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This rapid expansion is also a function of the Federal Government's decision to use fees to offset the cost of expanding SBA lending authority. It is likely that further reductions in SBA's subsidy rate will be used to preserve the SBA's ability to meet demand at the same time that SBA's cost of doing business are reduced. I applaud this and other changes being made at SBA that will allow programs to continue even while SBA does its part in reducing the Federal deficit.

Thus, Mr. President, the SBA is important to Rhode Islanders. I look forward to working with the chairman of the Senate Small Business Committee, Senator BOND, and other small business backers as we work our way through this year's appropriations bills and try to preserve the positive contributions of the SBA.

As further evidence of Rhode Islanders' strong support for this program, I ask that a resolution recently approved by the Rhode Island General Assembly be printed at the conclusion of my remarks.

The resolution follows:

JOINT RESOLUTION

Whereas, the U.S. Small Business Administration was created in 1953 by President Dwight D. Eisenhower to foster the growth of small entrepreneurs, and

Whereas, our Nation's economic prosperity is linked directly to the health of the small business community, and

Whereas, the Rhode Island business community is comprised of over 97 percent small businesses, and

Whereas, small businesses have grown 49 percent since 1982, they employ 54 percent of the American work force, account for 50 percent of the gross domestic product, and account for 71 percent in new job growth in 1993, and

Whereas, the Small Business Administration's (SBA) 504 and 7(a) financing programs are a public/private partnership that leverages private dollars and allows for continued access to capital for Rhode Island's small business community, and

Whereas, SBA's technical resources including the Small Business Development Center at Bryant College and the Service Corps of Retired Executives provide much needed counseling to the Rhode Island small business community, and

Whereas, the Rhode Island SBA District Office has approved over 800 loans totaling $168.5 million in guarantee and 504 financing to the Rhode Island small business community from October 1992 to present, and

Whereas, this financial assistance has played a vital role in reviving the Rhode Island economy; now be it

Resolved, That the General Assembly of the State of Rhode Island and Providence Plantations hereby respectfully requests the United States Congress to financially support the U.S. Small Business Administration and its 7(a) and 504 financing programs, as well as its education/training and advocacy programs, and be it further

Resolved, That the Secretary of State be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the Speaker of the U.S. House of Representatives and the President of the United States Senate, and to the Rhode Island Delegation in the Congress of the United States.e

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The text of the bill (S. 652) entitled the "Telecommunications Competition and Deregulation Act," as passed by the Senate on June 15, 1995, is as follows:

S. 652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telecommunications Competition and Deregulation Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Purpose.
Sec. 4. Goals.
Sec. 5. Findings.
Sec. 6. Amendment of Communications Act of 1934.
Sec. 7. Effect on other law.
Sec. 8. Definitions.

TITLE I—TRANSITION TO COMPETITION

Sec. 101. Interconnection requirements.
Sec. 102. Separate affiliate and safeguard requirements.
Sec. 103. Universal service.
Sec. 104. Essential telecommunications carriers.
Sec. 105. Foreign investment and ownership reform.
Sec. 106. Infrastructure sharing.
Sec. 107. Coordination for telecommunications network-level interoperability.

TITLE II—REMOVAL OF RESTRICTIONS TO COMPETITION

SUBTITLE A—REMOVAL OF RESTRICTIONS

Sec. 201. Removal of entry barriers.
Sec. 202. Elimination of cable and telephone company cross-ownership restriction.
Sec. 203. Cable Act reform.
Sec. 204. Pole attachments.
Sec. 205. Entry by utility companies.
Sec. 206. Broadcast reform.

SUBTITLE B—TERMINATION OF MODIFICATION OF FINAL JUDGMENT

Sec. 221. Removal of long distance restrictions.
Sec. 222. Removal of manufacturing restrictions.
Sec. 223. Existing activities.
Sec. 224. Enforcement.
Sec. 225. Alarm monitoring services.
Sec. 226. Nonapplicability of Modification of Final Judgment.

TITLE III—AN END TO REGULATION

Sec. 301. Transition to competitive pricing.
Sec. 302. Biennial review of regulations; elimination of unnecessary regulations and functions.
Sec. 303. Regulatory forbearance.
Sec. 304. Advanced telecommunications incentives.
Sec. 305. Regulatory parity.
Sec. 306. Automated ship distress and safety systems.
Sec. 307. Telecommunications numbering administration.
Sec. 308. Access by persons with disabilities.
Sec. 309. Rural markets.
Sec. 310. Telecommunications services for health care providers for rural areas, educational providers, and libraries.
Sec. 311. Provision of payphone service and telemessaging service.
Sec. 312. Direct Broadcast Satellite.

