enough to give you the protections you want today is big enough to take them away tomorrow.

Mr. BURNS. Mr. President, I urge that this amendment be defeated. For the first time, only 40 percent of the radio stations operating in the United States today are really making a profit. So some kind of consolidation is needed to keep them viable. It is like I said. If I own two newspapers in the same market, would I format those newspapers just exactly alike? Even with first amendment rights, would I slant them the right way? Or whatever. I think what I would do is be diverse with them, to broaden the base of the advertising market in that particular locale. That is also true whenever you start trying to attract national dollars on national advertising campaigns. And it is how good your reps are when they start representing your station.

So I appreciate the amendment because I think the American people have a right to know just what is happening in the broadcast industry. I understand where the Senator is coming from, but he also has to look at what is happening in the real world as far as radio broadcasting is concerned.

I thank the Chair. I yield the floor and reserve the remainder of my time.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I yield 5 minutes to the Senator from North Dakota [Mr. DORGAN].

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I stand in support of the amendment offered by the Senator from Illinois.

As I listen to some of the debate on this amendment, as well as the debate on the amendment I offered previously which tried to restore the restrictions on television station ownership, it occurred to me that we ought to really remove some desks in the Senate and provide a stretching area. When you go to a baseball game, you see these folks stretch out before the game, getting all limber. I do not know of anyone who can stretch quite so well as those who stand in this Chamber and preach the virtues of competition and then decide to advocate concentration of economic ownership by lifting the restrictions on ownership of television stations and radio stations.

That is some stretch. But it does not quite reach. It does not prevent people from trying, however. You cannot, in my judgment, preach the virtues of competition and take action that will eventually end up resulting in a half a dozen or a dozen companies owning most of America's television stations. With respect to this amendment, we will end up with conglomerates owning the majority of America's radio stations.

It is as inevitable as we have seen in other industries that concentration means less competition. Concentration is the opposite of competition. How people can preach competition and come to the floor of the Senate and advance the economic issues that lead to more economic concentration is just beyond me.

Even if that were to escape the folks who preach this unusual doctrine, one would think that at least the issue of localism would matter.

Let me read a quote, if I might, to my colleagues. Bill Ryan, of Post Newsweek, recently stated:

> The whole world is trying to emulate the local system of broadcasting that we have in this country, and here we are creating a structure that will abolish it or put it in the hands of a very, very few.

I do not know how you express it more succinctly than that. I understand why these things emerge in this legislation: It is big money, big companies, big interests. I understand the stakes here. But the stakes, it seems to me, that are most important are the stakes with respect to what is in the public interest in our country. Is it in the public interest to see more and more concentration of ownership in the hands of a few in television and radio, or is it not? In my judgment, the answer is clear: it is no.

So I just wish we could find a circumstance where those who preach competition would be willing to practice it. Practicing competition in this area would be to support this modest amendment. The Senator from Illinois comes to us with an amendment that provides for a limit of 50 AM and 50 FM stations that one person may own. I, in fact, think it ought to be lower than that. But the Senator from Illinois has proposed a modest approach, and then finds himself struggling because the very preachers of competition are suggesting that somehow the Senator from Illinois is proposing something that is wrong.

I tell you, there is a total disconnection of logic on the floor of the Senate on this issue. My friend from Montana grins about that. But I would bet all the cattle in North Dakota against all the cattle in Montana that 10 years from now if the broadcasting ownership deregulation provisions in this bill passes, that we will see the consequences that I have suggested. We will see massive concentration in television ownership and massive concentration in radio ownership.

The Senator from Montana will say, "Well, that would be OK, because, they wouldn't compete against themselves, they would have different formats." They would have a couple different stations. One would be producing country western music and the other classical music. They will both be extracting, if they control the marketplace, the maximum amount of money from the advertisers in that marketplace.

The issue here is competition. If you bring this bill to the floor with a dozen flowery opening statements and talk about the virtues of competition, then there seems to me there is some obligation to practice competition with respect to the amendments and the language in this bill. This is exactly the opposite of the tenets of competition. These provisions which eliminate the ownership restrictions, will inevitably, lead to greater concentration of ownership.

That is the point I make, and that is why I support the amendment of the Senator from Illinois. We had a close vote on the ownership of television stations yesterday. I won that vote for about an hour. But that was before dinner. Then after dinner, we had a bunch of folks limping into the Chamber all bandaged up and changing their votes. What happened was apparently before dinner, they believed concentration of ownership in the television industry was not good. Then they had something to eat, or ate with someone who convinced them that concentration of ownership was good.

It would be interesting for me to hear how they explain that conversion over dinner, but I understand that you do not weigh votes, you count them.

I hope when we get to the issue of concentration of radio ownership that maybe we can win this one and maybe win for more than an hour. I think it would be in the public interest if we adopt the amendment offered today by the Senator from Illinois.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. DORGAN. I yield the remainder of my time.

Mr. LEAHY addressed the Chair.

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The PRESIDING OFFICER. The Senator from Vermont.

Mr. SIMON. Does the Senator want to speak on this amendment?

Mr. LEAHY. Mr. President, I ask unanimous consent that I be able to proceed for not to exceed 10 minutes on the Lieberman-Leahy amendment, amendment No. 1298.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1298

Mr. LEAHY. Mr. President, I think the Lieberman-Leahy amendment is necessary because we have to make sure that if we deregulate cable rates, we do not do it on the backs of the consumers. And, right now we are. In most areas in this country, consumers are captive to monopoly cable service providers. In fact, the only thing that stands between the consumers' wallets and the monopoly cable company is regulation.

Under the telecommunications bill, the sure-fire way for a cable company to avoid regulation is to raise their rates across the country. It is very, very interesting what we are doing. If we sent this up for a national referendum, the Lieberman-Leahy amendment would be agreed to overwhelmingly. If we had a referendum by only some of the well-heeled PAC's and lobbyists around here, well then, of course, it goes down. So the question is: Who do we stand with?

We all get paid enough money so that $10 or $20 added onto our cable rates each month probably does not seem like a lot. But to most people living in Vermont or any other State in this country, that is a big difference. Ask people who get cable television in this country whether they think their cable rates would go up or down if monopoly cable companies are left to themselves to decide what the rates would be.

The American people are pretty smart. They know darn well if we let the cable companies have a monopoly and have no regulation, those rates are going to go up. They are never going to come down. The only times they have come down is when Congress stepped in. In fact, when we passed the 1992 Cable Act, President Bush vetoed it, and we overrode the veto, because consumers were being gouged by cable company monopolies. Cable rates were rising three times faster than the inflation rate. Every American knew it, and finally Congress got the message and they overrode the Presidential veto.

Consumers demanded action to stop the rising cable rates. The law worked. In fact, since passage of that law, consumers have saved an estimated $3 billion, and they have seen an average 17 percent drop in their monthly rates. As rates have gone down, more people have signed up. Last year alone, over 1.5 million new customers signed up for cable service. One would think the word would get across: If you keep the rates reasonable, more people are going to join.

The telecommunications bill would lift the lid on cable rates.

Under current law, cable rate regulation is dispensed with only when the FCC finds there is "effective competition" in a local market.

The telecommunications bill, as reported, would change this law by deeming "effective competition" to be present wherever a local phone company offers video programming, regardless of the number of subscribers to, or households reached by, the service.

The bill would also lift rate regulation for upper tiers of cable service, unless the cable operator is a "bad actor" and charges substantially more than the national average. Of course, the national average could be set by the two largest cable companies. They almost have an incentive to raise the national average and the rates.

In fact, the day after Senator LIEBERMAN and I held a press conference to voice our concerns over the cable deregulation parts of the bill, the managers' amendment to this bill was adopted in an effort to provide more protection to consumers from the spiraling cable rates after deregulation. But I do not believe it goes far enough.

The managers' amendment ties rate regulation to whatever the national average was on June 1 of this year, to be adjusted every 2 years. But that still means if the two or three largest cable companies raise their rates, the national average will go up, and rates for all consumers would spiral upward.

Now, Mr. President, if any one of us went to a town meeting in our State and we said: Here is the way we are going to set cable rates. We are going to allow two or three huge cable companies to determine what the national average will be for your rates, and we will leave it to their good judgment. Should they raise rates, well, then everybody's rates would go up. If they lower rates, everybody's rates will go down. And now, ladies and gentlemen in this town meeting, what do you think those big cable companies are going to do? Will they raise your rates, or will they say their subscribers are paying enough—"Let us lower the rates, let us give the average household a break?"

Well, just asking the question, we would get laughed out of the hall. Every American who gets cable knows the cable companies are not going to just lower the rates on their own. I hear this back home. I do not care if a person is Republican, Democrat, independent, whatever, they are saying the same thing: Cable rates are too high. They also say that unless you have real competition to bring rates down, do not leave the cable companies to set the rates, because they are never going to bring them down. They are always going to raise them. Under this bill, the more cable operators raise rates, the more they can avoid regulation of their rate increases. If cable rate regulation is lifted before you have effective competition, then you can expect the rates to go up at least $5 to $10 a month. We are trusting in the generosity and good will of the cable companies. Good Lord, Mr. President, we are all adults; we ought to be smart enough to know better than that.

The Lieberman-Leahy amendment would fix the cable rate regulation problems in the bill. Our amendment would use competitive market rates as a benchmark for whether rate regulation is needed to protect consumers. Instead of letting a few cable companies control the cable rates for all consumers in the Nation, our amendment would ensure that rates are fair. Regulators can step in to protect consumers when rates are out of line with competitive markets.

Small cable companies, particularly in rural areas, of course, have different economic pressures on them than operators in high-density areas. Our amendment would exempt small cable companies from rate regulation. If you are in rural Pennsylvania or rural Vermont, and your house is maybe a mile or two a part, it obviously would cost you more to set up your cable system than if you are wiring high-rise apartments in a high-density area.

I do not think we have to give cable companies any incentive to raise rates. Mr. President, I have a feeling the cable companies will figure out how they can raise rates, without us encouraging them to do it. I do not think any one of us wants to go back home and tell our constituents that we passed legislation that actually encourages cable companies to raise rates, rather than doing something to hold them down.

We stepped in once before, over a Presidential veto, to curb spiraling cable rates. The Lieberman-Leahy amendment ensures that consumers have the protection they need. Do you not think we ought to do this?

Now, if we have a situation where we have two or three cable companies in one community or one area, I would rely on competition to bring the prices down, and it will. But when you only have one cable company, or if you have a telephone company that has come in and bought out the cable company, so that you have a monopoly on top of a monopoly, Mr. President, altruism is not going to bring those rates down. People are not going to see their rates come down just out of good will on the part of the cable company. We are either going to have effective competition or regulation. If we have effective competition, let cable companies set their own rates. But if you have a monopoly, you should have regulation that is going to bring the rates down.

Again, I will tell you this. Any member of the public that is getting cable television would agree that if this was a referendum among the taxpayers of this country who have cable television, they would vote overwhelmingly for the Lieberman-Leahy amendment. If you are somebody representing one of the cable monopolies, of course, you

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are not going to want it because it is going to say that you do not have a license to print money. That is basically what they are going to have—a license to print money—if we do not have some regulation on them.

Let us at least wait until there is real competition. Some have said that these new satellite dishes will do it. Well, there is only, I believe, 600,000 or so of those in the country. Less than 1 percent of the people get their service that way. It is about $600, $700 to set it up. Let us wait until there is real competition.

Mr. President, I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I thank the Chair. I come to speak in strong opposition to this Lieberman-Leahy amendment. Seldom has something been so misguided, misconceived, and antimarket as what we have attempted to do to cable over the last decade.

I can speak with some degree of knowledge and history on this, because I was chairman of the Commerce Committee when we deregulated cable in 1984. When we deregulated them, we asked two things of them. One, give us lots more channels. Two, give us more diverse programming.

Mr. President, we got that in spades. There is hardly a person so young in this Chamber that they cannot remember precable days, when what you got was ABC, NBC, and CBS, through your local affiliates, maybe a public broadcasting station, and maybe an independent, unless you were in Los Angeles or New York. That was basically it on television. You got it with your rabbit ears.

Cable came in initially to fill a void where people could not get signals. Instead of growing from urban to rural, they grew from rural to urban. They began to realize if they were going to compete, they had to do more than just carry the signal of the major networks. And so when they were deregulated in 1984, they gave us what we asked for. Today, we have, unfortunately, limited them with that foolish 1992 act. But you could "channel surf," as we have learned to call it, and be fascinated. I find Spanish language stations here in Washington. You can find three or four in Los Angeles, and a number of them in Corpus Christi. They program to the market on things that the over-the-air networks could not do because, by the very nature of the fact that you were over the air, you had to have a wide audience. You could not program to a narrow audience. Cable can.

Cable can make money on programming to a narrow audience. So consumers got services and programs that they wanted, that they could never get before. You cannot probably justify a history channel on NBC or ABC or CBS, broadcasting over the air to a broadband audience; probably could not on MTV, if you had to cover the entire audience in an area. But you can on this narrow broadcast.

Now this argument about competition, holy mackerel, Mr. President. The argument about a referendum, put this to a referendum, people would vote down what they are paying for cable. My hunch is if you put to a referendum what they pay for phone bills, they would put that down. And electric bills.

I hesitate to say what they would do if you gave them a referendum on congressional salaries. My hunch is they would vote that down. Is that the standard this representative body will be —whatever a referendum might be, that will be it?

If you were to pose the question in a different way to people, do you want to cut your cable prices in half and have your programs cut in half and have the channels taken off, you might get a different answer. But if the question is, do you want some costs lowered, what answer do you expect to get? I would like to have the price of gasoline lowered. I might put that up for a referendum and see what we get.

Now look at the competition argument. I heard the Senator from Vermont talk about 600,000. This is not 600,000 direct broadcast satellite over the year, but 600,000 what we call wireless cable.

This is growing. You normally have to have flat terrain, but this does not come from the satellite. Wireless cable, as we call it, is line-of-sight from a transmitter. Because the terrain is relatively flat, the line-of-sight is good.

Corpus Christi is a good example where the line-of-sight has taken a fair portion of the market and the prices are cheaper than normal cable, and you can transmit a good program over the air because you have a straight line-of-sight.

Obviously, that kind of programming is limited, but it is growing. That is the 600,000 subscriber figure that the Senator from Vermont talks about. They expect to have 600,000 within 2 years grow to 1.5 million, and 3.4 million by the year 2000.

In addition, you already have Bell Atlantic, NYNEX, Pactel, phone companies, all of them experimenting in small areas with carrying the equivalent of cable on their phone wire system.

That is going to expand. But then beyond that, direct broadcast satellite. Here is a business, 2,000 new subscribers a day. The company that makes the dishes cannot make them fast enough. Mr. President, 2,000 additional subscribers a day. We will have over 5 million subscribers to this by the year 2000, and I bet that is an underestimate.

Except for the local news, you can get every program from the direct broadcast satellite you can get from cable. If you want the local news, you know that 94 percent of the people in this country can get local news with rabbit ears. Local is local, you do not broadcast very far.

All you have to do is turn the switch on your television set from cable to over the air and you can get the local news. So the fact that the direct broadcast satellite cannot physically carry it at the moment is not an impediment.

Mr. President, the market works. While we are talking about communications, the best example to probably use is the cellular telephones. Again, I speak with some degree of history on this.

In 1981, when I was chairman of the Senate Commerce Committee, we passed a bill restructuring AT&T. They had to have separate boards for Bell labs, and we worked out an agreement that was satisfactory to a lot of parties.

The bill went to the House. Before the House acted, the antitrust settlement between AT&T and the Government was arrived at. The so-called modified final judgment. Therefore, the bill became moot.

AT&T and everybody else agreed to a different method of restructuring than we passed in the Senate Commerce Committee, and that agreement was that they would spin off all the local Bell companies. They would get out of the local business and keep the long distance business.

That was not the only agreement in the modified final judgment. There were lots of things that the local Bells could not go into—local information services, manufacturing. This was a structured settlement. Still regulatory, but very structured.

The one thing that the settlement left out was cellular telephones, because there was no future in cellular telephones of any great consequence, and nobody cared about it.

An analogy I used the other day was the dividing up of the Middle East by Britain and France after World War I. All of the Middle East had been part of the Turkish sovereign area. Turkey was allied with Germany in World War I, and Britain and France in the middle of the war said, "When this is over we will take a lot of Turkey's territory in the Middle East and divide it among ourselves."

At the end of the war, Britain took what has become now Israel and Jordan and Iraq. France took what has become Lebanon and Syria. Nobody wanted Arabia. It was not worth anything. Nothing but sand. So it got left out, on its own devices.

Today, it occupies a position of more extraordinary influence because of its oil reserves than all of the other countries, save Israel, put together.

Cellular telephones are the same analogy. They were left out of the modified final judgment. There were 100,000 of them in existence in 1982. AT&T predicted by the year 2000 there might be a million cellular telephones. Today, there are 25 million subscribers. Predictions are in 10 years that will be 125 million subscribers. I bet that underestimates the number.

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This has happened because we did not regulate it. We left it to the marketplace. Does anybody think there is no competition in cellular telephone today? All you do is turn on your radio, turn on your television, open your newspaper, and you have company upon company stumbling over each year to compete for your business. "Sign up, we will give a free phone." And you have to understand that you have to make so many phone calls or pay so much.

People are pretty darn smart and managed to figure this out. They have done well figuring out long distance, watching MCI ads, AT&T ads, the Sprint ads. They have also discovered that there are lots of small long distance companies.

I have over 40 long distance phone companies in Oregon that are what you would call niche carriers. They rent their time from AT&T. They are a bulk buyer, they will buy it. Then they say we have 24 hours of time over the week, or 10 hours of time over the day on such and such, and they go out and sell it. They are specialists in certain niches. Some sell to the medical profession. Some to the insurance profession. They figured out a way—the companies are not big, some 8 or 10 employees, and they are renting everyone else's facilities—to do something very narrowly and good that is better than the big company can do it.

We have seen this in telecommunications. The innovators in this field are not always IBM and AT&T. They are more often new companies that are spinoffs—not spinoffs, been formed by some 35-year-old engineer who left the company, mortgaged his house, sold his hunting dog, and both he and his spouse put up everything that they had to take a chance. And they succeeded.

Come back again to cable. There is no need for any regulation of cable at any level. They have more competition now than they can handle, and they will have more competition than they can handle. The consumer is going to be the beneficiary.

I hope, Mr. President, that the Lieberman-Leahy amendment would be defeated overwhelmingly. If there is any example of where the market is working, and will get even more and more competitive, it is in communications generally. It is in cable specifically.

I think to adopt this amendment to further regulate cable beyond which we have already regulated in 1992—and we should not—would be a terrible mistake.

Mr. LIEBERMAN. Mr. President, if I may respond very briefly to my friend from Oregon.

The PRESIDING OFFICER. The Senator from Connecticut should be advised he has used all the time on his amendment.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that I be allowed to speak for no more than 5 minutes.

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

Mr. LIEBERMAN. Mr. President, my friend from Oregon has spoken against my amendment which would maintain some kind of consumer protection in the pricing of cable, based on the wonderful service and the extraordinary range of programming that cable provides. Since I got into this fight when I was attorney general in Connecticut in 1984 when cable prices were deregulated and most consumers in America were left facing a monopoly with no competition, I have said I was very supportive of cable. I think cable is an extraordinary service to the American people. It has been delivered well, and I like the expansion of the program.

What I do not like is allowing that expansion to occur without giving consumers some protection, because they have only one choice to make, and what is significant to me is that the programming has continued to expand even since the regulation, the consumer protection that went on in 1992. So there is no reason to believe that, if we sustain some protection for consumers until they face competition, that will stop.

The second point is this. There just is not adequate competition at this time to existing cable. If there were, then the FCC would have pulled off regulation for cable in more than 50 markets where they say there is now effective competition out of more than 10,000 in the country. The fact is, the direct broadcast satellites which were thought to be the next wave of great competition for cable are only used by less than 1 percent of the cable consumers in America.

Telephone companies may get into this. They probably will. But the question is, When? Until that time, most cable consumers in America will have no alternative except the local cable company, and if this bill passes without the amendment Senator LEAHY and I have offered, the consumer will not only not have a choice of another system to offer multichannel services, cable as we know it, but will have no benefit of consumer protection. History tells us where there is no competitive market, where there is a monopoly supplier and no regulation, the consumer is in real danger of being taken advantage of.

So in my humble opinion, respectfully, I think this amendment is all that stands between millions of cable consumers and what I would take to be a definite increase in their rates over the coming years until there really is effective competition to hold the rates down.

Again, I love cable. My family watches; selectively, of course. But I do not, any more than any other consumer, including a lot of the elderly out there, people on fixed incomes, I do not want only one choice and no consumer protection.

This system has worked. It saved consumers money. The industry has continued to thrive. They continue to be able to raise capital. There is simply no reason to remove these consumer protections. I will say respectfully again, to me what has happened here is that, in the Trojan horse of this great telecommunications bill, there has been inserted inside a repealer of cable consumer protection without cause and at great cost to American consumers.

I hope my colleagues will support this amendment so none of us will have to explain to our consumers back home why rates have risen, as they surely will in the years ahead if this amendment is not agreed to.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I really like this debate. But I would like to draw your attention to one thing. He says there is no competition. What is 2,000 subscribers a day being added to the DBS that provides the same channels, the same service—CNN, ESPN, all of those we enjoy now, and the USA, Lifetime, the History Channel, all of those—off direct broadcast satellite? What is that other than competition? If the rates get competitive, whether you are on a fixed income or not a fixed income, it makes no difference. And it is going to make both services better when they compete equally. There are no restrictions on DBS. Nobody is setting their rates.

If one remembers, since way back in 1990 when we were talking about this, there was a great groundswell that went across the country, what about cable rates? Did you take into consideration—when you used to buy maybe three Salt Lake stations and two Billings stations and a PBS station for $5 or $6 a month and then all at once we pay $21 now for 45, I think, something like that—our cost per channel? One does not have to take it. Nobody is standing there with a gun to your head saying, You have to sign up for cable. They go by more houses than they service. It is another part of the market. We are trying to sell a service.

At the same time we said, Do not reregulate the cables; allow effective competition. DBS was part of that; C-band; satellite dishes, they were a part of that. I think also in the same time—and the chairman and ranking member remember this—I offered the amendment on a telco bill to allow them in the cable business to provide effective competition, to add an entity that already has a wire into the house. They would have to change their technology a little bit, and that is what we are really doing is providing the new technologies that will travel on this great thing called fiber optics, or fiber and coaxial interphased for broadband, two-way, interact telecommunications. That is where we are going. That is why we need Mickey Mouse to pave the way for other things that we have in store, and that is distance learning and telemedicine and these types of things.

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So what, is C-band competition? Sure it is. Is telco competition? Yes, they are. Is DBA competition? Yes, they are. Even the store down the street that sells videos to rent is competition to the same service the cable operators are trying to provide over that wire into the house.

I said this before: The glass highway, the information highway, may be already in place and it has been done by this marvelous growth industry called cable television. The competition is there, and I urge the colleagues to defeat this amendment.

Mr. President, the solution to the cable problem is competition, not continued regulation. In fact, after the 1984 Cable Act, deregulation of the cable industry resulted in substantial benefits.

The cable industry has made substantial investments in programming, plant and equipment, investments that have directly benefited consumers, in particular my constituents in Montana.

If all we heed and hear are the problems of cable, then I am afraid that we will have lost an opportunity, a chance to look into the future and to shape it; for we do shape the future of this Nation when we shape its telecommunications infrastructure. It is an infrastructure that is critical to the whole Nation—from the Lincoln Center in New York City, to Lincoln, NE, to Lincoln County, MT.

So in the continuing debate over what to do about the so-called cable problem, there are two alternatives. Solution one is competition. And solution two is regulation. It has been my experience that regulation can actually harm consumers by slowing innovation and stifling new services. On the other hand, nothing is more proconsumer than competition, most especially competition where there is a level playing field. And on no playing field can the benefits of competition be seen more clearly than on the field of communications. History teaches us that you cannot regulate technological advancements.

Regulation does a very poor job of guaranteeing a market choice for consumers. Most ironically, under a price regulatory regime, prices are unlikely to fall when they are effectively propped up by regulation.

On the other hand, we have all seen many instances where competitive market forces spur competitors to innovate in order to reduce costs and improve efficiency. And as costs come down, new technologies and new services can be extended to unserved areas. Those are the types of truly competitive market forces that I want to introduce, and the people of Montana need, to ensure that our State is fully served.

Again, I am not merely talking about video entertainment. I am talking about the communications revolution, and I want my constituents to benefit from that revolution and not be left behind by it.

Moreover, I want our Nation to lead that revolution much as we have led the revolutions for democracy around the world. Thus, I do not want the guarantee of participation in the electronic information age for the people of Montana to rest solely on heavy-handed regulation. I want Montanans to be able to rely on good old American know-how as stimulated by good old American competition.

I believe this competition is already arising through such technologies as DBS, wireless cable, the home satellite dish market, and even those technologies yet to be discovered. And I believe that with this legislation we have provided perhaps the best opportunity for competition in the video market by permitting the telephone companies to compete for cable services. And we have done so by promoting telco entry with safeguards and restrictions.

This legislation, drafted by this Congress, promotes the greatest public good by unleashing competition and technology to meet the Nation's needs. It will be this competition that will help ensure that a modern telecommunications infrastructure and innovative services are available to all Americans—and, most importantly, all Montanans—at reasonable prices. When telephone companies are able to compete with cable companies, as this legislation allows, a competitive cable market would:

First, put downward pressure on cable service rates;

Second, lead to greater diversity of television programming and program choices;

Third, accelerate the introduction of new services; and

Fourth, increase consumer access to high quality service.

I have been involved in this debate since I first arrived in the Senate. I believe that we are finally on the verge of passing a historic piece of legislation. I think that the Lieberman amendment is a significant step backward in our efforts. Competition is the answer, not re-regulation. I urge my colleagues to reject this amendment.

The PRESIDING OFFICER. All time on the amendment has expired.

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent to speak for 30 seconds.

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

Mr. LIEBERMAN. Mr. President, very briefly. My friend from Montana says 2,000 additional subscribers to direct broadcast satellites go on every day. That is compared to over 60 million cable customers. We are getting there, but we do not really have effective competition in most places in America. When we do, the FCC will pull this consumer protection off and then the consumers will be protected by competition.

I thank the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 1283, AS MODIFIED

Mr. PRESSLER. Mr. President, I rise in strong opposition to the amendment by my good friend, Senator SIMON. The financial health and competitive viability of the Nation's radio industry is in our hands. We all agree that the telecommunications legislation we are considering is about competition and deregulation and not picking winners and losers. And we also agree that this legislation goes a long way toward giving cable, satellite, and the phone companies the freedoms they need to compete. We now need to agree to extend these same freedoms to the over 11,000 radio broadcasters in this country.

No other audio service provider, be they cable, satellite or telcos, has the multiple ownership restrictions that radio has. The language we are offering today eliminates those outdated radio-only rules.

It is imperative we in Congress end this discrimination against radio sooner by adopting this language, rather than wait for the bureaucracy to come around to it later, as this legislation as currently drafted would have it. Immediate action is critical because the FCC is on the verge of authorizing digital satellite radio service, whereby 60 new radio signals will broadcast in every market in the United States. This satellite service will be mobile and available in automobiles, homes, and businesses. Also, cable already provides 30 channels of digital radio broadcasting in markets across the United States under a single operator. Obviously, an incredible diversity of voices has been achieved with even more competition to radio quickly making its way down the information highway. Yet, let us not lose sight of the fact that all of these welcome new voices are also aggressive competitors for radio's listeners and advertisers, and, unlike radio, these competitors are not burdened with radio's multiple ownership restrictions nor do they have the same public service obligations as radio broadcasters.

Our Nation's radio broadcasters have a strong tradition of providing the American people with universal and free information services. In a telecommunications environment increasingly dominated by subscription services and pay-per-view, it is essential that we not foreclose the future of free over-the-air radio by restricting ownership options, for radio serving the public interest and competing are not mutually exclusive. They are complementary.

So it is left up to us to empower radio so it can grow strong well into the next century and continue to serve our communities as it has done so well for the past 70 years.

The last point I would like to make is perhaps the most important. Relief from ownership rules works. In the early- and mid-1980's the FCC issued hundreds of new radio licenses, and the market became oversaturated with

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radio stations without sufficient advertising revenues to support the increase. However, in 1992 the FCC granted limited relief in radio ownership restrictions. After many years of financial losses, suddenly radio became an attractive area for investment and an alarming multiyear increase in stations going off the air was arrested. The economies of scale kicked in. Stations gained financial strength through consolidation, and its overall ability to serve its markets and compete for advertising improved.

Allow me to quickly cite some statistics. In 1993, a year after the new limits took effect, the dollar volume of FM-only transactions almost tripled—$743.5 million—while radio station groups sales grew 44 percent.

In 1994, sales prices of single-FM stations rose 12.7 percent from 1993's $743.5 million to $833 million, and from 1993 to 1994, the total volume of AM radio station sales shot up 84 percent, totaling $132 million.

There is every reason to believe that all of these positive trends will continue to flourish if we remove radio's outmoded multiple ownership restrictions.

Clearly, maintaining local and national radio ownership limits in the face of tomorrow's competitive environment is not only unfair but it is a major step back.

Mr. President, let me emphasize that I understand some statements have been made. I understand that CBS does not support the Simon amendment. Bill Ryan is the NAB Joint Board Chairman. He supports the NAB position which is adamantly opposed to the Simon amendment. Mr. Ryan's comments, which Senator SIMON cited, related to TV ownership and not radio ownership.

Mr. President, I urge Senators to come to the floor to make their statements on the various pending amendments.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HUTCHISON. 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. 1238

Mrs. HUTCHISON. Mr. President, I would like to speak against the Lieberman-Leahy amendment. The Lieberman-Leahy amendment will finish this bill once and for all.

The PRESIDING OFFICER. The Senator will be advised that all time has expired on the Lieberman-Leahy amendment.

Mrs. HUTCHISON. I ask unanimous consent that I be allowed to speak for up to 5 minutes on the bill and on the Lieberman-Leahy amendment.

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

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, the Lieberman-Leahy amendment will reregulate cable.

What we are trying to do with this bill is deregulate so that we have a level playing field, so that more people can come into the competitive market, and so that the consumers will benefit from the lower costs and lower prices. The Lieberman amendment will take away the balance that has been established in this bill. It will put the FCC back into the regulatory business. It will cause these cable companies to have to come to the FCC to spend their money paying lawyers' fees instead of dropping their prices and going to the bottom line.

I am sure that the intent of the amendment is very good. They want to make sure that we have low cost if there is not competition. But what we are trying to do here is promote competition so there will be choices, so that the consumers will have the ability to pick and choose.

The Lieberman amendment will put one more hassle to the cable companies even when it is not necessary.

I have watched day after day after day the chairman of the committee, on which I serve, and the ranking member talking about the need for this bill. It will put $3 billion into our economy in new jobs, and it will be a benefit to consumers. They have done a wonderful job. But what is very important to remember here is that we must keep a level playing field. And we have tried to balance.

Sometimes we have done something that the long distance companies do not like. Sometimes we have done something that the local Bell companies do not like. Sometimes we have done things that the cable companies think is onerous. This would be an onerous regulation that would put the FCC back in the mix when we do not need the FCC. We are trying to take the FCC out of every arena that we possibly can. The FCC is very much in the bill, I must say, of course. For instance, in broadcast ownership, we want the FCC to look at broadcast ownership to make sure there is not the concentration that would take away the diversity of voices in a market. But it is very important that we keep the balance. We must be able to say at the end of this bill that probably everybody does not like it as a perfect bill but we have allowed people to come into the process to compete, and we have tried to make the cost the least possible, and we have tried to make the cost fair. But the underlying element of this bill is that we take the regulations out to the greatest extent possible.

Mr. President, if we are going to even look at the Lieberman-Leahy amendment, it is going to gut the bill from the standpoint of keeping the level playing field, continuing to encourage competition, and giving the consumers the benefit of all the choices that will be available. If we can pass this bill and keep it fair, the telecommunications industry in this country is going to explode. It is going to be a wonderful boon to our economy. New jobs will come into the market. Consumers will get more choices. We will have choices that we have not even dreamed of today. We will have choices of technology that will give us the ability to research and grow because we are taking the regulations out of this bill to the greatest extent possible.

So, Mr. President, I think the chairman of the committee and the ranking member have done a terrific job. They have cooperated. There has been disagreement on every major part of this bill, but we have not worked on this bill for days. We have not work on this bill for weeks. We have not worked on this bill for months. In fact, we have worked on this bill for years. We have talked about telecommunications deregulation for years in this country. I am a person who is not even a regulator. I do not like any regulations. I would like for Congress not to even be in the process. But because technology has exploded and because we have had a regulatory environment that has caused an unfair and unlevel playing field, we have had to correct the wrongs, and we are doing that by trying to reach a balance. That is what this bill does. The LIEBERMAN amendment will take that balance away, and we must not allow that to happen.

So I thank the Chair. I thank the chairman of the committee and the distinguished ranking member for their leadership. We must stick with the committee on this amendment. It is very important for the future of our jobs, of our economy, and for the consumers of our Nation.

I thank the Chair. I yield the floor.

Mr. PRESSLER. Mr. President, I thank the Senator from Texas for her great work and leadership on this telecommunications bill. She has been a stalwart in drafting this bill and in making it happen. Her leadership was crucial and I thank her very, very much.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Texas.

Mrs. HUTCHISON. Will the Senator yield for a question and comment?

I just wish to say that I did not mention this because I was talking about the level playing field of all of the competitors, but the other element here that the chairman and the ranking member have worked so hard on is the protection of our cities and our State regulatory boards.

Our cities have rights-of-way that they must control, and that is something that we worked very hard to make sure was not encroached on. We would have chaos if someone came in and said, Well, I now have the right to dig a hole in the middle of your street, without the city maintaining that control.

So I wish to say that that is another element of this bill that is protected.

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and the cities of America owe a great debt of gratitude to the chairman and the ranking member.

I thank the Chair.

Mr. PRESSLER. I thank the Senator.

AMENDMENT NO. 1325, AS FURTHER MODIFIED

Mr. PRESSLER. Mr. President, at this time, we are prepared to call up an amendment that has been agreed to that we will not have to have a vote on, and that is the Warner amendment. I would like to call up amendment 1325.

The PRESIDING OFFICER. The pending question is amendment No. 1325, as modified. Is there further debate?

Mr. HOLLINGS. Is there a modification?

Mr. PRESSLER. I have the perfecting amendment. I send an amendment to the desk and I ask for its immediate consideration. It is a perfecting amendment.

Mr. HOLLINGS. It should be a substitute, I think. It should be drafted as a substitute for the amendment.

The amendment (1325), as further modified, is as follows:

1. On page 102, after line 25, insert a new subsection as follows:

"(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.".

2. Redesignate subsequent subsections accordingly.

The PRESIDING OFFICER. If there is no objection——

Mr. PRESSLER. Mr. President, I would just like to say a word or two.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. I would like to praise Senator WARNER. In his usual gracious way, we worked on this amendment for a few days, and we had various meetings with Senator WARNER and some of his constituents who are concerned about this manufacturing clause.

His original amendment he has agreed to set aside in favor of this modification. My colleague from South Carolina, the ranking member of the committee, has long been an expert in this area, having authored the bill on manufacturing that passed the Senate. He has graciously agreed to this modification.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, this deals, of course, with the technical requirements for connection to the telephone exchange service facilities, which is quite appropriate. It does not allude to the research and design with respect to manufacturing. That has been cleared.

I join in the distinguished chairman's praise of Senator WARNER and his efforts here to clarify this to make certain that everyone could be prepared and on notice as to facilitating the interconnection services. So I join in the amendment as amended, I take it.

The PRESIDING OFFICER. If there is no objection, the amendment as so modified is agreed to.

So the amendment (No. 1325), as further modified, was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, is time controlled at this point?

The PRESIDING OFFICER. Time is controlled on each amendment.

Mr. KERRY. Mr. President, I rise and will only speak for a very few minutes, but I would like to indicate my support for the cable provisions of S. 652 as it has been brought to the floor by the distinguished chairman and ranking member and the committee, of which I am a member.

AMENDMENT NO. 1298

Mr. KERRY. I want to voice, therefore, my opposition to the Lieberman-Leahy amendment. All of us are concerned about cable rates. We made a major effort a number of years ago to try to regulate that and guarantee that the consumer is going to have the lowest possible price. In my judgment, the fundamental thrust of this bill which has been very carefully tailored to work a balance between many varied very powerful interests, the fundamental effort of this bill is to create competition which will reduce rates across the board.

I think all of us have learned that when you have regulation, you inevitably have a skewing of the market which impacts the capacity of people to take risks, people to raise capital, people to invest and diversify. It is my belief that the upper tier versus the lower tier of regulation is sufficiently well tailored in the legislation that we sent out of committee that the interests of consumers are protected.

In point of fact, it is my belief that the availability of direct broadcast satellite today and the availability of video dial that is going to come on so rapidly people are going to be dizzy when they begin to see it, that to maintain a regimen of strict upper tier regulation on cable would be to disadvantage cable's capacity to be able to make the kind of investment necessary that this bill envisions, precisely to be able to compete with the regional Bell operating companies and to begin to create the dynamic synergy that we are looking for in the marketplace.

So I believe the greatest protection for consumers is, in fact, going to come from competition for video services, and I believe that competition is well structured and maintained in the format that has been brought to the floor.

When consumers have a choice and the marketplace is not artificially constrained, then that marketplace is going to provide for rates that are reasonable. I think that anybody who looks at the current intentions of the regional Bell operating companies and long distance operators and those who are going to be moving into the provision of video services will understand that if cable all of a sudden went out and started raising its rates at any tier, it is going to be significantly noncompetitive, it will build resentment among consumers, and they will quickly move to the new provision of services.

I can speak to this on a very personal level because I have recently been making choices about where to put what kind of service in my own residence. I was amazed at the number of direct broadcast capacities versus cable that I could make a choice on right now.

Second, Mr. President, consumers do not only care about rates, they also care about the quality of the service and they care about the breadth of programming that is available to them. They want both of those as well, and they want that from cable. If cable all of a sudden ceases to do that, they are going to have the opportunity to make another set of choices because of the very things that we are proposing in this legislation.

Finally, this bill incorporates a so-called bad actor provision, so that the FCC can step in immediately if a cable company begins to move in a direction which is clearly anticonsumer or out of order with what the rest of the companies in the Nation are doing.

So, in my judgment, our objective should not be to strengthen the regulation of rates that cable now is allowed to collect for its upper-tier service. On the contrary, our objective ought to be *to maximize competition and to get* the Government out of the way of allowing these companies to begin to compete and the price mechanism to be able to provide the maximum amount of consumer benefit.

I think anybody who looks at what has happened in the last 5 or 10 years in this field cannot help be amazed at the way in which competition and private-sector initiative has changed the landscape of the provision of these services, and it will do so at such an extraordinary rate over the course of the next few years that Americans will, I think, understand the attributes of what the committee has brought to the floor.

So I urge my colleagues to stay with the committee mark and the chairman's and ranking member's efforts to try to maximize competition and to oppose the Lieberman-Leahy amendment.

At this time, I also express my admiration for the long efforts of the distinguished chairman and ranking member, and for the efforts of the ranking

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member when he was chairman, to really structure this. This has been a long road. I think that the balance, which is so difficult to maintain in this, has been maintained throughout, and I think we are going to be able to get a solid piece of legislation to the conference committee where further improvements can be made.

Mr. HOLLINGS. Mr. President, let me thank the Senator from Massachusetts. It has been a long road for all of us on our Committee on Commerce. We have been working veritably about 4 years to revise and bring to modern technology the provisions of the 1934 act. The distinguished Senator from Massachusetts has been a leader in participating as his staff has worked around the clock. I appreciate his comments.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I inquire of the floor manager, I would like about 3 minutes to speak in opposition to the Simon amendment.

Mr. HOLLINGS. Go right ahead.

AMENDMENT NO. 1283, AS MODIFIED

Mr. BRYAN. Mr. President, I rise in opposition to the Simon amendment which would strike language currently in the bill which removes radio ownership caps. I must say, I do so with reluctance because I have a great deal of affection and find myself generally in support of my good friend from Illinois when he takes the floor. In this instance, I believe his concerns are misplaced.

Currently, there are approximately 11,000 radio stations in this country. Unfortunately, far too many are losing money. The last figures that have been called to my attention would indicate that about half of those stations are actually losing money. If we do not take some action to help these stations, an increasing number will continue to fail.

One way to help radio stations get out of the red is to permit them to use economies of scale that they can achieve from consolidating their operations. Lifting the ownership cap will permit radio stations to achieve these efficiencies.

When the FCC raised the cap several years ago, we found that, in fact, this is what happened. Without ownership caps, economic forces will determine the appropriate size of stations. This, in my judgment, is a decision better left to the marketplace instead of some Government-mandated number.

I believe an ownership cap was put on radio stations many years ago because of the concern for undue concentration. In this day and age, such a concern, in my opinion, is unwarranted. With the avalanche of entertainment sources available to the public today, there is no need to worry that a concentration will cause public harm.

Cable systems already provide up to 30 channels of digital audio in a single market under a single owner. Satellite digital audio will soon be able to deliver 60 channels of digital music in every market across the country. Satellite television, like direct TV, now offer 30-plus radio channels to homes. This deluge of new entrants into the radio business will ensure that competition exists.