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

Sec. 401. Short title.
Sec. 402. Obscene or harassing use of telecommunications facilities under the Communications Act of 1934.
Sec. 403. Obscene programming on cable television.
Sec. 404. Broadcasting obscene language on radio.
Sec. 405. Separability.
Sec. 406. Additional prohibition on billing for toll-free telephone calls.
Sec. 407. Scrambling of cable channels for nonsubscribers.
Sec. 408. Scrambling of sexually explicit adult video service programming.
Sec. 409. Cable operator refusal to carry certain programs.
Sec. 410. Restrictions on access by children to obscene and indecent material on electronic information networks open to the public.

TITLE V—PARENTAL CHOICE IN TELEVISION

Sec. 501. Short title.
Sec. 502. Findings.
Sec. 503. Rating code for violence and other objectionable content on television.
Sec. 504. Requirement for manufacture of televisions that block programs.
Sec. 505. Shipping or importing of televisions that block programs.

TITLE VI—NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION

Sec. 601. Short title.
Sec. 602. Findings; purpose.
Sec. 603. Definitions.
Sec. 604. Assistance for educational technology purposes.
Sec. 605. Audits.
Sec. 606. Annual report; testimony to the Congress.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Spectrum auctions.
Sec. 702. Renewed efforts to regulate violent programming.
Sec. 703. Prevention of unfair billing practices for information or services provided over toll-free telephone calls.
Sec. 704. Disclosure of certain records for investigations of telemarketing fraud.
Sec. 705. Telecommuting public information program.
Sec. 706. Authority to acquire cable systems.

SEC. 3. PURPOSE.

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

SEC. 4. GOALS.

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

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

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(2) To improve international competitiveness markedly.

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

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

SEC. 4. FINDINGS.

The Congress makes the following findings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 5. AMENDMENT OF COMMUNICATIONS ACT OF 1934.

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

SEC. 7. EFFECT ON OTHER LAW.

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

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

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

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

SEC. 8. DEFINITIONS.

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

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

(2) MODIFICATION OF FINAL JUDGMENT.—The term "Modification of Final Judgment" means the decree entered on August 24, 1982, in United States v. Western Electric Civil Action No. 82-0192 (United States District Court, District of Columbia), and includes any judgment or order with respect to such action entered on or after August 24, 1982, and before the date of enactment of this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(3) involve subscriber interaction with stored information.

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

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

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

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

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

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

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

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

TITLE I—TRANSITION TO COMPETITION

SEC. 101. INTERCONNECTION REQUIREMENTS.

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

"Part II—Competition in Telecommunications

"SEC. 251. INTERCONNECTION.

"(a) DUTY TO PROVIDE INTERCONNECTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(3) DUTY OF PETITIONER.—

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

"(i) the unresolved issues;

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

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

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

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

"(5) ACTION BY STATE.—

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

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

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

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

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

"(A) shall be

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

"(ii) nondiscriminatory, and

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

"(B) may include a reasonable profit.

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

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

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

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

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

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

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

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

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

"(i) IMPLEMENTATION.—

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

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

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

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

"(3) WAIVERS AND MODIFICATIONS FOR RURAL CARRIERS.—The Commission or a State shall, upon petition or on its own initiative, waive or modify the requirements of subsection (b) for a rural telephone company or companies, and may waive or modify the requirements of subsection (b) for local exchange carriers with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide, to the extent that the Commission or a State determines that such requirements would result in unfair competition, impose a significant adverse economic impact on users of telecommunications services, be technically infeasible, or otherwise not be in the public interest. The Commission or a State shall act upon any petition filed under this paragraph within 180 days of receiving such petition. Pending such action, the Commission or a State may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

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

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

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

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

(c) TECHNICAL AMENDMENTS.—

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

"PART I—GENERAL PROVISIONS".

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

SEC. 102. SEPARATE AFFILIATE AND SAFEGUARD REQUIREMENTS.

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

"SEC. 252. SEPARATE AFFILIATE; SAFEGUARDS.

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

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

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

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

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

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

"(B) Manufacturing services.

"(C) InterLATA services other than—

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

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

"(iii) services authorized under an order entered by the United States District Court

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for the District of Columbia pursuant to the Modification of Final Judgment before the date of enactment of the Telecommunications Act of 1995.

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

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

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

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

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

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

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

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

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

"(d) BIENNIAL AUDIT.—

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

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

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

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

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

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

"(e) JOINT MARKETING.—

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

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

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

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

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

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

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

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

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

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

"(g) PROPRIETARY INFORMATION.—

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

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

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

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

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

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

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

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

"(i) APPLICATION TO UTILITY COMPANIES.—

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

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

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

"(B) that provides telecommunications service,

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

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

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

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

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

SEC. 103. UNIVERSAL SERVICE.

(a) FINDINGS.—The Congress finds that—

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

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

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

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

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

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

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

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

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

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

"SEC. 253. UNIVERSAL SERVICE.