Extending the artificial restrictions on radio ownership will give the industry the wherewithal to compete against other mass media providers. It is my view that by ending these artificial restrictions, we encourage more competition and give the public greater choice. I urge my colleagues to oppose the Simon amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

Mr. PRESSLER. Mr. President, I urge that Senators come to use time on these amendments. We are down to about an hour before the majority leader will start us voting, and we are trying to get agreements on amendments and we are negotiating. If anybody who wants to make a speech, we will make arrangements to speak in general on the bill or on an amendment. I urge Senators to come to the floor to finish this bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BRYAN. I ask unanimous consent that I might speak for a period of time not to exceed 7 minutes as in morning business.

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

The Senator from Nevada is recognized.

Mr. BRYAN. I thank the Chair.

(The remarks of Mr. BRYAN pertaining to the introduction of S. 926 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

AMENDMENT NO. 1298

Mr. CRAIG. Mr. President, S. 652, as modified by the Dole-Daschle leadership amendment, balances reduced regulations with increased competition. That is exactly what the goal of the chairman has been all along.

I think the legislation recognizes that investment in new technology is an essential part of developing an advanced telecommunications infrastructure here in the United States.

Therefore, S. 652 provides a more stable and reliable business environment for both cable and television companies by reducing regulations and encouraging competition.

Mr. President, S. 652, as reported by the Commerce Committee, includes the following:

First, maintained the regulation of basic cable rates until there is effective competition.

Second, redefined the effective competition standard to include a telephone company offering video services.

Third, allowed competition from phone companies.

Fourth, deregulated upper tier programming, but kept it subject to a bad-actor provision. The bad-actor provision allows the FCC to make expanded tier services subject to regulation if rates are unreasonable and substantially exceed the national average of rates for comparable cable programming services.

These provisions were certainly a step in the right direction: away from regulations and toward more competition.

During consideration of S. 652, the Senate adopted the Dole-Daschle leadership amendment by a vote of 77 to 8, which included language addressing the concerns of those who believe that, despite the safeguards already contained in S. 652, it might lead to unreasonable rate increases by large cable operators.

It established a fixed rate, June 1, 1995, for measuring the national average price for cable services and only allows for adjustments to occur every 2 years. This provision eliminates the possibility that large cable operators could collude to artificially inflate rates immediately following enactment of S. 652.

The bill, as amended, establishes a national average based on cable rates in effect prior to the passage of S. 652 when rate regulation was in full force.

It excluded rates charged by small cable operators in determining the national average rate for cable services.

This provision addresses the concerns that deregulation of small system rates, which was included as part of the Dole-Daschle amendment in S. 652, would inflate the national average against which rates of large cable companies would be measured.

It specified that national average rates are to be calculated on a per channel basis.

This provision ensures that national average is standardized and takes into account variations in the number of channels offered by different companies as part of their expanded program packages.

It specified that a market is effectively competitive only when an alternative multichannel video provider offers services comparable to cable television.

This provision ensures cable operators will not be prematurely deregulated under the effective competition provision if, for example, only a single

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channel of video programming is being delivered by a telco video dial tone provider in an operator's market.

In addition, the leadership amendment also included critical provisions deregulating small cable operators.

In short, Mr. President, the reason I have given this explanation is the Dole-Daschle amendment tightened the bad-actor provision on expanded tier services and further limited the definition of effective competition.

This compromise closed any possible loophole that would allow large cable operators to unreasonably raise rates. It gave relief to our small cable companies and maintained the delicate balance struck in S. 652 of reduced regulations with increased competition.

The reason, again, I think it is important that we understand this, Mr. President, is that the Lieberman amendment puts us back at square one in this effort to move toward more competition in the cable industry. While it does include language similar to the leadership amendment that would deregulate small cable operators, the Lieberman amendment would undermine the competitive objectives of S. 652.

The amendment further restricts the national average standard by limiting it to the "national average rate for comparable programming services in cable systems subject to effective competition."

Mr. President, this is a backdoor route that leads back to the restrictive rate regulation standard similar to what now exists: regulating rates that substantially exceed those of companies subject to effective competition. It is precisely this standard that has created the highly bureaucratic regulatory morass that has stymied cable television investment, and therefore service to the consumer.

As I stated in my opening remarks on this bill last week, I opposed the Cable Act of 1992, and I voted against passage of that bill.

Since the enactment of S. 12—that was the Cable Act—I have received numerous complaints from fellow Idahoans who felt that the changes resulting from S. 12 worsened, rather than improved, their cable service and cost.

In addition, a number of very small independent cable systems in Idaho have been in jeopardy as a result of that near closure and have been forced to pay astronomical costs associated with implementing the act.

A rural community hardly benefits if it loses access to cable service because the local small business that provides service cannot handle the burden of Federal regulations. Quite the opposite is true.

Competition, not regulation, will encourage growth and innovation in the cable industry, as well as other areas of telecommunications, while giving the consumer the benefit of competitive prices.

Mr. President, I would again suggest to my colleagues the importance of not losing sight of the ultimate goal of reforming the 1934 Communications Act, which should be to establish a national policy framework that will accelerate private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition.

In addition, working toward the goal will spur economic growth, create jobs, increase productivity, and provide better services at a lower cost to consumers.

The balance of reduced regulations with increased competition contained in the provisions relating to cable in S. 652 will lead to the very important goals I just stated.

In addition, Mr. President, I am concerned if we continue to restrict the ability of cable companies to obtain capital necessary to invest in new programming and services, we will also be limiting the ability of cable companies as competitors to local phone monopolies.

Cable companies will require billions of dollars of investment to develop their infrastructures in order to be competitive providers.

The Federal regulation of cable television has restricted the cable industry's access to capital, made investors concerned about future investments in the cable industry, and reduced the ability of cable companies to invest in technology and programming.

Mr. President, rate regulation will not maintain low rates and quality services in the cable industry. Quite the opposite will occur. We have already seen it. Only competition will provide the kind of services that our consumers want.

New entrants in the marketplace such as direct broadcast satellites and telco-delivered video programming will provide competitive pressures to keep cable rates low and fit within the framework of the market. Cable companies are likely to provide the needed competition to keep the telephone local exchange market operating.

In short, Mr. President, deregulation of the cable industry is essential for a competitive telecommunications market, and it is necessary as the element of S. 652 and the competitive model envisioned in this bill.

I urge my colleagues to vote "no" on the Lieberman amendment. It is not a step forward. It is a step backward to the industry. It is clearly a step backward to the consuming public.

Mr. PRESSLER. Mr. President, could I briefly state that I have received a series of letters—the first of which I became aware of last night, from Time Warner. The first letter stated something that was not true, and it was sent to various people.

As discussed with you and your staff, this agreement is entirely contingent on the removal of the program access provisions . . .

And so forth. That was not true. So last night, I faxed to Timothy Boggs a letter stating in part:

At no time during our conversation did I indicate that any specific action by Time Warner would result in deletion of the program access provisions. I have had no further conversation with HBO/Time Warner about this matter since that meeting. My staff has not portrayed my position as being anything other than the industry negotiations suggested on May 4. Nothing I said during our short meeting could be construed as suggesting some sort of quid pro quo, which would be wrong, if not illegal. I resent the inference in your letter that I suggested something other than an industry-negotiated solution.

I have this morning obtained a letter from Time Warner saying "* * * the facts are exactly as outlined in your letter." It goes on to say that "* * * at no point did we seek or reach understanding with you or your staff regarding any change in the legislation."

Mr. President, I ask unanimous consent to have these three letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

TIME WARNER,
June 13, 1995.

Hon. LARRY PRESSLER,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR CHAIRMAN PRESSLER: As you requested, the attached signature page confirms that Home Box Office has reached an agreement with the National Cable Television Cooperative, Inc. for HBO programming. As discussed with you and your staff, this agreement is entirely contingent on the removal of the program access provisions at Section 204(b) of S. 652, prior to Senate action on the legislation.

On behalf of Time Warner and HBO, I am pleased to report that we have reached this agreement and respectfully request that this provision be removed from the bill at the earliest possible opportunity. Without removal of this provision from the bill, the HBO distribution agreement with the NCTC will be void.

Thank you for your leadership on this matter. Please feel free to contact me if I can be of any assistance to you or your staff. I can be reached at my office at 202/457-9225 or at home at 202/483-5052.

Warm regards,

TIMOTHY A. BOGGS.

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, June 15, 1995.

Mr. TIMOTHY A. BOGGS,
Senior Vice President for Public Policy, Time Warner, Inc., Washington, DC.

DEAR MR. BOGGS: Your faxed letter of June 13 contains misleading statements which do not accurately reflect my position.

On May 4, 1995, I met briefly with you, Ron Schmidt and HBO/Time Warner executives, in the presence of my staff, regarding the program access provision of S. 652. During that meeting, HBO/Time Warner urged me to support deletion of the program access provisions of the bill.

I stated that the program access provision was of enormous importance to small cable operators, including those in South Dakota. I suggested that if the program providers disliked the provision, they ought to negotiate with the small cable operators to reach an agreement which might address the problems this portion of S. 652 is attempting to solve. Specifically, since Ron Schmidt is from my home state, I suggested that he talk to a

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small cable operator from South Dakota, Rich Cutler, to see if an industry compromise were possible.

At no time during our conversation did I indicate that any specific action by Time Warner would result in deletion of the program access provisions. I have had no further conversations with HBO/Time Warner about this matter since that meeting. My staff has not portrayed my position as being anything other than the industry negotiations suggested on May 4. Nothing I said during our short meeting could be construed as suggesting some sort of quid pro quo, which would be wrong, if not illegal. I resent the inference in your letter that I suggested something other than an industry-negotiated solution.

Your letter indicates that failure to delete the program access provisions from the bill would vitiate any negotiated agreement HBO/Time Warner had reached with the small cable operators. While HBO/Time Warner is free to negotiate contracts as they see fit, such tactics, in my opinion, cannot be considered as good faith negotiations. Your letter implies that I tacitly approved such a condition, which is not the case.

I expect you to send this letter to the same individuals who received your letter to me. Your letter is misleading, and does not accurately characterize my position as presented in my May 4 meeting with HBO/Time Warner.

Sincerely,

LARRY PRESSLER,
Chairman.

TIME WARNER,
June 15, 1995.

HON. LARRY PRESSLER,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of today. I write to respond and to join you in setting the record straight.

First, I am as distressed as you that any statement I have made could be misconstrued or infer anything other than the facts.

Second, the facts are exactly as outlined in your letter.

Third, at no point did we seek or reach understanding with you or your staff regarding any change in the legislation. Any understanding Time Warner and HBO have reached on this matter has been entirely with our private business associates.

Finally, as stated in my letter of June 13, Time Warner has urged that the Senate remove Section 204(b) from S. 652 because we are confident that industry negotiations, by ourselves and others could result in a change of business practices that would make Section 204(b) no longer necessary. Our good faith negotiations have borne out this confidence. I remain pleased to report that HBO and NCTC have reached a distribution agreement.

In closing, let me personally apologize for any misunderstanding my letter has caused. I deeply regret this confusion and remain available to discuss this matter with any interested party. As you request, I will distribute your letter of today to the very few people who received a copy of my letter to you of June 13.

Sincerely,

TIMOTHY A. BOGGS.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I very much appreciate the remarks my friend and colleague from South Dakota just made. He has had printed in the RECORD an outrageous letter, an outrageous letter from Time Warner on June 13, addressed to Senator PRESSLER, chairman of the Commerce Committee. Any lobbyist who would write a letter like this, especially when it is not true, should make a public apology. And his powerful employer, Time Warner, should do likewise. I am referring to the letter of June 13 that the Senator from South Dakota has just entered into the RECORD.

He has also entered in the RECORD a letter of June 15, which is supposedly an apology from Timothy Boggs for the letter he earlier wrote. However, in the letter of June 15, while admitting that his previous letter was in error, and in a way apologizing for it, I do not see anything in the letter that indicates to me that Time Warner may not have had or thought they had a quid pro quo with some other Members of the U.S. Senate.

What we are talking about here is money, and that is one of the problems with this whole telecommunications bill, in which I have had an integral part to play. I want to say Senator PRESSLER is an honorable man. He is a good and hard-working Member of the Senate and has a very decent staff. He is a friend and a colleague I respect, and I congratulate the Senator on his letter to Time Warner and their response. I object to the action taken by Time Warner and Viacom—two of the big giants today—for putting the U.S. Senate in a difficult if not compromising position.

Probably nothing else better demonstrates the power of the lobbyists around this place, who overreach and overreach and overreach, and get not only themselves but the reputation of this body in some degree of disrepute. There are good and substantive arguments for and against the cable volume discount provision in the committee-passed bill. Time Warner and Viacom have told the Senate they will give discounts to the small cable operators, as we had provided for in the bill, if and only if, Mr. President—they have not gotten themselves off the hook as far as this Senator is concerned—they will agree to these discounts that they never would have thought of had we not incorporated this in the bill, and they simply say that if and only if the Senate removes the volume discount language for the small cable operators will they carry out their commitment.

They still have a quid pro quo and it is wrong. That is why this Senator last night objected to any unanimous consent requests that by voice vote we change the committee's position. I will insist on a rollcall vote. There may well be good reasons for the Senate to change that provision that came out of the Commerce Committee. Time Warner has obviously put all kinds of pressure on the small cable operators around the United States, which they can do. So now we have a situation, as I understand it, where the small cable operators, whom we wanted to protect to some degree with regard to insisting on some discounts, now have been pressured by Time Warner to appeal to us to eliminate the proviso of the bill.

I do not want to see the Senate agree to something like that, because I think whether we do it knowingly or unwittingly, we place ourselves in a position of being influenced when maybe that is not the case.

There comes a time when the U.S. Senate, despite money, despite power, despite pressure from competing interest groups, has to stand up and do what we think is right. Just because of the action of the Commerce Committee to provide some measure of relief for the smaller cable operators, who by and large are at the complete indirect control by the biggies like Time Warner, the little guys are now appealing that the big guys have said they will go along with what we want to do if we will knock it out of the piece of legislation.

This has gone way too far. Time Warner and Viacom have taken the small cable operators hostage, just like hostages are being taken in Bosnia today. They have taken these little guys hostage and they say, "If you will knock this out of the bill, then somehow we will get along." I think this is the time to teach Time Warner and every other lobbyist—and there are a lot of good lobbyists around this place—that they overstep their bounds. They clearly overstepped their bounds when they wrote the referenced letter I had just cited and which was placed in the RECORD by my friend and colleague, an honorable man, the Senator from South Dakota, Senator PRESSLER.

I hope we will recognize that Time Warner is attempting to take hostages. I think we should say to Time Warner, grab them right by the throat if we have to, and say: Mister, you may be very big and you may have control like no one else has ever had of our entertainment industry, but you cannot control the U.S. Senate.

Therefore, I will insist upon a vote and I will be against any kind of a voice vote because I think this is the time to teach some of these larger companies that enough is enough. These large companies are saying to the Senate, "If you do not remove this provision, we will not give fair prices to the small cable operators." They are trying to take the U.S. Senate hostage, also. If we, the U.S. Senate, do what Time Warner and Viacom want us to do, this type of contingency is dangerously close to a quid pro quo. It is not right and is probably illegal. The U.S. Senate should not negotiate with hostage takers.

Mr. President, because of this tactic, I insist on a rollcall vote on trying to knock out the volume discount provisions. The Senate can work its will but I will stick by the committee's provisions.

Mr. BYRD. Will the Senator yield?

Mr. EXON. I will be glad to yield to the Senator.

Mr. BYRD. Mr. President I thank the Senator for his clear and forceful statement. And I share his views. May I say

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that I am glad he will insist on a vote. If he does not, I will.

It seems to me—I will have more to say later—that the good work, the efforts, and the many hours and days and weeks and months that the committee has devoted to this legislation run the risk now of coming to naught, as far as this Senator is concerned.

It appears to me that in our efforts to control bigness, bigness is weighing in, and I am not going to be impressed by bigness or by money or by heavy lobbying.

I think this also goes to show we should not have voted for cloture yesterday. I voted against cloture. This is a massive bill. It is an important bill. I am sure it has a lot of good elements in it. But here at the last minute, we are under pressure now. Cloture has been invoked. And some kind of an agreement has been entered into to stack amendments with 2-minute explanations.

I thank the distinguished majority leader for including the "2-minute explanation" in the agreement. I went to him personally yesterday and asked him to do that. If there are going to be stacked votes, at least we should have some explanation.

But I think this situation should cure us of stacking votes, great numbers of votes with only a minute or 2 minutes of explanation. This is the United States Senate where debate is unlimited, unless we invoke cloture or enter into time agreements.

From now on, I am not going to be very congenial with respect to stacking a large number of votes. But to have a string of stacked votes on a very complicated bill that I do not understand, and I am not sure any other Senators will understand what is in this bill by the time this amendment process is completed, to call up amendments, and debate them for only 30 minutes; very complicated amendments; the kind of amendments that should be offered in committee, or, if they are going to be offered on the floor, there ought to be adequate debate so that we all know what we are doing—is going too far, especially if the vote on final passage is to occur immediately following the disposition of the enumerated amendments.

So I thank the Senator for stating that he will insist on a vote, and I want to put leadership on notice that in the future this one Senator is going to be a little more reluctant to enter into time agreements on complex matters like this and stack votes, to be followed by the immediate passage of a bill. There seems to be a mindset here that we have to finish any complex bill in 3 days or 4 days. I am not sure that Senators ought to be in such a hurry.

I am disturbed by the Time Warner letter. It is disturbing. It may be that this will be one of the straws that breaks the camel's back as far as this Senator is concerned in respect of the vote on this bill.

I thank the Senator for yielding.

Mr. EXON. Mr. President, may I have just one second to thank my friend from West Virginia for his usually thoughtful remarks? I appreciate them very, very much. As one who has presided over and has put the U.S. Senate on course, I think his words are well taken.

Mr. SIMON. Mr. President, I take 3 minutes of my time on my amendment.

I first want to comment on what Senator BYRD just had to say. I think in general we can say there are rare occasions when we take too much time on a bill. There are too many occasions when we take too little time on a bill, as far as legislative process.

AMENDMENT NO. 1283, AS MODIFIED

Mr. SIMON. I would like to just speak very briefly on an amendment that I have in. The present practice of the FCC is to limit radio station ownership by any one entity to 20 AM and 20 FM stations. The most any one entity now has is 27 total. The bill, without my amendment, takes the cap off completely. My amendment says let us put a cap of 50 AM, 50 FM, far more than we have now by any one entity. It is a 150-percent increase. But let us not move to the day when we have too much concentration of the media. I think that is not a healthy thing.

One of my colleagues speaking against my amendment says this is what is happening in the newspaper business. It is. It is not healthy in the newspaper business. But we do not have any control over that. We do have control through Federal licensing of radio stations and television. My amendment goes further than some people would want. I say let us increase that 40 limit now to 100. But let us not let anyone who wants control of the radio stations of this Nation to have unlimited ability to get those radio stations.

I hope my amendment will be approved.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. Mr. President, if no one wishes the floor, I question the presence of a quorum.

The PRESIDING OFFICER. 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 (Mr. KYL). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. PRESSLER. Mr. President, I ask unanimous consent that at the hour of 12:15 p.m., the Senate proceed to a vote on or in relation to the McCain amendment No. 1285, to be followed by a vote on or in relation to the Simon modified amendment No. 1283, to be followed by a vote on or in relation to the Lieberman amendment No. 1298, with the remaining provisions of last night's consent agreement remaining in place.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1285

The PRESIDING OFFICER. The hour of 12:15 p.m. having arrived, there are 2 minutes—1 minute per side—for discussion of the amendment and then voting will occur on the amendment offered by the Senator from South Dakota, [Mr. PRESSLER] for the Senator from Arizona [Mr. MCCAIN].

The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I urge my colleagues to vote for the McCain amendment and to vote the other amendments down. The arguments have been made. So I yield back the remainder of my time. I yield back all time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1285 offered by the Senator from South Dakota for the Senator from Arizona. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—98

Abraham	Feingold	Lugar
Akaka	Feinstein	Mack
Ashcroft	Ford	McCain
Baucus	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boxer	Grams	Murray
Bradley	Grassley	Nickles
Breaux	Gregg	Nunn
Brown	Harkin	Packwood
Bryan	Hatfield	Pell
Bumpers	Heflin	Pressler
Burns	Helms	Pryor
Byrd	Hollings	Reid
Campbell	Hutchison	Robb
Chafee	Inhofe	Rockefeller
Coats	Inouye	Roth
Cochran	Jeffords	Santorum
Cohen	Johnston	Sarbanes
Conrad	Kassebaum	Shelby
Coverdell	Kempthorne	Simpson
Craig	Kennedy	Smith
D'Amato	Kerrey	Snowe
Daschle	Kerry	Specter
DeWine	Kohl	Stevens
Dodd	Kyl	Thomas
Dole	Lautenberg	Thompson
Domenici	Leahy	Thurmond
Dorgan	Levin	Warner
Exon	Lieberman	Wellstone
Faircloth	Lott	

NAYS—1

Simon

NOT VOTING—1

Hatch

So the amendment (No. 1285) was agreed to.

Mr. PRESSLER. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

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The motion to lay on the table was agreed to.

AMENDMENT NO. 1283, AS MODIFIED

Mr. PRESSLER. Mr. President, I move to table the Simon amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMON. Mr. President, parliamentary inquiry. My understanding is that before these next two amendments are voted on, the supporters get 1 minute, and the opposition gets 1 minute to explain.

The PRESIDING OFFICER. The Senator is correct. Two minutes are equally divided.

Mr. SIMON. Mr. President, if I may have the attention of my colleagues, the present FCC rule says one entity can own 20 AM stations and 20 FM stations, or a total of 40. Right now, the maximum owned by any one entity is 27.

This bill takes the cap off completely. My amendment says we will put a cap of 50 AM, 50 FM, a 150-percent increase, but do not take the cap off completely.

We should not concentrate media ownership in this country. It is not a healthy thing for the future of our country. I hope Members will resist the motion to table my amendment.

Mr. PRESSLER. Mr. President, I hope my colleagues will table this amendment. We voted on this last week in the leadership package, the Dole - Daschle - Pressler - Hollings package. We voted something like 78 to 8. This matter has been settled in this bill. It takes apart the leadership package. I urge everyone to table it. It is more regulation and I ask we proceed.

I yield the remainder of my time.

The PRESIDING OFFICER. The question occurs on the motion to table amendment No. 1283 offered by the Senator from Illinois [Mr. SIMON]. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mrs. KASSEBAUM (when her name was called). Present.

Mr. LOTT. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 64, nays 34, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—64

Abraham	Chafee	Exon
Ashcroft	Coats	Faircloth
Baucus	Cochran	Ford
Bennett	Cohen	Frist
Bond	Coverdell	Glenn
Breaux	Craig	Gorton
Brown	D'Amato	Graham
Bryan	Daschle	Gramm
Burns	Dole	Grams
Campbell	Domenici	Grassley
Gregg	Lugar	Shelby
Hatfield	Mack	Simpson
Heflin	McCain	Smith
Hollings	McConnell	Snowe
Hutchison	Moseley-Braun	Specter
Inhofe	Murkowski	Stevens
Inouye	Nickles	Thomas
Jeffords	Nunn	Thompson
Kempthorne	Packwood	Thurmond
Kohl	Pressler	Warner
Kyl	Roth	
Lott	Santorum	

NAYS—34

Akaka	Feinstein	Moynihan
Biden	Harkin	Murray
Bingaman	Helms	Pell
Boxer	Johnston	Pryor
Bradley	Kennedy	Reid
Bumpers	Kerrey	Robb
Byrd	Kerry	Rockefeller
Conrad	Lautenberg	Sarbanes
DeWine	Leahy	Simon
Dodd	Levin	Wellstone
Dorgan	Lieberman	
Feingold	Mikulski	

ANSWERED "PRESENT"—1

Kassebaum

NOT VOTING—1

Hatch

So, the motion to lay on the table the amendment (No. 1283), as modified, was agreed to.

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

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1298

Mr. PRESSLER. Mr. President, I move to table amendment No. 1298, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ABRAHAM). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the order, there are 2 minutes equally divided between the proponents and the opponents of the amendment.

The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

I rise to speak against the motion to table. I ask my colleagues to listen for these 60 seconds.

I usually do not make predictions on the floor of the Senate. But based on my experience in cable consumer protection for more than a decade, I will predict to my colleagues that, if this bill passes unamended, most American cable consumers will see significant rate increases in the next couple of years. These rate increases are not necessary. In 1984, Congress removed regulation from cable consumers. It was a disaster. Rates skyrocketed.

In 1992, on a bipartisan basis, we came back and put in reasonable consumer protections, and they have worked brilliantly. Rates are down 11 percent, and the cable companies are thriving, with the highest profit margins in the telecommunications industry, and with a great ability to continue to raise capital. There is no reason to remove the protections that cable consumers have in this bill.

My amendment simply restores a standard of the marketplace saying that no cable company will be regulated unless it charges more than the average in markets where there is effective competition.

This amendment is not perfect, but it is all that stands between our constituents and significant cable rate increases every month for the next several years.

I thank the Chair.

Mr. PRESSLER. Mr. President, I ask my colleagues to table this amendment. This amendment is undoing the leadership package, the Dole-Daschle package, which we voted on already. The Dole-Daschle package and the committee bill will increase competition and will cause consumer rates on cable to go down as more entrants enter the market.

I urge that we table this amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota to lay on the table the amendment of the Senator from Connecticut. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MACK (when his name was called). Present.

Mr. LOTT. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 67, nays 31, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—67

Abraham	Faircloth	McCain
Akaka	Ford	McConnell
Ashcroft	Frist	Moseley-Braun
Baucus	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Nunn
Breaux	Grassley	Packwood
Brown	Gregg	Pressler
Bryan	Harkin	Reid
Burns	Hatfield	Robb
Campbell	Heflin	Roth
Chafee	Hollings	Santorum
Coats	Hutchison	Shelby
Cochran	Inhofe	Smith
Cohen	Inouye	Snowe
Coverdell	Jeffords	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
Daschle	Kerrey	Thompson
DeWine	Kerry	Thurmond
Dole	Kyl	Warner
Domenici	Lott	
Dorgan	Lugar	

NAYS—31

Biden	Glenn	Moynihan
Bingaman	Graham	Murray
Boxer	Helms	Pell
Bradley	Johnston	Pryor
Bumpers	Kennedy	Rockefeller
Byrd	Kohl	Sarbanes
Conrad	Lautenberg	Simon
Dodd	Leahy	Simpson
Exon	Levin	Wellstone
Feingold	Lieberman	
Feinstein	Mikulski	

ANSWERED "PRESENT"—1

Mack

NOT VOTING—1

Hatch

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So the motion to lay on the table the amendment (No. 1298) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 1303

Mr. STEVENS. Mr. President, the next item to be taken up is my amendment No. 1303, which I have offered along with my good friends, the Senator from Hawaii, Senator INOUYE, and the Senator from New York, Senator D'AMATO.

This amendment would clarify the resale provisions of section 255 by requiring the Bell companies to make resale service available at prices reflecting the actual cost of providing those services or functions to another carrier.

The amendment seeks to carry out and really clarify the delicate balance of the bill. It really is just that, an amendment to clarify the relationship of sections 251 and 255. I do believe, however, that we have developed a situation where there is a misunderstanding about the actual terms of my amendment.

I might state that when I offered it, I thought it was an amendment that had support. I offered it along with a series of other amendments. As the Senate realizes, all of those amendments have been accepted by agreement. There has been no dissension concerning them.

I feel it essential this amendment have further study in order that it will maintain the delicate balance that this bill requires. I will be a conferee on this bill, and it is my intention to make certain that this subject is called up in the conference.

Any amendment clarifying these two provisions would be within the scope of the conference, in my opinion, and it is my intention to ask that this amendment be withdrawn at this time.

I want my friend from Hawaii to have a chance to make a comment about this before I do, however, because I want to make sure everyone understands that we are not abandoning this subject, we are going to postpone it to the conference in the hope that we will be able to work out an amendment there which will have the same success as the other amendments we have worked on so long, which have been adopted by unanimous consent.

I yield to my friend from Hawaii.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I wish to join my colleague from Alaska in assuring all those who support the measure that it is not our intention to let it die at this stage. We will most certainly, as conferees, insist that this matter be discussed and, hopefully, we will be able to convince our colleagues in the House and the Senate to adopt it.

So, reluctantly but I believe necessarily, I will concur with the action that is about to take place.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I want to pay tribute to the two Senators from Alaska and Hawaii. They are two giants of the Senate and giants in our committee. They will both be conferees. They have provided enormous leadership.

We just feel, at this time, that we have carefully crafted an agreement, and the checklist, and so forth, might come apart. So we have decided to delay this discussion until conference. I want to pay tribute to both of them being willing to help move this bill forward. I thank them very much.

Mr. DOLE. Let me concur in the statement made by the manager. This is a controversial area. I think the managers have indicated they are both going to be conferees. It will be considered at that time, and it is within the scope of the conference. There is a disagreement, but this may help solve it. I thank my colleagues.

Mr. STEVENS. Mr. President, I ask unanimous consent that we may withdraw amendment 1303.

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

So the amendment (No. 1303) was withdrawn.

AMENDMENT NO. 1292

The PRESIDING OFFICER. The pending question is amendment No. 1292, offered by the Senator from West Virginia [Mr. ROCKEFELLER].

Mr. HOLLINGS. On behalf of the distinguished Senator from West Virginia, Senator ROCKEFELLER, I ask unanimous consent that the amendment be withdrawn.

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

So the amendment (No. 1292) was withdrawn.

AMENDMENT NO. 1341

The PRESIDING OFFICER. The pending question now is amendment No. 1341, offered by the Senator from South Dakota, Senator PRESSLER, for the majority leader.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

Mr. PRESSLER. Mr. President, I hope we can turn now to the Heflin amendment.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the pending Dole amendment be set aside so we can bring up the Heflin amendment.

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

AMENDMENT NO. 1367

Mr. HEFLIN. Mr. President, I believe this has been cleared by both sides. This deals with amendment 1367, which I previously sent to the desk.

This deals primarily with a rule, in urban areas, where there is a small town that has a limited number within the incorporated area or the urbanized area, and has a high percentage of customers in rural areas.

It is a unique situation in regard to cable systems that have gone out beyond the incorporated limits, and they have sold to customers there. That is a pretty expensive type of thing.

When they go out, there is not the density on the lines that you have in the city. In rural areas, you might have one customer per mile, and in the cities you may have 1,200 customers to a mile, or 1,000 customers to a mile.

This sort of takes care of a situation for rural areas. It affects those where I believe there are no more than 20,000 subscribers, and a high percentage is in urban areas. I move the adoption of this amendment.

Cable systems with less than 20,000 subscribers are extremely concerned that they will be unable to compete with the telephone companies once they enter the cable business, a very legitimate concern. Because of the very real possibility that they will be run over by their local telephone company if the only option is to compete head-to-head, small cable systems would like to have the option to form a joint venture with their local telephone company or to be acquired by their local telephone company.

The bill as it is currently written would disallow small cable systems in urbanized areas to form joint ventures or to be acquired by their local telephone company. Due to the broad definition of an urbanized area, many small cable systems serving very rural areas will be ineligible to form a joint venture or to be acquired by their local telephone company because they technically fall within the definition of an urbanized area.

My amendment would allow cable systems in an urbanized area that serve a significant number of subscribers in nonurbanized areas to be eligible to participate in joint ventures or to be acquired.

These small cable operators serving a significant number of rural subscribers but who are swept into the urbanized area definition should be given the option of forming joint ventures or of selling to their local telephone company. Without these options, S. 652 could well force many of them out of business.

Mr. PRESSLER. Mr. President, I want to commend the Senator from Alabama. I know he is leaving the Senate next year. We will miss him.

This is a good amendment. We agree to it. I think it will help smaller cities in rural areas. We are prepared to pass

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the amendment. I move we adopt the amendment. I congratulate my friend.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1367) was agreed to.

Mr. HEFLIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. PRESSLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, I think one of the remaining two amendments is the amendment of the Senator from Kansas.

The PRESIDING OFFICER. That is correct. That is the pending question.

AMENDMENT NO. 1341

Mr. DOLE. Mr. President, let me state very simply the purpose of this amendment. I do not know anything about all the Time Warner material. It has nothing to do with this amendment. I heard the Senator from Nebraska. I thought we would be able to accept this amendment, but I understand he has a problem with it.

As I understand it, not being a member of the committee, the current bill is tantamount to Government price-setting in the programming market. The language in the bill would remove programmers from taking advantage of universally accepted marketing practices such as volume discounts.

It seems to me all I am doing is to strike out this section. It strikes a provision of the bill that would have the effect of regulating the prices paid by small cable TV companies for programming. And the intent of the provision was to crack down on those programmers who were gouging small operators. But, unfortunately, it also impacts on good programmers who did not engage in the price-gouging effort.

Finally, small cable TV companies have now negotiated good contracts. I have a letter from the National Cable Television Cooperative, Inc., and also a letter from Turner Broadcasting, which suggests that Discovery Communications, Black Entertainment Television, and Turner Broadcasting support my motion to strike section 204(b). They set forth the reasons:

> Although described as a "small cable operator" amendment, section 204(b) would effectively entitle every cable operator to the price charged to the largest cable operator. . . .

Which was never the intent. So we were just going to take it out. They have now negotiated good contracts.

I also include the letter from Turner Broadcasting and the letter from the National Cable Television Cooperative. Let me quote a part of that.

> We are pleased to report that the National Cable Television Cooperative has reached agreements with Time Warner's Home Box Office Unit, Showtime Network, Inc.'s Showtime and the Movie Channel Services, and Viacom's MTV Network Services. . . . As a result of this important change in circumstances, we no longer believe that the changes to the program access provisions of the Cable Act proposed in Sec. 204(b) of S. 652 are necessary, and we can accept the removal of those provisions from the bill.

I know the Senator from Nebraska brought in a lot of material on Time Warner. I do not have anything to do with that. I do not know anything about Time Warner. I mentioned their name myself a couple of weeks ago in Hollywood. So I do not have a dog in that fight. I do not understand what it is all about.

All I am doing is striking out a section that is no longer necessary, and it is supported, as I said, by Discovery Channel, Black Entertainment Television, Turner Broadcasting, National Cable Television Cooperative.

I will yield the remainder of my time. There may be time in opposition.

Mr. President, I ask unanimous consent the two letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL CABLE TELEVISION COOPERATIVE, INC.,
Lenexa, KS, June 15, 1995.

Hon. LARRY PRESSLER,
U.S. Senate, Chairman, Committee on Commerce, Science and Transportation, Washington, DC.

DEAR CHAIRMAN PRESSLER: We are pleased to report that the National Cable Television Cooperative has reached agreements with Time Warner's Home Box Office Unit, Showtime Network, Inc.'s Showtime and the Movie Channel Services, and Viacom's MTV Network Services (MTV, VH1, and Nickelodeon). As a result of this important change in circumstances, we no longer believe that the changes to the program access provisions of the Cable Act proposed in Sec. 204(b) of S. 652 are necessary, and we can accept the removal of those provisions from the bill.

As you know, other conflicts remain. Despite repeated attempts by the Cooperative, we have failed to conclude master affiliate agreements with many non-vertically-integrated networks which are exempt from existing law.

For example, we were recently notified by Group W of their intent not to renew our long-standing contract for Country Music Television. (Originally negotiated by NCTC with CMT's former owners in 1989, prior to CMT's purchase by Group W/Gaylord). Group W has also steadfastly refused to conclude a contract with us for The Nashville Network. The most difficult of many other examples we could cite would be that of ESPN.

Please accept our deepest appreciation for lending your support and good offices to bringing about a resolution of this matter which we believe is mutually beneficial to all parties.

Sincerely,

MICHAEL L. PANDZIK,
President.

TURNER BROADCASTING SYSTEM, INC., WASHINGTON CORPORATE OFFICE,
Washington, DC, June 14, 1995.

Hon. ROBERT DOLE,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR DOLE: I am writing on behalf of Discovery Communications, Black Entertainment Television and Turner Broadcasting System, Inc., to support your motion to strike section 204(b) of S. 652, the "Telecommunications Competition and Deregulation Act of 1995."

Section 204(b) would remove the words "legitimate economic benefits" from current law, thereby outlawing the volume discounts charged by certain programmers (those with 5% co-ownership with cable systems) even where the volume discounts are economically justified.

Although described as a "small cable operator" amendment, section 204(b) would effectively entitle every cable operator to the prices charged to the largest cable operator, working substantial economic harm to the affected networks. Moreover, since section 204(b) applies only to some and not all programmers, it would have a very unfair competitive impact.

We deeply appreciate your efforts to correct this problem with the bill.

Sincerely,

BERTRAM W. CARP,
Vice President, Government Affairs.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HOLLINGS. Mr. President, I thought the time was limited. I understand the time is not limited on this amendment.

I would simply say, with respect to the merits, that programmers give big cable operators the volume discounts and not to the small cable operators. So, in trying to provide for that universal service and to make sure that it is extended, particularly to the high-cost and rural areas, the provision in the bill is that the small cable operators get the similar discounts.

With the Dole amendment, that would be removed. There would be high-volume discounts to the big cities, let us say, and higher costs thereby and a diminution of universal service to the rural areas of America.

So, this side would oppose the amendment on the merit itself. There is some question in this Senator's mind, without seeing anything further, on how this amendment came to the floor. With that in mind, let me yield to my colleagues who have come.

I understand the distinguished Senator from Iowa wants to talk as in morning business while we are waiting.

Mr. PRESSLER. Mr. President, could I just make a statement on the program access issue?

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The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I rise in strong support of the Dole amendment. Coming from a rural, small-city State, I have long been concerned with program access. In fact, in the 1992 cable bill, my main reason for supporting it was not the pricing side so much as the program access side. It is a controversial thing, but I think the pricing side of it was a mistake but the program access side was a necessary thing.

To understand this amendment, or this issue, remember that program access is not something that everybody has. I remember one of our REA's, which transmit TV signals by microwave, wanted to get ESPN on their channel and they could not even get ESPN to return a phone call because they were too small. So there was a need for program access. And this amendment is continuing in that tradition. So this is a subject that all of us have worked on for years.

The program access portions, I think, of that act have worked at least to help the smaller cities and to help the rural areas where they transmitted by microwave from one farm to the next where it is too expensive for cable lines to run. Nobody will sell those people programming because it is not worth it financially. There are myriad interests concerned with this issue. I know the Black Entertainment Network has endorsed this amendment for the same reason, that they are very much in need of program access.

There has been much discussion over the program access provisions contained in S. 652. From the beginning of this process, I wanted to deal with the problem which many small operators have faced in being charged higher rates for programming. S. 652's program access provision is important to small cable operators, especially those in South Dakota. Program providers strongly object to this provision. I suggested to the program providers that they work with the small cable operators to seek an industry agreement which could make a legislated solution unnecessary. The president of the National Cable Television Cooperative, Michael Pandzik, the organization that purchases programming on behalf of the small cable operators, wrote to me that the cooperative has reached agreement on the small cable rates on programs from the major vertically integrated entertainment companies. As a result, I support the amendment by Senator DOLE to strike the program access language change in S. 652.

The PRESIDING OFFICER. The question is on the amendment.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Will the Chair advise the Senator from Nebraska what is the pending matter before the Senate?

The PRESIDING OFFICER. The pending matter before the Senate is amendment No. 1341, offered by the Senator from South Dakota for the majority leader.

Mr. EXON. I thank the Chair. This is the amendment I had discussed earlier in the day. As I understand it, the Senator from South Dakota is recommending and has introduced this amendment for the majority leader, notwithstanding the discussions that we had earlier in the day on this specific matter?

Mr. PRESSLER. I am sorry, would my friend——

Mr. EXON. I simply say I want to understand what is being proposed. Do I understand the Senator from South Dakota is offering the amendment for the majority leader?

Mr. PRESSLER. The majority leader offered it for himself and spoke for it.

Mr. EXON. Now you are calling it up for a vote, is that correct?

Mr. PRESSLER. Yes, if the Senator from Nebraska wishes.

Mr. EXON. No, it is fine to have the vote. I am not going to object to that. There is no way I can object to a vote.

I would simply say to my friend from South Dakota, is he, as the leader of the bill, recommending that the Senate vote for the Dole amendment?

Mr. PRESSLER. Yes, I am. I have a long tradition of support for program access. I voted for the 1992 cable bill mainly because of program access issues. Yes, I am recommending that.

Mr. EXON. I would simply say, I think the Senator from South Dakota knows this Senator came to the defense of my friend and colleague from South Dakota earlier because of what I thought was terrible precedent setting with regard to the letters that had been distributed, apologies given on this whole matter.

Notwithstanding the serious objection that the Senator from South Dakota, I thought, had with regard to the lobbying activities that took part on this, notwithstanding that, am I to understand the Senator from South Dakota is still going to support the measure?

Mr. PRESSLER. Yes. I have stated my views in my letter. But the underlying substance of this amendment I support.

Mr. EXON. Is the Senator saying that while he objects to the way this matter has been handled, the end result, in his opinion, is that it is good for rural areas with regard to receiving television material?

Mr. PRESSLER. Yes. I gave an example when the Senator was not here of some of my rural telephone co-ops having difficulty getting ESPN. We had to get the Vice President out there. My reason for supporting the 1992 Cable Act was program access. The substance of the amendment is good for the country, I believe. It is very much in keeping with that.

I wrote a letter back to Time Warner regarding that matter and have placed it in the CONGRESSIONAL RECORD. They wrote me a letter back. The National Cable Television Cooperative group supports it very strongly. I have a letter from them. I cited this earlier.

We are pleased to report that the National Cable Television Cooperative has reached agreements with Time Warner's Home Box Office Unit, Showtime Network, Inc.'s Showtime and the Movie Channel Services, and Viacom's MTV Network Services (MTV, VHI, and Nickelodeon). As a result of this important change in circumstances, we no longer believe that the changes to the program access provisions of the Cable Act proposed in Sec. 204(b) of S. 652 are necessary, and we can accept the removal of those provisions from the bill.

As you know, other conflicts remain. Despite repeated attempts by the Cooperative, we have failed to conclude master affiliate agreements with many non-vertically-integrated networks which are exempt from existing law. * * *

For example, we were recently notified by Group W of their intent not to renew our long-standing contract for Country Music Television. (Originally negotiated by NCTC with CMT's former owners in 1989, prior to CMT's purchase by Group W/Gaylord). Group W has also steadfastly refused to conclude a contract with us for The Nashville Network. The most difficult of many other examples we could cite would be that of ESPN.

So, in any event, I think we are all aware of these problems. I support the substance of the amendment. I disagree with the way Time Warner dealt with that particular letter. I wrote them a strong letter back, and they wrote me a letter stating my letter was absolutely accurate, and they apologized.

Mr. EXON. Just so that I understand this, I would like to have my colleague from South Dakota explain a little bit more. As I understand it, Time Warner and all these other good folks that control massive sections of our entertainment industry were not treating the small cable owners in South Dakota and elsewhere fairly, in the opinion of the Senator from South Dakota and the Senator from Nebraska and the Senator from South Carolina, the ranking Democrat on the Commerce Committee.

Therefore, we wrote into the telecommunications bill that was reported out of committee language that would have required Time Warner and all these other good folks, who were very much concerned about the public interest and public access, and not interested in making money—we wrote that in there to try to force them to treat the subscribers to cable in South Dakota and elsewhere fairly.

Is that accurate? Is that an accurate reflection of what I thought we did in committee?

Mr. PRESSLER. I believe that the legislative process here, as it moves forward, is trying to be fair, and different Senators have different points of view. Senator DOLE has brought his amendment forth and has spoken on it, having made the arguments for it. I think the Senator's comments are most welcome.

I have a long record of fighting hard for program access. The Black Entertainment Network has endorsed this effort by Senator DOLE. I think it is a very good effort.

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Mr. EXON. Is it fair to assume that, in the opinion of the Senator from South Dakota, Time Warner and all these good folks would not have made this arrangement at this very late hour had it not been for the actions that we in the Commerce Committee took to address some things that were going on with regard to the way Time Warner and others treated rural areas? Is it safe to assume, in the opinion of the Senator from South Dakota, that this grand compromise at the last minute would not have been reached had we not taken the action that we did in the Commerce Committee on the telecommunications bill?

Mr. PRESSLER. It is hard to say. But let me say that I have for years fought hard for program access for smaller cable people, for our rural people, and there is an understanding with the president of South Dakota East River Electric. We could not get ESPN even to return our calls. Finally, we called the head personnel up in New York and they sent a person out, and ultimately Time Warner may be responding to that.

The point is that there is a constant battle, trying to balance between price and program access. The same thing happened when Hubbard put up his satellite, DBS. He had a hard time getting program access.

All of us on the Commerce Committee, including the Senator from Nebraska, I am sure, and others, worked on this. That is a key part. Program access is a key part of this whole business. That is what we are working on.

Mr. EXON. So the Senator from South Dakota cannot confirm my suspicion that the grand compromise being offered by the Dole amendment would not likely have taken place had we not acted in the committee.

Mr. PRESSLER. The Senator from Nebraska will have to reach his conclusions. Obviously, he has reached some. If an intraindustry solution can be reached, a legislative mandate is not necessary. The NCTC has negotiated for small cable, and those intraindustry negotiations will undoubtedly continue.

We can reserve the opportunity to restore this language if the programmers of small cable cannot reach an accommodation in conference. My friend from Nebraska will no doubt be in that conference. So we welcome him.

Mr. EXON. I simply say that I will not take any more time on this. There will be others who may want to speak on it.

I happen to think this whole proposition is a pretty sorry mess. It seems to me that if we approve the Dole amendment, which Time Warner and others would like to have, we would simply be saying, regardless of your improper activities, regardless of the letters that you wrote within the last few days, which I thought was unfair to the Senator from South Dakota and others, and certainly unfair to the processes and workings, legitimate processes and workings, of the U.S. Senate, then I think it would be entirely proper to vote for the Dole amendment.

On the other hand, if you feel as I do that this is kind of a blot on the U.S. Senate, and that if we vote for the Dole amendment we are just going to be saying to Time Warner and others to come in with your strong-arm lobbying, come in with your accusations in the form of letters about Senator PRESSLER and others, but we are all going to have one happy ending here now, because we have gotten together in a grand compromise and, therefore, this is a good for everyone.

The fact that Time Warner, in my opinion, has taken hostages through the small cable operators that you in South Dakota and myself in Nebraska, and my colleague from Nebraska, Senator KERREY, have tried to protect, it seems to me that we in the Senate, if we adopt this amendment, are winking and saying: You should not have done that, but you are going to get what you want in the end anyway.

I urge rejection of the Dole amendment.

Mr. HOLLINGS. Mr. President, let me join in the sentiment of the Senator from Nebraska. And to elaborate on my previous remark, I just quietly said it disturbed me—the process by which this particular amendment has reached consideration in the U.S. Senate. I figured, as the expression was used earlier, that I did not have a dog in the fight because I had been shown a letter to the Honorable LARRY PRESSLER, the chairman, dated June 13, which has already been included in the RECORD.

I will let my previous remarks be sufficient except that now I am shown another letter that is signed by Timothy Boggs, talking of the agreement. That letter, being dated June 13, says:

> As you requested, the attached signature page confirms that Home Box Office has reached an agreement with the National Cable Television Cooperative, Inc. for HBO programming. As discussed with you and your staff, this agreement is entirely contingent on the removal of the program access provisions at Section 204(b) of S. 652, prior to Senate action on the legislation.
>
> Without the removal of this provision from the bill, the HBO distribution agreement with NCTC would be void.

I had nothing to do with it, and nothing was addressed to me. I have now sent the staff to look, because these things surface.

I have been given another letter, dated June 13, 1995, signed by Mr. Mark M. Weinstein, with a copy to Senator BOB DOLE and Senator ERNEST F. HOLLINGS. I ask unanimous consent that the letter in its entirety be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

VIACOM, INC.,
New York, NY, June 13, 1995.

Hon. LARRY PRESSLER,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As you know, at your request, Showtime Networks Inc., a cable programming division of Viacom, has been negotiating in good faith with the National Cable Television Cooperative (NCTC) to reach an agreement regarding carriage of its cable programming services.

We are pleased to report that we have reached an agreement between NCTC and Showtime for carriage of our premium cable services. NCTC also requested, just recently, that MTV Networks (MTVN) begin discussions over the basic cable services. Accordingly, MTVN has been negotiating in good faith with NCTC over carriage of the basic cable services. We are committed to continuing to negotiate and hope to reach an MTVN agreement in the near future.

We ask for your support in ensuring the adoption of an amendment deleting the volume discount language in S. 652, as previously agreed. Thank you for your assistance in this matter.

Sincerely,

MARK M. WEINSTEIN,
Senior Vice President.

Mr. HOLLINGS. I will read that to make certain that my comments are right to the point. This is to Chairman PRESSLER.

> Dear Mr. Chairman: As you know, at your request, Showtime Networks, a cable programming division of Viacom, has been negotiating in good faith with the National Cable Television Cooperative to reach an agreement regarding carriage of its cable programming services.
>
> We are pleased to report that we have reached an agreement between NCTC and Showtime for carriage of our premium cable services. NCTC also requested just recently MTV Networks, MTVN, begin discussions over the basic cable services. Accordingly, MTVN has been negotiating in good faith with NCTC over carriage of the basic cable services. We are committed to continuing to negotiate and hope to reach an MTVN agreement in the near future.
>
> We ask for your support in ensuring the adoption of an amendment deleting the volume discount language in S. 652 as previously agreed. Thank you for your assistance in this matter.

Now, it is incumbent on me, Mr. President, and my dear colleagues of the Senate, I can tell you here and now "as previously agreed," by Mark M. Weinstein—he signs the letter—I can tell you I do not know the gentleman. I have never seen and have never spoken with him. And I have checked with my staff, and we have not had this letter or anything else, have we?

It could be that this has been faxed. We are searching the records now because we have been in the Chamber for a week.

Mr. PRESSLER. If my good friend will yield for a minute.

Mr. HOLLINGS. Yes.

Mr. PRESSLER. As my friend knows, when I discovered that same language in the Time Warner letter, I requested immediately a correction. I wrote a two-page letter, and they sent me not only a correction but an apology. I think I can obtain the same thing from these folks very quickly, because that is not true.

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Mr. HOLLINGS. I understand so. The distinguished chairman is absolutely correct. And I think his letters have been made a part of the RECORD showing that he had nothing to do with it. The inference is not by the Senator from South Carolina that the Senator from South Dakota was in any way engaged in this kind of shenanigan. I can tell you here and now the Senate is going to operate not only with the correction but with the appearance of correct conduct here.

I just did not want this to pass. I would have hoped that this amendment would have not been pursued on the basis of its merits, and I hope it will be defeated on the basis of the process so that everyone knows you cannot deal this way and get your amendments passed. I just think this reflects on the Senate. I agree with the Senator from Nebraska. And since my name is on the Weinstein letter and the first I have seen it is here this morning, I wanted to make that record absolutely clear. I hope we kill the amendment.

Mr. EXON. Will the Senator yield for a question?

Mr. HOLLINGS. I will be glad to yield for a question.

Mr. EXON. I would like to ask the managers of the bill, both my friend from South Carolina and my friend from South Dakota, about exactly what we are doing here.

As I understood the Senator from South Dakota, the chairman of the committee, he said that if we accept the Dole amendment, it will fix or cure the problem that we have with regard to availability for small cable operators to get certain types of program from the likes of those good folks, Time Warner and Viacom. Is that right?

Mr. HOLLINGS. No. If you are asking this Senator a question, I can tell you my judgment. If this change on the amendment is adopted, then the rates are bound to go up. The bill provides very properly that small and rural cable television operators get the volume discount.

Now, what they want to say is, no, that is going to be stricken, and they are not going to get these volume discounts. Obviously, the price is going up on these small entities, and that is going to destroy the universal service theme of our particular S. 652.

Mr. EXON. I would like to ask a reply to my question from the Senator from South Dakota.

Did I understand the Senator from South Dakota to correctly say that if we pass the Dole amendment, it is the understanding of the Senator from South Dakota that we would fix or repair the essential problem that the Senator from South Dakota has recognized is an important player in including some protection for small cable operators in the measure that has passed out of his committee? Is the Senator saying he thinks that is repaired or fixed with the Dole amendment?

Mr. PRESSLER. Let me say that I think we should recognize that private agreements and private negotiations are underway, have been underway, and that is something that goes on in our country.

Let me say that I shall seek corrections on these other letters, just as I have received a strong correction from the first one.

Let me say that if these private negotiations break down or do not work—we are now in a situation where Black Entertainment Network, the small companies, and so forth, are endorsing these private negotiations. And certainly I prefer private negotiations to Government activity, and that has been something that has been a cornerstone. But I have long been a champion of program access for smaller cable owners, for REA's, and I will continue to be so.

Also, it is my general observation—by the way, I did not make any requests here of anybody, and we are sort of arguing on two levels here because I agree with the Senator from Nebraska that the letter sent me was incorrect. I requested that it be corrected, and it was instantly.

Mr. EXON. What I am trying to get at, though, Mr. President, it obviously is the Senator's feeling——

Mr. PRESSLER. If I may conclude, if my friend will yield.

Mr. EXON. I am sorry.

Mr. PRESSLER. Basically, I would prefer that these problems be settled in private negotiations as opposed to being legislated by this Senate all the time. But if they cannot be solved, we have the conference coming up. There are additional opportunities. I think at the moment the materials read by Senator DOLE and myself here indicate very clearly that there are various small companies ranging from the National Cable Television Cooperative onward that are supporting Senator DOLE's efforts.

That is where we stand presently.

Mr. EXON. Could I rephrase my question? I took it from the statements that the Senator from South Dakota just made that he is recommending we accept the Dole amendment because he believes, with the private negotiations that are going on, the Dole amendment would satisfy or solve the situation as of now, and that is why he has supported the Dole amendment. Is that a fair interpretation of what the Senator from South Dakota is saying?

Mr. PRESSLER. No, the Senator from South Dakota has his own reasons for supporting the Dole amendment. I am supporting the Dole amendment because we have private agreements that are working these problems out, because the small cable companies and many other entities such as Black Entertainment Network, have supported that concept, that is, as of this time.

If problems arise, if the private parties cannot work it out, then the Government should get involved. This is my opinion.

I ask my friend from Nebraska, is he opposed to these things being worked out privately?

Mr. EXON. No, I am not opposed to something being worked out privately at all, except that I am opposed to the concept that nothing privately is worked out until the last minute when changes are made, which leads me to my next question.

It seems to me that what we are seeing is that Viacom and Time Warner, and all those other public-minded folks, are now at the last minute offering to have private negotiations with some of the smaller cable operators that they were not willing to do previously.

Let me phrase the question this way: Why would it not be wise to leave the amendment as it came out of committee in place and not adopt the Dole amendment? Am I to understand that unless we adopt the Dole amendment under the pressure and under the unsavory acts that I think have taken place in the last few days, that unless we can accept the Dole amendment that negotiations will break down?

Mr. PRESSLER. I think the Senator from Nebraska is tying things together here more than I would, in the sense that if one group of lobbyists behaves in a certain way, that does not mean that the underlying substance is changed.

It is my strong feeling, and I have been on this same subject for years, that program access is a very important thing. Sometimes it is negotiated privately. For example, we have ESPN involved privately, without a law. I always prefer to do something in the free enterprise system privately than with a Government law, with a Government regulation. That is what we are talking about.

I do not know what more to say to the Senator from Nebraska, except that I feel that the Dole amendment is a very positive thing.

Mr. EXON. Just let me add, I could not disagree more with my friend and colleague from South Dakota. I happen to feel that we have a gun to our heads and probably a gun to the heads of the small cable operators, where all those good folks I mentioned before, Viacom and those other public-minded nonprofit operations, have a gun to the heads of the small cable operators and, as part of that, they are taking the United States hostage.

It seems to me——

Mr. PRESSLER. If the——

Mr. EXON. I have the floor. It seems to me it would be much better to leave the measure as it is in hand and let them continue their negotiations. I point out again that I think anyone who understands the process knows we would not have had the Dole amendment had we not had action taken by the Senator from South Dakota, myself and others that forced their hand. It seems to me that we have forced their hand to try and give the small cable operators a decent chance. Now they are coming to us saying, "We will give them the decent chance, maybe, if you don't pass the law." I think that is

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putting the cart before the horse, but I have nothing further to say on the matter at this time.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I have the highest regard for my friend from Nebraska, and I have said so on this floor many times. He is a giant in this Senate and on our committee.

I was watching Harry Truman's life story on TV the other night on "Biography." He was trying to settle the rail strike, I believe. He was speaking to Congress with proposed legislation when one of his Secretaries handed him a note, and he said that the parties have privately begun to negotiate and are going to arrive at a private settlement and he withdrew his legislation, or he lessened his legislation.

Many criticized him. They said, "Well, Harry Truman is a little too flexible, he is not standing as he said he would."

I like to read about Harry Truman. I found this a very interesting episode. And I am certainly not comparing myself to Harry Truman. I think he was a man of enormous stature.

Analogously in the same case, private agreements are coming into place, and if we get letters from the various groups, small cable and Black Entertainment Television, and so forth, why would we have Government regulation at that point, just for the sake of having it? A lot of times parties negotiate, realizing that down the road if they do not, there is going to be a problem. Certainly, there is that interaction.

So, in conclusion, I say I have great regard for my friend from Nebraska, but I think we are talking about two separate things here. I strongly support the Dole amendment.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I come to the floor this afternoon to speak and vote against the Telecommunications Competition and Deregulation Act of 1995. I am deeply disappointed that I am not able to speak and vote in favor of it. For the past 10 years, I have been arguing for a radical overhaul of our telecommunications laws. They have not been changed significantly in the past 60 years, a time of unprecedented, breathtaking and, for many of us, I must confess, nearly incomprehensible change in the technologies of communication.

The short description of what has happened in the past six decades since the 1934 Communications Act was passed is this: The need to continue monopoly franchises and the line of business restrictions has evaporated. The heat which turned the water of our law into steam is technology. Our laws have been overrun by changes in technology. Failure to acknowledge this and to liberate the businesses to compete has been detrimental to the consumer. Thus, the time for rewriting the people's law is long overdue.

However, Mr. President, technology does not have a vote, people do, and the American people have a love-hate relationship with technology. They love it when it entertains or amuses, but they hate it when amusement turns violent, pornographic or threatening.

They love it when they have the skills needed to survive the downsizing chain saw but hate it when a lifetime of dedication to doing a job well ends with a pink slip.

Not only do the American people have mixed feelings about technology, but the attitude of the people and the attitude of corporations toward technology is decidedly different.

Successful communication corporations must follow technology wherever it takes them. Successful communication corporations treat technology as if its status were somewhere between King and God. As people, we have learned the hard way that to worship technology is to select a graven image with a double-edge potential of doing grave harm and great good.

All of this is said, Mr. President, to put a brake on the wild and woolly expressions of enthusiasm for the glory of these new technologies. No doubt they can serve us well, no doubt they can expand our reach and improve our capacity to produce, to learn and to govern ourselves. However, there is also no doubt they can lead us astray if we do not think carefully about where we want to go.

We, the people, in our minds and our hearts, must drive these new technological wonders, or, most assuredly, they will drive us.

Regrettably, the rewriting of our law we have witnessed has created the perception that this was not paramount in our deliberation. Indeed, the amendment before us now reinforces that perception. The perception is that the law was not done for or by the people of the United States of America. The perception has been created that it was done by and for the telecommunications corporations of America. Rather than being a Contract With America, this legislation looks like a contract with corporations.

This is one reason Americans feel they have no power over their Government. Indeed, despite the scope of its impact on their lives, Americans neither asked for this bill, nor do many of them even know we engaged in this debate.

To be clear, I have nothing against corporations, or the people who temporarily run them. Indeed, most Americans work for a corporation. However, corporations—particularly public corporations—are not people. Incorporation is a charter granted by the people's laws to an organization, usually for the purpose of ensuring perpetual life and providing many of the beneficial powers of an individual, like entering into contracts, buying and selling property, while shielding the organizations from many of the detrimental liabilities of being an individual, such as conscience and public responsibility.

Public corporations provide first for shareowners and investors. If the analysts say that a CEO did the right thing by laying off 10,000 employees with no severance pay, health care, or retirement, then a CEO would be judged incompetent not to make this move. If plant closings and downsizing are judged to be sound business decisions, the market will bid up the value of the stock and the salary of the responsible CEO. If selling products that turn America into a society of efficient players of electronic games and selectors of video programs is good for business, then a corporate board would fire any CEO whose conscience interfered with the need to produce revenue.

This is not to say the managers of the leading telecommunications companies—who must be given credit for crafting and enacting this legislation—are heartless. They are not. This is not to say they are not concerned about the future of America or the quality of life in our country. They are. Nor does it mean that America does not benefit when tough-minded business executives make tough-minded business decisions. We do.

However, it is to say that we should take care when corporations appeal for changes in the law on eleemosynary grounds. When they tell us the new law is going to be good for America and American consumers, we should take care to remember who it is that butters their bread: their share owners. And we should take care and remember who butters ours: American consumers, citizens, and voters.

Over and over in this debate, we heard the phrase, "We have struck a delicate balance between the various corporate interests," used in defense of a specific provision. Over and over when changes were proposed which would have given consumers and citizens some protection, this "balancing of corporate concern" was raised as a barrier.

Regrettably, this has resulted in a law which will not guarantee that American households will have robust, competitive choices which would have ensured lower prices and higher quality. Regrettably, this law gives the power to those monopolies who already have the power to control the market and who will give consumers two choices: Take it or leave it.

The regret I feel is a child of lost opportunity. We have lost an opportunity to seize a three-part promise. The promise I see with the technologies of communication is to create jobs, improve the performance of America's students, and strengthen democracy by helping our citizens become better informed. And while this legislation will undoubtedly produce some gains in all three areas, narrow corporate concerns prevented us from doing all that was possible.

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The regret I feel, as well, is also a consequence of believing that telecommunications is much more than just another business. Telecommunications defined is to communicate across a geographical space, across distances. Communication defined is one human being telling a story or delivering information to another. To communicate is to define what it means to be a human being.

We are not just deregulating another business with this law. We are deregulating businesses which have been granted the right to control what we read, hear, and see. They decide what is news and what stories are worth telling. When it comes to defining who we are as people, it is not an exaggeration to suggest that these businesses are as powerful an influence as parents or religious leaders or teachers.

What are the flaws of this bill which cause me to withhold an affirmative vote? The most important occurred before we started writing the legislation. The most important flaw was our attitude. We worried too much about liberating businesses and not enough about liberating people.

As a consequence, we made a crucial error when we wrote the law. The most important flaw is that we did not give the Antitrust Division of the U.S. Department of Justice a determinative role in ensuring that robust competition occurs at the local level before allowing the monopoly to enter other lines of businesses. Competitive choice means that households have the power to tell a company they do not like the price or quality of the service. Consumers must be able to buy from someone else before they have real power over the seller.

Substituting a checklist for the Antitrust Division of the Department of Justice is not an equal trade. A corporation could easily satisfy the checklist without giving the consumer competitive choice. And without competitive choice, this law will concentrate power away from the consumer.

Last year, under the leadership of Senator HOLLINGS of South Carolina, the Senate Commerce Committee reported a bill I could have supported. All but two members of the committee voted for a bill which gave the Department of Justice this determinative role. Unfortunately, in the distance and time traveled from November 8, 1994, to June 15, 1995, the law was changed, and I can no longer support it.

Why is it so important, Mr. President, to American consumers to have the Department of Justice with a determinative role? The answer can be found by following one of the most frequently used arguments in support of this bill: Consumers benefited when AT&T was forced to compete in 1982. Well, guess who was responsible for forcing them to compete? Was it the Congress? Was it the Federal Communications Commission?

Listening to the arguments against the Department of Justice role, or looking at the law itself, you might assume that the answer would be that Congress or the FCC made them compete. If you did, Mr. President, you would be wrong. It was the Antitrust Division of the Department of Justice that sued AT&T. It was the Antitrust Division of the Department of Justice that forced AT&T to compete. It was the Antitrust Division of the Department of Justice that should be given credit by consumers for the lower prices and higher quality service in long distance.

Neither Congress nor the Federal Communications Commission had the guts or the power to take on AT&T. So I guess it should not be surprising that under the banner of competition and deregulation, we pass a law that perpetuates the power of the monopolies.

Mr. President, this legislation is not without merit. It will help America's schools and America's school children take advantage of the technologies information age by ensuring affordable infrastructure, connectivity, and rates. It does preserve the goal of universal service for all of America's communities. It does encourage some competition by smaller carriers at the local level through joint marketing, a strong section favoring network interoperability and good interconnection and unbundling requirements in section 251.

It contains strengthened provisions for rural customers: Comparable services at comparable rates; geographic toll rate averaging; evolving national definition of universal service; support for essential telecommunications providers; waivers and modifications of interconnection requirements for rural telephone companies, and infrastructure sharing.

We fought for and succeeded in including in the law some protections for consumers including the prohibition of cable/telco joint ventures and buyouts except in rural markets of 50,000 or less, allowing State regulators to consider profits of telephone companies when using rate regulation methods other than rate of return, ensuring that price flexibility should not be used to allow revenues from noncompetitive services to subsidize competitive services, and protecting ratepayers from paying civil penalties, damages, or interest for violations by local exchange carriers.

With all of these good things, Mr. President, I regret the absence of a Department of Justice determinative role all the more. With the Department of Justice ensuring competition, consumers would not have to doubt that they would have a courageous, procompetitive Federal force on their side. Without it, we must trust that the corporations will do the right thing.

Mr. President, this legislation burdens trust too much. Ultimately this bill is about power. The bottom line is that in this case, corporations have it and consumers do not. Accordingly, I must vote "no".

Some things have been said in the heat of debate about the Department of Justice and the Antitrust Division that just are not true, and I would like to take this opportunity to correct the record.

For example, it has been said that the Antitrust Division has 800 or 900 attorneys. It has been said that it has several hundred lawyers acting as regulators. The fact is that the Antitrust Division had 323 attorneys total—to carry out all of its responsibilities—at the end of fiscal year 1994. This number is about 30 percent lower than the number of attorneys the Antitrust Division had in 1980 and is about equal to the number that it had more than 20 years ago during the Nixon administration, when the economy was much smaller, less global and less complex and when antitrust enforcement was less challenging.

When we talk about growth of bureaucracy, we certainly cannot reasonably mean the Antitrust Division. The Antitrust Division has for years been doing what we now ask of all Government agencies—carrying out vital missions more effectively, more efficiently and with fewer resources. With its relatively limited number of attorneys, the Antitrust Division has pursued vigorously criminal enforcement of the antitrust laws, a strong merger review program, civil antitrust enforcement and all of its other responsibilities.

It has been said that DOJ has failed to comply with a court order to review MFJ waiver requests within 30 days. The fact is that Judge Greene in 1984 issued instructions regarding how DOJ should handle specified waivers then pending and established a schedule under which DOJ had 30 days to handle those specific waivers. Those waivers, incidentally, were far less complex and sensitive than the waivers pending today. DOJ complied with that order and has fully complied with all schedules set by Judge Greene.

It has been said that DOJ has refused to conduct triennial reviews. In 1989, while the appeal of the first triennial review was still pending—it would not be finally resolved until 1992—Judge Greene gave DOJ complete discretion whether and when to file any subsequent triennial reviews.

He noted that the need for triennial reviews was not as great as had been anticipated when originally conceived. As it turned out, Judge Greene observed, there had been "a process of almost continuous review generated by an incessant stream of regional company motions and requests dealing with all aspects of the line of business restrictions." United States versus Western Electric Co., slip op. at 1, July 17, 1989, [emphasis added]. Judge Greene pointed out that he had "repeatedly considered broad issues regarding information services, manufacturing, and even long distance." Id. He explained that "as soon as there is a change, real or imaginary, in the in-

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dustry or the markets, motions are filed and all aspects of the issue are reviewed in dozens of briefs." Id. at n.2. Further triennial reviews thus would have been duplicative of work that was already being done.

Judge Greene's observations are still valid. Over the life of the MFJ, incredible as it sounds, the Bell companies have filed an average of one waiver request every 2 weeks. They have buried the Department of Justice in an avalanche of paper—something never expected when the MFJ was entered. Now, some say they are "shocked, shocked" that the Bells do not expeditiously receive the approval they claim their requests merit.

And in fact, what amounts to a triennial review is underway right now, as DOJ investigates a motion pursued by three Bell companies to vacate the entire decree without any of the safeguards in S. 652, even in States where local competition is still illegal. This investigation will be completed in the next few months, with a report that will provide a comprehensive review of the need for continuing the line of business restrictions.

It has been said that the Bell companies' so-called generic request—that is, a consolidated request joined by all the Bell companies—for a wireless waiver is still awaiting action. In fact, Judge Greene has approved that request.

A colleague referred to that wireless waiver as simple. It was not. The initial request was very broad. It attracted a tremendous amount of comment and concern at the outset and each time it changed substantially. And change it did—it went from a very broad waiver to one carefully tailored and conditioned to protect competition. The long distance companies and the Bell companies disagreed with DOJ's ultimate recommendation to Judge Greene. That is not unusual. But Judge Greene adopted most of the provisions that DOJ recommended. DOJ exercises its responsibility by doing what is best for competition, not what one industry or another prefers.

It has been said that DOJ has not acted on a request for a waiver that would allow the Bell companies to offer long distance service in connection with information services. In fact, DOJ has recommended to Judge Greene that he approve the request, as modified after extensive negotiations between DOJ and the Bell companies.

The case of the information services waiver illustrates how any purported delay in resolving waiver requests relates to the overbreadth of the original Bell companies' requests. Much of the time between the filing of the initial waiver and DOJ's recommendation in favor of a heavily modified waiver occurred after DOJ rendered a decision based on the original waiver and informed the Bell companies that it would not support the waiver.

The details of the information services case are worth recounting at some length, because they belie some of the charges that have been leveled over the past several days.

In 1987, DOJ asked Judge Greene to eliminate the restriction on the Bell companies' provision of information services. DOJ did so over intense opposition from the information services industry, because of DOJ's conclusion that eliminating the restriction would promote competition in the information services market. But DOJ's focus was on competition and consumers. DOJ was not trying to protect vested industry interests or some role as a regulator. DOJ's position was initially rejected by Judge Greene, but after a reversal and remand by the Court of Appeals, the information services restriction was removed in 1992.

While seeking to lift the information services restriction, DOJ did not support authorizing the Bell companies to bundle interexchange service with their information services. The reason for this is that there is no clear distinction between information services and conventional telephone services. The FCC has been struggling for nearly two decades to define and enforce such a distinction in its Computer I, Computer II, and Computer III proceedings, which have tried to distinguish between basic services—including interexchange voice services—which are regulated, and enhanced services—or information services—which are unregulated. This has been one of the most prolonged and difficult proceedings in the history of the FCC.

Because there is no clear distinction between information services and basic services, a decision to allow the Bell companies to bundle interexchange services would substantially eliminate the core MFJ prohibition against their provision of interexchange service. The Bell companies tried to argue in court that the court's decision to lift the information services restriction meant that they could engage in such bundling, without any restrictions or safeguards. This interpretation by the Bell companies would have given them much more freedom than S. 652 proposes to do today. But that argument was firmly rejected by DOJ, Judge Greene and a unanimous panel of the Court of Appeals.

Judge Silberman of the Court of Appeals concluded that the Bell companies "urge a rather strained interpretation of the language of the decree—The Bell companies' interpretation—it seems rather obvious, would create an enormous loophole in the core restriction of the decree." 907 F.2d 160, at 163

Against this background, the Bell companies filed a waiver request in June 1993 that would have allowed them to bundle their information services with interexchange service. In doing so, they again sought to create what Judge Silberman had described as an enormous loophole in the interexchange restriction. In effect, they would have been able to offer interexchange service without the safeguards that are required by S. 652.

The Bell companies' waiver request naturally provoked strong opposition from the interexchange carriers and information services providers. DOJ gave the Bell companies an opportunity to respond to the arguments against their waiver, and the Bell company responses were filed in February 1994. After reviewing the Bell companies' arguments and the many arguments that had been submitted in opposition to the request, the DOJ told the Bell companies that it would not support the waiver request. The Bell companies were free at that time to challenge the DOJ decision in court. But presumably because they recognized that they had little chance of winning in the face of a clear decision by the Court of Appeals, the Bell companies chose to narrow their original waiver request to seek a more reasonable waiver.

The Bell companies submitted a somewhat narrower proposal to DOJ soon thereafter. DOJ again rejected the proposal, because it still did not deal with the loophole that the Court of Appeals had identified.

The Bell companies finally submitted a third proposal that was substantially narrower. This time, DOJ indicated that it would support the proposal. This last proposal has now been briefed and is awaiting decision by Judge Greene.

The reason for the delay in processing this waiver was that the Bell companies submitted—not once but twice—a waiver request that was very broad. Their proposal would have resulted in an enormous loophole in the core restriction of the MFJ. As a practical matter, this loophole would have given them much of the relief that S. 652 would give them, but without any of the safeguards that accompany such relief in S. 652. It does not make sense to criticize the Department of Justice for refusing to give the Bell companies what the authors of S. 652 certainly do not intend to give them in S. 652.

DOJ acted to protect competition and consumers. When DOJ supported the removal of the information services restriction in 1987, it did so over strong opposition from the information services industry. DOJ's support for the recent information services waiver has been strongly opposed by the interexchange carriers and by information services providers. DOJ isn't protecting industry turf; it's doing what's right for competition.

As the information services case demonstrates, the Department always has been willing to take the time to work with the Bell companies to fix waiver requests so that the Bell companies can get as much MFJ relief as is consistent with the consent decree's protection of competition in markets that the Bell companies seek to enter. Of the waivers approved by the Court in 1993-94 that were not mere duplicates of waivers filed by another Bell company, fully 60 percent were the product of negotiations between DOJ and the Bell companies that resulted in

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a modification of the original waiver request.

To be sure, these complex, negotiated requests generate a lot of public comment and concern. The number of comments per waiver for waivers filed in 1993–1994 is nearly six times the comments per waiver in 1984–1992. This is not surprising, as the more recent waivers go to the MFJ's core restrictions. This modification and comment process works to obtain workable waiver proposals while still protecting competition, as the information services case illustrates.

The fundamental point is that DOJ acted to protect competition and consumers. DOJ's support for the revised information services waiver has been strongly opposed by long distance and information services providers. But again, DOJ doesn't protect industry turf—it does what is right for competition.

Of course, no discussion of purported delay in the waiver process would be complete without noting the Bell companies' filing of overlapping and duplicative waiver requests. For example, several Bell companies filed a request to vacate the MFJ, seeking to completely eliminate its restrictions without replacing those restrictions with any safeguards or requirements, such as those contained in S. 652. Once again, the Bell companies sought relief that the Congress likely would not approve. The Bell companies argued that this motion was critically important to them, and urged prompt action on it. DOJ agreed that it would make this request its first priority.

But less than a week after submitting the request to vacate the MFJ entirely, one of the companies filed a separate waiver request for so-called out-of-region relief. But that request is completely subsumed in the motion to vacate. And the other Bell companies that had filed the sweeping motion to vacate the MFJ apparently delayed and stalled in producing documents that DOJ required in order to evaluate the merits of the motion.

The AirTouch story that has been repeated during this debate is also not nearly as simple as has been suggested. Loosely casting aspersions on the independence and integrity of the Department of Justice in relation to its position on the AirTouch matter is deeply wrong. DOJ has enforced the terms of the MFJ through Republican and Democratic administrations of vastly different ideologies.

The Department has explained its position on the AirTouch matter in a letter to House Commerce Committee Chairman BLILEY. Regardless of what one thinks of the merits, the bottom line is that the Department has a responsibility under existing law to uphold the terms of the MFJ that differs from that of Congress, which can write new laws. I will include that letter in the RECORD.

It has been said on the Senate floor that DOJ has repudiated the VIII(C) test of the MFJ through the Ameritech plan, which I have supported since Ameritech introduced its Customers First program. The Ameritech Plan is completely consistent with the standard established by Section VIII(C) of the MFJ, because it builds on the idea that one possible basis for satisfying VIII(C) is if the development of local competition removes the ability of the Bell company to use the local monopoly to hurt competition in long distance. I encourage colleagues to read the Department's Ameritech brief, which the distinguished Senator from South Carolina put in the RECORD a few weeks ago.

The plan does not preclude Ameritech or any other Bell company from seeking VIII(C) relief in spite of the continued existence of the local monopoly. In fact, DOJ has supported numerous waiver requests where—in spite of the existence of the local monopoly—safeguards or other constraints ensured that there was no substantial possibility that the Bell company could use the local monopoly to impede competition in the market it sought to enter. Most recently—and after it outlined the approach of the Ameritech plan—DOJ supported the Bell companies' request for a waiver to provide long distance service in connection with information services.

It has been said that DOJ forced the Ameritech plan on Ameritech. In fact, the Ameritech plan originated with Ameritech itself. The plan now enjoys an unprecedented breadth of support among interested parties. It is supported by a Bell company, AT&T, Sprint, other long distance competitors, local competitors like MFS, consumer groups, the FCC, state regulators from all the States in Ameritech's territory, the Republican governor of Illinois and numerous other industry participants. In joint comments filed with the court in support of the plan, which I will include in the RECORD, the regulatory commissions from Illinois, Indiana, Ohio, and Wisconsin praised the proposal as a decisive step toward the goal of a competitive telecommunications market. This remarkable consensus is a lot more than S. 652 has attracted, and I commend Ameritech for taking this historic step.

DOJ has been criticized in this debate because the draft Ameritech order is 40 pages long. Forty pages doesn't seem like too much, when one considers that the order seeks to do something that has never been done before by anticipating the opening of a complex, monopolized market to competition and allowing a Bell company to enter a long distance market measured in the billions of dollars. But this criticism is especially ironic because it comes in a debate over a bill that seeks to do much the same thing as the Ameritech proposal—but that is some 150 pages long and getting longer as we speak. And while this 150-page bill has been the subject of much debate—to say the least—the 40-page Ameritech order enjoys unprecedented support from a broad array of interested parties.

It has been said that the Ameritech plan will shift power from State and Federal regulators to the Department of Justice. In fact, the implementation of the market opening provisions agreed to by Ameritech will be handled by State regulators and industry participants. The DOJ's role is to assess the end result: the marketplace effects of those market opening provisions.

The plan fully preserves the traditional functions of State and Federal regulators, as evidenced by the fact that the plan enjoys the support of all the State regulatory commissions in Ameritech's region and of the FCC. Moreover, the plan has the sort of safeguards and standby authority for DOJ that are well suited to an untried and groundbreaking initiative.

I have here, Mr. President, a letter to Assistant Attorney General Bingaman from Craig Glazer, the chairman of the Ohio Public Utilities Commission. Writing on behalf of all the State regulatory commissions in the Ameritech region, he praises the Department of Justice for its efforts in negotiating the Ameritech plan. Mr. Glazer writes, in part, that "the willingness of the Department of Justice to work with and specifically accommodate a number of State concerns represented an exemplary level of cooperation and teamwork between the Department and the State commissions." I will include the entire letter in the RECORD.

The point that comes through loud and clear from this letter and from the briefs that State officials have filed with Judge Greene in support of the Ameritech plan is that DOJ is not trying to displace regulators or become a regulator itself. Governor Edgar of Illinois, for example, lauded "the Proposed Order's reliance on State regulators to complement the Department's supervisory role of the proposed trial." I will conclude Governor Edgar's comments in the RECORD. DOJ has proposed a well-crafted plan that maintains the traditional roles of all involved agencies. The State regulators and the FCC regulate; the Department of Justice assesses competition.

Mr. President, this bill deals with complicated issues, and there is a lot of room for reasonable people to disagree. But a lot of the things said about the Department of Justice were just plain wrong. I appreciate this opportunity to correct the record.

Mr. President, I ask unanimous consent to have the letters and other material printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

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DEPARTMENT OF JUSTICE,
ANTITRUST DIVISION,
Washington, DC, January 31, 1995.

Re AirTouch Communications, Inc.

Hon. THOMAS J. BLILEY,
Chairman, Committee on Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BLILEY: Thank you for your letter of January 27, 1995 concerning the status of AirTouch Communications, Inc. ("AirTouch") under the Modification of Final Judgment ("MFJ") in United States v. Western Electric, Co., Inc. I appreciate your interest in this matter, and I understand that this issue has significant implications for AirTouch and perhaps other cellular telephone companies.

As I will explain, the Department's recent action concerning AirTouch's status under the MFJ does not reflect a decision about the important competition policy issues to which your letter refers. We fully agree with you on the importance of those policy questions, and look forward to working with you to resolve them. As you know, I testified before a subcommitteee of the Committee on Commerce last year in favor of comprehensive telecommunications legislation based on competitive principles.

The only competition policy issue with respect to this AirTouch matter is whether we are willing to work with AirTouch on an appropriate waiver of the applicable MFJ provision—and you should know that we offered to do so before announcing our decision on the complaint that prompted our review of this matter. AirTouch did not accept that invitation.

I provide additional background below in response to your letter, including the respective roles of the Department and court under the MFJ on questions such as the AirTouch issue; the benefits to competition and consumers from the MFJ; the Department's reasoning and position on the AirTouch matter; and the Department's cooperation with AirTouch to facilitate court action now.

THE DEPARTMENT'S ROLE UNDER THE MFJ

First, let me put our role under the MFJ in context. As you know, the MFJ is a court decree which resolved a hard-fought litigation. Relief from the MFJ can only be given by a court, not by the Department of Justice. While we make our position known to the court, it is the court and not the Department which determines disputes about the coverage of the MFJ.

The court also has the power to give relief from provisions of the MFJ which become unnecessary. As you are aware, the Department is supporting an MFJ waiver which would allow cellular service providers affiliated with RBOCs to provide long-distance services, subject to certain safeguards, and this waiver is pending before the Court. The cellular market will be moving from the duopoly model toward more vigorous competition, a trend that will accelerate with completion of the spectrum auction and deployment of PCS. We also hope that landline local exchange competition will become lawful and real. If such developments occur, more relief will certainly be appropriate.

THE BENEFITS OF THE MFJ

In discussing how the MFJ is applied, it is useful to bear in mind what I know you understand—the pivotal role of the MFJ in unleashing the competition that has put our country at the forefront of the telecommunications revolution. I am also particularly pleased that the case against the telephone monopoly and supervision of the MFJ has been a priority at Democratic and Republican Departments of Justice alike, and that my antitrust professor, Bill Baxter, who served as Assistant Attorney General for Antitrust during the Reagan Administration, successfully negotiated the historic MFJ.