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

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

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

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

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

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

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

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

"(b) DEFINITION.—

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

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

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

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

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

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

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

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

"(f) UNIVERSAL SERVICE SUPPORT.—The Commission and the States shall have as their goal the need to make any support for universal service explicit, and to target that support to those essential telecommunications carriers that serve areas for which such support is necessary. The specific and predictable mechanisms adopted by the Commission and the States shall ensure that essential telecommunications carriers are able to provide universal service at just, reasonable, and affordable rates. A carrier that receives universal service support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

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

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

"(i) CONGRESSIONAL NOTIFICATION REQUIRED.—

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

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

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

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

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

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

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

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

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

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

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

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

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SEC. 104. ESSENTIAL TELECOMMUNICATIONS CARRIERS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 105. FOREIGN INVESTMENT AND OWNERSHIP REFORM.

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

"(f) TERMINATION OF FOREIGN OWNERSHIP RESTRICTIONS.—

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

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

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

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

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

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

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

SEC. 106. INFRASTRUCTURE SHARING.

(a) REGULATIONS REQUIRED.—The Commission shall prescribe, within one year after

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE II—REMOVAL OF RESTRICTIONS TO COMPETITION

Subtitle A—Removal of Restrictions

SEC. 201. REMOVAL OF ENTRY BARRIERS.

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

"SEC. 254. REMOVAL OF BARRIERS TO ENTRY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(b) VIDEO PROGRAMMING AND CABLE SERVICES.—

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

"(2) BELL OPERATING COMPANY ACTIVITIES.—

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

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

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

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

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

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

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

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

"(A) are competitively neutral; and

"(B) are separately identified in consumer billing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) NO PERMIT REQUIRED FOR VIDEO PROGRAMMING SERVICES.—Section 214 (47 U.S.C. 214) is amended by adding at the end thereof the following:

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

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

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

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

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

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

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

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

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

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

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

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

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seek any other remedy available under the law.

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

SEC. 203. CABLE ACT REFORM.

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

(b) RATE DEREGULATION.—

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

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

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

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

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

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

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

(C) by adding at the end the following:

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

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

"(m) SPECIAL RULES FOR SMALL COMPANIES.—

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

"(A) cable programming services, or

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 204. POLE ATTACHMENTS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 205. ENTRY BY UTILITY COMPANIES.

(a) IN GENERAL.—

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

(A) telecommunications services,

(B) information services,

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

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

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

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

(4) COMMISSION RULES.—The Commission shall consider and adopt, as necessary, rules

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to protect the customers of a public utility company that is a subsidiary company of a registered holding company against potential detriment from the telecommunications activities of any other subsidiary of such registered holding company.

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

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

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

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

(f) INDEPENDENT AUDIT AUTHORITY FOR STATE COMMISSIONS.—

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

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

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

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

(2) SELECTION OF FIRM TO CONDUCT AUDIT.—

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

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

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

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

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

(g) REQUIRED NOTICES.—

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

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

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

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

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

SEC. 204. BROADCAST REFORM.

(a) SPECTRUM REFORM.—

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

(A) it shall adopt regulations that allow such licensees to make use of the advanced television spectrum for the transmission of ancillary or supplementary services if the licensees provide without charge to the public at least one advanced television program service as prescribed by the Commission that is intended for and available to the general public on the advanced television spectrum; and

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

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

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

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

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

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

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

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

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

(b) OWNERSHIP REFORM.—

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

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

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

(2) RADIO OWNERSHIP.—The Commission shall modify its rules set forth in 47 CFR 73.3555 by eliminating any provisions limiting the number of AM or FM broadcast stations which may be owned or controlled by one entity either nationally or in a particular market. The Commission may refuse to approve the transfer or issuance of an AM or FM broadcast license to a particular entity if it finds that the entity would thereby obtain an undue concentration of control or

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would thereby harm competition. Nothing in this section shall require or prevent the Commission from modifying its rules contained in 47 CFR 73.3555(c) governing the ownership of both a radio and television broadcast stations in the same market.

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

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

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

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

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

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

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

(d) BROADCAST LICENSE RENEWAL PROCEDURES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

Subtitle B—Termination of Modification of Final Judgment

SEC. 251. REMOVAL OF LONG DISTANCE RESTRICTIONS.

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

"SEC. 254. INTEREXCHANGE TELECOMMUNICATIONS SERVICES.

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

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

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

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

"(b) SPECIFIC INTERLATA INTERCONNECTION REQUIREMENTS.—

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

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

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

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

"(C) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates where it has the legal authority to permit such access.

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

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

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

"(G) Nondiscriminatory access to—

"(i) 911 and E911 services;

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

"(iii) operator call completion services.

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

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

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

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

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

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

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

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

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

"(3) JOINT MARKETING OF LOCAL AND LONG DISTANCE SERVICES.—Until a Bell operating

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company is authorized to provide interLATA services in a telephone exchange area where that company is the dominant provider of wireline telephone exchange service or exchange access service, or until 36 months have passed since the enactment of the Telecommunications Act of 1995, whichever is earlier, a telecommunications carrier that serves greater than 5 percent of the Nation's presubscribed access lines may not jointly market in such telephone exchange area telephone exchange service purchased from such company with interLATA services offered by that telecommunications carrier.

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

"(c) IN-REGION SERVICES.—

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

"(2) DETERMINATION BY COMMISSION.—

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

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

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

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

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

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

"(4) JUDICIAL REVIEW.—

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

"(B) JUDGMENT.—

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

"(ii) A judgment—

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

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

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

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

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

"(B) INTRALATA TOLL DIALING PARITY.—

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

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

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

"(d) OUT-OF-REGION SERVICES.—Effective on the date of enactment of the Telecommunications Act of 1995, a Bell operating company or its affiliate may provide interLATA telecommunications services originating in any area where such company is not the dominant provider of wireline telephone exchange service or exchange access service.

"(e) INCIDENTAL SERVICES.—

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

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

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

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

"(iv) providing alarm monitoring services,

"(B) providing—

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

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

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

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

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

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

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

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

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

"(2) LIMITATIONS.—The provisions of paragraph (1) are intended to be narrowly construed. The transmission facilities used by a Bell operating company or affiliate thereof to provide interLATA telecommunications under paragraph (1)(C) and subsection (f) shall be leased by that company from unaffiliated entities on terms and conditions (including price) no more favorable than those

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available to the competitors of that company until that Bell operating company receives authority to provide interLATA services under subsection (c). The interLATA services provided under paragraph (1)(A) are limited to those interLATA transmissions incidental to the provision by a Bell operating company or its affiliate of video, audio, and other programming services that the company or its affiliate is engaged in providing to the public. A Bell operating company may not provide telecommunications services not described in paragraph (1) without receiving the approvals required by subsection (c). The provision of services authorized under this subsection by a Bell operating company or its affiliate shall not adversely affect telephone exchange ratepayers or competition in any telecommunications market.

"(f) COMMERCIAL MOBILE SERVICE.—A Bell operating company may provide interLATA commercial mobile service except where such service is a replacement for land line telephone exchange service for a substantial portion of the land line telephone exchange service in a State in accordance with section 322(c) and with the regulations prescribed by the Commission.

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 223. REMOVAL OF MANUFACTURING RESTRICTIONS.

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

"SEC. 254. REGULATION OF MANUFACTURING BY BELL OPERATING COMPANIES.

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—Notwithstanding any restriction or obligation imposed before the date of enactment of the Telecommunications Act of 1996 pursuant to the Modification of Final Judgment on the lines of business in which a Bell operating company may engage, if the Commission authorizes a Bell operating company to provide interLATA services under section 255, then that company may be authorized by the Commission to manufacture and provide telecommunications equipment, and to manufacture customer premises equipment, at any time after that determination is made, subject to the requirements of this section and the regulations prescribed, except that neither a Bell operating company nor any of its affiliates may engage in such manufacturing in conjunction with a Bell operating company not so affiliated or any of its affiliates.

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

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

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

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

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

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

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

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

"(2) NON-DISCRIMINATION STANDARDS.—

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

"(B) A Bell operating company and any entity it owns or otherwise controls, or which is acting on its behalf or on behalf of its affiliate, shall permit any person to participate fully on a non-discriminatory basis in the process of establishing standards and certifying equipment used in or interconnected to the public telecommunications network.

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

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

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

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

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

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

"(g) ADMINISTRATION AND ENFORCEMENT.—

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

"(2) CIVIL ACTIONS BY INJURED PARTIES.—Any party injured by an act or omission of a Bell operating company or its manufacturing affiliate which violates the requirements of paragraph (1) or (2) of subsection (c), or the Commission's regulations implementing such paragraphs, may initiate an action in a

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district court of the United States to recover the full amount of damages sustained in consequence of any such violation and obtain such orders from the court as are necessary to terminate existing violations and to prevent future violations; or such party may seek relief from the Commission pursuant to sections 206 through 209.

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

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

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

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

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

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

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

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

SEC. 223. EXISTING ACTIVITIES.

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

SEC. 224. ENFORCEMENT.

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

"SEC. 257. ENFORCEMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 225. ALARM MONITORING SERVICES.

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

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

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

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

"(c) REGULATIONS REQUIRED.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 236. NONAPPLICABILITY OF MODIFICATION OF FINAL JUDGMENT.

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

TITLE III—AN END TO REGULATION

SEC. 301. TRANSITION TO COMPETITIVE PRICING.

(a) PRICING FLEXIBILITY.—

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

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

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

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

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

(ii) improvements in productivity;

(iii) improvements in service quality;

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

(v) enhanced telecommunications services for educational institutions; or

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

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

(C) Any such alternative form of regulation—

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

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

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

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

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

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

(c) DUTY TO PROVIDE SUBSCRIBER LIST INFORMATION.—

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

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

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

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

(d) CONFIDENTIALITY.—A telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other common carriers and customers, including common carriers reselling the telecommunications services provided by a telecommunications carrier. A telecommunications carrier that receives such information from another carrier for purposes of provisioning, billing, or facilitating the resale of its service shall use such information only for such purpose, and shall not use such information for its own marketing efforts. Nothing in this subsection prohibits a carrier from using customer information obtained from its customers, either directly or indirectly through its agents—

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

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

(e) REGULATORY RELIEF.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"SEC. 259. REGULATORY REFORM.