Since the MFJ, multiple fiber optic networks have been constructed by long distance competitors, consumers have reaped steeply lower long distance prices while dramatically increasing their minutes of usage, and according to a January 21, 1995 front page story in the New York Times headlined "No-Holds Barred Battle For Long-Distance Calls," at least 25 million residential telephone customers exercised a choice in 1994 by switching long distance carriers. The telecommunication equipment and services market have simply exploded.

Moreover, it is this growing competition, which can be accelerated through legislation which opens local markets to real competition while continuing to protect consumers and competition from monopolists, that will provide opportunities for deregulation.

THE DEPARTMENT'S AIRTOUCH POSITION

Our position in the AirTouch matter does not reflect an antitrust or policy judgment about the cellular industry. Instead, it reflects our interpretation of a narrow, but extremely important, question concerning the continuing applicability of antitrust decrees after the sale or reorganization of corporate antitrust defendants. Section III of the MFJ includes a provision, contained in *virtually all* of the government's antitrust decrees, making its limitations applicable to "successors" to the corporate entities originally bound by the decree. Such provisions are included to ensure that a decree's requirements cannot be avoided simply through a reorganization or transfer of ownership of the businesses that are subject to the decree. Without such limitations, of course, it would be relatively easy for an antitrust defendant to avoid its legal obligation to comply with a decree through a transfer of significant assets, restructuring or reorganization, thereby rendering the decree ineffective.

The position the Department has taken in response to the complaint submitted to it concerning AirTouch was made in the context of this history. AirTouch was spun off from one of the seven regional holding companies. It continues to operate, among other things, the cellular telephone business previously owned by that regional holding company and is subject to a common consent decree provision applying the decree to "successors."

In your letter, you refer to the purpose of the "spin off" from Pacific Telesis as to avoid MFJ objections. In this regard I want to advise you that neither AirTouch nor Pacific Telesis chose to submit any request for written guidance on this question to the Court or to the Department at the time of the transaction. Moreover, AirTouch's disclosure documents reflect that they understood and told the public that there was a risk that a determination such as we just made might ensue. (See Attachment)

After careful consideration of the history of the MFJ and the decisions interpreting its provisions, and after detailed consideration of AirTouch's arguments about the meaning of the relevant MFJ provisions, the Department concluded that AirTouch is a "successor" within the meaning of Section III of the MFJ.

OUR COOPERATION WITH AIRTOUCH

We have worked with AirTouch to assure that it will be able to continue its current business activities while seeking a ruling by the District Court on the question of whether it should be considered a "successor" under the MFJ. This is a legal question AirTouch can bring to the court. In the meanwhile, in light of the assurances AirTouch has given us that they will not undertake any new activities that could be viewed as violating the MFJ, we informed AirTouch that we have no intention of seeking enforcement action against them pending a decision by court as to their status under the MFJ.

Also, as you know, the MFJ contains provisions that allow parties to seek waivers or modifications if their activities, although technically covered by the decree, do not pose competitive problems. We have stated clearly to AirTouch that our position on the complaint before us rests solely on the meaning of the "successor" provision of the MFJ, and that they should *not* construe our position as reflecting a decision to oppose a waiver of MFJ restrictions which might be sought pursuant to section VIII (C) of the MFJ. Rather, we informed AirTouch that we would work with them to seek an appropriate waiver. Although AirTouch has not sought a waiver at this time, the opportunity to do so will continue to be available to them.

I know that you and the Committee understand and appreciate the importance and flexible nature of section VIII (C) where market conditions are changing. That is no doubt one of the reasons that the telecommunications legislation reported last Congress by the Committee on Commerce, which passed the House of Representatives with more than 420 votes, provided that the Department of Justice should apply this test to determine when, among other things, the RBOCs should be permitted to enter the long distance market.

I hope that this information is helpful to you in analyzing the Department's position in the AirTouch matter. With respect to the ATT matter that you briefly touch upon, this was addressed primarily under the Clayton Act and not under the MFJ, and requires separate discussion.

I would be very happy to discuss these or other telecommunications matters with you at our scheduled meeting or at your convenience.

Sincerely,

ANNE K. BINGAMAN.

[From the Wall Street Journal]

PACIFIC TELESIS IGNORED U.S. ON AIRTOUCH

(By Leslie Cauley)

NEW YORK.—Pacific Telesis Group ignored statements by the Justice Department in 1993 suggesting that its cellular spinoff could run afoul of the court decree governing the Baby Bells, a senior department official said.

Now the spinoff, AirTouch Communications, is scrambling to win a federal judge's approval lest it be forced to scale back drastically its ambitious plans for future expansion.

Rules governing the Bell System breakup prohibit the seven Baby Bells and their service spinoffs from offering long-distance communication services or making phone gear.

But Pacific Telesis, based in San Francisco, brushed aside these restrictions when it spun off the unit almost two years ago, said Robert Litan, deputy assistant attorney general for the Justice Department's antitrust division.

"We indicated to them at that time that it was an open question," Mr. Litan said, particularly since the unit had retained network facilities it had used as a Bell entity.

Air-Touch recently began transmitting long-distance calls on its cellular network, and it is developing phone equipment. On Jan. 11, the Justice Department formally notified AirTouch that it must abide by the terms of the decree just like its former parent.

Officials at Pacific Telesis and Air-Touch expressed surprise at the department's

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stance, noting that Justice Department officials had known for at least two years of AirTouch's intention to enter markets banned to the Bells.

"We could not have been more clear about what we were talking about," said Richard Odgers, Pacific Telesis' general counsel. Moreover, he added, three law firms hired by the company came to the same conclusion that the decree didn't apply to AirTouch.

Justice Department officials counter that its antitrust division, as a prosecuting arm of the government, doesn't offer casual assessments. Pacific Telesis "could have made a request for a formal (legal) opinion" when the spinoff was being contemplated in 1993, Mr. Litan said. "But they never did that. They went ahead and took their chances."

AirTouch's public documents issued at the time it went public indicate that it knew it might be jumping the gun if it pursued business barred by the decree. The company's November 1993 prospectus, released in anticipation of its initial public offering last spring, noted that there was no assurance "that DOJ or a third party might not object at some time in the future or that the courts might not agree" with AirTouch's opinion that it wasn't subject to the decree restrictions.

The prospectus added that AirTouch had advised the Justice Department of "its belief that the [decree] would not apply to the company after the spinoff. . . . [and] DOJ has not stated any intention to object [Pacific] Telesis' position."

Margaret Gill, an AirTouch senior vice president, maintained last week that "that statement was made because we had carefully noted conversations with appropriate senior officials at the department."

Department opinions aren't binding with the courts, and even when it finds nothing objectionable, the agency can take action later. But it is virtually unheard of for the Justice Department to prosecute a company for engaging in activities that have been subject to a formal review, a process that can take several months or more to complete.

AirTouch has big plans. Besides operating one of the nation's largest cellular phone networks, the company already has begun offering highly profitable long-distance services in its territories. AirTouch is also building systems in international markets that will be tied through a sophisticated satellite network.

The company has proposed merging with the cellular unit of former sibling US West Inc. Together, AirTouch and US West are bidding with two other Baby Bells—Bell Atlantic Corp. and Nynex Corp.—for new wireless "personal communications services" licenses, with plans to build a nationwide PCS network offering anywhere-anytime wireless calling.

Efforts by AirTouch to boost growth and profits by also providing the long-distance links to its subscribers could be cut off if the company doesn't win a favorable ruling from the courts. A $7.5 million investment by the company in a satellite venture also seems in jeopardy.

AirTouch didn't reveal the department's concerns until last week, when it asked federal Judge Harold Greene for an immediate ruling saying AirTouch isn't subject to the decree. In the meantime, AirTouch has agreed to stop further expansion into prohibited businesses and the department has agreed not to take action against the company until a decision is rendered.

AirTouch's predicament underscores the gravity with which the U.S. government still views the restrictions on the regional Bell monopolies. the crackdown on the fledgling Bell spinoff could presage similar moves against the other Bell affiliates that were cut loose but are still considered local service bottlenecks.

Many telecommunications attorneys believe AirTouch won't get a favorable ruling from Judge Greene, who has historically taken a hard line in interpreting the decree. But they think it will prevail in the courts.

But that could take years, according to some attorneys. However, AirTouch could ask for a waiver from the courts that could ask for a waiver from the courts that would allow it to continue its operations unchanged.

Even with its current predicament, AirTouch still has a healthy core business providing cellular services in its territory. The company's fledgling long-distance business is a miniscule part of total operations, and it has a stock market value of about $14 billion. The company, which has had growth rates of greater than 30%, is expected to release fourth-quarter earnings on Wednesday.

THE PUBLIC UTILITIES
COMMISSION OF OHIO,
April 25, 1995.

MS. ANNE BINGAMAN,
Assistant Attorney General, U.S. Department of Justice, Antitrust Division, Washington, DC.

DEAR MS. BINGAMAN: I am writing to you in my capacity as Chairman of the Ameritech Regional Regulatory Committee (ARRC). ARRC is an ad hoc group of the five state regulatory commissions in the Ameritech region: Illinois, Indiana, Michigan, Ohio, and Wisconsin. The ARRC mission is to facilitate the exchange of information among the public utility commissions of the five states regarding telecommunications issues in general and telephone companies operating within the five respective jurisdictions in particular. The ARRC is made up of representatives of the commissions and/or staffs of the Illinois Commerce Commission, Indiana Utility Regulatory Commission, the Michigan Public Service Commission, the Ohio Public Utilities Commission and the Public Service Commission of Wisconsin.

On behalf of the ARRC, I want to thank you and members of the Department Staff for devoting many hours to meeting with the ARRC to seek input from and accommodate concerns raised by the respective state regulatory commissions and/or their staffs concerning the proposed request to Judge Greene to authorize an interLATA experiment in parts of Michigan and Illinois. Specifically, Mr. Willard Tom and Robert Litan of your Staff traveled to the region and met with the ARRC staff on a number of occasions concerning the proposed experiment. Moreover, the ARRC staff representatives received and were allowed to have input on the various drafts leading up to the proposed modification of the Decree filed with the Court on April 3, 1995. Although there may still be issues which individual state commissions and the ARRC may be raising in comments before Judge Greene, I can say on behalf of all of the ARRC states that the willingness of the Department of Justice to work with and specifically accommodate a number of state concerns represented an exemplary level of cooperation and team work between the Department and the state commissions.

Should the modification to the Decree be adopted by Judge Greene, by its own terms it calls for various regulatory and enforcement activities to be undertaken both by the States and the Department of Justice. I am heartened by the cooperative process that has occurred to date and feel that it bodes well for implementing the proposed trial in a manner which is in the public interest.

Again, on behalf of the ARRC, I express my sincere thanks for the Department's extra efforts to hear and attempt to accommodate state regulatory issues and concerns.

Sincerely,

CRAIG A. GLAZER,
ARRC Chairman.

Mr. KERREY. I yield the floor.

Mr. DOMENICI. Mr. President, I understand I have 3 minutes. I yield myself such time as I may need. I ask for 1 minute as in morning business out of my time.

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

A CELEBRATION OF DAD'S DAY

Mr. DOMENICI. Mr. President, as we approach Father's Day 1995, I want to share with the Senate and the American people a letter I have received from a fellow New Mexican, Chuck Everett. Mr. Everett originally wrote this letter while he was serving in Korea to his father who was back home in the United States.

Mr. Everett's father described the letter as "a masterpiece of simple truths." I could not agree more. In Mr. Everett's cover letter to me, he says to "delete the word 'Communism' and insert the word 'terrorism' and we have a thought that is as true today as in 1952." His prophetic and patriotic words are as valid now as they were when he first wrote them. I trust you will find the text of Mr. Everett's 1952 letter a hopeful and encouraging sample of a young man's commitment to America and its values. These are indeed "simple truths." Times have changed the face of totalitarian and Communist regimes, but new dangers are substituted for the old. As Mr. Everett says, we "are on a mission, so that next year and the years that follow, free people all over the world can celebrate Dad's Day." I respectfully ask unanimous consent that the text of Mr. Everett's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 1952

It's a beautiful morning, the kind of a day when a fellow likes to get up early in the morning, gather up his golf clubs and head for an early morning bout with fairways, roughs, greens and caddies.

I'd like to sit down to a nice roast beef dinner, with diced carrots, peas, Brussels sprouts, chopped salad, blue-berry pie and a big glass of milk. In the afternoon I'd like to siesta, then pack a picnic lunch of cold cuts, cheese and lemonade, and head for Stone Park. I left out something. Oh, yes, of course, church. I'd like to go to church after golf, where the services would be devoted to Father's Day.

That's how I'd like to spend the day. But some of us are on a mission, so that next year and the years that follow, free people all over the world can celebrate Dad's Day. We know we will succeed in our mission here, but will those at home remember our efforts and strive to realize our purpose? The battles we fight here cannot, in themselves, assure us that we will have a free world. It takes the combined efforts of educators, industrialists, politicians and religious leaders to assure a free world. The shackles of communism are not bound about the legs of only

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those behind the iron curtain. It has shackled the minds of free men everywhere into believing that it is better than free enterprise and democracy.

That is where you people must carry the fight to the enemy. Bullets alone will not stop communism. Let us, on this day dedicated to fathers, dedicate our lives to the support of free will, free speech, freedom from fear, freedom of religion, and freedom of thought.

We cannot fear communism, but we must make communism fear us. And, believe me, the Reds do. At every move of our enemy, we stop them, we repulse them and we humiliate them. It is but a matter of time before they will quit. They can only suffer defeat. Be it not the will of free men to be dictated to, and thus communism cannot succeed.

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The Senate continued with the consideration of the bill.

Mr. DOMENICI. Mr. President, in 1934, when the last major piece of communication regulation was passed, we had radios and telephones, and often telephones had many parties on the same line.

Now we have telephones, radios, computers, modems, fax machines, cable television, direct broadcasting satellite, cellular phones, and an array of budding new technological improvements to communication.

As a matter of fact, I believe this period in modern history will be marked singly by the advances that humankind is going to make with reference to communications. I think it will add appreciably to the wealth of nations. It will add significantly to the time people have to do other things because it will dramatically produce efficiencies in communication that were unheard of. It will bring people together who are miles apart.

We can dream and envision the kind of things that will happen by just looking at what has happened to cellular phones, to portable phones, and think of how communications is going to advance.

Mr. President, fellow Senators, it is obvious that we have a law on the books and court decisions governing this industry that shackle it and deny the American people, and, yes, the people of the world, the real advantages that will come from telecommunications advances that are part of a marketplace that is competitive, where the great ideas of people can quickly find themselves converted from ideas to research, from research to technologies, and then rapidly into the marketplace to serve various needs of business, of individuals, of schools and on and on.

Some New Mexicans have told me, "We are happy with the phone service we have now. What are we changing in this legislation, and why must we change it?" Obviously, we are not going to be changing the phone service other than making the options that our people have, giving them more options, making the communication, be it a telephone, a more modern thing, and people will be able to do much more by way of communicating than before.

People should not fear, but rather look at this as a new dawn of opportunity and a way to communicate and enhance freedom beyond anything we could have comprehended 20 or 30 years ago.

It stands to reason that with all of that happening—and part of it has grown up under regulation and part of it not—it is time to change that old law and do something better, take some chances, if you will, with the marketplace. It will not come out perfect.

I just heard my good friend from Nebraska, Senator KERREY, indicate he was concerned. Obviously, I am less concerned than he. I believe this bill will cause much, much more good than the possibility for harm that might come because we may not totally understand the end product.

It may be difficult to totally understand the end product of this deregulation. Anybody that is that intelligent, knows that much about it, it seems to me, is well beyond what we have around here. Maybe there is not anybody in the country that could figure out where all of this will lead.

It is obvious to this Senator that if we are looking for productivity, if we are looking to enhancing communication, new technology, investment, new jobs, new gross domestic product growth, we must deregulate this industry.

There is great capacity—both human and natural—and there are large amounts of assets tied up in this industry. We have to let them loose to grow, compete and prosper.

I hope on the many issues that we voted on, that we came down on the right side. I do not think one should vote against this bill because one or two of their amendments did not pass.

Fundamentally, this is a giant step in the right direction.

We have outgrown the Communications Act of 1934. It is time to pass the Telecommunications Competition and Deregulation Act of 1995. This legislation will foster the explosion of technology, bring more choices and lower prices to consumers, promote international competitiveness, productivity, and job growth.

This legislation will open up local phone service to competition and when this market is open, allow local phone companies to enter the long distance markets. This will create more competition resulting in lower prices and better services for the consumer.

Some New Mexicans have told me "we are happy with the phone service we have now. Why do we need legislation to change it?" What I want to tell my fellow New Mexicans is that this legislation will not disrupt the phone service that they depend upon now.

What the Telecommunications Competition and Deregulation Act of 1995 will do is provide consumers with more choices and lower prices in long distance phone service and television programming. The legislation also preserves the universal service fund which subsidizes telephone service to rural areas.

Right now, consumers have a choice of what company they want to provide long distance phone service. After this legislation takes affect, consumers will be able to choose among companies that will provide them with local and long distance service.

This legislation will also give consumers more choices in how to receive television programming. Currently, if a consumer's area is served by cable, a consumer may choose between the cable company and somewhat expensive satellite or DBS service. This legislation will allow the phone company to offer television over phone lines, so there is a choice between the cable company, the phone company, and DBS.

The Telecommunications Competition and Deregulation Act of 1995 will remove the regulations that have hindered the development and expansion of technology. Regulations, such as the regulated monopolies in local telephone service, required by the Communications Act of 1934, have forced U.S. companies wanting to invest in local phone markets to invest overseas.

In 1934, it made sense to only have one company laying phone lines and providing phone service. But now that many homes have both cable and phone lines, and may have a cellular phone, it makes sense to open up phone service to competition. When this legislation opens local markets to competition, companies like MCI, which have plans to invest in the United States, but have been forced to make investments overseas, will be able to invest, create jobs, and provide better phone service to U.S. consumers.

The President's Council of Economic Advisors estimates that as a result of deregulation, by 2003, 1.4 million service sector jobs will be created.

Over the next 10 years, a total of 3.4 million jobs will be created, economic growth will increase by approximately .5 percent, and, according to George Gilder, the gross domestic product will increase by as much as $2 trillion.

This legislation will increase exports of U.S. designed and manufactured telecommunications products.

Increased investment in telecommunications products and services will bring a better quality of life to rural New Mexico. With fiber optic cable connections, doctors in Shiprock, NM, can consult with specialists at the University of New Mexico Medical Center or any medical center across the country.

The technology to let students in Hidalgo County, NM, in towns like Lordsburg and Animas, share a teacher through a video and fiber optic link. What this legislation would do is remove the regulations that currently prevent investment to get technologies to the local phone market.

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Mr. President, I support this legislation because of the benefits to rural education and rural health care, better local and long distance phone services, and new technology and new jobs for Americans. I believe this legislation is a good start to accomplish these objectives.

I wish to commend the managers of this bill and their staffs for their tireless work to craft this legislation. I appreciate Chairman PRESSLER's willingness to listen to the concerns of each member of this body.

Mr. President, we need this legislation to move our citizens and our economy into the next century. I urge my colleagues to support it.

Mr. President, I want to take a minute. I remember when I first had the luxury and privilege of being the chairman of the committee and had to come to the floor to manage a bill. That was a few years ago when we had the luxury, for 6 years, of being in the majority.

I want to say that the majority, the Republicans, should be very proud of the new chairman, Senator LARRY PRESSLER, who has managed this bill. This is his first chairmanship of a major committee. That is rather exciting to him and I am sure to his family.

I want to say for the record that for this Senator, who has watched those who come to the floor for the first time managing a bill, that this Senator deserves our congratulations for the good job he has done.

This was a tough bill. It will stand in his accomplishment list high on the ladder, to have managed this great bill which will bring great, positive change for our country and for millions of people. My congratulations to him here today. I imagine that with this good effort, we can look for many more under his chairmanship.

Obviously, it goes without saying that the distinguished ranking member, who I have been on the floor with on the other side when he was chair, when I was chairman, that he always does a great job managing the bill, from whichever side, majority or minority. I want to congratulate him for getting this bill through. It is great to have something totally bipartisan. It will be very bipartisan.

When we have major problems to be solved for the country, we cannot always do it that way, but it sure is nice, and the public ought to be proud the Democrats and Republicans are working together on this bill.

Mr. PRESSLER. Mr. President, I want to sincerely thank the Senator from New Mexico who chairs our Budget Committee so well. I have watched him so often, and words from him mean a great deal. We thank the Senator very much for his statement.

Mr. GORTON. Mr. President, I heard the remarks of my distinguished colleague from New Mexico, and I can simply echo them from the perspective of membership on the Commerce Committee.

Senator PRESSLER has met this test with flying colors and deserves a tremendous amount of credit. But not the least of the items for which he deserves praise is his ability and willingness to work with the distinguished Senator from South Carolina, Senator HOLLINGS.

I have said this privately to the Senator from South Carolina, it is obviously difficult to be in charge, to be a chairman of the committee, to have strong ideas on a subject as he has had, and then find himself, without any action on his part, in a different position. His willingness to share his wisdom and his ideas—not just with Senator PRESSLER, but with all members on the Commerce Committee—and his willingness to make this such a constructive bipartisan endeavor is a tribute to him and, I think, to the Senate.

This bill, as I said in my opening remarks, is as important a piece of legislation as the Senate has dealt with, which has created no interest in the general public at all outside, of course, of the various entities that are in the business itself. To reach as good a conclusion as we seem to have reached and to have done it in such a bipartisan fashion brings great credit, in my view, on the chairman of the committee, but very, very much credit on my good friend from South Carolina, whose wisdom and guidance and views on this subject are very much impressed in the bill itself and are vitally important to our success.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me thank our distinguished colleague from Washington for his overgenerous remarks, although undeserved they are greatly appreciated. I join the Senator from New Mexico and join in the sentiments of both the Senators from New Mexico and Washington, that our distinguished chairman has done an outstanding job here in handling this bill. It has been totally in a cooperative fashion and in a very, very considerate fashion of everyone's amendments.

When you begin to appreciate that, I think, a 1-cent increase in a 1-minute telephone rate nationwide equals $2 billion, then you begin to see why that other room stays filled up. They are not going to leave until we get through the conference. So we just started that journey of 1,000 miles with the first step. I hope we can continue with the success we have had thus far.

I will even elaborate further when we get more time, because other Senators want to speak, but Senator PRESSLER has done an amazingly outstanding job.

Mr. PRESSLER. Mr. President, I thank the Senator from Washington. He has been key in moving this bill forward. I see he has moved to another part of the room. But his wise counsel has been very much—I know he has managed that enormous product liability bill in our committee. But on this committee he has just done—this bill would not be here if it were not for the Senator from Washington and I thank him very, very much.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I would like to add my voice of commendation to the chairman of the committee and the ranking member for the manner in which they have presented this bill and given us an opportunity to understand its contents and debate its principal provisions.

It had been my full expectation that I would support this legislation. I was well aware of the legislation that had been introduced last year by the then chairman, the Senator from South Carolina. I was publicly, positively supportive of that legislation. I, frankly, therefore, state with regret that I will not be able to support the legislation that is before us in the form this afternoon. The debate we are having now on an amendment relative to a provision of the legislation having to do with the relationship between the providers of cable television product and the purchasers of that product is, to me, illustrative of a concern, a process that seems to have been too much operative in the development of this legislation and in its consideration. That is a process which essentially says that the Congress, as the elected representatives of the people, serve the role of ratifiers of private agreements developed among the parties who will be affected by this legislation.

Reference was made earlier to the model of President Truman and a railroad strike that occurred after World War II. He initially had proposed a congressionally mandated solution. Then the parties decided that maybe they could go back to the bargaining table and arrive at a resolution. I think that is an appropriate manner for the resolution of a labor-management dispute. But we are not here talking about a labor-management or other commercial controversy. We are talking about one of the most fundamental aspects of a democratic society, and that is control of ideas and their dissemination. That is a role in which any democratic government has a key responsibility. It has been a fundamental part of this Nation since the adoption of the first amendment to the Constitution, which guarantees freedom of press and freedom of speech.

So we here are not talking as ratifiers of some private agreement as to how ideas would be made available to the American people. We are here as the representatives of the American people, to try to structure a process of communications law that will best serve the interests and the values of the American people today and, in a highly dynamic era, into the future.

I started my consideration of this legislation from a basic economic premise of support of the marketplace as the best allocator of resources. While Governor of Florida, I actively supported the deregulation of a number

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of our industries. I supported the delicensure of professions where I felt licensure was not serving an adequate public purpose. Thus, I started with a presumption of support of appropriate opening up to the marketplace as the regulator for access, quality and cost of the communications industry.

I, regretfully, find two principal defects in the way in which we have implemented that movement towards the marketplace. First, I do not believe that this legislation adequately creates the free, robust, competitive marketplace to which we can, with confidence turn in lieu of our tradition of regulation as a means of assuring open, quality, affordable communications in this Nation. I would just cite two examples of provisions which I think undercut that confidence that we will have a free market that will be the means by which we will achieve desirable public ends.

First, as it relates to cable television, we saw from 1984 until 1992 a period in which the Congress had denied to States and local governments their traditional role of providing some regulation for cable television. What we saw was not only an escalation of cost of cable TV, but in many communities an escalation of arrogance, as the cable TV companies did not provide what consumers considered to be an adequate level of service. In some areas, parts of the city which had the affluent neighborhoods were wired for cable TV, while those areas of the city that did not have adequate income base to meet the economic needs of the cable TV system were denied any service at all.

Beginning in 1992 there was a process of partial reregulation. We have seen significant benefits by that. We have seen a reduction in the cost of cable TV for most American families. At the same time we have seen a cable TV industry which is at an all-time high in terms of its economic prosperity. Yet, part of this legislation is going to be to roll back the progress that was made just 3 years ago in terms of providing some control, even though that control would fall away when it was established that there was in fact a competitive marketplace where people had options and choices and could use the marketplace as the means of assuring access, quality, and cost control. That provision is now out of this legislation. I think with it also has flown a significant amount of the rationale of allowing the marketplace to provide the alternative to regulation. In this case we have neither an open marketplace nor do we have any meaningful regulation.

I might say that I have had a number of contacts in our office from representatives of the cable TV industry, and they are very candid in their statements. Their statements are that they want to have this period of no regulation while they still are in a monopolistic position—that is, without effective competition within their market area—so that they can build up their cash position to be in a better position to compete with the regional phone companies at such time that the regional phone companies get into the cable TV business. That is a statement that they are not being clandestine or secret about. They are telling us that they are going to use this remaining period of monopoly as a means of raising rates in order to be in a strengthened position when they are in a competitive market. I think we will find it very difficult to explain to our citizens why we tolerated what I think is a basic abuse of the free enterprise system.

Second, as an example of where this legislation fails to assure that there will be, in fact, an open, competitive marketplace before we trade in regulation as a means of assuring the public access quality and cost control is the issue of the role of the Department of Justice as it relates to the entry of regional telephone companies into long distance.

In the legislation that was before us last year, the Department of Justice continued to have a role in terms of evaluating specific proposals to determine if they met basic standards of antitrust before they could go forward. That provision has now been eliminated. So we are going to have companies going into the long-distance business by meeting a checklist supervised by an agency that has not had the kind of background and tradition of ferreting out anticompetitive schemes as has the Department of Justice.

I believe that we are going to see the potential—when a person moves into a new neighborhood and calls the telephone company and asks to have their local service connected, then they are asked what long distance they want, there will be the potential of the local concern to tout, or otherwise steer, the local service customers to that same firm's long-distance service. That would be very much in the economic interest of the local service to do.

To provide sanctions and protections against exactly that type of situation, we ought to have the Department of Justice playing a role in making that judgment as to whether there is in fact a free and open market before we trade in our regulation that has provided consumers some protection.

So I think, first, this legislation fails to meet the basic premise upon which it is based; that is, that we will have meaningful competition as a substitute for regulation in the communications area.

Second, I believe that we cannot use the analogy that I have heard on the floor over the past few days of commercial products as a direct parallel to the service of communications.

The reality is that ideas are not like shirts or shoes or hamburgers or other products where there clearly have been benefits by having an unfettered, free market.

Thomas Jefferson once observed that, having to make choice between free government and free speech or freedom of the press, he would take free speech and freedom of the press because, if you did not have those fundamentals, you would not have a free government for long. And if you lost the free government but you still had people who could have the freedom to speak and the freedom to communicate ideas, you would build eventually a base for a restoration of free government.

This issue is as fundamental as our basic precepts of democracy and what is required for a functioning democracy.

I am very concerned about the effect of the concentration of power within this legislation, a concentration of power which I do not believe is necessary in order to accomplish the objectives of a greater role of the marketplace in the allocation of communications technology.

Why do we have to lift totally the number of television stations that an individual entity can own in order to get the benefits of technological innovation in telephones or in television or video or other services? I believe that this legislation is being used as a means by which to accomplish other ends, which are to concentrate power in an area that is critical to a democratic society. I have little doubt that, if this legislation is passed in its current form, within a few years from this afternoon we will see a handful of firms control the large majority of television stations in the United States. It frankly frightens me to see that kind of power turned over to a few hands. I do not see what benefit the consumers are going to receive by that. I believe that will be the inevitable result of this legislation. I do not see what purpose in the general thrust of this legislation is advanced by that kind of an open invitation to concentration of power and control over the access to ideas in our democratic society.

So I believe that this legislation had a worthy goal to bring modernity, a recognition of the changes in technology, to give us a chance for a greater access to the benefits of a rapidly changing telecommunications industry but that we have fallen short of those goals by failure to assure that there will be a functioning free market before we drop the protections of even minimal regulations such as those that are available today for cable TV customers, and we have allowed the general goal to be held out under which was buried efforts to concentrate economic power which has the potential to damage our democratic society.

So it is, Mr. President, with a sense of disappointment that I announce my inability to support this legislation in its current form. I hope that by stating the basis of my opposition, that might contribute to further reforms before this legislation is finally adopted, finally resubmitted to us out of a conference committee, so that we will have legislation that can draw the kind of broader support for change. I believe, as fundamental—I would say as

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radical—as this should have before it is adopted.

Thank you, Mr. President.

Mr. STEVENS. Mr. President, I rise merely to congratulate my good friend, the Senator from South Dakota, and also my friend from South Carolina for their management of this bill. It is a bill that means a great deal to rural America in particular. We have watched developments in the last part of this century with awe. I think the developments that are coming now will startle our imagination. I am talking about the developments in telecommunications and technology.

When I came to the Senate, the Army ran our only communications system. It was a telephone system. We had also the wireless and telegraph capability. We are moving now into the next century. Because, I think, of the work the Senate has done in this area, we are moving into the 21st century with everyone in the country, and we are probably ahead of everyone else in the world. The real necessity now is to devise a system that will carry us on beyond this developing technology into an era of really free competition without regulation in which the ingenuity and really resourcefulness of the American entrepreneur will bring us better and better and better communications.

Communications now have reached the point where at least in my State they dominate our educational pattern. They dominate the health care delivery system. They dominate our total communications system in terms of business.

In a State that is one-fifth the size of the United States, the one single factor that makes us equal is the equal access to the most recent developments for telecommunications. I think this bill will assure that in this interim period now as we shift from the 1934 Communications Act into a period where we will have very, very little regulation of communications, which I think should start sometime between 2005 and 2010 is where I see it in terms of the developments of technology that have been reported to us thus far. Developments are still on the drawing board in some instances, developments that are really being applied from our space research in other instances.

I do believe the work the Senator from South Dakota and the Senator from South Carolina have done along with their staffs in perfecting this bill so we can take it now to the House and, hopefully, early to conference will mean that we are going to have a change, an immediate change in this country. It will be a change for the best as far as Alaska is concerned.

I close by just remarking that the other day I heard about a young family that has moved to Alaska from somewhere around the San Francisco area. They bought an island, and they have moved themselves and their small business up to that island. They are going to continue to conduct their business in the San Francisco area by telecommunications from my State. They will have available all of the modern convenience where they are going to be.

That is something which could not even be dreamed of when I first went to Alaska, and now we are in a situation where we see people moving into our State from all over the country, if not the world, to utilize our wilderness, our beautiful surroundings, and at the same time maintain contact with the rest of the world through telecommunications. This bill, as I said, means more to us than I think it does anyone in the Senate.

I thank the Chair.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from West Virginia.

Mr. BYRD. Mr. President, I shall use such time as I may require under the time allotted to any Senator under the cloture rule. I shall not be long.

The purpose of this bill is to establish a framework to introduce more competition into the telecommunications sector and break down the current system of large monopolistic fiefdoms which characterize this market.

In addition, there is an attempt to deregulate cable and broadcasting sectors in an attempt to strike a compromise between the current regulatory environment and the desire for additional competition in those marketplaces. The question is, Does the bill go far enough in doing this? Can we predict how successful it will be? What are the dangers that additional influence by big corporations, big entities, will result despite the intentions of the hard-working managers of the bill, the distinguished Senator from South Dakota, the chairman, Mr. PRESSLER—and I compliment him on his management of this bill and the work that he has done on the bill during the committee process, throughout the hearings and the markup—and the ranking member, whom I compliment, the distinguished Senator from South Carolina [Mr. HOLLINGS] the former chairman of the committee, straight as an arrow in his physique, straight as an arrow in his integrity and honesty and straightforward manner.

Certainly it is intuitive that prices will drop with additional competition in the telephone marketplaces that might eventually occur, but the impact of bigness on the pending bill, which is attempting to reduce bigness, gives me great pause.

There is a substantial possibility that three-quarters of West Virginia's cable TV viewers will pay higher prices for this service as a result of the bill. This is because the definition of "small" cable company included in the leadership amendment on this floor would include about 74 percent of our West Virginia cable viewers. Even if they take the most basic cable service, it is subject to deregulation and the price can go through the roof before the ink is dry on the conference report. The distinguished Senator from Connecticut [Mr. LIEBERMAN] this afternoon offered an amendment to correct those cable rate rises. Unfortunately, his amendment was not agreed to. I supported that amendment, which was an important consumer amendment.

In addition, Mr. President, on the amendment by the distinguished Senator from North Dakota [Mr. DORGAN] to keep the concentration of TV ownership at the current cap of 25 percent, the amendment failed after some heavy lobbying by interests that are interested in further concentration of broadcasting station ownership.

There are some good things in the bill, including in particular the initiative authored by my colleague from West Virginia, Mr. ROCKEFELLER, that extends the traditional concept of universal service which is essential for our State and broadens it to include affordable rates for such institutions as hospitals, secondary schools, and libraries, bringing the future information highway and the services it can give to every person—down to the basic infrastructure for learning and health care—to West Virginia. I congratulate my colleague, Mr. ROCKEFELLER, on this item, and I enthusiastically endorse it.

In addition, the Senators from North Dakota and Nebraska, Senators CONRAD and EXON, have authored valuable amendments to take steps to reduce violence and obscenity on TV in this bill, and we sorely need to take that kind of action.

Given these worthy provisions, I also take note of the observations made earlier by the distinguished Senator from Nebraska [Mr. KERREY] regarding the quality of the message and pictures going over the airwaves and the land lines. The issue is the manipulation and control of information made available to our citizens. Wide choice and quality programming must be available. Essential information must be available to our people so that independent judgments can be made. Bigness, big programming, cavalier concern for consumer choice and diversity of viewpoint seem to go hand in hand. We need to take care that we do not allow our media to hollow out the essence of information and diversity of viewpoint which are essential to creating an informed citizenry. Certainly, we ought to focus a great deal of attention on the effect that such legislation as we have before us today enhances and informs citizenry and erects barriers to the power of great financial and technological interests that care only about manipulation, control, and the bottom financial line.

This is a very big and complex bill dealing with a range of businesses and interests that are vast, wealthy, and powerful. We have not had enough time to adequately debate the very important amendments in this bill. We should not be invoking cloture. I voted against cloture on yesterday. I was one of the few who voted against it. We

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should not be invoking cloture to truncate the doing of the legitimate business with adequate debate on this kind of measure.

Cloture is for filibusters. Cloture is not intended to shut off legitimate debate on important business such as this. Senators and their constituents are shortchanged by this technique, and it is not in the highest traditions of this deliberative body.

Mr. President, finally, the episode over the last 2 days regarding the transparent threats by one big conglomerate, Time Warner, to threaten the future of a business arrangement unless the Senate agrees to remove a particular provision from the bill is an outrageous illustration of the kind of influence peddling and pushing that surrounds this legislation.

The senior Senator from Nebraska [Mr. EXON] has drawn the attention of the Senate to the kind of intrusion into the legislative process that is illustrated by the threat that Time Warner has engaged in. One cannot help but wonder what leads a big organization like Time Warner to think that it can actually affect the legislative process in this way.

What does this episode say about the perception of the integrity of the Senate that prevails among the big concerns that mold public opinion? What leads such concerns to think that they can get away with this kind of blackmail?

There is too much money pushing around this legislative product and process. It is totally inappropriate, and I congratulate the distinguished Senator from South Carolina on his statement, and I shall support him in his urging that the amendment not be agreed to.

For the reasons stated, I shall also vote against the bill on final passage.

Mr. President, I ask unanimous consent to have printed in the RECORD an article by Tom Shales that appeared in the June 13, 1995 edition of the Washington Post, along with a letter from Time Warner, dated June 13, 1995, to Senator PRESSLER; and a letter from Senator PRESSLER to Mr. Timothy Boggs of Time Warner, dated June 15, 1995.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 13, 1995]

FAT CAT BROADCAST BONANZA

(By Tom Shales)

It's happening again. Congress is going ever so slightly insane. The telecommunications deregulation bill now being debated in the Senate, with a vote expected today or tomorrow, is a monstrosity. In the guise of encouraging competition, it will help huge new concentration of media power.

There's something for everybody in the package, with the notable exception of you and me. Broadcasters, cablecasters, telephone companies and gigantic media conglomerates all get fabulous prizes. Congress is parceling out the future among the communications superpowers, which stand to get more super and more powerful, and certainly more profitable, as a result.

Limits on multiple ownership would be eased by the bill, so that any individual owner could control stations serving up to 35 percent of the country (50 percent in the even crazier House version), versus 25 percent now. There would be no limit on the number of radio stations owned. Cable and phone companies could merge in municipalities with populations up to 50,000.

Broadcast licenses of local TV stations would be extended from a five-year to a 10-year term and would be even more easily renewed than they are now. It would become nearly impossible for angry civic groups or individuals to challenge the licenses of even the most irresponsible broadcasters.

In addition, the rate controls that were imposed on the cable industry in 1992, and have saved consumers $3 billion in the years since, would be abolished, so that your local cable company could hike those rates right back up again.

Sen Bob Dole (R-Kan.), majority leader and presidential candidate, is trying to ram the legislation through as quickly as possible. Tomorrow he wants to take up the issue of welfare reform, which is rather ironic considering that his deregulation efforts amount to a bounteous welfare program for the very, very, very rich.

Dole made news recently when he took Time Warner Co. to task for releasing violent movies and rap records with incendiary lyrics. His little tirade was a sham and a smoke screen. Measures Dole supports would enable corporate giants such as Time Warner to grow exponentially.

"Here's the hypocrisy," says media activist Andrew Jay Schwartzman. "Bob Dole sits there on 'Meet the Press' and says, yes, he got $23,000 from Time Warner in campaign contributions, and that just proves he can't be bought. He criticizes Time Warner's corporate responsibility and acts like he's being tough on them, but it's in a way that won't affect their bottom line at all.

"Meanwhile he is rushing to the floor with a bill that will deregulate cable rates and expedite the entry of cable into local telephone service, and no company is pressing harder for this bill than—guess who—Time Warner."

Schwartzman, executive director of the Media Access Project, says that the legislation does a lot of "awful things" but that the worst may be opening the doors to "a huge consolidation of broadcast ownership, so that four, five, six or seven companies could own virtually all the television stations in the United States."

Gene Kimmelman, co-director of Consumers Union, calls the legislation "deregulatory gobbedygook" and says it would remove virtually every obstacle to concentration of ownership in mass media. The deregulation of cable rates with no competition to cable firmly in place is "just a travesty," Kimmelman says, and allowing more joint ventures and mergers among media giants is "the most illogical policy decision you could make if you want a competitive marketplace.

The legislation would also hand over a new chunk of the broadcast spectrum to commercial broadcasters to do with, and profit from, as they please. Digital compression of broadcast signals will soon make more signal space available, space that Schwartzman refers to as "beachfront property." Before it even exists, Congress wants to give it away.

Broadcasters could use the additional channels for pay TV or home shopping channels or anything else that might fatten their bank accounts.

There's more. Those politicians who are always saying they want to get the government off our backs don't mind letting it into our homes. Senators have been rushing forth with amendments designed to censor content, whether on cable TV or in the cyberspace of the Internet. The provisions would probably be struck down by courts as antithetical to the First Amendment anyway, but legislators know how well it plays back home when they attack "indecency" on the House or Senate floor.

Late yesterday Sens. Dianne Feinstein (D-Calif.) and Trent Lott (R-Miss.) called for an amendment requiring cablecasters to "scramble" the signals of adults-only channels offering sexually explicit programming. The signals already are scrambled, and you have to request them and pay for them to get them. Not enough. Feinstein and Lott said: they must be scrambled more.

The amendment passed 91-0.

It's a mad, mad, mad, mad world.

An amendment expected to be introduced today would require that the infamous V-chip be installed in all new television sets, and that networks and stations be forced to encode their broadcasts in compliance. The V-chip would allow parents to prevent violent programs from being seen on their TV sets. Of course, they could turn them off, or switch to another channel, but that's so much trouble. Why not have a Big Brother do it for you?

The telecommunications legislation is being sponsored in the Senate by Commerce Committee Chairman Larry Pressler (R-S.D.), whose initial proposal was that all limits on multiple ownership be dropped. Even his supporters laughed at that one.

Dole is the one who's ramrodding the legislation through, and it's apparently part of an overall Republican plan for American media, and most parts of the plan are bad. They include defunding and essentially destroying public television, one of the few wee alternatives to commercial broadcasting and its junkiness, and even, in the Newt Gingrich wing of the party, abolishing the Federal Communications Commission, put in place decades ago to safeguard the public's "interest, convenience and necessity."

It's the interest, convenience and necessity of media magnates that appears to be the sole priority now. "The big loser in all this, of course, is the public," wrote media expert Ken Auletta in a recent New Yorker piece about the lavishness of media contributions to politicians. The communications industry is the sixth-largest PAC giver, Auletta noted.

Viacom, a huge media conglomerate, had plans to sponsor a big fund-raising breakfast for Pressler this month, Auletta reported, but the plans were dropped once Auletta started making inquiries: "Asked through a spokeswoman about the propriety of a committee chairman's shopping for money from industries he regulated, Pressler declined to respond."

The perfect future envisioned by the Republicans and some conservative Democrats seems to consist of media ownership in very few hands, but hands that hold tight rein over the political content of reporting and entertainment programming. Gingrich recently appeared before an assemblage of mass media CEOs at a dinner sponsored by the right-wing Heritage Foundation and reportedly got loud approval when he griped about the oh-so-rough treatment he and fellow conservatives allegedly get from the press.

Reuven Frank, former president of NBC News, wrote about that meeting, and other troubling developments, in his column for the New Leader. "It is daily becoming more obvious that the biggest threat to a free press and the circulation of ideas," Frank wrote, "is the steady absorption of newspapers, television networks and other vehicles of information into enormous corporations that know how to turn knowledge into

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profit—but are not equally committed to inquiry or debate or to the First Amendment."

The further to the right media magnates are, the more kindly Congress is likely to regard them. Most dramatic and, indeed, obnoxious case in point: Rupert Murdoch, the Fox mogul whom Frank calls "today's most powerful international media baron." The Australian-born Murdoch has consistently received gentle, kid-glove, look-the-other-way treatment from Congress and even the regulatory agencies. When the FCC got brave not long ago and tried to sanction Murdoch for allegedly deceiving the commission about where he got the money to buy six TV stations in 1986, loud voices in Congress cried foul.

These included Reps. Jack Fields (R-Tex.) and Mike Oxley (R-Ohio). Daily Variety's headline for the story, "GOP Lawmakers Stand by Murdoch." They always ??? Indeed. Oxley was behind a movement to lift entirely the ban on foreign ownership of U.S. television and radio stations. He wanted that to be part of the House bill, but by some miracle, this is one cockamamie scheme that got quashed.

Murdoch, of course, is the man who wanted to give Gingrich a $4.5 million advance to write a book called "To Renew America," until a public outcry forced the House speaker to turn it down. He is still writing the book for Murdoch's HarperCollins publishing company. The huge advance was announced last winter, not long after Murdoch had paid a very friendly visit to Gingrich on the Hill to whine about his foreign ownership problems with the FCC.

Everyone knows that America is on the edge of vast uncharted territory where telecommunications is concerned. We've all read about the 500-channel universe and the entry of telephone companies into the cable business and some sort of linking up between home computers and home entertainment centers. In the Senate debate on the deregulation bill last week, senators invoked images of the Gold Rush and the Oklahoma land rush in their visions of this future.

But this gold rush is apparently open only to those already rolling in gold, and the land is available only to those who are already big landowners—to a small private club whose members are all enormously wealthy and well connected and, by and large, politically conservative. It isn't very encouraging. In fact, it's enough to make you think that the future is already over. Ah, well. It was nice while it lasted.

TIME WARNER,
Washington, DC, June 13, 1995.

HON. LARRY PRESSLER,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

DEAR CHAIRMAN PRESSLER: As you requested, the attached signature page confirms that Home Box Office has reached an agreement with the National Cable Television Cooperative, Inc. for HBO programming. As discussed with you and your staff, this agreement is entirely contingent on the removal of the program access provisions at Section 204(b) of S. 652, prior to Senate action on the legislation.

On behalf of Time Warner and HBO, I am pleased to report that we have reached this agreement and respectfully request that this provision be removed from the bill at the earliest possible opportunity. Without removal of this provision from the bill, the HBO distribution agreement with the NCTC will be void.

Thank you for your leadership on this matter. Please feel free to contact me if I can be of any assistance to you or your staff. I can be reached at my office at 202/457-9225 or at home at 202/483-5052.

Warm regards,

TIMOTHY A. BOGGS.

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, June 15, 1995.

MR. TIMOTHY A. BOGGS,
Senior Vice President for Public Policy, Time Warner, Inc., Washington, DC.

DEAR MR. BOGGS: Your faxed letter of June 13 contains misleading statements which do not accurately reflect my position.

On May 4, 1995, I met briefly with you, Ron Schmidt and HBO/Time Warner executives, in the presence of my staff, regarding the program access provision of S. 652. During that meeting, HBO/Time Warner urged me to support deletion of the program access provisions of the bill.

I stated that the program access provision was of enormous importance to small cable operators, including those in South Dakota. I suggested that if the program providers disliked the provision, they ought to negotiate with the small cable operators to reach an agreement which might address the problems this portion of S. 652 is attempting to solve. Specifically, since Ron Schmidt is from my home state, I suggested that he talk to a small cable operator from South Dakota, Rich Cutler, to see if an industry compromise were possible.

At no time during our conversation did I indicate that any specific action by Time Warner would result in deletion of the program access provisions. I have had no further conversations with HBO/Time Warner about this matter since that meeting. My staff has not portrayed my position as being anything other than the industry negotiations suggested on May 4. Nothing I said during our short meeting could be construed as suggesting some sort of quid pro quo, which would be wrong, if not illegal. I resent the inference in your letter that I suggested something other than an industry-negotiated solution.

Your letter indicates that failure to delete the program access provisions from the bill would vitiate any negotiated agreement HBO/Time Warner had reached with the small cable operators. While HBO/Time Warner is free to negotiate contracts as they see fit, such tactics, in my opinion, cannot be considered as good faith negotiations. Your letter implies that I tacitly approved such a condition, which is not the case.

I expect you to send this letter to the same individuals who received your letter to me. Your letter is misleading, and does not accurately characterize my position as presented in my May 4 meeting with HBO-Time Warner.

Sincerely,

LARRY PRESSLER,
Chairman.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I presume that within the hour, we will get to final passage of this very important legislation. I think it is appropriate that we take note of a little bit of the effort that went into it.

First, I want to refer again to the title of this bill: Telecommunications Competition and Deregulation Act of 1995. I think that is really what it is, but it has been a monumental undertaking. You have had the behemoths of the industries on both sides struggling mightily to protect their interests—their turf. Everybody has wanted, as the saying has been repeated on the floor earlier, "a fair advantage." The goal of the committee has been to try to make sure that it was just fair to everybody.

It has been very difficult. A lot of effort has gone into it, but I believe we have accomplished the goal we have set out to accomplish. And I believe that we will have an overwhelmingly bipartisan vote when we get to final passage.

So I wanted to take this early opportunity, in advance of the vote to thank and commend the managers of this bill, Chairman PRESSLER and the ranking member, Senator HOLLINGS of South Carolina, the former chairman, who have really done outstanding work.

I also want to commend the majority and minority leaders, Senator DOLE and Senator DASCHLE. I have commented to both of them that I believe this is the best example I have seen this year of our leaders working together and our managers working together for what is in the best interest of the country, not the best interest of one party or the other, or one segment of the telecommunications industry or the other, but what is the right thing to do.

It has been a long struggle, and it would not have been possible without the type of bipartisan cooperation and strong leadership that we have seen here. The legislation is truly a remarkable achievement. For 20 years, Congress has been trying, struggling to get comprehensive communications reform—without success. But we are on the verge of seeing that happen.

So this is a historic act that will bring, I think, a tremendous boost to our economy and our standing communications policy that will take us into the 21st century.

I believe that we will see a tremendous growth and expansion in this area—new innovation, new ideas, with the utilities being involved, along with the Bells, the long distance companies and cable companies. There are going to be jobs created and the economy will grow and expand in this area. As a member of the Commerce Committee, I am proud to have been a part of this effort.

I commend the chairman, in particular, because I do not know of anybody else that could have done it at this particular time. He has been persuasive and doggedly persistent. I wish I had a nickel for every time that he said to the distinguished leader, "We are ready to go. When can we get on the schedule? Is it alright if we go ahead and move it?"

How did the Chairman do it? He opened the process to the full committee. He involved everybody. He went to all of the committee members. I remember the first meeting we had in his office. Yes, he worked with the Republicans, but he did not stop there. He went to the Democrats and he did not talk through people to the former

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chairman; he went directly to him. When we got our first draft, he hand-delivered it to the Members. The leadership was involved every step of the way. Months of negotiations were held before we had the eventual agreement, and when we finally agreed upon the core, the entry test, he stuck with it in the markup and on the floor. Also, the distinguished Senator from South Carolina stuck with it.

So I just have to say Senator PRESSLER is one who gets the job done. He certainly did it here. The country will be better off because of his leadership on this bill and on the committee. I look forward to working with him in many other instances in the future.

Senator HOLLINGS' leadership and cooperation deserves great praise. I have had him on the other side of issues, and I did not appreciate it a bit. He was tough. But, boy, is it fun when he is with you. It has really been a pleasure to work with him. He is a man of his word. When he tells you he is going to stay put, he does—even when he has pressure on his side of the aisle not to. This would not have been possible without his cooperation, experience, and his perseverance.

I also thank some tremendous staff people: Paddy Link, staff director for Senator PRESSLER, and his counselors, Donald McClellan and Katie King. For Senator HOLLINGS, I thank Kevin Curtain, John Winhausen, who has been around on this issue for some time, and Kevin Joseph. For Senator DOLE, I appreciate the efforts by David Wilson, and for Senator DASCHLE, Jim Webber. I have never seen many staff people work so well together. They worked days and nights and weekends when we were back in our States, and they struggled along with it. So I think they deserve a lot of credit. I thank my own staff assistant, Chip Pickering for his work on this issue. I have called him the "peacemaker." Blessed are the peacemakers, for most of them are dead. Many times I thought he was going to get himself killed and me, too, because he had me in the middle of my friends on both sides. So I appreciate the effort he put forward.

I want to thank some other people, like Larry Johnson, Kelly Algood, Bernie Ebbers, Bernard Jacobs, and Eddie Fritz. All of these are Mississippians who have a direct interest and knowledge in this area. They are on the long distance side, they are on the Bell side, they are on the cable side, they are utility folks and broadcasters.

Although it is difficult in legislation of this magnitude to agree on all issues, I appreciate their insight, assistance and understanding of what I was trying to do. They made it possible for me to try to be helpful as we moved the legislation along toward what will be right for the country and fair to the competitors and the consumers.

Again, I congratulate the managers. I am proud of them and proud to have been associated with them. This is truly historic. In many ways, this bill is every bit as big and as important as the balanced budget resolution we passed. It will have a tremendous impact on the economy, and I believe it will greatly help our country's future.

I yield the floor.

Mr. PRESSLER. Mr. President, if I may for a minute, I want to thank the Senator from Mississippi, and Chip, his able assistant. I will be saying more later about thanking people. But the bill would not have happened without him. Every time I went to him as my deputy leader, he was there. I do not know how you get enough hours in the day to do all the things we ask you, but you were there, and I thank you very much for your kind comments.

Mr. HOLLINGS. Mr. President, let me also join in my thanks to the distinguished Senator from Mississippi. When we really got into trouble, I went to the Senator from Mississippi. He paved the way all the time in the 2 years previous here working on this bill and, of course, all this year. I cannot thank him enough. We could not have had this bill without his leadership.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I cannot help but observe the thankfulness that is going on here. I was standing here listening, and I thought to myself, in this Chamber the highest praise is usually reserved for those who are about to vote against you.

I stand to give credit to the Senator from South Dakota. I think the Senator from South Dakota has demonstrated real skill in moving this legislation. I am, of course, indebted to the leadership of not only the Senator from South Dakota, but the Senator from South Carolina, with whom I have worked carefully for a long, long while.

These have been difficult issues, no question about that. We are dealing with literally hundreds of billions of dollars in the American economy with interest groups that have very substantial stakes in the outcome of this legislation. I understand the passion with which some people stand here and debate to push their positions.

I started out very hopeful about this legislation and voted for it coming out of the committee. I think there are elements of this legislation that will be good for this country. I remain concerned, however, about the issue of concentration of ownership in the television and radio broadcasting. I remain concerned about the lack of the role of the Justice Department in being able to adequately enforce what I consider to be vital antitrust issues. For those reasons, I do not feel I am going to be able to vote for this bill on final passage. I say that with some disappointment because I had hoped as we started this process that we would be able to successfully amend it on the floor of the Senate.

The Senator from South Dakota and the Senator from South Carolina will recall when we had the markup in the Commerce Committee, the issue was to try to move this bill along as quickly as possible. I understood that morning the need in a couple of hours to move this bill out of committee. But we discussed at some length there about the opportunity to offer amendments on the floor of the Senate and to try to correct some of the areas that represented concerns.

I voted for it coming out of committee, but I did, in the committee, express the very concerns that I brought to the floor about concentration of ownership of television and radio stations and my concerns about an adequate role for the Justice Department on the issue of RBOC entry into long distance.

When I came to the floor, we had an opportunity to fully debate them. I compliment the two leaders on the floor. They were very cooperative. For that I am appreciative.

I suffered one of these unusual experiences of having won briefly and then lost on an amendment I cared a great deal about: that is my amendment on television ownership.

We now restrict ownership to 12 television stations and we limit the audience reach to 25 percent. These limits prevent a concentration of media ownership in this country. This bill says that there is no limitation on how many stations one can own, as long as you do not cover more than 35 percent of the country.

I do not support that, and I brought an amendment to the floor that would have retained the existing limits. We debated it and voted.

At the end of the vote, my amendment won by a vote of 51–48. It taught me a lesson—this whole set of circumstances—because although I won by a vote of 51–48, an hour and a half later, it turns out some folks had new opinions about this issue after having debated it for hours and days, and we had another vote.

Then I learned that not all Members are equal in this Chamber. Some have a better grip in wrenching arms than others, and I will be darned if I did not lose. You win for an hour, and I guess you lose forever, in these circumstances.

For that reason, I do not feel I can vote for the bill on final passage. I did want to explain briefly that I view the issue of telecommunications reform as critically important to the United States. Its development, its opportunity for this country is a very significant issue.

I admire the work of the two Members who brought this to the floor and have spent days on the floor. I wish very much that the couple of major amendments I had offered would have been adopted, in which case I would have been one to cast a yes vote on final passage. I hope the managers will understand the reason for my no vote.

I expect when the votes are counted, this legislation will advance. I still

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have some hope that when this bill comes out of conference committee the issues I have mentioned will be addressed.

I yield the floor.

Mr. INHOFE. Mr. President, I ask unanimous consent to be recognized to address the Senate for not to exceed 12 minutes as in morning business.

Mr. President, I thank the Chair.

(The remarks of Mr. INHOFE pertaining to the introduction of S. 928 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. We are currently on amendment No. 1341 of the telecommunications bill.

Mr. BUMPERS. Mr. President, I ask unanimous consent I be permitted to speak for 5 minutes on the bill but not on the amendment.

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

Mr. BUMPERS. Mr. President, I come to the floor to say that I have concluded, after considerable debate with myself, not to vote for this bill on final passage. It was not a decision easily reached. This is an immensely complex bill. Frankly, there are very few Senators in the U.S. Senate who really understand the full complexity and ramifications of this bill.

My decision is not based on whether or not the baby Bells can get into the long distance telephone market. That is a problem for me. But it is not nearly the problem of the unlimited power of people owning an unlimited number of radio stations and television stations, which I consider to be highly dangerous.

I heard the Senator from Florida, Senator GRAHAM, this morning say that Thomas Jefferson once asked which would he choose between a free government and a free press? He said he would always take a free press because you cannot have a free government without a free press.

These airwaves of radio and television stations can only be allocated by the Government. You cannot allow people willy-nilly to take a particular channel in the airwaves for a radio or television station. That is what the Federal Communications Commission was set up to do, allocate those things. And for years the Government gave away billions and billions of dollars' worth of television station channels and radio station channels. It has only been in recent years that the Government has decided it was being taken and it ought to start making people bid at public auction for those airwaves. Incidentally, it has helped a great deal in our efforts to balance the budget. We have been getting billions of dollars for radio and television station channels on the airwaves.

There was a time not too long ago in this country when you were prohibited from owning a television station and a newspaper in the same community. Now, under this bill, you can own 500 radio stations, 1,000 radio stations. You can own as many television stations as you want, as long as you do not control more than 35 percent of the market as determined by the Federal Communications Commission. Can you imagine some people—I will leave it to your imagination, and I will leave it to your imagination as to who it may be—can you imagine some of the people in this country who are very big in telecommunications owning 1,000 radio stations; 100 television stations? Let us face it, the newspapers are not nearly as powerful as the television stations. It is a concentration of communications power that I think is dangerous to the country.

So I believe that some ideological bent or belief, not an empirical belief but an ideological belief, a philosophical belief that the free market will solve this problem—turn them all loose to buy and sell these stations however they will—it has not even worked in a lot of the rest of our society. That is the reason we have an antitrust division down at the Justice Department. It was the very reason Teddy Roosevelt saw that the people were suffering from the gigantic trusts of his day. So from that evolved the Sherman Act, the Robinson-Patman Act and all the other acts that protect people from what can become a tyranny.

I think it was Madison who said—and I sometimes wonder what James Madison would think today—but it was James Madison who said the Congress, the Congress is what stands between the people and what would otherwise surely become a tyrannical leader, tyrannical government.

Mr. President, for all of those reasons history tells me we are about to make a colossal mistake that will be very difficult to undo when we discover it someplace down the road.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thought, with the permission of the Senator from South Carolina, I might speak for 6 minutes or so before the final vote.

Mr. President, this debate we have had on this bill has opened all eyes to the dazzling possibilities provided by our new, emerging information technologies. I will quote from some of the speech that I gave several days ago during this debate.

> I can imagine workers in rural Minnesota telecommuting to and from work as far away as New York or Washington without ever having to leave their homes or families. Or schoolchildren in a distressed Minneapolis school district reading the latest publications at the Library of Congress via thin glowing fiber cables—

Mr. President, this really excites me as a teacher,

> or rural health care providers on the iron range consulting with the top medical researchers at the Mayo Clinic in Rochester to better treat their patients.

Mr. President, all of this is before us. I felt like this bill presented to each Senator a daunting—an exciting but also daunting—responsibility. The concern that I have has to do with whether or not we can make sure that there will be true competition, and that this technology and information will truly be available to everyone in the Nation, not just the most privileged or the most wealthy.

What has disappointed me the most—and the Senator from South Carolina has to be one of the colleagues I most respect here in the Senate even when we disagree—is that over and over again where there have been amendments to I think assure competition and to also protect consumers—I am not just concerned about the alphabet soup corporations. I am also concerned about the people that live in Ferguson Falls or live in Virginia, Minnesota, or live in Minneapolis or St. Paul or Northfield. I was hoping that at least we could build in more protection for consumers and more guarantees that there would in fact be the competition that we all talk about.

While I fully appreciate the potential of this legislation, I am really worried about where we are heading because I think there is going to be entirely too much concentration of power.

I would just simply build on the remarks of my colleague from Arkansas. The media is the only private enterprise in the United States of America that has first amendment protection. The reason for that, though we did not have the same kind of communication technologies we have today back in the days of Thomas Jefferson, was that the Founders of our Nation understood the importance of the media and the importance of information. And the importance of it was to contribute to an informed electorate. We are talking about something very precious here.

I see a piece of legislation that will lead to way too much concentration of power, way too much concentration of power in a very, very important and decisive area of public life in the United States of America. That has to do with radio and television, and information, and who controls the flow of information.

So, Mr. President, I was hoping that some of the amendments that were introduced on the floor of the Senate that I think really would have provided the consumer protection, that would have provided regular people—I do not mean in a pejorative sense, but I mean in a positive way—with some protection and which would have assured some competition as opposed to more and more concentration of power, more and more very, very vital and important areas being taken over by just a few conglomerates. It did not happen.

I think we are making a mistake if we pass this piece of legislation. I will therefore, vote against it.

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I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I will be very, very brief. I want to take 2 or 3 minutes if I could to congratulate the chairman of the committee, Senator PRESSLER, and the ranking member, Senator HOLLINGS, who have struggled long and through many difficult situations—and that I have been with them on—on many occasions. This is a bill that is criticized, that as a bill is easy to vote against because voting against the bill, if there is ever any problem, you can always say, "Well, I voted against the legislation."

I happen to feel that this bill is very important, and I rise in support of the legislation that has been deliberated on, been written and rewritten so many, many times. I would have to say that at least everyone has had their chance at an input on this piece of legislation, through what we worked on last year, reported out but never got passed, and then taken up by Senator PRESSLER when he became chairman of the committee; worked very hard and very closely with Senator HOLLINGS.

Certainly the bill before us, the telecommunications reform bill, is a good bill, although not a perfect one. A bill as complicated and as detailed as this one could be, I simply point out that it has many good features. It includes strong education provisions, including the Snowe-Rockefeller-Exon-Kerrey educational library, and rural health care discount provision.

It includes important market protections, including the farm team provisions of last year, all of which were incorporated here in the bill this year. It includes the Grassley-Exon infrastructure sharing provision. It includes the Communications Decency Act that we debated and passed yesterday. It includes a revolutionary, and I think very positive, TV ratings system. It includes a strongly needed and fair universal service language. And it abandons the one-fits-all regulation that has been a problem for a long time.

The cable provisions in this bill are still a disappointment to this Senator but were improved somewhat from the committee bill.

Final passage will take America's telecommunications industry off hold.

Mr. President, it is time to move on and pass this legislation.

I thank the Chair. I yield floor.

Mr. PRESSLER. Mr. President, I thank our friend from Nebraska for his numerous efforts on this bill as time has gone forward. He and his staff have been a key part of working on it. I thank him very much for his spirit of cooperation.

Mr. EXON. I thank my friend from South Dakota.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I have been listening to the speeches on the floor from the different committee members of the Commerce Committee, and it sounds like a funeral from time to time on the floor of the Senate. There are so many accolades and potential eulogies. But, in fact, I have to say that the accolades are really warranted, and it is because this bill has been so tough and so hard fought. And it has lasted for so long.

What we have seen on the floor is the tip of the iceberg. The work has been going on in committee nonstop for so many months that it is correct for the committee members who are so aware of all that has been done to be able to say job well done.

It is a job well done not because anyone feels victorious. It is a job well done because nobody feels victorious. It is a job well done because it has been a tough battle. It is because people that we respect so much, the entrepreneurs in the cable industry, the entrepreneurs in the long-distance industry, the local providers, the Bell companies that have been in business a long time but have made huge capital investments based on a regulatory scheme that now is going to be taken away—everyone in this business I respect because they are providing jobs. They are doing what we must do to continue to provide jobs in our country.

But what we are trying to do here is open the door even more. We are trying to provide more job opportunities. We are trying to provide more opportunities for the entrepreneurs in this country to go out and improve the technology and become a competitor throughout the telecommunications field.

So it has been a tough thing to balance the needs of all of these people who are out there on the front line spending their money for capital to go out and try to build a business that will make a difference for the consumers of America, that will add to the quality programming, add to the quality of telecommunications and telephone systems and video programming, and to also provide lower prices for those consumers.

So the fact that there are no victories here is a victory in itself. I think that if we look at the overall, we are only one step, but there is a finish line that we have not yet crossed. After we vote this bill out of the Senate—and I believe we will in a very short time—we are going to go to the House. The House is going to pass a bill, and there will be differences, and those are going to have to be worked out in conference. And once again, all of the entrepreneurs and all of the people who have built businesses on a regulatory scheme are going to come in and say, "We have been treated in an unfair way." And we are going to have to once again do a balance between the House and Senate versions of this bill. But we must do it because technology has leapt over the regulatory environment that we have in our telecommunications industry, and we have a lawsuit that has caused deregulation by a judge, and in fact it is just not the right way to have deregulation. It does not cover enough of the area to be fair to all people concerned. The only way that we can be fair is to have everyone at the same table and everyone give and everyone take a little bit.

So while I do not agree with everything in this bill and while probably no one who is voting on it agrees with everything in it, I wish to commend the chairman, the ranking member and the members of the committee who have put their small differences aside to do something that would move forward this very important step that I think will be able to bring as much as $3 billion, maybe more, into our economy with new jobs and new opportunities and new technologies that we can then export all over the world. It is an exciting bill. It is an exciting time. It is an exciting opportunity for this Senate to take that one step forward. Let us do what we can now and be ready to continue this fight until it is finished.

Mr. President, I commend those who have worked on it, and I thank you and I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I again want to praise Senator HUTCHISON and her staffer, Amy Henderson, for the many hours of work they have done. I am going to recognize the staff. I do not know if I mentioned this before, but our staffs met night after night and on weekends, in addition to Senators participating. But the bill would not have happened without the Senator from Texas, and I thank her very, very much.

Mr. HOLLINGS. Mr. President, let me also join in my gratitude for Senator HUTCHISON's leadership. We all on the committee worked very closely.

A moment ago my distinguished colleague from Arkansas gave me the theme that comes to mind. He concluded his observation that he was prepared to vote against the bill; that it would be a colossal mistake to pass this bill.

Let me say in a word it would be a colossal mistake not to pass this bill. I came to the Senate almost 29 years ago, and they were talking then. And I immediately got on the Communications Subcommittee, and I can see Senator John Pastore, the chairman, talking about revising the 1934 Communications Act. I worked very closely with Senator Goldwater when he was the chairman, and I have been the chairman of the subcommittee and the full committee, and we worked time and time again and we were prepared, as everyone now knows—the distinguished Senator from South Dakota, now our chairman, was working with us—in the last closing moments to pass the bill last year.

It would be a colossal mistake not to pass this bill. This bill is an excellent bill. It did not do all things, but the

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truth of the matter is the experience has been, with the breakup of AT&T, that what we have now is 500 competitors in the long distance market. And with this bill by breaking up the regional Bell operating companies—this is how you legislatively, not by court order, but legislatively break up the monopolies of the local exchange—we are going to bring in hundreds and thousands of competitors. We are doing this in the most deliberate, measured fashion possible in that we appreciate that we in America have the best communications system in the entire world.

We are not repairing the communications system in that light. What we are trying to do is remove the obstruction in the middle of the information superhighway, namely, the Government. With all the plethora of rules, hearings, injunctions and precedents, we are finding now that the judicial branch is totally overwhelmed; it could not possibly deal with the explosion of this technology. No one individual could.

On the other hand, we are going to get communications policy back into the policymaking body of our Government, namely, the Congress and its administrator, the Federal Communications Commission.

We have an outstanding bill. Senator PRESSLER has done an outstanding job. I am ready, as I understand, to prepare to vote on the Dole amendment, the Breaux amendment, which will be agreed to, and then final passage.

As I stand here, I have been moved, as all Senators do, from the subject of the week—almost like Sealtest Ice Cream; we have the flavor of the week—we move to the other particular issue at hand. But staff on the other side of the aisle has been duly recognized, and I would again recognize Kevin Curtin and John Windhausen and Kevin Joseph, as well as Jim Drewry, Sylvia Cikins and Pierre Golpira, on our staff. They have worked not just during the 5 days of the week but weekends and evenings, around the clock, on and on again to keep us on a deliberate, measured, fair course of entering into competition and maintaining at the same time the wonderful universal service that we have.

There is a tremendous balancing act that is involved here, and no one should run a touchdown in the wrong direction with the idea that, yes, we could have gotten in more competition or more protection for the consumers. We have gotten in the basic competition and the basic protections that were necessary and even more.

So with that said, I hope we can move to the vote on the Dole amendment, Mr. President.

Mr. PRESSLER. Mr. President, when we receive notification from the leadership on both sides—I am certainly eager—we will vote. We are awaiting word.

I welcome all Senators who have statements.

I, too, wish to thank my friend, Senator HOLLINGS, for his great leadership. He has been working on this bill for years and years, and he got a similar earlier version through the Commerce Committee last year, where he has done a terrific job. He has been great to work with. Without his efforts, we would not have gotten this bill out of the committee or to this point. He has helped bring broad bipartisan support and has shown great courage and independence. He has done a terrific job.

Extraordinary effort has been expended on the measure's birth and ultimate passage. I have already talked about the process the staff went through in drafting this bill. This was not drafted outside of the Capitol as some have said. It was drafted in long nights and weekends by bipartisan staff working together at the direction of the Senators.

I wish to thank my committee chief of staff, Paddy Link, who has worked tirelessly on this bill. She is a first class professional without whom this telecommunications bill would not have passed. Communications counsels Katie King, who has done a terrific job in working diplomatically with the staffs of many Senators with an interest in the legislation, and Donald McClellan, who has worked days, nights, and weekends for months on this bill. Together, their efforts have helped shape this historic legislation. Special thanks must also go to staff assistants Sam Patmore, James Linen, and Antilla Trotter.

Senator HOLLINGS' staff has been enormously helpful in this effort. Commerce Committee Democratic chief counsel and staff director Kevin Curtin has been of invaluable assistance in this bipartisan effort, with his legislative drafting skills and knowledge of procedure. Counsels John Windhausen and Kevin Joseph brought their great expertise to the task; and staff assistant, Yvonne Portee. The good working relationship our committee staff has developed is the major reason we have been successful in developing a bill.

Lloyd Ator of the Commerce Committee bipartisan staff deserves thanks from both sides of the aisle for his legislative drafting skills.

Additionally, my heartfelt thanks are extended to the following staff members who have devoted substantial hours working with the committee in the process of getting this measure to the floor and passed. This is more or less the team that worked on the legislation. I used to go up and occasionally bring them some pizza. I do not know if people in the outside world realize how hard this staff on Capitol Hill works, especially when there is a major bill coming up.

I want to thank: David Wilson from Majority Leader DOLE's office for his assistance in getting the bill to the floor and for working with my staff; Elizabeth Greene, for her invaluable assistance while the bill was on the floor; Jim Weber, from the Democratic Leader DASCHLE's office for his assistance; Chip Pickering with Senator LOTT; and, Earl Comstock with Senator STEVENS. I must add that night after night, Chip Pickering helped lead a bipartisan team. Chip will someday be one of our Nation's finest leaders. Earl Comstock is one of the brightest, hard-working people I have ever encountered.

I also thank: Hance Haney with Senator PACKWOOD; Mark Buse with Senator MCCAIN; Mark Baker with Senator BURNS; Gene Bumpus with Senator GORTON; Amy Henderson with Senator HUTCHISON; Angela Campbell with Senator SNOWE; Mike King with Senator ASHCROFT; Margaret Cummisky with Senator INOUYE; Martha Moloney with Senator FORD; Chris McLean with Senator EXON; Cheryl Bruner with Senator ROCKEFELLER; Scott Bunton and Carole Grunberg with Senator KERRY of Massachusetts; Mark Ashby with Senator BREAUX; Andy Vermilye with Senator BRYAN; Greg Rohde with Senator DORGAN; and Carol Ann Bischoff with Senator KERREY of Nebraska.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 10 minutes as in morning business.

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

DOD UNMATCHED DISBURSEMENTS

Mr. GRASSLEY. Mr. President, many times in the last several months. I have addressed my colleagues in this Chamber on the subject of the bad accounting system in the Defense Department and particularly the subject of unmatched disbursements, a subject that involves the principle that if you are going to spend the taxpayers' money, you ought to be able to show exactly what that money went for.

The Defense Department has accumulated several billions of dollars over the last several years in money that has been spent. It is very difficult for them or anybody else to show exactly what that money has bought: A service or commodity.

So the unmatched disbursement problem at the Pentagon has been a problem that has been simmering on the back burner for several years. Now, all of a sudden, it is on the front burner, and the pot is boiling over.

The Department of Defense is getting hammered with bad publicity about this problem. Most of the heat is directed at the Defense Department's chief financial officer, Mr. John Hamre. He is fighting back, countering with damage control, sending letters and papers to allies on the Hill. He is trying to debunk all the criticism being directed his way.

As I have said many times, I think that Mr. Hamre is trying to do a good job. I think his heart is in the right place, but career bureaucrats under him are feeding him bad information.

In a nutshell, Mr. President, this is the problem: The Department of Defense does not match disbursements with obligations before making payments. Unless the matches are made,

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then we do not know how the money is being spent. Of course, this leaves the Department of Defense accounts vulnerable to theft and abuse.

DOD accounts are vulnerable to the tune of at least $28 billion. Those are not my numbers, those are the Department of Defense numbers. Mr. Hamre is desperately trying to diffuse all the criticism. Mr. Hamre says that my arguments that I have been stating on the floor over the last several months are baloney. He says the Department has, in his words, "certified receipts for every penny spent."

Mr. President, he said that in his latest rebuttal, and his rebuttal appears on page A15 of the June 10, 1995, Washington Post. I ask unanimous consent to print that article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 10, 1995]

PENTAGON SPENDING: BY THE BOOKS

(By John J. Hamre)

Colman McCarthy's May 23 column "The Pentagon's Accountability Problem" so badly distorts my statements on Department of Defense financial management that the record must be corrected.

McCarthy implies that I am a naive dupe absolving government workers and defense contractors of any financial responsibility. He further suggests that our reform efforts are merely verbal smokescreens to mask business as usual. Nothing could be farther from the truth.

It is clear McCarthy did not attend the May 18 congressional hearing on which he bases his column. Had he been there he would have learned that not a penny of taxpayer dollars has been "lost," as his article implies—since the crux of the matter is not "phantom payments" but outmoded accounting procedures.

For every disbursement he characterizes as lost, we have a validated receipt with an independent confirmation that the government received the goods and services. He also would have learned that in the past 18 months we researched and correctly accounted for $20 billion in problem disbursements inherited from a decade of defense spending. He would have learned that during the same time period we also froze more than 20,000 payments to more than 1,500 contractors until we could correct underlying accounting problems.

He would have learned that we are reversing a 25-year-old "pay first, account later" policy. Beginning this summer, we will match disbursements to accounting records—not just against valid, certified invoices as we do now—before payments are made. And he would have learned that we created a special financial fraud detection organization.

Unfortunately none of this was reported by McCarthy, and I am unaware of any effort on his part to attempt to gather the facts.

The public has every right to know the extent of the Pentagon's accounting problems, as well as the efforts in place to remedy them. Your readers deserve far better than McCarthy provided.

Mr. GRASSLEY. Mr. President, I want to state, where he says that "the crux of the matter is not phantom payments but outmoded accounting procedures," I will agree with him on the outmoded accounting procedures, but I will not believe that that is an excuse for getting off the hook. It is designed to put us at ease, Mr. President. I think it is a neat distraction. Outmoded accounting procedures are seemingly harmless, are they not? They pose no threat, seemingly, to the security and the control of money. But that is a long way from the truth.

To assure us that no money has been lost, Mr. Hamre makes one bold assertion, and he makes it from this article. It says:

For every disbursement he characterizes as lost, we have a validated receipt with an independent confirmation that the Government received goods and services.

I think I know what Mr. Hamre is trying to say. He is trying to say for every Defense Department payment, he has a receipt to prove that the goods and services were actually received. This was brought up in some recent testimony of Mr. Hamre on the Hill. He used form DD250 as an example of "validated receipts"—his words. Those are his words, "validated receipts for goods handled."

The DOD form DD250 is called the Materials Inspection and Receiving Report. I have a copy of that here.

This particular one that I have in my hand is for the purchase of a high-powered amplifier for the Air Force Milstar satellite.

I ask unanimous consent to print this in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

MATERIAL INSPECTION AND RECEIVING REPORT

Proc. Instrument Iden. (Contract): F19628-89-C-0131.
Invoice: 10030-472, 92Dec14.
Shipment No.: WAL0051.
Date shipped: 92Dec08E.
BA: D-2,424,371B.
TCN: S2206A2275A270XXX.
Prime contractor: Raytheon Co., Equip. Div. Headquarters, Hager Pond Facility, 1001 Boston Post Rd., Marlboro, MA 01752.
Administered by: DPRO, Raytheon Co., Wayside Ave., Burlington, MA 01803-4608.
Shipped from: Raytheon Co., 20 Seyon St., Waltham, MA 02254.
Payment will be made by: DFAS—Columbus Center, Attn: DFAS-CO-EB/Bunker Hill, P.O. Box 182077, Columbus, OH 43218-2077.
Shipped to: FB2049, Transportation officer, McClellan AFB, CA 95652-5609.
Marked for: FB2049, Account 09.
Item No.: H00A.
Stock/Part No.: MOD: P00017; CLIN: 0003AB.
Description: NSN: 5895-01-325-8555MZ; P/N: G287706-1; Amplifier, R.F.; Rev: BT/AV; Ref: PLG494453-21; S/N: 1005; Containers: 1 Skid; Gross shipping wt: 230#.
Quantity Ship/Rec'd: 1.
Unit: EA.
Unit price: $363,735.00.
Amount: $363,735.00.
Total: $363,735.00.
Procurement quality assurance: A. Origin—Acceptance of listed items has been made by me or under my supervision and they conform to contract, except as noted herein or on supporting documents.
Receiver's use: Quantities shown in column 17 were received in apparent good condition except as noted.
Date: Dec. 4, 1992.
Typed name and office: D Albrizio, S2205A.
Tax coding: 04-671.
Customer code No.: 53-936493-2.
Remit to: Raytheon Co., D-3007, P.O. Box 361346, Columbus, OH 43236-1346.

Mr. GRASSLEY. Mr. President, form DD250 is meant to tell us a lot. But what does it tell us? For starters, it gives us the contract number: F19628-89-C-0131.

It tells us that the Milstar amplifier was shipped on December 8, 1992.

It tells us the contractor was Raytheon, Burlington, MA

It tells us the amplifier's destination was McClellan Air Force Base, CA.

It gives us the national stock number: 5895-01-325-8555MZ.

It gives us the amplifier's serial number: 1005.

It tells us that the unit price for the amplifier is $363,735.

Remember that figure, because I am going to tell you how this item was sold for $20 in just a minute.

Finally, it tells us the name of the Government official who accepted the amplifier and certified that it met contract specs. The certifying official's name shown is D. Albrizio.

Well, Mr. Hamre wants us to believe that DD250, the form I inserted into the RECORD, is proof that the Government got what it paid for.

Now, the Air Force got the Milstar amplifier, right? No, they did not get it. We paid for an amplifier all right. Yes, we did. But we did not get it—at least not right away.

A citizen in North Carolina—Mr. Roger Spillman—got this $363,000 amplifier instead. While there is a long trail of signed certified receipts proving—and I use that advisedly—that DOD received it, the amplifier never showed up at the warehouse where it belonged.

First, it turned up as something identified as unknown overage cargo at the San Francisco terminal of the Watkins Motor Lines. Watkins had a DOD contract to deliver it to the McClellan Air Force Base. It was held there in San Francisco for 30 days. When no one showed up to claim it, it was shipped to Watkins salvage warehouse in Lakeland, FL. The Milstar amplifier was stored in the salvage warehouse for about 9 months.

Now, at that point, it was declared excess cargo and shipped to DRS, Inc., in Advance, NC, for auction. The public auction was held on October 25, 1993. The bidding started at $20. Within 45 seconds, Mr. Roger Spillman was the proud new owner of the Milstar amplifier, and it cost him exactly $75. Remember, for the original product we paid $363,000-plus.

The Air Force did not know the amplifier was missing until the owner, Mr. Spillman, called to request the instructions manual because he wanted to use it. That was almost a year after DOD officials had shown us this validated receipt of the amplifier.

Mr. President, what lesson does the case of the missing Milstar amplifier teach us? It is this: Despite Mr.

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Hamre's assurances to the contrary, the form that I have been reading from today—the DD250—provides no guarantee that DOD gets what it pays for. All the form does is tell DOD what is supposed to be on the loading dock or stocked in some warehouse. It does not mean that it is really there.

The DD250 is not an internal control device.

The DD250 will not tell us whether the item received was indeed ordered.

The DD250 will not tell you whether the price paid was the price agreed to in the contract.

The DD250 will not tell you whether your accounts contain enough money to cover the payment.

The DD250 will not warn you if you are about to make an underpayment, overpayment, or erroneous payment.

To protect and control public money, then, the Defense Department must match disbursements with obligations before payments are made. That is the way it must be done.

These DD250 forms are no substitute for nitty-gritty accounting work.

If Mr. Hamre wants to do effective damage control and silence his critics, then he needs to go back to the drawing board. He needs to find a device that addresses the source of the criticism. These forms—the DD250's—miss the mark, and miss it completely. The DD250's do not protect and control the people's money.

Mr. Hamre is the DOD comptroller, and he ought to know all these things.

Mr. President, I yield the floor and yield back any time I may have.

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. 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.

AMENDMENT NO. 1283, TELEVISION CONTENT

Mr. DODD. Mr. President, I rise to address the issue of television violence, which we debated earlier this week in the context of this telecommunications bill. I opposed the Lieberman-Conrad amendment on this subject, but I strongly supported the Simon-Dole sense of the Senate amendment. I want to take this occasion to briefly sketch out my thinking on this subject.