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

"(1) shall review all regulations issued under this Act, or under State law, in effect

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at the time of the review that apply to operations or activities of providers of any telecommunications services; and

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

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

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

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

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

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

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

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

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

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

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

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

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

"(e) The Commission may—

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

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

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

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

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

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

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

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

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

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

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

(13) MODIFICATION OF AMATEUR RADIO EXAMINATION PROCEDURES.—

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

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

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

SEC. 303. REGULATORY FORBEARANCE.

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

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

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

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

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

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

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

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

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

SEC. 304. ADVANCED TELECOMMUNICATIONS INCENTIVES.

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

(b) INQUIRY.—The Commission shall, within 2 years after the date of enactment of this Act, and regularly thereafter, initiate a notice of inquiry concerning the availability of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) and shall complete the inquiry within 180 days after its initiation. In the inquiry, the Commission shall determine whether advanced telecommunications capability is

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being deployed to all Americans in a reasonable and timely fashion. If the Commission's determination is negative, it shall take immediate action under this section, and it may preempt State commissions that fail to act to ensure such availability.

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

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

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

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

SEC. 305. REGULATORY PARITY.

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

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

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

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

SEC. 306. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

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

SEC. 307. TELECOMMUNICATIONS NUMBERING ADMINISTRATION.

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

"SEC. 261. TELECOMMUNICATIONS NUMBERING ADMINISTRATION.

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

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

"(c) NEUTRAL ADMINISTRATION OF NUMBERING PLANS.—

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

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

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

SEC. 308. ACCESS BY PERSONS WITH DISABILITIES.

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

"SEC. 263. ACCESS BY PERSONS WITH DISABILITIES.

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

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

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

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

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

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

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

"(f) CLOSED CAPTIONING.—

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

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

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

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

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

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

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

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

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

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

SEC. 309. RURAL MARKETS.

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

"SEC. 263. RURAL MARKETS.

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

"(1) to require an enforceable commitment by each competing provider of telecommunications service to offer universal service comparable to that offered by the rural telephone company currently providing service in that service area, and to make such service available within 24 months of the approval date to all consumers throughout that service area on a common carrier basis, either using the applicant's facilities or

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through its own facilities and resale of services using another carrier's facilities (including the facilities of the rural telephone company), and subject to the same terms, conditions, and rate structure requirements as those applicable to the rural telephone company currently providing universal service;

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

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

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

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

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

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

"SEC. 264. TELECOMMUNICATIONS SERVICES FOR CERTAIN PROVIDERS.

"(a) IN GENERAL.—

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

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

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

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

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

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

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

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

"(d) DEFINITIONS.—

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

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

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

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

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

"(C) Local health departments or agencies.

"(D) Community mental health centers.

"(E) Not-for-profit hospitals.

"(F) Rural health clinics.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 312. DIRECT BROADCAST SATELLITE.

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

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

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

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

SEC. 401. SHORT TITLE.

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

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

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

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

"(a) Whoever—

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

"(A) by means of telecommunications device knowingly—

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

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"(ii) initiates the transmission of,

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

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

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

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

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

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

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

"(d) Whoever—

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

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

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

"(e) Whoever—

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 403. OBSCENE PROGRAMMING ON CABLE TELEVISION.

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

SEC. 404. BROADCASTING OBSCENE LANGUAGE ON RADIO.

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

SEC. 405. SEPARABILITY.

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

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

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

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

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

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

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

SEC. 407. SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) describe the tags so established and utilized;

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

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

(c) DEFINITIONS.—In this section:

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

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

TITLE V—PARENTAL CHOICE IN TELEVISION

SEC. 501. SHORT TITLE.

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

SEC. 502. FINDINGS.

Congress makes the following findings:

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

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

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

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

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

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

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

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

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

(a) SENSE OF CONGRESS ON VOLUNTARY ESTABLISHMENT OF RATING CODE.—It is the sense of Congress—

(1) to encourage appropriate representatives of the broadcast television industry and the cable television industry to establish in a voluntary manner rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming;

(2) to encourage such representatives to establish such rules in consultation with appropriate public interest groups and interested individuals from the private sector; and

(3) to encourage television broadcasters and cable operators to comply voluntarily with such rules upon the establishment of such rules.

(b) REQUIREMENT FOR ESTABLISHMENT OF RATING CODE.—

(1) IN GENERAL.—If the representatives of the broadcast television industry and the cable television industry do not establish the rules referred to in subsection (a)(1) by the end of the 1-year period beginning on the date of the enactment of this Act, there shall be established on the day following the end of that period a commission to be known as the Television Rating Commission (hereafter in this section referred to as the "Television Commission"). The Television Commission shall be an independent establishment in the executive branch as defined under section 104 of title 5, United States Code.