I completely agree with my colleagues about the terrible effects of television violence on our children. The average American child witnesses 8,000 murders and 100,000 other acts of violence on television by the time he or she finishes elementary school. That is simply unacceptable. The American Medical Association, the National Commission on Children and other interested groups and individuals have spoken persuasively about the effect of this incessant violence on our children.

I believe that something must be done about this terrible problem, but I also believe that it should be up to parents and the industry itself to accomplish that end. This is an area where I do not believe Congress should be mandating a solution. Especially in the context of this deregulatory bill, we should not be creating federal commissions to promulgate highly prescriptive new rules in areas we should stay out of.

I was also concerned about some of the vague language in the Conrad-Lieberman amendment. It refers, for instance, to "the level of violence or objectionable content." We might—might—be able to come to agreement on a definition of "violence," but I do not see how we could reach a consensus on the meaning of "objectionable content." Everyone would have a different view.

As consumers and parents, we must all do a better job of turning the dial when programming to which we object comes across our television set. If that were to happen in large numbers, the market would dictate a dramatic improvement in television programming.

I supported the Simon-Dole sense of the Senate amendment, which calls on the industry to police itself but does not establish an unprecedented set of onerous government rules. I think this represented a more sensible approach to this problem.

AMENDMENT NO. 1225

Mr. DODD. Mr. President, I rise in support of Senator WARNER's amendment requiring Bell operating companies to fully disclose their protocols and technical requirements for connection with their facilities. This is a complex, technical issue, but it is a critical safeguard as the Bell companies move into manufacturing.

Section 222 of the bill before us applies the same competitive check list to Bell entry into manufacturing as it does to entry into long distance services. I have been concerned, however, by the fact that the legislation carves out a major exception for manufacturing research and design activities. This exception would allow Bell companies to commence these activities almost immediately.

Research and design is one of the most expensive phases of the manufacturing process, and it often holds the key to the end success of the product. But under S. 652's provisions, Bell companies would be able to engage in such activities before they face competition. This could open the door to cross-subsidization, unfair use of privileged information about RBOC network interfaces and other monopoly abuses that could decrease competition in the already competitive telecommunications manufacturing industry.

I have argued that the simplest solution to this problem was to delete the bill's exception for research and design activities. But this solution proved unacceptable to the bill's managers, so instead I supported Senator WARNER's efforts to add important safeguards.

Senator WARNER's amendment would ensure that the public network remain open and accessible to independent manufacturers. By requiring disclosure of technical specifications and planned changes in those specifications, the amendment would prevent Bell companies' manufacturing subsidiaries from gaining exclusive or early access to the kind of information that is the lifeblood of telecommunications manufacturing.

Independent manufacturers do not fear competition from Bell companies, so long as that competition is fair. Senator WARNER's amendment makes a great deal of progress in the effort to ensure fairness, and I hope we can build on this progress to make further improvements as this bill moves to conference.

I thank Senator WARNER for his leadership on this important issue, and I also thank Senators HOLLINGS and PRESSLER for agreeing to accept this modest amendment.

Mr. BINGAMAN. Mr. President, today we have had an historic opportunity to vote on a sweeping revision of the 1934 Communications Act, an act which is now, over 60 years after its original passage, woefully out of date. We tried last Congress to revisit this legislation but we were unable to bring the matter to the floor. I am glad that we have had a chance to consider this legislation on the floor this year. I hoped to be able to vote for it. We owe it to the people of this country to modernize the laws which govern telecommunications services and to do so in a way that promotes competition among the companies attempting to provide those services, and thus provide American families with more and better services at lower prices.

This legislation serves the first purpose—that of modernizing the law to reflect the many changes in technology since 1934.

However, there is a real question as to whether the end result will be more competition. On the contrary, I believe that the result of this bill may be more concentration of power in the market. I do not believe American families will benefit from this concentration.

I would like to believe what I have heard on the floor over the last week: that true competition will ensue from this bill, and the result of that competition will be a new world of innovative products at affordable prices. Nevertheless, I fear that the flaws in this bill will likely defeat those hopes. Accordingly, while I would like to be able to vote for this bill, I cannot.

I am a longtime student of technology and of telecommunications. I know what benefits they can bring. I have promoted State and Federal support for technology in the classroom and I have sponsored legislation to provide that support. I am proud to have

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been an early and eager supporter of the Snowe-Rockefeller-Exon-Kerry language in this bill which will, for the first time, make access to telecommunications services by schools, libraries, and rural health care providers affordable. I am especially proud that the Senate approved this aspect of the bill.

But there are a series of amendments to this bill which I had hoped would pass and which would have made this bill what I had hoped it could be and what I think the American consumer deserves.

First, and foremost, I was disappointed that the efforts of my colleagues from North Dakota, Senator DORGAN and Senator THURMOND of South Carolina, to bring the Department of Justice into the process, were defeated. I fear that this bill—without the amendment to give the Department of Justice a more active role—may lead to abuses and more concentration in the long distance market. There are serious issues competition issues raised by the entry of the Bells into long distance, yet we have given the Nation's expert competition agency, the Department of Justice, a toothless role. The Department of Justice has long and deep experience with this market and with these competitors. It is the best positioned entity to evaluate the many issues which are going to arise as new entrants seek access to the local exchange networks controlled by these companies. In my view, only the Department of Justice can assure that what is billed as competition does not become concentration to the detriment of the American consumer.

I also have concerns about the potential for concentration in the cable market which this bill presents and the potential for greatly increased cable rates for consumers in rural areas where competition is unlikely to exist in any meaningful way. The marketplace will very likely bring lower prices and greater choice to consumers in urban and affluent areas. But in many parts of the country, and in much of my State of New Mexico, the marketplace will do little. We have seen in airline deregulation how rural consumers are treated. I hope that that does not happen in the cable marketplace as well. If it does, and we shall see in the next few years, Congress should revisit this issue to provide the protections which I would have liked to see this bill today.

Other amendments, such as the ones offered by the Senator from Nebraska, [Mr. KERREY], to put a consumer representative on the universal service board and to restrict cross subsidization by public utility of services, were defeated. Other amendments designed to keep some reasonable limits on broadcast ownership were also defeated.

Taken as a whole, this bill, while up-to-date, seems to be to anticonsumer and anticompetitive. I foresee an increasing concentration in the telecommunications industry with increasing prices for consumers with little increase in choice or innovation for those living in rural America. I hope that I am wrong. I hope that this bill can be improved in the conference. If it is, I will be happy to vote for it when it returns to the floor. In its present form, however, I must vote no.

Mr. LEVIN. Mr. President, I will vote for S. 652, the Telecommunications Competition and Deregulation Act of 1995, because a myriad of technological innovations over the past few years have made the current regulatory system obsolete.

New rules are needed to acknowledge and encourage competitive innovative technological developments which will enliven the marketplace and offer the consumer greater choice and new technologies. However, these regulatory changes should be done in a way that maintains adequate protections of the public interest.

There are several issues that concern me regarding S. 652.

My first concern is with the lack of a Department of Justice role in determining when the Baby Bells should be allowed into the long distance market. I believe a specific Department of Justice role is needed to ensure that existing monopoly powers are not used to take advantage of the new markets being entered.

It's reasonable that such broad and unprecedented telecommunications deregulation should include reasonable oversight of potentially anticompetitive behavior in an industry where a few giants could control large segments of the various markets.

Without a specific Department of Justice role, there is a greater risk that the monopolistic and concentrated businesses will increase and we will not achieve the competition that this bill promises. If this happens, American consumers will be the losers.

I supported the Thurmond-Dorgan compromise amendment which would have provided the Attorney General a simultaneous role with the FCC in approving a request by a Bell company to provide long distance service providing that action would not substantially lessen competition, or tend to create a monopoly. Unfortunately, that amendment was not adopted.

I hope, therefore, that the House will move to adopt a Department of Justice role so that this issue can be revisited in conference.

My second concern regards the cable rate deregulation provisions of the bill. In 1992 Congress passed a comprehensive cable act in response to a strong public outcry about skyrocketing cable rates. This bill undoes much of the good that bill accomplished in slowing down cable rate increases and in many cases reducing cable rates for Americans. This bill deregulates all but the basic tier of cable television and in so doing runs the very real risk of resulting in increased cable rates for Americans which is contrary to what Congress attempted to do just 3 years ago in the 1992 Cable Act.

I am also concerned that the bill allows for the preemption of local rules and regulations relating to the management of local rights-of-way. I supported the Feinstein amendment to remove the provision in S. 652 which would preempt local control of the public rights-of-way. Unfortunately, that amendment was defeated. A weaker alternative was accepted which modified but did not eliminate language in the bill allowing for the preemption of local regulations. The Feinstein amendment would have eliminated the preemption capability of the FCC altogether.

I believe it is important that we in Congress pay proper recognition to the rights of local government and I am disappointed this bill does not adequate do that.

The telecommunications bill before the Senate today will have a huge impact on our economy and on the lives of every single American. I believe the telecommunications reform is both necessary and important. But equally important in that process are the necessary checks and balances to protect consumers and discourage monopolies. While I will vote for this bill because I recognize that telecommunications reform is long overdue and must move forward, I am not convinced this bill contains adequate checks and balances. I hope the House will be able to add those back into the bill and I reserve judgment on whether I will support a final conference report.

Mr. BAUCUS. Mr. President, I rise today in support of the Telecommunications Competition and Deregulation Act of 1995.

Over the last week I have heard many of my colleagues address this legislation. One statement is common to their remarks. This legislation will touch, indeed will impact, a significant portion of our economy. It will be felt in one way or another in each of our lives.

Of the many advances in our society of the past century, telecommunications is among the most pervasive. Our movement into this information age has yielded tremendous changes in our lives. The ability to communicate around the globe instantaneously has helped us become part of a global marketplace. It is an advance from which there can be no retreat.

I believe that we all benefit when competition is enhanced. Retaining a competitive edge has been quite difficult as we have forced technology of today to fit the restrictions of yesterday's regulations. The potential for continued improvement in these industries is tremendous. This bill should usher in new products, better prices, and more choices in the services which consumers demand in Montana and across the country.

Mr. President, the development in the personal computer, and even the

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hand-held calculator before it, is a tangible example of what I expect in telecommunications. In the past 30 years, these technologies have become commonplace. In fact I can't imagine life without them.

The development of telecommunications technology has been no less dramatic. And with this legislation, we advance the ball. While this bill fails to satisfy my entire wish list, I believe it leaves us better than before. But we still have work to do and as legislation moves through the House and into conference, I am confident we can improve this bill.

In recent days we have voted on changes designed to improve the measure. The amendment offered by Senator CONRAD will encourage television manufacturers to include computer technology allowing parents to prevent objectional material from entering their home. I supported that measure and I believe it is important in this bill.

An amendment offered by Senator EXON protects against harassment, obscenity, and indecency to minors via telecommunications devices. Together, these two amendments will go a long way toward protecting our youth from harmful material. There has been some public comment on this topic recently and I believe these amendments are what Montanans want in this kind of legislation.

Finally, I want to go on the record in stating my belief that passage of this measure does not finish our work in this area. Granted, this legislation has been a long time coming. But we now have a serious responsibility to conduct congressional oversight over this legislation. As we work to construct the information superhighway, we must make certain that the system works.

I don't want a system which is a restrictive entry highway. And I don't want a toll road where nobody can afford the fare. And I want to make certain that in Montana, my constituents have access to the benefits of this technology. I will be watching to see that this effort succeeds and I stand ready to step in if intervention is needed.

But Mr. President, this bill has strong support. I have heard from broadcasters, small business owners, and those in the telecommunications industry in Montana. And all these groups want this legislation to pass. I share their desire to help the best telecommunications system in the world leap forward into the next century and I will cast my vote in favor of this measure.

Thank you, Mr. President. I yield the floor.

Mr. MOYNIHAN. Mr. President, I rise to state my reasons for opposing the Telecommunications Competition and Deregulation Act of 1995.

Yesterday the Senate adopted amendment No. 1362 by a vote of 84–16. The amendment purports to prohibit computer transmission of obscenity and indecency. I voted "no" out of concern that we were taking this action improvidently and without adequate consideration for its significant constitutional and practical implications.

In 1973, the Supreme Court in Miller versus California, and in several subsequent decisions, held that the Constitution does not protect obscenity, which the Court defined as material that appeals to "prurient interests" or is "patently offensive." The government accordingly has the authority to regulate obscenity, and properly so. But we must do so with care.

The amendment attempts to apply *existing laws against obscene and* harassing telephone calls to computer transmissions. Regrettably, the language of the amendment is too broad, raising serious questions of constitutionally under the first amendment. For example, the amendment could *reasonably be interpreted to prohibit* an individual from sending an annoying e-mail message. The penalty for such a transgression: a fine of up to $100,000 or up to 2 years in prison—or both. And, as was noted by Senator LEAHY and others during the debate yesterday, the amendment likely makes unlawful on computers materials that are perfectly lawful in books or letters. I suspect the courts will take a dim view of this provision when it is challenged, which it surely will be.

Similarly problematic is the failure of the amendment to recognize the difference between telephones and the unique characteristics of computers. In order to view the kinds of lewd and lascivious material complained of by the proponents of the amendment, an individual must take numerous affirmative steps to gain access to it via the online services where it can be found. I grant that this is not terribly difficult for one who is computer literate, but the fact remains that in order to look at this material on the computer, you have to actively seek it out. It does not just pop up on the screen when you turn it on. One who looks for and then views such material on his or her computer is in a very different position than a victim of obscene telephone calls. Yet the amendment fails to recognize this distinction.

I am also troubled by the Senate's action on another amendment to this bill. This afternoon, by a vote of 67–31, the Senate tabled the Lieberman amendment to retain cable television rate regulation. Senator LIEBERMAN knows the subject of cable rate regulation as well as anyone, having fought cable rate increases in Connecticut in the 1980's when he was State attorney general. He predicts that, without the reasonable rate restrictions in his amendment, cable TV rates will surely rise as a result of this bill. I am afraid he is right. Cable rates rose sharply after Congress lifted rate regulations in 1984, and they are likely to do again if we pass this legislation. This is why I supported the Lieberman amendment, and why I believe it was a mistake for the Senate to defeat it.

For this and for the other reasons I have given, I will vote against the Telecommunications Competition and Deregulation Act of 1995.

THE DOLE AMENDMENT ON CABLE VOLUME DISCOUNTS

Mr. KERRY. Mr. President, we are faced here with a very unfortunate situation. Senator DOLE has offered an amendment to address a significant public policy matter raised by S. 652 as reported by the Commerce Committee, and that amendment has become entangled in a dispute that goes to the way the Senate deals with those who do business in areas affected by legislation upon which the Senate acts.

I must say that I am distressed by the appearances of what has occurred regarding the interactions of two cable programming providers with the chairman of the Commerce Committee. While I have not been involved at all in—or even knowledgeable about—these interactions, and believe according to what I have been told that there may be more inadvertence and clumsiness in evidence here than anything else, it is unfortunate for all involved that some evidently see this as a case where inappropriate pressure has been brought to bear in such an interaction.

Regardless, and without in any way acting as judge and jury and attributing blame, I will say unequivocally that I do not believe that the proper way for elected officials and business executives to interact is for elected officials to threaten businesspeople with injurious legislation if they do not comport their business activities with the policy desires of those elected officials, nor for businesspeople to threaten elected officials with business actions deemed undesirable by the officials if those officials fail to take legislative actions favored by the businesspeople. Further, the way I have always understood the concept of honor, a deal's a deal, and starting with the assumption that honorable elected officials should make only deals that are in the public's interest, both those officials and businesspeople who enter into agreements ought to honor those agreements.

Having said these things, when the day is over here, what really counts in my judgment is the public policy that the Senate makes, and the effect it has on our Nation and its people. I think it is important that we keep our eye on the ball here, and by that I mean I think we should cast our votes on this amendment based on the public policy impact of the policies those votes will determine. It is on that basis, rather than with reference to the regrettable dispute that has emerged concerning what has preceded the offering of and voting on this amendment, that I cast my vote on the amendment.

Many of the decisions with which this body must grapple are not simple, where two courses, one black and the other white, present themselves and all

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we have to do is choose the easily discernible right course. Many decisions we make have multiple and varying implications, and we are forced into the position of playing Solomon to mediate disputed interests and needs.

Such is the case here, Mr. President. On the one hand none of us to my knowledge wants to act in a way that will deprive persons in rural areas or other areas served by small cable systems of programming that those who live in areas served by large cable systems can enjoy. On the other hand, we should approach extremely seriously any decision that could result in the government imposing controls on the free marketplace, especially a decision that leads to price controls. There have been situations in our history that have warranted such actions, but they are the exception, not the rule.

Mr. President, I do not believe that the circumstances of the cable industry warrant imposing what amount to price controls on those who provide programming. Yes, I do believe that those programming companies should deal responsibly with all cable operators who wish to purchase their products. But no, I do not believe that in this industry the Government should prohibit practices of volume discounting or other methods of pricing that are employed in virtually every industry in our Nation, whether it be selling shoes or cabbages or long distance phone service.

So, Mr. President, before I had heard anything about the dispute concerning the agreement that did or did not exist between Time-Warner and Viacom and the chairman of the Commerce Committee, I had concluded that I should vote for the Dole amendment. Now that the dispute has surfaced, I continue to believe that the correct public policy is reflected in the Dole amendment, and I will vote for that amendment for that reason.

Mr. DORGAN. Mr. President, the Senate votes today on a very important piece of legislation, the Telecommunications Competition and Deregulation Act of 1995. There is no question in my mind that telecommunications reform legislation is needed. The communications laws in this country are without a doubt antiquated and the Congress must take action and pass telecommunications legislation.

I am sad to say, however, that I cannot support the legislation the Senate is voting on today. This bill, in my judgment, could be more accurately described as the "telecommunications concentration act" rather than the "telecommunications competition act." Unfortunately, this legislation, in its present form, is going to lead to greater concentration in the telecommunications and media industries—which is antithetical to competition.

Robust competition is the driving force of our free market economy. Competition offers consumers lower prices and wide ranging services. True marketplace competition also eliminates the need for regulation. If our goals are to ensure that consumers receive advanced telecommunications and media services at competitive prices and to free the industry from government regulation, competition is our means to that end. But it must be true and fair competition.

This is where this legislation misses the mark. There are two key areas of this legislation that lead me to the conclusion that existing competition in telecommunications is in jeopardy: First, the conditions under which regional Bell operating companies [RBOC's] may offer long distance services; and second, the liberalization of broadcast ownership rules.

This legislation, mistakenly in my judgment, deregulates both the television and radio broadcast industries at the risk of promoting greater concentration at the expense of competition. The bill raises the national audience cap from 25 to 35 percent and eliminates the 12 station limit on TV broadcast ownership. It also eliminates ownership rules on radio ownership. Liberalization of these limits runs absolutely contrary to the goal of promoting competition. I am convinced that if these changes are enacted, the media industry in this country will be controlled by a handful of conglomerates in future. The long-held principles of localism and diversity will suffer.

I offered an amendment, unsuccessfully, to strike the provisions liberalizing the ownership limits in the bill. Under my amendment, the FCC would have been instructed to review and modify its broadcast ownership rules to "ensure that broadcasters are able to compete fairly with other media providers" while ensuring that diversity and localism are protected. The amendment would have maintained the current limits while directing the FCC to review and modify the ownership rules on a case-by-case basis.

At the heart of this issue is the relationship between the networks and the local affiliate stations. Raising the national ownership limits would represent a drastic shift in power from the local affiliate stations to the national networks. The provisions in the bill; including the Dole amendment, threaten local media control—both in terms of programming and in terms of news content—in favor of national control. The change will remove the ability of local stations to make local programming and news decisions—such as preempting network programming in favor of local news, public interest, and local sports programming.

The change would also mean that station managers will not be able to stop network programs he or she believes is inappropriate for the local market. When the networks buy up the affiliates, the networks will be able to dictate the terms of the affiliate/network relationship. The networks will leverage their power over affiliate preemption of network programming, conduct of news divisions, and the moral tone of network entertainment. The change proposed in broadcast ownership rules under S. 652 will turn locally owned stations into extensions of large multimedia companies and will result in the nationalization of television programming and the demise of localism and local program decisions.

The bill's changes to broadcast ownership rules will lead to greater concentration of the media—a concentration towards the national networks. The fact is that the present limits help preserve competition. Fox television would not be the fourth network today if it were not for the existing limits on ownership. The current limits are what made it possible for Fox Broadcasting to develop so quickly because there were affiliates available in media markets that were not owned by the established networks with whom Fox had to compete with to build a market for itself.

Proponents of removing the ownership limits have a single purpose—to reduce the number of people participating in broadcasting ownership. The current limits permit small companies to own stations in large markets. Because the existing limits ensure that concentration is limited and entrepreneurial efforts in broadcasting are possible. Elimination of ownership limits will make it more difficult for minority participation in broadcast ownership—something the FCC has been trying to promote for years is more minority ownership. This bill would send a blow to that effort.

Will the local television landscape be better off if the local television stations are controlled by the national networks in New York and Hollywood instead of by stations in Bismarck or Wichita? Will there be less violence on TV if there is more national control? I do not think so. In fact, I expect that these problems will get worse.

This bill will rob local stations of the opportunity to say no to network programming that local station managers think is inappropriate for their local communities—where they themselves live. If the national networks are permitted to own a substantial portion of the local stations in the country, then all programming decisions will be made in Hollywood and New York, without regard for the concerns of local communities. Make no mistake about it. The bill's provisions represent nothing short of a power grab on the part of the national networks under the guise of deregulation. The proposed changes to the ownership rules would concentrate power in the hands of the networks and would be anticompetitive.

Another unsuccessful amendment I offered with the senior Senator from South Carolina relates to what is perhaps the most contentious battle in the development of this legislation: the conditions under which the RBOC's

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would be permitted to offer long distance services. One of the major reasons why I cannot support this bill is because it does not provide for an adequate role for the Department of Justice to ensure that competition in the long distance market is protected when an RBOC that controls the local loop is permitted to enter what is already a competitive market.

Under the bill in its present form, an RBOC need only apply to the FCC to enter long distance services. The FCC would utilize a public interest standard and determine that the RBOC has completed the competitive checklist. The bill provides only for a consulting role by the Justice Department.

Mr. President, it seems to me that the debate over this legislation has been turned upside down. The fact is that the fundamental policy goal confronting the Congress as we develop telecommunications reform legislation is how do we employ competition in markets which are currently controlled by regulated monopolies, such as the local exchange. The fact is that the long distance market is a truly competitive market. We risk damaging that competitive market if the RBOC's are permitted to enter the long distance market prematurely. Our goal should be to promote the same level of competition in the local exchange that currently exists in long distance. Unfortunately, this bill is weak on incentives that would promote local competition and it also threatens to damage the competitive long distance market.

It was the Justice Department that investigated and sued to breakup the Bell system monopoly—which resulted in making the long distance and manufacturing markets competitive. If the local exchange networks are going to be vertically reintegrated with long distance service, there is a danger that entry by RBOC's could impede competition and unravel the progress made over the past decade in promoting competition since the breakup of the Bell system. DOJ has a unique role to assess whether the conditions for meaningful competition are present.

The experience of airline deregulation shows that the protection and promotion of competition is not accorded enough weight when DOJ has only an advisory role. In the case of airlines, mergers that were approved by the Department of Transportation over the objection of DOJ, the result was monopolization of certain hubs and higher ticket prices for consumers.

A DOJ role would avoid expensive AT&T-type antitrust suits in the future by making sure that competition is safeguarded in the first instance. RBOC enter that occurs without assurances that it will not impede completion will invites complex litigation, which will consume resources better spent on competing. Having DOJ apply a marketplace test as a condition to entry will help avoid wasted litigation.

Since the breakup of the Bell system, long distance rates have dropped 66 percent and the long distance competitors have constructed four nationwide fiber optic networks—the backbone of the information superhighway.

It cannot be assumed that a series of specified steps will result automatically and inevitably in the development of local exchange competition. Potential barriers to competition are sometimes subtle and overcoming these barriers is a very complex task. Congress cannot hope to successfully specify in advance a set of conditions that will provide answers to all issues before meaningful competition is a reality. The only way to ensure true competition is to look at actual marketplace facts and DOJ must provide this role.

A series of specified steps—for example, the competitive check list in Section 255—is not by itself sufficient to bring real competition to local markets. The RBOC's must have a positive incentive to cooperate with the development of competition.

Monopolists have proven themselves adept at erecting new barriers faster than old ones can be identified and dismantled. Complete elimination of barriers to competition will occur only if the monopolists have positive incentives to cooperate with the introduction of meaningful competition. The RBOC's will have such incentives when the check list is supplemented by a process that ensures application of real competitive analysis to actual marketplace facts.

I still hope that these areas can be perfected in the conference committee. Unless these two areas are addressed, this legislation will do more to harm competition than to promote it. That would not be in the public interest and I hope that the Congress will not make that mistake.

Although there are serious problems with this legislation, I do believe that some provisions in this bill I strongly support. This bill contains some very important provisions that would preserve universal service and ensure that rural areas will have access to advanced telecommunications services. I have worked long and hard with many of my colleagues on the Senate Commerce Committee to ensure that universal service will be preserved as competition is introduced into local exchange service. The provisions in the Senate bill with respect to universal service are vitally important to rural areas and it is my hope that if these provisions will be retained in the conference committee.

In conclusion Mr. President, I would ultimately like to vote for this legislation. Unfortunately, I cannot in its present form. As I said earlier, this legislation will not adequately promote competition. Rather, it will have the opposite affect: concentration. I urge the managers of the bill and all those Senators who have spoken with such passion about promoting competition to work to improve this measure so that we can truly call it the Telecommunications Competition and Deregulation Act.

RESTRICTING CABLE-TELCO IN-REGION BUY-OUTS

Mr. LEAHY. Mr. President, I want to note an important amendment that has been made to the telecommunications bill.

As introduced, the telecommunications bill modified our outdated law that bans cable companies and telephone companies from offering the service of the other. With digital and other new technologies being developed, the demarcations between the businesses of telephone and cable service is blurring.

It is about time for Congress to update the law to catch up with the new convergence in video, computer, and telephone technologies.

But by repealing the telco-cable cross-ownership ban altogether, the telecommunications bill, as reported, failed to impose any limits on the ability of telephone companies to buy out cable companies—their most likely competitor—in the telephone companies' local service areas. Allowing such mergers would destroy the best hope for developing competition in both local telephone service and cable television markets.

Without the protection of an antibuyout provision, consumers would be deprived of the lower cable and telephone prices that would result from two-wire competition.

Because of these concerns, the distinguished chairman of the Antitrust Subcommittee, Senator THURMOND, and I sent a letter to our colleagues a few weeks ago detailing the reasons why standard antitrust scrutiny would not be enough to preserve the potential competition between telephone and cable companies.

The leadership package of amendments adopted last Friday took seriously the concerns that we expressed, and provided some antibuyout restrictions to prevent telephone companies from merely substituting one video service monopoly for another.

The amendment restricting in-region buyouts improves this bill and promises to benefit consumers by promoting *greater competition in the delivery of* video services, increasing the diversity of video programming, and advancing the national communications infrastructure.

In particular, the amendment eliminates ambiguity and makes clear that the antitrust enforcement authorities will maintain their authority to challenge anticompetitive buyouts under the antitrust laws.

Even when the FCC has decided that from its perspective that the telco/cable buyout is acceptable, or when the buyout comes within the rural exception, standard antitrust scrutiny may still be applied.

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The amendment maintains the specialization and expertise of the antitrust authorities—the Justice Department and the Federal Trade Commission, as well as State antitrust authorities—in determining whether a buyout would violate the antitrust laws and harm consumers.

This amendment is necessary to help promote the competition we want to develop between cable and phone companies, with the hope that prices for both services will be lowered for consumers, while their options and choices increase.

CHOICE CHIP

Mr. CONRAD. I am very pleased my amendment was accepted by such a wide margin on the Senate floor. The choice chip could be a very important tool for parents to help protect their children from the violence that is all-too available on television. I am hopeful that the Senate-House conferees will see the value in this approach and retain my amendment. However, I deeply regret that I will have to vote against S. 652, even though it contains an amendment I sponsored.

I have deep concerns about the approach this bill takes, in the name of competition, by removing protections that currently safeguard against media concentration. Diversity of opinions and voices is at the very heart of our democracy. I believe this bill creates the potential to stifle many of those voices in our media by greatly consolidating broadcast ownership in this country.

My colleague, Senator DORGAN, offered an amendment earlier this week that would have prevented a single television owner from concentrating ownership above the current, reasonable limit of 25 percent of the national audience. This bill raises that limit, and initially the Senate agreed that was a dangerous precedent. Then politics took over and the Dorgan amendment was defeated.

Today, an amendment by Senator SIMON which would have restricted radio station ownership to a very reasonable limit of 50 AM and 50 FM stations was tabled. The bill, as it stands, eliminates virtually all ownership restrictions. That simply does not safeguard the diversity of voices that democracy requires.

I am also concerned that cable television rates for consumers will rise under this bill. An amendment by Senator LIEBERMAN to keep rates in check before real competition is in place was also tabled today. I believe it is a mistake to pass a bill that includes the word "competition" in the title but does not safeguard consumers in the absence of competition.

Finally, I have concerns about rebuilding the telephone monopoly that the Department of Justice and the Federal courts rightly ended. Now, the Department of Justice, the very agency which protects Americans from antitrust practices, will not have a role beyond consultation in preventing a potential monopoly from being reestablished. I supported what I believed was a very reasonable amendment from Senator DORGAN and THURMOND to apply a time-honored antitrust standard to any application to enter long distance. That amendment was defeated.

I hope that the final report from the Senate-House conference is a bill that truly promotes competition, while also safeguarding the interests of the consumers before competition arrives. I do not believe this bill meets that goal, and I regret that I cannot support it.

AMENDMENT NO. 1421

Mr. LEAHY. Mr. President, I seek to clarify a part of the Leahy-Breaux amendment (No. 1421) on intraLATA toll dialing parity that was adopted yesterday. As the amendment states, the joint marketing provision in subparagraph (iii) of the amendment applies only in those States that have implemented intraLATA toll dialing parity during the relevant period and to telecommunications carriers in those States offering intraLATA services using "1+" dialing parity. The prohibition on joint marketing however, was not intended to apply to telecommunications carriers offering intraLATA services that do not make use of "1+" dialing parity. That is my understanding of the Breaux-Leahy amendment. Is this consistent with your understanding?

Mr. BREAUX. Yes.

AMENDMENT NO. 1367

Mr. HEFLIN. Mr. President, I rise to make a comment relative to the amendment I successfully offered earlier today to the provision of the bill addressing cable-telephone company mergers and alliances. I understand that some concern has been expressed that the effect of the amendment may be broader than intended. I do not intent that this amendment have broad effect or undo the carefully crafted buyout limitations agreed to previously. I look forward to working with the managers and conferees as we move forward to make any language changes necessary to ensure that the amendment has only the narrow effects intended.

FEES IN LIEU OF FRANCHISE FEES

Mr. PRESSLER. In part, section 203 of the bill adds a new subsection to the 1934 Communications Act that would permit the collection of fees from providers of video programming in lieu of franchise fees. It is my understanding that this requirement does not permit local or State governments to impose such fees on direct-to-home satellite services. Is this correct?

Mrs. HUTCHISON. Yes, the intent of the subsection to which you refer, which authorizes fees in lieu of franchise fees, does not apply to the direct-to-home satellite industry. However, nothing in section 203 is intended to affect whether direct-to-home satellite services are otherwise subject to other taxes or fees under current law.

Mr. DODD. Mr. President, I rise in support of S. 652, the Telecommunications Competition and Deregulation Act. This bill is far from perfect, but on balance I believe it will be a plus for American consumers and the American economy.

We now find ourselves in a highly competitive, global economy, and telecommunications is an increasingly important part of it. In order to keep up in this booming sector, it is imperative that the United States replace a regulatory structure crafted in the 1930s with one suitable for the 21st century. This bill represents an important step in that direction.

The communications industry is a $1 trillion segment of our economy, and it is among the fastest growing sectors. This boom is not widely understood, but it has tremendous implications for consumers and business.

This trend is being driven by a variety of factors, foremost among them technology. Old copper phone wires can only carry a handful of conversations at once. But one fiber optic cable can carry 32,000 conversations at once. New services can be sent to the home or office over fiber optic cable at virtually zero marginal costs to the producer.

An incredible array of companies has a stake in the emerging communications marketplace—both obvious and surprising players. Consumers can only benefit from the stepped up competition if we break down the walls that now separate cable companies, local phone companies, long distance firms, electric utilities, satellite firms, radio and television broadcasters, cellular companies, computer companies, and Hollywood studios.

With passage of this bill, we hope that companies in all these areas will eventually invade each others' territory, providing consumers with a multiplicity of new choices and creating jobs along the way. Some reports estimate that true competition in all sectors of the telecommunications industry could create 3.6 million jobs by 2003.

We cannot even imagine much of what will eventually be available to consumers in this area. Among the possibilities are movies on demand, interactive home shopping, home banking, interactive entertainment and the ability to take classes and talk with the teacher from home.

The break-up of the old AT&T monopoly in 1984 is the best case study in the benefits of competition in communications. We all remember the time when there was no choice in long distance—no price competition, no incentive to improve quality, no innovative new services in long distance.

But since the break-up of AT&T, 30 million Americans switch long distance carriers a year, and long distance rates have fallen 60 percent. Five hundred companies now offer long distance service.

There is now a wide consensus about the need to further unleash these technological and market forces for the

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benefit of consumers. It is imperative that we update Federal communications policy to allow this to happen. We are still operating under the Communications Act of 1934. That should speak for itself.

And since 1984, much of the communications industry has been regulated by one man—Judge Harold Greene, who oversaw the AT&T break-up and who continues to oversee the consent decree that governs the behavior of the Bell operating companies. He has done an admirable job, but it is time for Congress to reenter the game.

That is what this bill represents. As I mentioned before, I supported a number of important amendments that did not pass. I believe the Justice Department should have a formal role in deciding whether Bell Companies should be allowed to offer long distance. The Antitrust Division at Justice has the expertise to assess a market and to prevent monopoly abuse.

I also supported my colleague from Connecticut, Senator LIEBERMAN, in his effort to strengthen the cable rate regulations in this bill. The leadership package of amendments we passed last week included some additional protections for cable consumers. They represent a considerable improvement over the cable provisions in the bill as reported out of committee. Like Senator LIEBERMAN, however, I wish we could have gone further.

I hope that the remaining problems with this bill can be corrected as the House considers its version and the two chambers meet in conference. Furthermore, if problems develop on cable rates or other matters down the road, Congress can revisit the issue and make improvements at that time.

I commend Senators PRESSLER and HOLLINGS on all of their hard work on this bill, which I think will provide a shot in the arm for our economy.

Mr. KERRY. Mr. President, the United States and, indeed, the world have embarked upon a new technological revolution. Like previous revolutions sparked by technological innovation, this one has the potential to change dramatically our daily lives. It will certainly transform the way we as humans communicate with each other.

What we are witnessing is the development of a fully interactive nationwide communications network. It has the potential to bring our Nation and our world enormous good; without appropriate ground rules to assure fair competition, however, this revolution could create giant monopolies. The communications policy framework we create in this legislation will determine whether many voices and views flourish, or few voices dominate our society.

The impact of this new age communications revolution on the way we send and receive information, and the way we will view ourselves and the world, is profound. Even more staggering is its potential impact on our economy. We could be seeing the largest market opportunity in history. Some forecasters, including the WEFA Group in Burlington, MA, predict a January 1996 opening of the telecommunications market to full competition would create 3.4 million new jobs, increase GDP by $298 billion, save consumers nearly $550 billion in lower communications rates and increase the average household's annual disposable income by $850 over the next 10 years. As the Communications Workers of America have underscored, delaying free and fair competition means fewer new high-wage, high-skill jobs.

New technologies and industries seem to be emerging and merging almost daily. They range from such sectors as entertainment and education to broadcasting, advertising, home shopping and publishing. One key player in this revolution is the Internet—the global computer cooperative with a current subscriber base of approximately 20 million and a 10 to 15 percent monthly growth rate. One billion people are expected to have access to the net by the end of the decade. While some may consider the net to be the revolution, it is only one of many players in the new communications network game.

We see examples of this new era almost daily, such as someone driving a car while talking on a cellphone. The pace of change is so rapid that words like "cellphone" and "Internet" and "telemessaging" are not in my office computer's spellicheck system. In the weeks and months ahead, more and more Americans will gain access to video dialtone, choosing their television programs through their telephone service. Likewise, cable franchises will enter the local telephone service market. Residents of Springfield, MA, will be able to watch their State legislators in Boston debate an education bill and instantaneously communicate with their legislators about how to vote on an amendment. We will hear more talk about the players in this new game: content providers, transporters, and technology enablers.

As we consider this brave new age of communications, it is clear the current law, the 1934 Communications Act, is a wholly adequate foundation upon which to build a communications system for the 21st century. Moreover, although the courts on occasion properly have intervened to halt monopoly abuse—most notably a little over a decade ago in the telephone industry—we should no longer leave the fundamentals of telecommunications policy to the courts.

S. 652, the telecommunications bill reported by the Commerce Committee on March 23, 1995, by a vote of 17-2 and which I am confident will be passed momentarily by the Senate, is not perfect. In some respects, I would have preferred S. 1822, the bill crafted so ably by Senator HOLLINGS and reported by the committee last year. However, the legislation before the Senate now is preferable to the status quo. It will establish fair and balanced ground rules for competition in the communications sector as we enter the next century. It will foster competition, assuring a needed balance among existing competitors and new entrants in this rapidly evolving field.

This legislation provides us with a national policy framework to promote the private sector's deployment of new and advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition. Free and fair competition and maintaining universal service are the twin pillars of this new framework.

The bill assures that no competitor, no business and no technology may use its existing market strength to gain a head start on the competition. The legislation requires that a company or group of companies satisfy certain competitive tests before being able to offer a new service or enter a new market. Entry into new services and new areas is contingent upon a demonstration that competition exists in the market in which the business currently competes. But once competition has been achieved, most Federal and State regulation is replaced by consumer demand to regulate the market.

These fundamental features of S. 652 are designed to create a level playing field where every player will be able to compete on the basis of price, quality, and service, rather than on the basis of monopoly control of the market.

The bill also maintains universal service as a cornerstone of our Nation's communications system. With many new entrants in the communications market, S. 652 assures every player pays his fair share to continue universal service throughout our Nation. As, the committee report states:

> The requirement to contribute to universal service is based on the long history of the public interest, convenience and necessity that is inherent in the privilege granted by the government to use public rights of way or spectrum to provide telecommunications services.

The present system, where certain parts of the country indirectly subsidize low-cost service in other areas, will be phased-out.

I am also pleased the legislation includes two amendments which I sponsored in committee and one I sponsored on the floor. The two amendments adopted in committee seek to restore a level playing field in two areas: broadcast rates for public, educational and governmental entities—known as PEG access groups; and competition in the pay phone markets. I am disappointed that efforts to refine the payphone amendment were unsuccessful, but I hope that further progress can be made on the subject in conference.

As I noted earlier in my statement, there are several provisions in the bill that continue to trouble me. On the floor, I offered and the Senate passed an amendment to ensure low income and rural areas are not bypassed as

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communications companies implement new technologies and services.

As the bill moves to conference, I will continue to do what I can to make further improvements and defend against efforts to weaken its provisions protecting consumer interests and assuring free and fair competition.

Through this legislation and this debate, we have a unique opportunity to craft a telecommunications policy framework for the next century. Today, Mr. President, each of us is in a sense a pioneer heading out on the new information highway. Each of us is not only a witness to, but a participant in, one of the most amazing technological revolutions in history. We, as legislators, bear a special responsibility to assure that competition in this new era is fair and that every American in this and future generations may enjoy the fruits of this competition. This is truly one of the greatest challenges we face as we enter the 21st century.

RADIO SPECTRUM FOR LAW ENFORCEMENT PURPOSES

Mr. HATCH. Mr. President, I share the concerns that have been expressed by others regarding the availability of radio spectrum for law enforcement purposes. I have been contacted by law enforcement organizations across the country, including those in my State of Utah, expressing these concerns.

A critical element in the effort to battle crime and to respond to emergencies of all types is the existence of reliable and secure radio communications facilities, which in turn depends on adequate spectrum availability. Yet, current allocations may well be inadequate to meet present needs. Many metropolitan police departments are unable to add new channels to alleviate congestion.

Moreover, spectrum space is also needed to bring new technologies online. Just last week, we passed a counterterrorism bill, which included important provisions to increase information sharing between law enforcement. Yet these provisions will be for naught if spectrum space is not available for the deployment of these technologies.

I appreciate the commitment expressed by the managers of this bill to address this issue. I know that the Senator from South Dakota, the Distinguished Chairman of the Commerce Committee, shares my concerns. As a former member of the Judiciary Committee, he understands the needs of law enforcement. I understand that he is committed to attempting to resolve these concerns as this legislation moves forward. I look forward to working with him and the Senator from South Carolina on this vital issue as the legislation moves through conference.

Mr. BIDEN. I am very concerned that Federal, State, and local law enforcement have adequate spectrum availability, and would like to work with the chairman of the Judiciary Committee and the managers of this bill to ensure that this vital issue is addressed in the conference on this legislation.

The reason this is so important is twofold. First, in this era where Federal, State, and local law enforcement often work together we need to maintain spectrum space so that these, and other public service agencies, can communicate with ease and with the most advanced technology available. If we develop better technology to allow the police to talk to each other without the bad guys listening in, we must have the spectrum available to use this technology.

Second, we must work to ensure sufficient spectrum space for the myriad technological advances being made in the area of secured communications. I have heard several of the law enforcement leaders in my home State of Delaware raise these key points. So, I believe this is a practical problem that we face in Delaware and around the Nation.

We do a disservice to law enforcement and to the American people if we do not provide these public servants with the many benefits of our rapidly advancing telecommunications industry. I look forward to working with my friend from Utah on this important effort.

Mr. HATCH. I thank my friend and colleague from Delaware for his support on this issue. As the former chairman of the Judiciary Committee, his strong support of law enforcement is wellknown, and I look forward to working with him in this.

Mr. BIDEN. I want to acknowledge and thank my colleagues for their efforts on this issue. In particular, Senator HATCH and the managers of this important legislation, Senator PRESSLER and Senator HOLLINGS not only for their support of this effort, but also their support of law enforcement.

Mr. PRESSLER. I do share my colleagues' concerns, and appreciate the interest of the chairman and ranking member of the Judiciary Committee in this issue. I look forward to working with them on it.

Mr. HOLLINGS. I, too, understand these concerns and look forward to addressing them.

CABLE ISSUES

Mr. PRESSLER. Mr. President, I would like to engage my colleague from South Carolina in a colloquy on several cable issues. First, it is my understanding that neither section 204(a) of the bill nor the relevant provisions in the Dole-Daschle-Hollings amendment is intended to prevent the FCC and cable operators from entering into "social contracts" or other similar arrangements to settle rate complaints, under which the operator agrees to offer a low priced basic tier to offset an increase in the rate for cable programming services.

Mr. HOLLINGS. The Senator from South Dakota is correct.

Mr. PRESSLER. I thank the Senator. Second, it is my understanding that the reference to comparable video programming, added by the Dole-Daschle-Hollings amendment to new section 623(*l*)(1)(D) of the Communications Act, has the same meaning as it does elsewhere in section 632(*l*)(1) of the Communications Act and the FCC's regulations defining comparable.

Mr. HOLLINGS. The Senator's understanding is correct.

Mr. PRESSLER. Finally, I call the Senator's attention to the managers' amendment to S. 652. As amended by the managers' amendment, new section 613(b)(2)(B) of the Communications Act clarifies that a Bell operating company providing cable service as a cable operator utilizing its own telephone exchange facilities is not required to establish a video platform. However, a Bell operating company that provides cable service as a cable operator, whether through its own telephone exchange facilities or otherwise, would be subject to the PEG and commercial leased access requirements of the Communications Act—sections 611 and 612—applicable to all cable operators.

Mr. HOLLINGS. The Senator accurately states the intent of the bill as amended by the managers' amendment.

Mr. PRESSLER. I thank the Senator from South Carolina.

POLE ATTACHMENT

Mr. MURKOWSKI. Mr. President, I have reviewed the provisions of S. 652, as reported, that seek to amend section 224 of the Pole Attachment Act of 1978. As a result of that review, I am deeply concerned that these provisions would have a significantly adverse impact on electric utility ratepayers throughout the Nation. I am particularly concerned that these provisions would require electric ratepayers to shoulder the burden of subsidizing not only cable operators but also telephone companies and telecommunications providers. The amount of money foregone by the bill as reported is not trivial. It amounts to tens of millions of dollars annually, if not hundreds of millions of dollars. Put simply, it is not fair to ask consumers of electricity to subsidize cable operators and telephone companies. In this connection, it is important to point out that this subsidy does not even necessarily go the customers of these companies.

From a consumer protection standpoint, I believe the legislation should be amended to ensure that all entities that attach to poles are required to pay a fair and proportionate rate that provides for recovery of the cost of installing and maintaining the entire pole, including the common space. I ask the chairman of the Committee, Senator PRESSLER, and the ranking minority member, Senator HOLLINGS, whether they have any concerns on this matter and what their plans are to remedy the situation.

Mr. PRESSLER. I agree with the Senator from Alaska [Mr. MURKOWSKI], that this is a real concern that needs to be addressed. I believe that many of these concerns are being addressed in the Manager's amendment, but to the

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extent that they are not fully addressed I will work with you to address them.

Mr. HOLLINGS. I concur in the comments of the Senator from Alaska [Mr. MURKOWSKI] and the comments of the Chairman of the Committee, Mr. PRESSLER.

SUBMITTED AMENDMENT NO. 1320

Mr. BROWN. Mr. President, I filed an amendment No. 1320, that addresses the part of the bill which amends existing law regarding pole attachments. Under the bill, all utilities are required to open up their poles, ducts, conduits or rights-of-way to other telecommunications carriers on a cost basis. Of course, there are exceptions to this. I filed an amendment which would have removed that obligation for nondominant telecommunications carriers. In other words, no nondominant telecommunications carrier would have to provide access on a cost basis. Instead, they would offer access on a *free-market basis.*

The reason this amendment was filed is straightforward. I can understand requiring the incumbent monopoly to provide access on a cost basis, since the captured rate payers funded the construction. But, I cannot understand requiring other, competitive providers to provide access on a cost basis—particularly if their business is largely in providing access to those very same conduits on a market basis.

There are competitive telecommunications businesses that have laid lines and built a long distance service through hard work and purely private capital. There are telecommunications businesses that have focused on laying conduit or lines for purposes of leasing or selling that capacity. The obvious problem would arise if these businesses that focus on selling capacity lose any chance of profit because they must provide access on a cost basis. I do not think the bill should apply to them, but I am not sure that it does not.

I am sure that the intent of this section was not to burden competitive carriers that are in the business of providing capacity. I ask the managers if they agree with me that this was not the intent of the section?

Mr. PRESSLER. That is right.

Mr. HOLLINGS. I agree with the Senator.

Mr. BROWN. The amendment I filed would have exempted nondominant carriers from application. At this time, we will not offer the amendment.

The difficulty in this area is that it is unclear whether the bill actually causes an inequitable result and thus whether anything needs to be done. We will take a second look at drafting a solution to this potential problem between passage in the Senate and the conference with the House.

At this time, I ask the managers of the bill if they will support our effort to solve this potential problem in conference?

Mr. PRESSLER. I agree with the Senator from Colorado that there may be a unwanted inequitable result from this section, and I will work to solve this potential problem in conference.

Mr. HOLLINGS. I, too, believe there may be a potential problem and will work to solve this problem in conference with the House.

Mr. BROWN. I thank the managers for their help on this important issue and commend them for their work on the bill. I yield the floor.

SINGLE LATA STATES

Mr. PRESSLER. This amendment refers to "single-LATA states." I understand this to cover only states where the LATA and the state are the same—where the state constitutes the entire LATA.

Mr. ROTH. That is my understanding as well. The amendment would not exempt those states, like Delaware, that are part of a LATA that includes part of another state.

Mr. PRESSLER. I agree with that interpretation of the amendment.

Mr. DASCHLE. Mr. President, this debate on S. 652 has clearly demonstrated the potential of emerging telecommunications technologies. It is truly exciting to contemplate what this legislation could mean for American society.

A particularly intriguing new development in the telecommunications field is the creation of Personal Communications Services (PCS). These devices will revolutionize the way Americans talk, work and play.

While this new technology opens new vistas for personal communications services, its emergence also highlights the potential downside of entering untested areas. Specifically, concerns have been raised about the potential side-effects of some new PCS technology on other devices such as hearing aids.

Recently, the government completed an auction that netted $7 billion for the right to provide advanced digital portable telephone service. It is my understanding that some of the companies that obtained these PCS licenses have considered utilizing a technology known as GSM—Global System for Mobile Communications. I am informed that people who wear hearing aids cannot operate GSM PCS devices, and some even report physical discomfort and pain if they are near other people using GSM technology.

It should not be our intent to cause problems for the hearing impaired in promoting the Personal Communications Services market. It is my view that the Federal Communications Commission (FCC) should carefully consider the impact new technologies have on existing ones, especially as they relate to public safety and potential signal interference problems. An FCC review is in keeping with the intent of S. 652, which includes criteria for accessibility and usability by people with disabilities for all providers and manufacturers of telecommunications services and equipment.

Mr. HOLLINGS. Will the Senator yield?

Mr. DASCHLE. I would be glad to yield to the honorable ranking member of the Commerce Committee.

Mr. HOLLINGS. I thank the Senator for yielding and support his suggestion that the FCC investigate technologies that may cause problems for significant segments of our population before they are introduced into the United States market. Such review is prudent for consumers, and it will help all companies by answering questions of safety interference before money is spent deploying this technology here in the United States.

Four million Americans wear hearing aids, and the Senator from South Dakota has raised an important issue. GSM has been introduced in other countries, and problems have been reported. It is reasonable that these problems be investigated before the growth of this technology effectively shuts out a large sector of our population.

Mr. DASCHLE. I thank the Senator for his remarks, and would also like to commend his role in bringing telecommunications reform to the floor. His leadership and patience throughout this three-year exercise that has spanned two Congresses is well known and widely appreciated.

Mr. President, the public record indicates that if companies are allowed to introduce GSM in its present form, serious consequences could face individuals wearing hearing aids. I would urge the FCC to investigate the safety, interference and economic issues raised by this technology. I also would urge the appropriate congressional committees to consider scheduling hearings on this issue.

Mr. PACKWOOD. Mr. President, S. 652 contains what appears to be two checklists—the first is in section 251(b)—and it deals with such issues as interconnection, access, unbundling, resale, number portability and local dialing parity. Section 255, which deals with the removal of the long distance restriction imposed upon the Bell operating companies by the modification of final judgment, has the second checklist in section 255(b)(2). Section 251(b) deals with the very same issues as section 255(b)(2) does, but its requirements are stated in a broader and less specific manner. Is a Bell operating company required to have "fully implemented" both the section 251 and the section 255 checklist before the Communications Commission can authorize a Bell operating company to provide interLATA service pursuant to section 251(c)?

Mr. PRESSLER. No.

Mr. PACKWOOD. When Section 255 makes reference to section 251, is that reference intended to incorporate the minimum standards of section 251?

Mr. PRESSLER. No.

Mr. CRAIG. What is the intended relationship between the section 251(b) "minimum standards" and the section 255(b)(2) "competitive checklist" given that both the "minimum standards" and the "competitive checklist" address many of the same issues?

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Mr. PRESSLER. The competitive checklist is found in section 255(b)(2) and is intended to be a current reflection of those things that a telecommunications carrier would need from a Bell operating company in order to provide a service such as telephone exchange service or exchange access service in competition with the Bell operating company. This competitive checklist could best be described as a snapshot of what is required for these competitive services now and in the reasonably foreseeable future. In other words, these provisions open up the local loop from a technological standpoint as section 254 opens the local loop from a legal barrier to entry standpoint. Section 251's "minimum standards" permit regulatory flexibility and are not limited to a "snapshot" of today's technology or requirements.

NONDISCRIMINATORY TREATMENT

Mr. HELMS. Mr. President, may I direct a question to my distinguished colleague from South Dakota regarding a minor technical matter in the Committee amendment?

Specifically, I believe a clarification is in order regarding the Senate's intent in changing the heading on page 101 at lines 15 and 16 to read "(2) Non-Discrimination Standards . . . ." It is my understanding that this amendment is necessary to express clearly the Senate's intent that the nondiscrimination provisions in this paragraph shall apply to transactions of Bell operating companies with all parties, not just other local exchange carriers as incorrectly suggested in the Committee Report.

Such nondiscriminatory treatment in procurement, standards-setting, and equipment certification is particularly important to the telecommunications equipment supplier community. Independent suppliers must have the same opportunity to sell to the Bell operating companies as any of their affiliates. This is good for the consumer, good for the suppliers, and good for the telephone companies.

Mr. PRESSLER. The understanding of my colleague from North Carolina is correct.

Mr. HELMS. I thank my good friend from South Dakota for making this clarification in the bill.

AMENDMENT NO. 1256

Mr. PRESSLER. Mr. President, I understand there is some concern among those in the transportation industry over an amendment agreed to earlier regarding the use of auctions for the allocation of radio spectrum frequencies. Specifically, the amendment would extend the FCC's authority to use auctions for the allocation of radio spectrum frequencies for commercial use. That amendment, which I supported, also includes a provision to exclude so-called "public safety radio services" from competitive bidding requirements.

I see the sponsor of the amendment on the floor. Will the Senior Senator from Alaska enter a very short colloquy to help me put to rest the concerns over this amendment?

Mr. STEVENS. Certainly.

Mr. PRESSLER. For purposes of public safety radio services, there are many circumstances when the transportation industry must rely on radio telecommunications to address safety concerns. For example, the railroad industry uses radio spectrum for voice and data communications that are essential to public safety. Freight and passenger railroads rely upon radio communications to transmit authority for train movements, to broadcast emergency warnings, and to seek emergency response in the event of accidents. Indeed, radio communications can often be critical to addressing the safety concerns of many modes of transportation. Does the Senator from Alaska agree with my views?

Mr. STEVENS. Yes. The transportation industry's reliance on radio communications can be critical to public safety. The amendment is not intended to impose economic burdens on the transportation industry or other industries when meeting public safety obligations.

For example, public safety radio services also include private, internal non-commercial use radio services used to provide reliable and secure communications in the management and operation of utility and pipeline services, like the Trans-Alaska pipeline and other oil, gas, mining, and resource development activities in my state under federal, state, and local statutes, regulations and standards relating to public health, safety or security.

Mr. PRESSLER. I thank the Senator. Now, I will yield to the Senior Senator from Oregon, who I understand would also like to comment on this important subject.

Mr. PACKWOOD. I thank the Chairman. I wanted to stress that the availability of radio frequencies is critical to technological advancements which enhance transportation safety. For example, the Department of Transportation is currently working with the Union Pacific Railroad and the Burlington Northern Railroad on an important test program to demonstrate the benefits of a new technology using radio spectrum called Positive Train Control. In fact, a 1994 Federal Railroad Administration report to Congress specifically emphasized the importance of radio technology in the development of positive train control.

This is just one example of how the radio spectrum can be important to the development of new transportation safety technologies. Since the availability of radio frequencies will be critical to these efforts in the future, I strongly agree with my colleagues the term "public safety radio services" includes safety-related communications of railroads and other modes of transportation.

Mr. PRESSLER. I concur with the Senator and thank him for his comments.

Mr. HOLLINGS. Mr. President, I am concerned that the language in S. 652 is unclear concerning the requirements that the regional Bell operating companies [RBOC's] must fulfill before they are permitted to provide interLATA, or long distance service. The entry provisions of section 255(b)(1) require that the RBOC must reach an interconnection agreement and must fully implement the checklist under section 255(b)(2). The language is unclear, however, whether the RBOC actually must simply reach an agreement to provide interconnection or whether it must also actually provide such interconnection to a carrier. I would simply clarify that, as one of the principal authors of this legislation, it is my understanding that the legislation requires the RBOC not only to reach an agreement but it must also actually provide such interconnection to a carrier fulfilling the checklist under section 255.

I understand that the legislation does not require that the RBOC's comply with both the minimum standards under section 251(b) and the section 255 checklist before being authorized to provide interLATA service. I would clarify one additional point, however, concerning the charges of providing interconnection under section 255. While there is no explicit reference to the charges that the RBOC's may assess for interconnection under section 255, it is my interpretation of the language in section 255 that the RBOC's must provide interconnection under section 255 at charges that are consistent with section 251(d)(6). Indeed, while the reference to section 251 in section 255(b)(1) is not intended to refer to the minimum standards under section 251, it is intended to include reference to subsection (d)(6) in section 251 concerning the charges for each unbundled element under section 255. I appreciate the opportunity to share this interpretation with colleagues.

Mr. FEINGOLD. Mr. President, I rise in opposition to the Telecommunications Competition and Deregulation Act of 1995. Mr. President, I had hoped that, following the adoption of several proconsumer amendments on the floor, that I would be able to support this legislation.

I favor increased competition and deregulation of telecommunications markets because true competition benefits consumers by providing them with more choices, lower prices, and improved service. However, Mr. President, S. 652, as it was reported by the Commerce Committee, did not contain adequate assurances that the deregulation of telecommunications markets will result in true competition. And unfortunately, Mr. President, virtually all of the amendments offered on the floor to ensure that this bill would benefit users of telecommunications services were rejected by the Senate.

Mr. President, I am disappointed about that turn of events because I think there was ample opportunity to

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make this bill a good bill for consumers, local communities, State governments, and private businesses alike. I regret that the Senate took what should have been an opportunity to better serve consumers, and turned it into an obstacle to greater true competition in telecommunications.

The amendment offered by the Senator from North Dakota, Senator DORGAN, and the Senator from South Carolina, Senator THURMOND, was among the most critical amendments offered to improve this bill. That amendment would have included in the legislation a strong decisionmaking role for the Antitrust Division of the Department of Justice in the approval of the regional Bell operating companies [RBOC's] entry into long distance telecommunications markets. It was an attempt to rectify the inadequate long distance entry provisions contained in the bill.

Mr. President, while the bill did attempt to provide protections for consumers, such as the competitive checklist and the public interest test, there was still a distinct need for review by the Antitrust Division of the Department of Justice. The competitive checklist in S. 652 only ensures that certain technical and legal barriers to competition in the areas served by the Bell monopoly have been eliminated prior to the RBOC entry. This checklist does not require that competition actually exist in local markets dominated by the RBOC's before they are able to use their substantial market power to enter long distance markets.

The power of the local monopoly is without equal in telecommunications markets. The advantages provided to them over those with lesser market power, fewer resources, and limited opportunities to control entry by their competitors are without bounds. We must keep in mind that competition in both local and long distance markets cannot exist when one player has substantially greater market power than his/her rivals.

S. 652 also prohibits the Federal Communications Commission, the agency required to enforce the competitive checklist, from expanding on the criteria contained in the checklist. If Congress has overlooked crucial criteria with respect to barriers to entry, FCC would be unable to consider it. At the same time the bill limits FCC's role, it provides absolutely no role for the Department of Justice which is the agency responsible for the competition that exists today in long distance markets. Senators DORGAN and THURMOND worked hard to rectify that inadequacy by offering an amendment giving the Department the authority to approve individual RBOC applications to enter long distance markets. Mr. President, that crucial amendment failed.

The absence of a sound antitrust review of RBOC applications to offer long distance service means there is little assurance that the benefits consumers have realized in a competitive long distance markets will not evaporate if this bill becomes law.

And Mr. President, if the absence of a DOJ role did not provide adequate reason to oppose this bill, the rejection of a substantial number of basic proconsumer amendments only added to my opposition.

Mr. President, this bill repealed much of the cable rate regulation established in the 1992 Cable Act, a law enacted in response to consumer outcries about skyrocketing cable rates. The Senator from Connecticut [Mr. LIEBERMAN] offered an amendment which would have merely provided an accurate yardstick to measure whether a cable company's cable rates were out of line and should be subject to regulation. That amendment was tabled.

An amendment offered by the Senator from California [Mrs. BOXER] would have provided some assurance that channels currently included as part of a consumers' basic tier cable service, which remain under Government regulation, would not be moved into more costly upper tier packages, which will be deregulated under this bill. S. 652, in its current form actually provides an incentive to move channels offered as part of a basic package into the unregulated upper tier packages for which cable companies can now charge higher rates. Senator Boxer's amendment was tabled.

The Senator from Nebraska [Mr. KERREY] offered several very good amendments on this bill. One very simple amendment would have merely required that a consumer representative sit on Federal-State Joint Board on Universal Service, the board which will study existing universal service support mechanisms and make recommendations about how to preserve and advance universal telecommunications service. It seems entirely appropriate that rural consumers be guaranteed representation on this board. Senator Kerrey's amendment was tabled.

The package of leadership amendments that was approved earlier this week by the Senate eliminated virtually all restrictions on the number of radio stations one entity might own raised a number of concerns about undue market concentration in broadcasting. While I voted for that package of amendments because it contained a prohibition on cable/telephone company cross ownership, I remained concerned about the radio ownership provisions in the package. The Senator from Illinois [Mr. SIMON] attempted to increase the number of stations one entity might own by 150 percent from current law rather than lifting the restrictions entirely. His effort was designed to ensure that this bill did not actually result in less competition in radio broadcasting. His amendment was rejected.

Mr. President, the list of defeated proconsumer amendments goes on. I was astonished by the rejection of some of these amendments which were intended to benefit consumers and protect them from potentially anticompetitive practices of some within the telecommunications industry. I have wondered if my colleagues have forgotten that the reason we are attempting to encourage grater competition through deregulation is to benefit consumers, not the competitors themselves. This bill might be very good for telecommunications business interests, but it is not good for consumers.

In addition, Mr. President, I am very disturbed by the passage of an amendment yesterday, offered by the Senator from Nebraska [Mr. EXON] which I believe contains an unconstitutional provision. I spoke at great length yesterday about my specific concerns with that amendment.

Mr. President, it is with disappointment that I must oppose S. 652. However, the outcome of the floor action on this bill, leaves me very little choice.

LEGISLATIVE HISTORY LANGUAGE ON OWNERSHIP CAP/ATTRIBUTION

Mr. PRESSLER. Mr. President, In raising the ownership cap to 35 percent of the Nation's TV households immediately, with a biennial regulatory reform review, it is our intent to permit broadcast companies to achieve greater operational efficiencies through expanded group ownership of television stations. There is a danger, however, that future changes to the FCC's attribution rules—for example, prospectively or retroactively restricting the availability of the single majority shareholder exemption or attributing nonvoting stock—could cause some ownership interests not now covered by the cap to fall within the scope of this regulation. Such a result could seriously undermine the goal that we are seeking to advance through adoption of this legislation. Accordingly, the committee expects the FCC to avoid the adoption of more onerous or restrictive attribution policies that would reduce the national station ownership potential of individual companies below the level that would be permitted under a 35-percent cap utilizing the attribution rules that are currently in effect.

PROMOTING THE USE OF TELECOMMUTING

Mr. SPECTER. Mr. President, I have sought recognition to speak more fully about my amendment on telecommuting, which passed the Senate yesterday by voice vote. My amendment directs the Secretary of Transportation to research successful telecommuting programs and to inform the general public as to the types of telecommuting programs that are succeeding and the benefits and costs of such programs. This amendment is appropriate in the context of the pending bill, which accelerate the deployment of advanced telecommunications and information technologies.

As my colleagues are aware, telecommuting is the practice of allowing people to work either at home or in nearby centers located closer to their home during their normal working

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hours, substituting telecommunications services, either partially or fully, for transportation to the traditional workplace. I believe that it is in the national interest to encourage the use of telecommuting because it can enable flexible family-friendly employment, reduce air pollution, and conserve energy. Further, as a Senator from a State which has major urban areas like Pittsburgh and Philadelphia, I recognize there is a real need to improve the quality of life in and around America's cities.

According to a July, 1994, Office of Technology Assessment report, between 2 to 8 million American workers already telecommute at least part time. A 1994 survey by the conference board found, however, that in 155 businesses nationwide, only 1 percent of employees telecommute, although 72 percent of the businesses had such an option.

According to the Office of Technology Assessment, the most significant barriers to telecommuting are business and worker acceptance and costs. This legislation responds to the need to broaden public awareness of the benefits and costs of telecommuting, and to identify and highlight successful programs that can be duplicated.

I believe telecommuting is profamily. I have seen several news articles which featured working mothers and other parents who endorse telecommuting as benefiting child care and flexibility generally. One General Services Administration employee who now telecommutes was interviewed for a June 11, 1995, Washington Post article remarked, "I just wish they had this much sooner, when my kids were little."

Telecommuting should also appeal to computer-literate younger Americans, such as those described as Generation X, for whom a balance between work and lifestyle is very important. This new generation of American workers is the most adept at utilizing computers and should welcome the opportunity to spend less time commuting and more time pursuing other interests.

It is also important to note that some physically impaired individuals are able to obtain jobs thanks to their ability to telecommute. An April 23, 1995, Boston Globe article detailed a pilot project in Massachusetts, where physically impaired individuals such as the legally blind and quadriplegics do transcription work for doctors and hospitals. One women who suffered crippling injuries in an automobile accident noted that she never thought she'd work again, but that this new telecommuting program "is like a gift sent from heaven."

Telecommuting should be of interest because of its potential implications for transportation, particularly the mitigation of traffic congestion. The Energy Department issued a report in June, 1994, in which it stated that telecommuting and its benefits will be concentrated in the largest, most congested urban areas, with 90 percent of the benefits accruing to the 75 largest American cities. Thus, the greatest benefits will occur where they are most needed. Reflecting the direct effects of telecommuting on transportation, the Department of Transportation has reported that in 1992, telecommuting saved 2 million Americans an estimated 3.7 billion vehicle miles, 178 million gallons of gasoline, and 77 hours of commuting time each. The Department also estimated that telecommuting would lead to reductions of hydrocarbons and nitrogen oxides on the order of 100,000 tons in the year 2002 and 1 million tons of carbon monoxide. Rural areas should also benefit from a broader use of telecommuting because more employment opportunities would be available through the information superhighway.

My amendment is simple and straightforward. It directs the Secretary of Transportation to identify successful telecommuting programs used by Government agencies and companies and publicize information about such programs in order to broaden public awareness of the benefits of telecommuting. The Secretary would carry out this directive in consultation with the Secretary of Labor and the Administrator of the Environmental Protection Agency, so that work force and environmental concerns will be taken into account. The Secretary of Transportation would also be required to report to Congress on his findings, conclusions, and recommendations with respect to telecommuting within 1 year of enactment. Using such information, Congress may consider whether additional legislation to promote telecommuting is warranted or desirable.

I ask unanimous consent that the texts of the Washington Post and Boston Globe articles I have mentioned be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 11, 1995]

FEDERAL WORKERS TEST DRIVE TELECOMMUTING

(By Todd Shields)

In a federal office in Waldorf, Julie Jones occupies workstation 13. Chrissie Edelen sits right beside her, in mirror-image No. 14.

Their cubicles are bereft of humanizing touches, bare of the snapshots or photocopied cartoons that might proclaim that a person is in the bureaucrat's seat.

They'll go all day without walking down the hall to a meeting.

They'll not be visited by a boss, and no colleague will drop in for a chat.

Office grumps? Strange ascetics?

Certainly not. They are happy telecommuters, using their cubicles in Southern Maryland once a week, on the blessed day when they don't devote two or three hours to the simple act of getting to and from work. And that, they certainly love.

"The morale is excellent," said Edelen, a graphic artist. "I feel more relaxed. You're not fighting traffic. . . . You just feel better."

Edelen and Jones, a paralegal, are early beneficiaries of a pilot program that may spare tens of thousands of federal workers enervating commutes while boosting productivity and cutting air pollution.

The women are among 56 workers who spend one or two days a week at the InTeleWorkNet Center, a 14-station office suite replete with computers, faxes, printers and other equipment. The center, set up with money from the General Services Administration, is one of five on the fringes of the Washington area, where federal commuters face particularly grueling trips.

Proponents see the centers as forerunners of scores of similar stations that would dot the area, in essence bringing many workplaces within a short drive or even a bicycle ride of workers' homes. The GSA, which is using the Washington area as its prototype, expects to expand the program nationwide, fostering "telework" centers for 60,000 federal employees by 1998.

The federal pilot, funded by a $6 million appropriation through late 1996, is one of several initiatives to bring telecommuting—working at a distance from the usual office—to government workers in the Washington area.

Fairfax, Arlington and Montgomery county governments all have begun small pilot programs for their staffs to work from home. The Metropolitan Washington Council of Governments, a regional planning agency, envisions four work centers in Virginia an done in the District for private and public workers. And this year, Maryland is to launch a three-year pilot program for state employees, who would work at home.

The programs are initial steps toward a transformation already well begun in the private sector. Estimates of the number of telecommuters in the United States begin at 5 million, yet the federal government, with its 2.8 million employees, has only 3,000 workers enrolled in telecommuting programs. By comparison, one regional telephone company alone, Bell Atlantic Corp., has 2,000 telecommuting employees. Public or private, the programs' impetus is the same. Planners and executives look around and see the same things workers by the legion experience—bad air, traffic jams and stress-filled schedules that commonly have workers leaving home before dawn and placing their children in the care of others in eerily empty suburbs.

"You wonder: My God? Isn't there a better way to do this?" said Warren Master, head of the GSA pilot project.

Master speaks with the zeal of the converted, sketching aloud plans for work centers that play host to both government and private employees and that attract the broader public with copying shops, Internet access and services such as Veterans Affairs counselors or Internal Revenue Service advisers.

For the time being, though, the benefits go primarily to people such as Jones, the paralegal. A resident of Clinton, in southern Prince George's County, she usually commutes more than an hour to Defense Mapping Agency offices in Merrifield or Bethesda. On Wednesdays, she travels a few miles south against traffic to reach the Waldorf center in 15 minutes or less.

The hours saved leave more time with her husband and 22-month-old son. But Jones was surprised to find an added plus: She can accomplish far more at the Waldorf center, where she has all the equipment she needs without the countless distractions of big-office life, she said.

"It makes things easier," Jones said. "It's just the same as if I'm working at my desk in Merrifield or Bethesda, except I don't have as many interruptions."

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Jones and Edelen, who works for the Federal Highway Administration, said they save large, complex tasks for their telecommuting days. Being able to work without interruption is a relief. "It's off my brain," Jones said, "and I'm on to something else."

The Waldorf workers have experienced what telecommuting consultants and advocates long have contended: that teleworkers are more productive. Studies document increases of 15 percent to 25 percent, said Master, of the GSA.

But telecommuting still can be a tough sell, said Jennifer Thomas, program director at the GSA's telecommuting center in Fredericksburg, VA., which opened its second branch last month.

"Some kind of grumpy middle manager will say, 'How do I know this person's not goofing off?'" Thomas said. Her center advises the managers to judge by results. So far, she said, the center has received only positive feedback from workers and their managers.

Despite the good reviews and the affected workers' adulation—virtually all Waldorf teleworkers surveyed by the University of Baltimore's Schaefer Center for Public Policy thought the arrangement improved morale and their quality of life—the centers' future is by no means assured.

"Once the funding runs out on these pilots, they, of course, have to be self-sufficient," Master said. When subsidies drop away, the charge to agencies that rent the computer workstations will increase. Master said agencies still could save money if they reduce the number of desks in central offices, to take account of telecommuters.

One person who hopes the centers will succeed is Ruth Ann Campbell, a GSA budget analyst who for 28 years has endured commutes of as far as 42 miles from her home in La Plata. Now she revels in the opportunity to drive just 10 miles north of the Waldorf center.

"My family and friends think I'm much nicer," she said during a break in the work center's small video-conferencing room. "I'm not only happier on Wednesdays, I'm happier because I'm looking forward to next Wednesday. . . .

"I just wish they had this much sooner, when my kids were little."

[From the Boston Globe, Apr. 23, 1995]

QUADRIPLEGICS GET HELP IN WORK-AT-HOME PROGRAM

(By Andrew Blake)

When Mary M. Palermo suffered crippling back injuries after an automobile accident in Revere in the summer of 1992, she thought she would never be able to work again—certainly not as a waitress or in an office.

In some respects she was right. She says she can't commute to work because of back pain. But under a program just gearing up at Melrose-Wakefield Hospital, Palermo will "tele-commute" as she and several others work for doctors at the hospital via computer, without leaving their homes.

"For me this is like a gift sent from heaven," said Palermo, 42, of Revere.

"I started getting assignments for transcriptions on April 4 and the best part is I can work at home at my own pace," she added.

One doctor at the hospital has been using the new service since February. Several more physicians employed by the hospital or affiliated with it are expected to start using the service within a week or two.

Doctors dictate their patient medical notes, progress notes or surgical notes into a Dictaphone. The notes are then heard by a transcriptionist at his or her home, typed into a home computer and sent back to the hospital or doctor.

The program, which allows physically impaired people including the blind, to do transcription work for doctors and hospitals, originated at Boston University's Helping Hands project, best known for its work in training monkeys to help quadriplegics. It is funded in large part by a $50,000 grant from the State Department of Employment and Training.

M.J. Willard, executive director of Helping Hands, affiliated with Boston University's Medical School, described this pilot project "as diversification of the original program."

The idea came about, she said, after talks with the Massachusetts Rehabilitation Commission, the Massachusetts Commission for the Blind and Gov. Weld's Telecommuting Initiative. A variation on the program is working in California, she said.

"Over the summer, working with people referred by state agencies and scored for compatibility with home transcription work, a dozen trainees learned medical terminology, learned how to use computers and communication modems and software programs for writing and communication by computer.

"Not surprisingly, we discovered the very reasons that we set up the program were causing problems for the students—commuting," she explained.

The classes at BU were scaled back to once a week and then the students could learn by communicating with their computers. While BU provided the class space and administrative help, Willard said IBM donated computers and modems, the Dictaphone company donated some Dictaphones and deeply discounted others, Willard explained. And the state paid the salary for the instructor.

"We had contacted 82 hospitals and transcription companies to gauge their interest. Thirteen expressed interest but Melrose-Wakefield Hospital expressed deep commitment in making this happen, so we went with them," said Willard.

At the hospital, Jackie Valente, director of medical management, said the Helping Hands project could not have come at a better time. An increasing number of physicians need faster and more efficient transcription services.

"We see this expanding to 50 or so physicians with about one transcriptionist for every three doctors," said Valente.

Right now, she added, Dr. Khaleet Beeb is working with a transcriptionist to establish formats and to work out kinks in the system. For the moment, the transcriptionist first sends the transcribed reports to a proofreader working at home in Quincy, who checks for correct medical terminology and then sends it to Beeb at the hospital.

Three more transcriptionists she said, including Palermo, are about to start possibly as early as this week. One is in Dorchester and the other lives in Watertown.

One of the physicians about to use the program is Dr. Joseph L. Pennacchio, a Revere native who is president of the medical staff at Melrose-Wakefield Hospital.

"This sounds like a good program. I can definitely see advantages. With this service we can better document our notes, communicate faster for the benefit of patients and get more detailed information to us more efficiently," said Pennacchio.

The system currently used by doctors to have their notes transcribed relies heavily on commercial transcription services and free-lance transcriptionists who stop by the hospital or doctor's office to pick up tapes. The person then listens to the tapes, transcribes the information on a typewriter and then carries the material back to the hospital. That can take days or weeks, according to Valente.

Under the telecommuting system she expects the turnaround time to be greatly reduced.

"People can work at their homes at midnight or 3 a.m. if they feel like it or they can tend to their children and start work any time they like. The more they work, the more they earn," she added.

The homebound computer transcriptionists will be paid 7 cents a line. They can work as much as or little as they like, and much will depend on how extensive a doctor's notes are on any given assignment, she explained.

Palermo, originally from Watertown, N.Y., and with a degree in English, came to the North Weekly region about 19 years ago on assignment from the Social Security Administration to the Lynn office.

Later she worked as a waitress at Durgin Park in Boston, "where I was entertaining people for 12 hours a day. So I decided to be a stand-up comic, where I only had to be funny for 5 minutes."

"When the accident happened I was in the process of thinking about a work change. I never imagined I'd be working at home with a computer," she said.

RESTRICTION ON IN-REGION MERGERS OF TELEPHONE AND CABLE COMPANIES

Mr. THURMOND. Mr. President, I rise to commend the leadership and the managers of the telecommunications bill, S. 652, for the amendment which was made to ensure that potential competition between telephone companies and cable companies will be maintained for the benefit of consumers. Until this amendment was made, I had serious concerns about S. 652 removing the current prohibition on mergers between local telephone exchange carriers and cable companies in their service regions, subject only to standard antitrust scrutiny. I was prepared to offer an amendment to the original language in the bill because it lessened the likelihood of vigorous competition developing between telephone and cable companies, with each offering the services of the other.

As the chairman of the Judiciary Committee's Antitrust, Business Rights, and Competition Subcommittee, I am particularly pleased that the amendment adopted to restrict telephone-cable mergers contains a savings clause which makes absolutely clear that the antitrust laws are maintained and will be applied by the antitrust enforcement agencies. Thus, even if the FCC grants a waiver as permitted in the amendment or a merger comes within the rural exception, the Department of Justice and the Federal Trade Commission still have the authority and the obligation under the law to consider whether any telephone-cable merger, acquisition, or joint venture violates the antitrust laws.

Mr. President, antitrust analysis by the antitrust authorities is critical to promote competition between the two wires—cable and telephone—that already run to the home, and avoid a single monopoly provider of both cable and telephone services, which would result in higher cable and telephone prices for consumers.

I am pleased that an agreement was reached in this area and that this amendment is now part of the bill.

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RURAL HEALTH PROVIDERS

Mr. ROCKEFELLER. Mr. President, I want to take a few moments to talk about how the Snowe-Rockefeller provision in the bill before us today will assure rural residents that when it comes to their health care they will have the same advantages as urban residents.

A shortage of family doctors, pediatricians, nurse practitioners, and other primary care providers has been a chronic problem in rural areas. Access to a medical specialist has been practically nonexistent unless a rural citizen was willing and able to travel, sometimes a very long distance, to be treated.

Telemedicine is a telecommunications technology that can address both these problems, and at the same time, save money for both patients and health care facilities. Patients save because they can be treated in their own hometown rather than being referred to an out-of-town specialist. This saves them transportation and overnight accommodation costs.

Patient cost-sharing payments will also be less if a patient can be treated locally rather than transported to a referral or specialty center. The costs of a local, rural hospital are generally lower than a teaching or specialty hospital. In those cases when a patient must be transferred for specialty care, the availability of telemedicine consultations can speed up when a patient can be transferred safely back home.

Mr. President, a major difficulty in recruiting doctors and other health care providers to rural areas is the professional isolation, the heavy workload, and little or no back-up medical support. Telemedicine can provide lifesaving back-up support for medical emergencies which eases the minds of patients and their families and the doctor taking care of the patient. Telecommunication hookups can reduce the sense of professional isolation and provide for continuing education opportunities. And, over the long run telemedicine can increase training opportunities for health care professionals at rural sites, increasing the chances a doctor or nurse will return to practice in a rural community.

Mr. President, in West Virginia and all across the country, rural hospitals are finding it increasingly difficult to retain patients in the community because specialty physicians have a hard time diagnosing a patient's condition over the phone based only on a verbal description of the problem by the rural physician. Now with telemedicine, many of those rural hospitals can safely and effectively care for their patients instead of referring them elsewhere.

For example in West Virginia, a medical student and a primary care doctor consulted with the chief of neurology at West Virginia University about an elderly Medicare patient. The chief neurologist was able to diagnose the patient's medical condition through telemedicine technology. This saved the patient a 138-mile trip over mountainous terrain to West Virginia University Hospital. The patient instead was able to be treated at the rural hospital and ended up saving the Medicare Program $2,500.

And, of course, when minutes, even seconds, count, having the instant availability of emergency consultations can literally mean the difference between life and death. Just last week in West Virginia, an emergency medical resident staffing a rural hospital emergency room had to treat a patient with a broken neck. The medical resident had never treated a broken neck before, but because the rural hospital had telemedicine capabilities. Dr. John Prescott, the chief of emergency medicine at West Virginia University was able to immediately consult with the doctor on the appropriate treatment protocol. The patient was stabilized and later transferred to a referral hospital.

Our amendment will help bring down a significant financial barrier to the development of telecommunications technology in rural areas: the costs of transmission. While the basic start-up costs for acquiring telemedicine technologies are coming down, transmission costs remain unaffordable. A small, rural hospital in West Virginia reported that the estimated charge for a T1 line to allow them to hook up with a larger hospital for administrative and quality assurance support was an unaffordable $4,300 a month.

The West Virginia University which started a pilot telemedicine project 5 years ago, recently solicited bids for carrier services; three companies bid for the service. The winning bid's monthly charges ranged from $475 a month to $2,200 a month. The highest monthly charge of $2,200 was for a telecommunications hookup with a small rural health center in Greenbrier County, WV with the closest teaching hospital in the area.

The cost of transmission must be lowered if telemedicine is to become economically feasible for many rural communities. Right now the West Virginia telemedicine project is funded by Federal grant dollars. This is true for hundreds of telemedicine projects all across the country. Congress with enthusiastic bipartisan support has encouraged the development of telemedicine technologies all across the country. The Government has provided seed money for telemedicine, but unless we make sure that telecommunication transmission costs are affordable over the long run, many rural health care providers won't be able to continue with these very important projects.

Tommy Mullins, a hospital administrator for a small rural hospital in West Virginia, recently told my staff that "the $2,000 per month service charge for the T1 is more than I spend for educational programs for my entire staff of 150 employees. If we did not have the grant money to pay for the monthly charge we could not maintain the hookup."

Mr. President, our amendment is carefully targeted to health care facilities that are providing health care services in rural areas. We have also specifically included academic health centers, teaching hospitals, and medical schools in our amendment. These institutions have been essential partners with rural health providers in planning and creating rural health telemedicine networks and have been leaders in initiating rural health networks. Rural health care providers are generally so overloaded with patient care demands that it is difficult for them to spend the time planning and coming up with the resources to implement a telemedicine program.

In addition, academic health centers bring health professions training programs and continuing education programs to the rural health network which reduce professional isolation for the rural health care providers. Finally, it promotes an increased understanding and sensitivity on the part of the academic health center to many aspects of rural health care.

Mr. President, I am extremely pleased and relieved that the amendment I sponsored with the Senator from Maine, Senator SNOWE, was not stricken from the telecommunications bill. I believe that our provision will have a tremendous positive effect on rural health care. We are already seeing amazing results in terms of quality of care and in improving access to primary and specialty care in rural areas as a result of telemedicine. This amendment will make sure that the important progress we have made in rural health care will continue and expand.