(2) MEMBERS.—

(A) IN GENERAL.—The Television Commission shall be composed of 5 members appointed by the President, by and with the advice and consent of the Senate, of whom—

(i) three shall be individuals who are members of appropriate public interest groups or are interested individuals from the private sector; and

(ii) two shall be representatives of the broadcast television industry and the cable television industry.

(B) NOMINATION.—Individuals shall be nominated for appointment under subparagraph (A) not later than 60 days after the date of the establishment of the Television Commission.

(D) TERMS.—Each member of the Television Commission shall serve until the termination of the commission.

(E) VACANCIES.—A vacancy on the Television Commission shall be filled in the same manner as the original appointment.

(3) DUTIES OF TELEVISION COMMISSION.—The Television Commission shall establish rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming.

(3) COMPENSATION OF MEMBERS.—

(A) CHAIRMAN.—The Chairman of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including traveltime) during which the Chairman is engaged in the performance of duties vested in the commission.

(B) OTHER MEMBERS.—Except for the Chairman who shall be paid as provided under subparagraph (A), each member of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level V of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the performance of duties vested in the commission.

(4) STAFF.—

(A) IN GENERAL.—The Chairman of the Television Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the commission to perform its duties. The employment of an executive director shall be subject to confirmation by the commission.

(B) COMPENSATION.—The Chairman of the Television Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(5) CONSULTANTS.—The Television Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants under section 3109 of title 5, United States Code. The commission shall give public notice of any such contract before entering into such contract.

(6) FUNDING.—There is authorized to be appropriated to the Commission such sums as are necessary to enable the Commission to carry out its duties under this Act.

SEC. 504. REQUIREMENT FOR MANUFACTURE OF TELEVISIONS THAT BLOCK PROGRAMS.

(a) REQUIREMENT.—Section 303 (47 U.S.C. 303), as amended by this Act, is further amended by adding at the end the following

"(w) Require, in the case of apparatus designed to receive television signals that are manufactured in the United States or imported for use in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus—

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"(1) be equipped with circuitry designed to enable viewers to block the display of channels during particular time slots; and

"(2) enable viewers to block display of all programs with a common rating.".

(b) IMPLEMENTATION.—In adopting the requirement set forth in section 303(w) of the Communications Act of 1934, as added by subsection (a), the Federal Communications Commission, in consultation with the television receiver manufacturing industry, shall determine a date for the applicability of the requirement to the apparatus covered by that section.

SEC. 606. SHIPPING OR IMPORTING OF TELEVISIONS THAT BLOCK PROGRAMS.

(a) REGULATIONS.—Section 330 (47 U.S.C. 330) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new subsection (c):

"(c)(1) Except as provided in paragraph (2), no person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States any apparatus described in section 303(w) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section.

"(2) This subsection shall not apply to carriers transporting apparatus referred to in paragraph (1) without trading it.

"(3) The rules prescribed by the Commission under this subsection shall provide performance standards for blocking technology. Such rules shall require that all such apparatus be able to receive transmitted rating signals which conform to the signal and blocking specifications established by the Commission.

"(4) As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers.".

(b) CONFORMING AMENDMENT.—Section 330(d), as redesignated by subsection (a)(1), is amended by striking "section 303(s), and section 303(u)" and inserting in lieu thereof "and sections 303(s), 303(u), and 303(w)".

TITLE VI—NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION

SEC. 601. SHORT TITLE.

This title may be cited as the "National Education Technology Funding Corporation Act of 1995".

SEC. 602. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) CORPORATION.—There has been established in the District of Columbia a private, nonprofit corporation known as the National Education Technology Funding Corporation which is not an agency or independent establishment of the Federal Government.

(2) BOARD OF DIRECTORS.—The Corporation is governed by a Board of Directors, as prescribed in the Corporation's articles of incorporation, consisting of 15 members, of which—

(A) five members are representative of public agencies representative of schools and public libraries;

(B) five members are representative of State government, including persons knowledgeable about State finance, technology and education; and

(C) five members are representative of the private sector, with expertise in network technology, finance and management.

(3) CORPORATE PURPOSES.—The purposes of the Corporation, as set forth in its articles of incorporation, are—

(A) to leverage resources and stimulate private investment in education technology infrastructure;

(B) to designate State education technology agencies to receive loans, grants or other forms of assistance from the Corporation;

(C) to establish criteria for encouraging States to—

(i) create, maintain, utilize and upgrade interactive high capacity networks capable of providing audio, visual and data communications for elementary schools, secondary schools and public libraries;

(ii) distribute resources to assure equitable aid to all elementary schools and secondary schools in the State and achieve universal access to network technology; and

(iii) upgrade the delivery and development of learning through innovative technology-based instructional tools and applications;

(D) to provide loans, grants and other forms of assistance to State education technology agencies, with due regard for providing a fair balance among types of school districts and public libraries assisted and the disparate needs of such districts and libraries;

(E) to leverage resources to provide maximum aid to elementary schools, secondary schools and public libraries; and

(F) to encourage the development of education telecommunications and information technologies through public-private ventures, by serving as a clearinghouse for information on new education technologies, and by providing technical assistance, including assistance to States, if needed, to establish State education technology agencies.

(b) PURPOSE.—The purpose of this title is to recognize the Corporation as a nonprofit corporation operating under the laws of the District of Columbia, and to provide authority for Federal departments and agencies to provide assistance to the Corporation.

SEC. 603. DEFINITIONS.

For the purpose of this title—

(1) the term "Corporation" means the National Education Technology Funding Corporation described in section 602(a)(1);

(2) the terms "elementary school" and "secondary school" have the same meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965; and

(3) the term "public library" has the same meaning given such term in section 3 of the Library Services and Construction Act.

SEC. 604. ASSISTANCE FOR EDUCATION TECHNOLOGY PURPOSES.

(a) RECEIPT BY CORPORATION.—Notwithstanding any other provision of law, in order to carry out the corporate purposes described in section 602(a)(3), the Corporation shall be eligible to receive discretionary grants, contracts, gifts, contributions, or technical assistance from any Federal department or agency, to the extent otherwise permitted by law.

(b) AGREEMENT.—In order to receive any assistance described in subsection (a) the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(1) to use such assistance to provide funding and technical assistance only for activities which the Board of Directors of the Corporation determines are consistent with the corporate purposes described in section 602(a)(3);

(2) to review the activities of State education technology agencies and other entities receiving assistance from the Corporation to assure that the corporate purposes described in section 602(a)(3) are carried out;

(3) that no part of the assets of the Corporation shall accrue to the benefit of any member of the Board of Directors of the Corporation, any officer or employee of the Corporation, or any other individual, except as salary or reasonable compensation for services;

(4) that the Board of Directors of the Corporation will adopt policies and procedures to prevent conflicts of interest;

(5) to maintain a Board of Directors of the Corporation consistent with section 602(a)(2);

(6) that the Corporation, and any entity receiving the assistance from the Corporation, are subject to the appropriate oversight procedures of the Congress; and

(7) to comply with—

(A) the audit requirements described in section 605; and

(B) the reporting and testimony requirements described in section 606.

(c) CONSTRUCTION.—Nothing in this title shall be construed to establish the Corporation as an agency or independent establishment of the Federal Government, or to establish the members of the Board of Directors of the Corporation, or the officers and employees of the Corporation, as officers or employees of the Federal Government.

SEC. 605. AUDITS

(a) AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(1) IN GENERAL.—The Corporation's financial statements shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants who are members of a nationally recognized accounting firm and who are certified by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) REPORTING REQUIREMENTS.—The report of each annual audit described in paragraph (1) shall be included in the annual report required by section 606(a).

(b) RECORDKEEPING REQUIREMENTS; AUDIT AND EXAMINATION OF BOOKS.—

(1) RECORDKEEPING REQUIREMENTS.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to fully disclose—

(i) the amount and the disposition by such recipient of the proceeds of such assistance;

(ii) the total cost of the project or undertaking in connection with which such assistance is given or used; and

(iii) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(C) such other records as will facilitate an effective audit.

(2) AUDIT AND EXAMINATION OF BOOKS.—The Corporation shall ensure that the Corporation, or any of the Corporation's duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance from the Corporation that are pertinent to such assistance. Representatives of the Comptroller General shall also have such access for such purpose.

SEC. 606. ANNUAL REPORT; TESTIMONY TO THE CONGRESS.

(a) ANNUAL REPORT.—Not later than April 30 of each year, the Corporation shall publish an annual report for the preceding fiscal

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year and submit that report to the President and the Congress. The report shall include a comprehensive and detailed evaluation of the Corporation's operations, activities, financial condition, and accomplishments under this title and may include such recommendations as the Corporation deems appropriate.

(b) TESTIMONY BEFORE CONGRESS.—The members of the Board of Directors, and officers, of the Corporation shall be available to testify before appropriate committees of the Congress with respect to the report described in subsection (a), the report of any audit made by the Comptroller General pursuant to this title, or any other matter which any such committee may determine appropriate.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. SPECTRUM AUCTIONS.