LIMITING ACCESS BY CHILDREN TO INAPPROPRIATE MATERIALS ON THE INTERNET

Mr. ROBB. Mr. President, as you know, the Internet is a remarkable development that has transformed the way people communicate. On the Internet, you can converse on-line with family, friends, and associates across the globe, search untold numbers of data bases on every imaginable subject, and share ideas with millions with the push of a button. The Internet is an enormous highway with few rules. Its simplicity is part of its appeal. But its lack of rules is also a source of considerable concern, because of the widespread availability of materials on the Internet that are entirely inappropriate for children.

Certainly one option is to impose stricter legal penalties for putting offensive materials on the net, and the provisions in the bill accomplish this. I am concerned about these provisions, however, because they challenge first amendment rights and undermine one of the freest, most spontaneous communications media ever devised.

Another approach is to pursue a technological solution. Parents can block

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cable TV channels they deem inappropriate for children. We need similar controls for the Internet and other electronic communications media.

Some Internet providers are offering schools a service that denies access to unsuitable Internet sites. One software vendor is now offering a service which identifies and, if a parent desires, filters out inappropriate materials on the Internet. These are encouraging steps, and I hope industry will continue to develop and market such services. These services must be purchased, however, and will not come cheap for all Internet users. Hence a more ubiquitous fix is needed.

Another option, addressed in this amendment, is to include a "tag" or "marker" in the filename of Internet text or graphics of a mature nature. For example, if an Internet user is preparing to post a file that is of a mature nature, he or she can include a tag such as "adult" or "mature" in the file name. Similarly, he or she can put this tag in an address—essentially this would mark all files under that address as inappropriate for children. It is then a simple matter for programmers who develop the software that connects users to the Internet to include an optional parental block to filter out all such files. Teachers could use the filter as well.

This amendment simply encourages the Internet community to self-regulate its behavior by adding tags to files that are inappropriate for children. It does not mandate such tags, Mr. President. The amendment encourages vendors of software that links users to the Internet to include a parental block to filter out the tagged files. Finally, it requires the Department of Commerce to promote the program and GAO to study whether the voluntary tags are effective after one year. This amendment does not conflict in any way with the indecency provisions in the bill.

I should note that one industry initiative, announced Monday, involves putting a "stamp of approval" on materials judged appropriate for children, where parents can then choose to let their children see only those approved materials. Since the vast majority of material on the Internet is entirely appropriate for children, it is unclear how this idea can be implemented practically. It is nonetheless a useful initiative and complements the approach of this amendment.

This amendment offers only a partial fix, but in concert with appropriate legal penalties and other technical approaches, it will help address a very serious problem.

BELLCORE

Mr. LAUTENBERG. Mr. President, it is my understanding that the interested parties to the Bellcore issue raised during the debate on the manager's amendment have come to an agreement on a statement of goals that outline a mutually agreeable solution to the issue. The parties intend to negotiate legislative language to be included in the final bill.

I ask unanimous consent that the statement of goals be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF GOALS FOR AMENDMENT ON STANDARDS-MAKING AND CERTIFICATION

In addition to the provisions in S. 652 regarding Bellcore manufacturing, the parties agree to negotiate an amendment for adoption in the final act that will:

Ensure that entities engaged in industry-wide telecommunications equipment standards-making use open and non-discriminatory procedures.

Ensure that any entity that is an affiliate of more than one Bell operating company will engage in open, fair, and non-discriminatory establishment of generic network requirements intended to be a significant reference point for more than one Bell operating company in their product specifications, standards-making, and product certification for hardware, software, and related products when such company undertakes an activity for more than one company.

Ensure that Bellcore, if no longer an affiliate of any Bell operating company, will not be considered a Bell operating company, or a successor or assign of a Bell operating company.

Ensure that the Bell operating companies have choices in awarding contracts for the purpose of establishing product and service standards and requirements.

Ensure that vendors selling telecommunications equipment to Bell operating companies have opportunities to have their equipment certified under circumstances that are open, fair, and non-discriminatory.

Ensure that proprietary information submitted in the standards-making and certification processes is not released for any purpose other than that authorized by the owner of such information.

Mr. LAUTENBERG. It is my desire that the parties conclude these negotiations in a timely manner. I will support the product of the negotiations and urge that the Senate accept that product in the final version of this bill. Finally, I would like to thank the Senator from North Carolina for helping to bring the parties back to the negotiating table.

Mr. FAIRCLOTH. I concur with the Senator's statement. It is in everyone's best interest to seek a negotiated settlement. I thank the Senator for his work in getting the parties to agree to the statement of goals. It is an important first step. I understand that the statement of goals is acceptable to all Senators that have expressed an interest in this issue, including Senators HELMS, BRADLEY, DORGAN, EXON, and KERRY. I also understand that the statement of goals is acceptable to the managers of the bill, and that the managers are amendable to including the negotiated legislative language in the final bill.

Mr. PRESSLER. Mr. President, I shall stop speaking the minute either the Majority Leader or Minority Leader walk in the door. I wanted to take this time to make my concluding remarks.

I think this bill will result in lower telephone rates, lower cable rates, and more services to the American people. I think this is a very exciting era, and this bill an historic opportunity. I hope the House acts quickly, and I hope we have a conference as soon as is practicable. I hope a Conference Report can be adopted by both the House and the Senate, and I hope the President will sign the bill.

The intention of this bill is to get everybody else into everybody else's business. It is to promote competition and to deregulate. It has been a struggle because almost everybody in the industry says they are for deregulation. Yes, they say they are for deregulation, but they usually mean deregulation of the other guy.

This is a balanced, bipartisan bill. I think it is truly the first major bipartisan bill we have moved through the Senate this year. We have had our differences, but I believe that this bill will cause an explosion of new jobs. I believe that it will cause a new era, similar to what has occurred in the computer industry.

AMENDMENT NO. 1299, AS MODIFIED
AMENDMENT NO. 1422
AMENDMENT NO. 1423
AMENDMENT NO. 1313

Mr. PRESSLER. Mr. President, I ask unanimous consent that the remaining Breaux amendment be modified with the modification I send to the desk, that the modified amendment be agreed to and the motion to reconsider be laid upon the table, and that it be in order for me to send to the desk two technical amendments and a modification of amendment No. 1313, that they be considered and agreed to, en bloc, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

So the amendments (Nos. 1299, as modified; 1422; 1423; 1313) were agreed to, as follows:

AMENDMENT No. 1299

On page 123, line 10, add the following new sentence: "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."

AMENDMENT No. 1422

In section 623 of the Communications Act of 1934 (as added by section 204 of the bill on page 70), strike "and does not, directly or through an affiliate, own or control a daily newspaper or a tier 1 local exchange carrier." and insert "and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.".

AMENDMENT No. 1423

In section 262 of the Communications Act of 1934, as added by section 308 of the bill—

(1) strike subsection (e) and insert the following:

"(e) GUIDELINES.—Within 18 months after the date of enactment of the Telecommunications Act of 1995, the Architectural and Transportation Barriers Compliance Board

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shall develop guidelines for accessibility of telecommunications equipment and customer premises equipment in conjunction with the Commission on the National Telecommunications and Information Administration and the National Institute of Standards and Technology. The Board shall review and update the guidelines periodically.

(2) strike subsection (g) and insert the following:

"(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).

AMENDMENT NO. 1313

On page 116, between lines 2 and 3 insert the following:

(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.

Mr. DOLE. Mr. President, I think the distinguished Democratic leader would like to speak at this time. As I understand, after he speaks, I will have just a few minutes to speak on my amendment. Then we vote on the Dole amendment and then final passage.

I hope during the two votes I can determine what we will do the balance of the day and the balance of the week, so my colleagues will have some information before 6 o'clock. We are attempting to take up two bills and we are meeting objections from different sides for different reasons on each. We may be able to work that out during the vote.

Mr. President, 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. 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.

Mr. PRESSLER. Mr. President, citizens in my State of South Dakota often ask me, what does this legislation mean to the State of South Dakota? What does it mean to people living in small cities?

I say a great deal.

First it will mean that a small city will be able to be on the same basis as a big city in terms of getting information. We have CitiBank's credit card operation located in Sioux Falls. We have the Spiegel Catalog telephone mail order facility in Rapid City.

Recently, a team from Georgetown University came to Sioux Falls to start a joint research project on telemedicine. Georgetown is planning to work with a Sioux Falls hospital to establish this telemedicine project.

Recently, I was talking to some of the major universities in this country about partnering with small South Dakota colleges. Modern telecommunications will make such partnerships not only possible, but productive.

I have recently approached one of the largest companies in the United States about doing a project jointly with small companies, using modern telecommunications.

The city of Aberdeen, SD, has a new upgrade digital switch. They are now able to use this capability for telemedicine, to have an interaction with some of the big hospitals as operations are being performed. As a result of the upgrade, a major motel chain, Super 8, was able to locate its nationwide reservation system in the city.

Someone living in a small city or a small town has the same information available as someone in a great city. You do not have to be in downtown New York, downtown Minneapolis, or in downtown Los Angeles to get information, use it and respond to it.

The executive director of the Northeast Council of Governments in my State has sent me a well-prepared report on what new telecommunications will mean in that region of smaller cities in rural areas. She reports that upgrading telecommunications technology has already attracted national companies to Aberdeen, where they have created hundreds of new jobs in the last year.

Other communities are clamoring for upgrades to their communications technology. They know this will help improve the quality of life in their communities.

Faye Kann's report also describes the potential for telemedicine and long-distance learning with an improved telecommunications infrastructure in northeast South Dakota.

I ask unanimous consent to have this report printed in the RECORD.

TELECOMMUNICATION TECHNOLOGY IN NORTHEAST SOUTH DAKOTA

(By Faye Kann)

Competition in the telecommunications arena could benefit rural areas such as northeast South Dakota. The SD Public Utilities Commission worked very hard to help Aberdeen and the region upgrade the telecommunications capabilities in order to effectively compete for business retention and creation. With the availability of competition, the upgrade of technology equipment could have occurred earlier.

In 1994-5, approximately 400 jobs have been newly created or retained in Aberdeen due to the upgrade of telecommunications technology and the ability for rapid data transmission. Four separate national and local entities saw the opportunity to utilize upgraded telecommunications equipment but needed the assistance of the state PUC in order to obtain the equipment upgrades. Companies such as Super 8 reservation systems, Howard Johnson's Reservation system, Aman Collection Company, and Student Loan Finance Corporation are among companies that added employees due to the technology upgrades. Without the telecommunications upgrade, one of these companies would have located in another state instead of South Dakota.

Those upgrades include the installation of SwitchNet 56, ISDN lines, and Signal 7 technology. That more up-to-date technology has enabled those companies to locate and maintain their companies in Aberdeen and keep jobs in northeast South Dakota. The increased payrolls and job opportunities have added to the number of jobs available to a broad spectrum of age groups employed in telecommunication agencies. The general nature of telecommunications jobs allow for flexible work schedules to accommodate workers from all age groups to interact both professionally and to maintain their excellent quality of life in South Dakota.

Other communities in northeast South Dakota such as Britton, Eureka, and Gettysburg are actively seeking job growth due to upgrades in telecommunications equipment throughout the region. Manufacturers in Britton such as Horton Industries and Sheldahl, Inc. with approximately 400 employees are currently using telecommunications equipment to communicate with their suppliers, markets, potential contracts and corporate headquarters. Use of the telecommunications equipment allows for quick, effective two-way interaction in the design stage before production.

Another component of the telecommunications industry focuses on long distance learning. The statewide Rural Development Telecommunications Network (RDTN) allows higher education to offer classes for students across the state. Schools in communities such as Groton, Frederick, and Webster in northeast South Dakota utilize cost efficiencies and class offerings that are available with telecommunications through the North Central Area Interconnect (NCAI) system. Continuing education for communities and school district staff allow for future development and curriculum enhancement.

Northern State University is moving ahead with expanding the connections on campus. The campus infrastructure would allow all video/audio conferences, meetings and instructional programs to be shown in the individual classrooms. Many classrooms, one existing microcomputer lab, and a new multi-media based Instructional Classroom will be connected to the LAN network. This classroom will be equipped with appropriate printers, scanners, and display equipment as well as a fully interactive video-conferencing component.

In addition, telemedicine is being used in the experimental stage in the region. The impact of the next phase of the regional telecommunications upgrade will place the high resolution telecommunications equipment in outlying clinic for patient diagnosis and effective utilization of physician's assistants and nurse practitioners. Those types of clinics are in communities where doctors are unwilling or unable to locate. The aging population as shown in the demographics of South Dakota rate health care as one of the top concerns.

Another community which is a good example of the need for state-of-the-art technology for a point of presence and fiber optics is Huron. Several major employers have considered Huron for economic development expansion but because of the lack of access and equipment, jobs and economic opportunity were denied in the northeast region of South Dakota. When checking with telecommunications companies who provide the necessary equipment, the cost to benefit ratio is not attractive in the rural areas and therefore equipment has not been installed and access is denied.

Education, government, and business are supporting the creation of CityNet in Aberdeen. The local cable company is upgrading its system with the installation of a large fiber-optic cable network. In addition to the cable company's normal services, this fiber-

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optic infrastructure will be used to connect various entities (K-12 education, higher education, all levels of governments, health care, and individual homes and businesses). The uses for the network are virtually limitless and offer a means for connections not only within the community but to the world as this network connects with other networks.

Competition coupled with universal service is a must for rural states to have access for all citizens. If major telecommunications networks such as Internet access are denied in the rural areas, state-of-the-art technology will be deployed only in the mass markets with dense population where the providers are able to obtain cost-benefit ratios which are attractive to the provider. It is imperative that Congress understand this issue. Aberdeen hosts an annual telecommunications conference and was the first demonstration nationwide with an interactive two-way audio/video link over the public switched network with the US Senate Recording Studio in 1994. We invite interested parties to northeast South Dakota to view our projects and partake in demonstrations of the effect of utilization of the technology.

Mr. PRESSLER. Mr. President, I have received a letter from Laska Schoenfelder, public utilities commissioner of the State of South Dakota. Commissioner Schoenfelder has many years experience working to support South Dakota consumers and to help provide them better telecommunications services. She enthusiastically endorses S. 652.

Commissioner Schoenfelder writes, "This bill will allow Americans greater access to communication services at an affordable price which can only be achieved through a competitive market. The bill also preserves universal service, which is vital to rural states."

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION, STATE CAPITOL BUILDING,
Pierre, SD, June 9, 1995.

Memo to: Senator LARRY PRESSLER.
From: Laska Schoenfelder, SD Public Utilities Commissioner.
Re SD 652.

Residential and business consumers of communication services will be the real winners if Senator Pressler's bill, the Communication Act of 1995 (SB 652), passes.

While South Dakota has promoted telecommunications competition at the state level this bill will be a boon for economic development in all states. This bill takes a step forward in recognizing the essential role of the State in promoting fair competition.

This bill will allow Americans greater access to communication services at an affordable price which can only be achieved through a competitive market. The bill also preserves Universal Service which is vital to rural states.

Mr. PRESSLER. Mr. President, competition and deregulation will bring great benefits to South Dakota and other States with small cities.

For example, the bill is designed to rapidly accelerate private sector development of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to *competition.*

A recent series of television commercials have shown people sending faxes from the beach, having meetings via computer with people in a foreign country, using their computer to search for theater tickets and a host of other services that soon will be available. My bill would make those services available even sooner by removing *restrictive regulations.*

A person living in Brandon could work at a job in Minneapolis or Chicago, students in Lemmon would be able to take classes from teachers in Omaha, and doctors in Freeman could consult with specialists at the Mayo Clinic. Telecommunications can bring *new economic* growth, education, health care and other opportunities to South Dakota.

Competition in the information and communications industries means more choices for people in South Dakota. It will also mean lower costs and a greater array of services and technologies. For instance, competing for customers will compel companies to offer more advanced services like caller ID or local connections to on-line services such as Prodigy and America On-Line.

It hasn't been that long since Ma Bell was everyone's source for local phone service, long distance service and phone equipment. Now there are over 400 long distance companies and people can buy phone equipment at any department or discount store. Under my bill, eventually people would be able to choose from more than one local phone service or cable television operator.

This new competition also should lead to economic development opportunities in South Dakota. People will be able to locate businesses in towns like Groton and Humboldt and serve customers in Hong Kong or New York City. We are entering an exciting, historic era. I want to spur growth and bring new opportunities to South Dakota and everywhere in America.

Mr. President, we are reaching the close of this debate and a vote on final passage of S. 652. I am confident we are about to approve telecommunications reform by a wide margin.

This reform is not a partisan issue This is the first major bipartisan legislation of the 104th Congress. I want to thank my comanager, the Senator from South Carolina, for his leadership. Today's vote will bring to fruition a project he has been working on for many, many years. I want to thank the majority leader and the minority leader for their indispensable efforts for passage of this bill.

The bill we are about to pass will break up monopolies. It will tear down competitive barriers. It will open up communications networks.

Mr. President, every American household and every business large and small, uses the services we are about to make more competitive. The bill we are about to pass will give the American people unprecedented freedom to *choose.*

After this bill is signed and implemented, Americans will be free to choose from competing local phone companies. This is unprecedented. It will lower prices. It is pro-consumer.

S. 652 will give Americans freedom to choose among more long-distance companies. This will cut prices. This is pro-consumer.

This bill will usher in a new era of robust competition in cable TV. It will, in effect, break up all the cable TV monopolies. This will give consumers more freedom to choose. It will cut prices. It will expand services. This, too, is pro-consumer.

S. 652 will let electric utility firms get into the phone or cable business if they wish. It will give broadcasters new flexibility to use new digital technology to offer multichannel programming with the same allocated spectrum that formerly could carry only one channel. This, Mr. President, dramatically gives consumers more freedom to choose.,

No earlier legislation concerning cable prices—neither the deregulation of 1984 nor the reregulation of 1992—included these powerful procompetitive reforms.

This reform bill is historic. It is strongly bipartisan. It deserves the President's support.

Some who still oppose our reform bill are trying to get the President's ear. They say this bill will lead to more concentration in the communications business. I say that is a myth.

Concentration is what we have had under the old, 1930s-era system of government-created monopolies. Breaking up the monopolies and lifting burdensome regulation will give room for more entrepreneurs to compete.

Just consider other segments of the information industry, segments which did not strain under regulation and the monopoly model:

Fax machines aren't regulated or organized into a government-sanctioned monopoly. Just look at how prices have dropped, quality has improved, and sales have soared.

So it is, too, with cellular phones and pagers.

The computer market now gives consumers 200 times more value, in terms of lower price and greater power, than it offered just a decade ago.

Freedom for consumers and entrepreneurs did not lead to concentration in the computer business. No, quite the contrary. There have been winners and losers, large and small. Hundreds of start-up firms have flourished, including Gateway 2000 in my State of South Dakota. Meanwhile the biggest computer firm of all has seen a huge loss in market share and has been forced into significant restructuring. Free market capitalism breeds a kind of creative destruction of big businesses. This is good for continuing innovation and renewal in business. It is clearly pro-consumer

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Mark my word, in the years after this bill comes into force, it will have helped bring about the rise of exciting new firms which do not exist today. It will have helped usher in industry segments which have no lobbyists in the reception room today—industry segments which do not even exist at this time.

This bill will accelerate the digital revolution. Through digitization, the very same data can travel through space from satellites, over the atmospheric spectrum, through coaxial cable, fiber-optic threads or copper wire. The same digitized data can be stored on computer disks or drives, displayed on computer screens, or played on audio or video disk players. The trends of technology are erasing old distinctions between cable TV, telephone service, broadcasting, audio and video recording, and interactive personal computers.

But in many instances, the only thing standing in the way of consumers and businesses enjoying cheaper and more flexible telecommuncations services is our outdated law. This reform bill will allow the cable, telephone, computer, broadcasting, and other telecommunications industries more easily to converge and transform themselves.

The information industry already constitutes one-seventh of the U.S. economy. Worldwide, the information marketplace is projected to exceed $3 trillion by the close of the decade.

Digital convergence, more communicating power, and wide-open competition is what consumers want. It is what American businesses need to stay competitive with the rest of the world. It will come soon if the President signs this reform legislation.

Mr. DOLE. Mr. President, I thank the Senator from South Dakota for yielding and congratulate him for the outstanding job he has done, as well as the Senator from South Carolina, for their teamwork, efforts, and partnership that produced a historic bill.

No question about it, this is one of the most important pieces of legislation we may have passed so far this year. Others may have different views. But it is near the top of the list.

The Senator from South Dakota, Senator DASCHLE, the Democratic leader, is in a meeting, so I will make my little statement on my amendment, and then we will vote on that. After that vote, he will make a very brief statement and then we will vote on final passage. Is that satisfactory?

Mr. HOLLINGS. Yes.

AMENDMENT NO. 1361

Mr. DOLE. The vote will occur in a minute on the so-called Dole amendment.

It was explained earlier, but I want to make myself perfectly clear, this amendment is about allowing private interests—not big Government—to work out their own problems.

I thought that is why we were considering this bill in the first place. The telecommunications industry is currently one of the most regulated industries in the United States. Unfortunately, the provisions in question regulate prices.

The point is that business should be allowed to negotiate. As I have pointed out, the provision I have proposed to delete would prohibit such negotiation, and amounts to rate regulation. It is that simple—no more, no less.

The language is there. We had negotiations and worked on their differences. I do not know about all the discussion of the Senator from Nebraska. I am not involved with all that.

The provision I proposed was supposed to stop some players from taking advantage of small operators. There is no question it would do that, but it would also hurt those in fair deals. It solves the problems and creates a new one.

The bill's provision also does not treat all programmers evenly, and only applies to those affiliated with cable TV companies, meaning nonaffiliated programmers not under these pricing restrictions. That means they would have an unfair competitive advantage.

Not only does the bill regulate the price of programming, but it is anticompetitive. That is not what this bill is about. I printed in the RECORD earlier letters from Turner Broadcasting, representing the Discovery Channel, the Black Entertainment Network, and also—I do not have the letter with me now—all the small cable companies, the National Cable Television Cooperative, and they are all in support of the bill.

I have heard the comments of the Senator from Nebraska. He is entitled to his own interests, but I assure him, my interest in this amendment is consistent with the intent of this bill—getting Government off the backs of business and benefiting consumers.

I hope the amendment I am offering will pass. I think it will have bipartisan support.

I yield back my time and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Following the vote, the Senator from South Dakota, Senator DASCHLE, will be recognized, and then we will have final passage.

The PRESIDING OFFICER. Is there further debate on the Dole amendment?

Mr. BREAUX. Mr. President, I would use this opportunity to commend both the ranking member of the committee, the Senator from South Carolina, and the chairman of the committee, for the good work they have done.

This has not been an easy process, I say to all of our colleagues. We have worked on this for not just a couple of days on the floor, but we have been working on this legislation for several years.

In the last Congress, all Members of the committee spent 2 years on this communications bill, and then again the better part of this year, working on trying to bring this product to the floor.

There has been a great deal of compromise. There has been a great deal of trying to balance the very competing interests in order to get a 1995 communications bill.

I think it is important that all of our colleagues realize that this country has been run by the 1934 Communications Act. That is hard to believe that we have been operating under an act that is 60 years old. Does anybody think that the communications technology of 1995 is anywhere similar to the communications technology of 1934? The answer is, of course, no.

The reason everybody has been in court is because Congress was unable to get an agreement that wrote a modern 20th century bill to govern all the decisions about who does what.

This legislation makes some fundamental points. That is that we are going to create more competition. Competition is good for society. It is good for consumers. It is good for the development of new technology. This legislation is a fragile compromise. Almost everyone in the industry would like to have more. Some would like to have guarantees with regard to what they can do and what they cannot do.

We were trying to really create a bill that was fair to all of our American industries and fair to the American consumer. I think that while this bill is certainly not perfect—nothing we ever do is—certainly, it represents a major milestone in the communications legislation that has been brought before the Congress over all of these last 60 years since the first passage of the 1934 Communications Act.

I congratulate all the members of the Commerce Committee for their input, their suggestions. We have had a lot of cooperation on the floor. A lot of very difficult things have been worked out. I think that is good.

With regard to the Dole amendment, I happen to agree with it. I think the amendment by Senator DOLE really will encourage more competition and will encourage small cable companies to be able to form cooperatives like they are doing in order to be able to get discounts because they purchase cable services in volume just like the larger cable companies will be able to get volume discounts because they buy large amounts of products from the various producers. I think the Dole amendment really does try to promote additional competition. I think in that sense—it does allow cooperatives to be formed—there is nothing wrong with that.

There was a lot made about who does this benefit and what-have-you, I think it benefits the consumer. I think the Dole amendment is a good consumer amendment. It encourages small cooperatives and cable companies to be able to deliver services at a better rate. There is nothing wrong with that. It allows large sellers of cable services to

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get volume discounts. The ultimate benefit of all of this is the American consumer.

I think the ultimate benefit of the entire package we have before the Congress is the American consumer and those who bring about the technology for the 21st century. If there is one thing the United States of America excels in—there are so many things, but one thing is the entertainment industry, the telecommunications industry. We can be proud of that. Other countries would love to have what we have in this country. This bill ultimately will make all of that a lot better and we will all benefit from that product.

So I support an affirmative vote on the Dole amendment and certainly support the passage of the telecommunications act that is now pending.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. I thank the Senator from Louisiana. He has been at the forefront every step of the way in this bill and we could not have done it without his bipartisan effort. His staffers, *Thomas Moore, who has now gone on to* an appointment, and Mark Ashby, have been in the night meetings, night after night.

I thank the Senator from Louisiana from the bottom of my heart.

The PRESIDING OFFICER. Is there further debate on the Dole amendment?

If not, the question is on agreeing to the Dole amendment, No. 1341. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MACK (when his name was called). Present.

Mr. LOTT. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "yea."

The PRESIDING OFFICER (Mr. DEWINE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—59

Abraham	Faircloth	McConnell
Ashcroft	Feinstein	Moseley-Braun
Baucus	Frist	Murkowski
Bennett	Gramm	Nickles
Bond	Grassley	Packwood
Breaux	Gregg	Pressler
Brown	Hatfield	Reid
Bryan	Heflin	Roth
Burns	Helms	Santorum
Campbell	Hutchison	Shelby
Chafee	Inhofe	Simpson
Coats	Jeffords	Smith
Cochran	Kassebaum	Snowe
Coverdell	Kempthorne	Specter
Craig	Kennedy	Stevens
D'Amato	Kerry	Thomas
DeWine	Kyl	Thompson
Dodd	Lott	Thurmond
Dole	Lugar	Warner
Domenici	McCain	

NAYS—39

Akaka	Bingaman	Bradley
Biden	Boxer	Bumpers
Byrd	Gramm	Mikulski
Cohen	Harkin	Moynihan
Conrad	Hollings	Murray
Daschle	Inouye	Nunn
Dorgan	Johnston	Pell
Exon	Kerrey	Pryor
Feingold	Kohl	Robb
Ford	Lautenberg	Rockefeller
Glenn	Leahy	Sarbanes
Gorton	Levin	Simon
Graham	Lieberman	Wellstone

ANSWERED "PRESENT"—1

Mack

NOT VOTING—1

Hatch

So, the amendment (No. 1341) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, telecommunications reform legislation was a focus of the last Congress. Unfortunately, election-year politics prevented then-Chairman HOLLINGS from bringing the bill to the floor for a vote.

This year, with changes and modifications that are inevitable given the political change in the make-up of the Congress, a new telecommunications was brought to the Senate floor.

This is complex and potentially far-reaching legislation. It will affect an economic sector that constitutes 20 percent of our economy and whose services reach virtually every American.

I want to commend the ranking member of the Senate Commerce Committee, Senator HOLLINGS, whose patience and efforts have done a great deal to bring this measure to its present state. Senator HOLLINGS' work in the last Congress, and in this, has been focused on developing a bill that will enhance true competition in the telecommunications field without shortchanging American consumers.

From the beginning, our nation has understood the significance of communications and transportation. It is not an accident that the words of the Constitution require the Congress "To establish Post Offices and post Roads." The Founders could not have known that one day the roads would be fiber networks and the post offices would be e-mail. Yet that is where we have arrived.

When Congress first confronted the need to legislate for an entirely new technology, it produced the Communications Act of 1934. The regulated monopoly that was legislated into existence by that law was the best outcome then possible. And the old Bell system gave Americans the cheapest, most efficient universal telephone service in the world.

In fact, consumer resistance to the breakup of the Bell phone system was widespread in the early 1980's. Americans feared that the courts were breaking up something that worked well and might replace it with something that didn't.

We know today that those fears were unfounded. Competition in phone service has been a boon to American consumers. Long-distance rates are the lowest in the world. Equipment is cheaper and better-made. Competition has spurred innovation and improved customer service.

At the same time, it's important to remember and learn from our experience. The concept of universal service was at the heart of the old 1934 Communications Act. It is a New Deal era concept that is as valid today as it has proven to be over the decades.

When the reach of a technology is limited by cost, innovation and progress remain slow. But as soon as a technology is within reach of a broader sector of the population, an explosion of invention, development and innovation takes place. We have seen that happen in computers, in personal communications services, in wireless cable transmissions and countless other applications. Twenty years ago, calculators were sophisticated and relatively costly devices. Today they're offered as advertising promotions.

While legislation focuses on competition and deregulation, the bill before us also contains essential rural safeguards. It would create a Federal-State joint board to oversee the continuing issue of rural service and to monitor and help evolve a definition of Universal Service that makes sense for the present day and for the kinds of services that will be coming on-line. It does not demand unrealistic competition in towns of 50 households.

Our own history teaches us that it is good economics for the private sector as well as the public sector to make universal service a reality for all Americans, no matter how small their community. I believe this is still the case, and I believe it is particularly important to preserve the viability of rural communities in this respect.

The legislation before us recognizes the need to redefine universal service in terms of developing technology and products. The joint Federal-State board created by the bill is essential to making certain this function is fulfilled.

The bill before us also recognizes the important role that must be played by State Public Utilities Commissions. PUCs are the best entities to judge whether a given market within their State can or cannot support competition. That's not a judgment we should make from Washington.

Nor is it something we can or should leave to the unbridled, unsupervised judgment of the private sector. Those who have taken the risks and made the investments to extend cable or phone service to smaller rural communities should not now be placed at risk of being overwhelmed by larger, better-financed companies.

As Congressman ED MARKEY has said, that's not competition, it's "communications cannibalism." State PUC's will be able to judge where communities can sustain competition and

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where they cannot. We should preserve the viability of the Universal Service Fund, for that reason as well.

The purpose of the bill before us is to create the competitive, free market environment that will most efficiently bring the Information Superhighway into existence for all Americans. I don't believe anyone disagrees with that key to achieving that goal is competition. The Senate's task is to ensure that the competitive elements in the bill do the job.

The best outcome is one that brings on line the new products and services that Americans want at a cost they're willing and able to pay. Not only will consumers benefit, but the process of creating new services and products will be a substantial engine of job creation.

The present economic recovery has been a period of exceptionally strong job creation. Under the Clinton administration, 6 million new jobs have been created, more in he first 2¼ years of this administration than in the preceding 8 years of the Reagan-Bush administration.

Democrats believe the key to longlasting economic growth and expansion is the creation of more jobs and higher income for working families. When Americans are working and earning good wages, our economy prospers and we can invest for the future well being of our children. The passage of the bill before us will help continue this pattern of job creation as our information-based economy creates significant employment opportunities. That will mean more families can send their kids to college, buy a home, and save for their own future. That is the best economic program and the best social program any nation can have.

This technology also means new opportunities for innovative economic development. I am in the process of working with a tribal college now on ways to market native American and agricultural products through the Internet. The technology that is helping do this is breaking down the geographic and technical barriers that have retarded our movement to a more information-based economy.

There is little doubt that our urban areas can and will sustain an enormous expansion of telecommunications services in the years ahead. We must make certain that our rural areas are not left behind as services expand and new products come on line. In the long run, universal service at high standards nationwide is in the best interests of the entire country.

In addition, we must not neglect the role of the public sector in the new telecommunications world. Schools, public libraries, state universities, all should have the ability to share in and disperse the benefits of the telecommunications revolution.

Senators ROCKEFELLER and SNOWE offered an amendment in committee to make certain that the public sector's ability to connect with the Internet and other information services is enhanced. That's important, not only to prevent stratification into information-rich and information-poor populations and regions, but to assure that all our children have the tools with which to enter the 21st century work force.

While the bill before us is far from perfect, it has been significantly improved over the course of the past 6 days. Senator HOLLINGS and I introduced an amendment that strengthens the bad actor test in the cable provisions.

It also places reasonable limitations on the ability of cable and telephone companies to eliminate each other as potential competitors through buyouts and mergers, except in rural areas where competition may not be viable.

Finally, our amendment, which was adopted, allows small telephone companies to jointly market local exchange service with long distance service providers that carry less than 5 percent of our nation's long distance business. This will allow consumers to realize the benefits of competition in the local telephone exchange, while preserving the competitive balance between the Bell companies and major long distance carriers.

I believe the provisions in our amendment strike a better balance between consumer protections and market deregulation. These safeguards are designed to protect consumers by expanding services and keeping them affordable.

This bill is a reasonable and balanced one, and it deserves the Senate's support.

Mr. DOLE. Mr. President, gentlemen start your engines, because we are about to pass telecommunications reform that will be the roadmap to our Nation's future.

When we started floor consideration of S. 652 more than 1 week ago, I noted that this was just the beginning. A beginning of a new era of leadership for the telecommunications industry and for America. While some see America's power dwindling, I see it growing. I see our renaissance, and its called the information age. America's years of leadership in telecommunications, whether it was inventing the telegraph or the microchip, gives us the right to lay claim to this future. We have earned it. We must now reach out and take it.

RECOGNIZING SENATOR PRESSLER'S HARD WORK

And one person who deserves a good deal of credit for making this new era a reality is Senator PRESSLER. As all Members know, telecommunications reform is a tough, complex, and often contentious issue. Congress has struggled with it for more than a decade, with no success. And along comes Senator PRESSLER. He tackled this issue and has moved it through the Senate in record time. His tenacity proves that the Senate is capable of delivering on the toughest issues.

Not only did he have to fight competing interests, but also the White House. Senator PRESSLER has won, the Senate has won, and America has won.

The bill also could not have been possible without Senator HOLLINGS. Both Senators PRESSLER and HOLLINGS have done an outstanding job at bringing the competing interests together, or as close together as possible.

THE REAL JOBS STIMULUS PACKAGE

No doubt about it, telecommunications reform is the real jobs stimulus package. Except this one relies on the private sector to create those jobs. And it will.

Thousands of jobs will be necessary to build new communications networks. And that's just the beginning. Studies indicate that millions of more jobs will be created because information will become more accessible, jobs that will make America more efficient, more productive, and ultimately more powerful.

While some may argue that it is not the perfect bill, its message is right—competition, not government, is the best regulator. Competition, not regulation, has the best record for creating new jobs, spurring new innovation, and creating new wealth. It's that simple.

Competition and deregulation are also the only ways to accommodate the explosion of new technology.

CONCLUSION

Mr. President, removing the telecommunications industry's shackles is not about politics as usual. It is not about Republicans versus Democrats. It is about providing all Americans, rich or poor, urban or rural, a better future. I believe that a procompetition, deregulatory telecommunications bill can help make that future a reality.

Mr. PRESSLER. Mr. President, I ask unanimous consent that S. 652, as amended, be printed in the RECORD immediately following the final vote.

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

Mr. PRESSLER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question occurs on the passage of S. 652, as amended. The yeas and nays have been ordered.

Mr. PRESSLER. Mr. President, I ask unanimous consent to have Senator HOLLINGS added as a cosponsor.

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

The question occurs on passage of S. 652, as amended.

Mr. DOLE. Mr. President, just let me indicate to my colleagues, as I said earlier before many were here, we hope to determine the balance of the schedule this evening and tomorrow before 6

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o'clock this evening, and so we will try to let everybody know by then what the schedule will be. Hopefully, it will not be too heavy. It depends on how this bill comes out.

I will let Senators know in a few minutes.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 81, nays 18, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—81

Abraham	Feinstein	Lott
Akaka	Ford	Lugar
Ashcroft	Frist	Mack
Baucus	Glenn	McConnell
Bennett	Gorton	Mikulski
Biden	Gramm	Moseley-Braun
Bond	Grams	Murkowski
Bradley	Grassley	Murray
Breaux	Gregg	Nickles
Brown	Harkin	Nunn
Bryan	Hatfield	Pell
Burns	Heflin	Pressler
Campbell	Helms	Robb
Chafee	Hollings	Rockefeller
Coats	Hutchison	Roth
Cochran	Inhofe	Santorum
Cohen	Inouye	Sarbanes
Coverdell	Jeffords	Shelby
Craig	Johnston	Simpson
D'Amato	Kassebaum	Smith
Daschle	Kempthorne	Snowe
DeWine	Kennedy	Specter
Dodd	Kerry	Stevens
Dole	Kohl	Thomas
Domenici	Kyl	Thompson
Exon	Lautenberg	Thurmond
Faircloth	Levin	Warner

NAYS—18

Bingaman	Feingold	Moynihan
Boxer	Graham	Packwood
Bumpers	Kerrey	Pryor
Byrd	Leahy	Reid
Conrad	Lieberman	Simon
Dorgan	McCain	Wellstone

NOT VOTING—1

Hatch

So the bill (S. 652), as amended, was passed.

(The text of S. 652, as passed, will appear in a future edition of the RECORD.)

Mr. PRESSLER. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PRESSLER. Mr. President, I thank everybody involved. I thank the majority leader and minority leader. I have already thanked the staff. I am feeling like this Chamber was almost a funeral parlor this afternoon, we had so many good words said about everybody.

I yield the floor.

Mr. DOLE. Mr. President, let me indicate, as I did earlier, that this is a tremendous vote—81 to 18. It is a very significant piece of legislation that has passed this Chamber, largely through the efforts of the distinguished Senator from South Dakota [Mr. PRESSLER].

It is not a perfect bill. I understand that almost everybody finds something wrong with it, which probably means it is not that bad; it is probably a very good bill. I think it is a very important piece of legislation. I thank all my colleagues on both sides of the aisle for their cooperation.

I do not think we took too much time. On a bill of this magnitude, it takes a little longer on the Senate side, and it probably should, as the Senator from Illinois [Mr. SIMON] said earlier today.

I thank the Democratic leader, Senator DASCHLE, for his cooperation throughout the debate.

Mr. President, I have had a discussion with the Senator from South Dakota, [Mr. DASCHLE], the Democratic leader, and I outlined to him what I would like to do. First, I will ask unanimous consent that we go to S. 440—I will not ask it now—and I understand there will be an objection. Then I will move to the consideration of S. 440, and I understand the Senator from Massachusetts, [Mr. KENNEDY], and others will at that point discuss the motion to proceed.

If that would be the case, there would be no votes tonight and no votes tomorrow. Then we would try to work out something to accommodate our colleagues on Monday.

So I do not want to make the request until the Senator from South Dakota indicates it is all right to do so.

Mr. DASCHLE. If the majority leader will yield. Let me just speak very briefly, because I know there are other Members that need to conduct business. I share the sentiment expressed by the distinguished majority leader about the bill just passed. It may not be everything we all want, but it represents a real achievement.

I commend the distinguished Senator from South Dakota and certainly the ranking member, the distinguished Senator from South Carolina, for all of the effort he has put forth in the last seven days to accomplish what we have now. A number of people had a lot to do with bringing us to this point. It represents a balance between providing new opportunities and communications to provide the flexibility and the freedom to go out and do what we must to build the information superhighway. But it also represents a desire on the part of many to protect consumers as we conduct that construction.

So I hope very much that we can move this legislation through the remaining parts of the legislative process here and accommodate all Senators as we attempt to pass this very significant piece of legislation.

ORDER OF PROCEDURE

Mr. DOLE. I failed to announce no more votes this evening, and no votes tomorrow. For Monday, I will make that announcement before I leave here tonight, so Members will know what the schedule will be on Monday. I need to discuss that with the Senator from South Dakota, Senator DASCHLE.

EXPRESSING GRATITUDE TO SHEILA P. BURKE FOR HER SERVICE AS SECRETARY OF THE SENATE

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 134, submitted by myself and Senator DASCHLE.

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

The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 134) expressing the Senate's gratitude to Sheila P. Burke for her service as Secretary of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, I ask unanimous consent that the resolution be agreed to, that the preamble be agreed to, and the motion to reconsider be laid upon the table, and that any statements on the resolution be placed in the appropriate place in the RECORD.

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

So the resolution (S. Res. 134) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 134

Whereas Sheila P. Burke faithfully served the Senate of the United States as Secretary of the Senate from January 4, 1995 to June 8, 1995, and discharged the difficult duties and responsibilities of that office with unfailing devotion and a high degree of efficiency; and

Whereas since May 26, 1977 Sheila P. Burke has ably and faithfully upheld the high standards and traditions of the staff of the Senate of the United States for a period that includes 10 Congresses, and she continues to demonstrate outstanding dedication to duty as an employee of the Senate; and

Whereas through her exceptional service and professional integrity as an officer and employee of the Senate of the United States, Sheila P. Burke has gained the esteem, confidence and trust of her associates and the Members of the Senate: Now, therefore, be it

Resolved, That the Senate recognizes the notable contributions of Sheila P. Burke to the Senate and to her country and expresses to her its appreciation and gratitude for her long, faithful and continuing service.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Sheila P. Burke.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT—MOTION TO PROCEED

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to consideration of S. 440, the highway bill.

Mr. WELLSTONE. Mr. President, I object.

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