(a) FINDINGS.—The Congress finds that—

(1) the National Telecommunications and Information Administration of the Department of Commerce recently submitted to the Congress a report entitled "U.S. National Spectrum Requirements" as required by section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923);

(2) based on the best available information the report concludes that an additional 179 megahertz of spectrum will be needed within the next ten years to meet the expected demand for land mobile and mobile satellite radio services such as cellular telephone service, paging services, personal communication services, and low earth orbiting satellite communications systems;

(3) a further 85 megahertz of additional spectrum, for a total of 264 megahertz, is needed if the United States is to fully implement the Intelligent Transportation System currently under development by the Department of Transportation;

(4) as required by part B of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 921 et seq.) the Federal Government will transfer 235 megahertz of spectrum from exclusive government use to non-governmental or mixed governmental and non-governmental use between 1994 and 2004;

(5) the Spectrum Reallocation Final Report submitted to Congress under section 113 of the National Telecommunications and Information Administration Organization Act by the National Telecommunications and Information Administration states that, of the 235 megahertz of spectrum identified for reallocation from governmental to non-governmental or mixed use—

(A) 50 megahertz has already been reallocated for exclusive non-governmental use,

(B) 45 megahertz will be reallocated in 1995 for both exclusive non-governmental and mixed governmental and non-governmental use,

(C) 25 megahertz will be reallocated in 1997 for exclusive non-governmental use,

(D) 70 megahertz will be reallocated in 1999 for both exclusive non-governmental and mixed governmental and non-governmental use, and

(E) the final 45 megahertz will be reallocated for mixed governmental and non-governmental use by 2004;

(6) the 165 megahertz of spectrum that are not yet reallocated, combined with 80 megahertz that the Federal Communications Commission is currently holding in reserve for emerging technologies, are less than the best estimates of projected spectrum needs in the United States;

(7) the authority of the Federal Communications Commission to assign radio spectrum frequencies using an auction process expires on September 30, 1998;

(8) a significant portion of the reallocated spectrum will not yet be assigned to non-governmental users before that authority expires;

(9) the transfer of Federal governmental users from certain valuable radio frequencies to other reserved frequencies could be expedited if Federal governmental users are permitted to accept reimbursement for relocation costs from non-governmental users; and

(10) non-governmental reimbursement of Federal governmental users relocation costs would allow the market to determine the most efficient use of the available spectrum.

(b) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—Section 309(j) (47 U.S.C. 309(j)) is amended—

(1) by striking paragraph (1) and inserting in lieu thereof the following:

"(1) GENERAL AUTHORITY.—If mutually exclusive applications or requests are accepted for any initial license or construction permit which will involve a use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection. The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission for public safety radio services or for licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses.";

(2) by striking paragraph (2) and renumbering paragraphs (3) through (13) as (2) through (12), respectively; and

(3) by striking "1998" in paragraph (10), as renumbered, and inserting in lieu thereof "2000".

(c) REIMBURSEMENT OF FEDERAL RELOCATION COSTS.—Section 113 of the National Telecommunications and Information Administration Act (47 U.S.C. 923) is amended by adding at the end the following new subsections:

"(f) RELOCATION OF FEDERAL GOVERNMENT STATIONS.—

"(1) IN GENERAL.—In order to expedite the efficient use of the electromagnetic spectrum and notwithstanding section 3302(b) of title 31, United States Code, any Federal entity which operates a Federal Government station may accept reimbursement from any person for the costs incurred by such Federal entity for any modification, replacement, or reissuance of equipment, facilities, operating manuals, regulations, or other expenses incurred by that entity in relocating the operations of its Federal Government station or stations from one or more radio spectrum frequencies to any other frequency or frequencies. Any such reimbursement shall be deposited in the account of such Federal entity in the Treasury of the United States. Funds deposited according to this section shall be available, without appropriation or fiscal year limitation, only for the operations of the Federal entity for which such funds were deposited under this section.

"(2) PROCESS FOR RELOCATION.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band allocated for mixed Federal and non-Federal use may submit a petition for such relocation to NTIA. The NTIA shall limit the Federal Government station's operating license to secondary status when the following requirements are met—

"(A) the person seeking relocation of the Federal Government station has guaranteed reimbursement through money or in-kind payment of all relocation costs incurred by the Federal entity, including all engineering, equipment, site acquisition and construction, and regulatory fee costs;

"(B) the person seeking relocation completes all activities necessary for implementing the relocation, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining on the Federal entity's behalf new frequencies for use by the relocated Federal Government station (where such station is not relocating to spectrum reserved exclusively for Federal use); and

"(C) any necessary replacement facilities, equipment modifications, or other changes have been implemented and tested to ensure that the Federal Government station is able to successfully accomplish its purposes.

"(3) RIGHT TO RECLAIM.—If within one year after the relocation the Federal Government station demonstrates to the Commission that the new facilities or spectrum are not comparable to the facilities or spectrum from which the Federal Government station was relocated, the person seeking such relocation must take reasonable steps to remedy any defects or reimburse the Federal entity for the costs of returning the Federal Government station to the spectrum from which such station was relocated.

"(g) FEDERAL ACTION TO EXPEDITE SPECTRUM TRANSFER.—Any Federal Government station which operates on electromagnetic spectrum that has been identified for reallocation for mixed Federal and non-Federal use in the Spectrum Reallocation Final Report shall, to the maximum extent practicable through the use of the authority granted under subsection (f) and any other applicable provision of law, take action to relocate its spectrum use to other frequencies that are reserved for Federal use or to consolidate its spectrum use with other Federal Government stations in a manner that maximizes the spectrum available for non-Federal use. Notwithstanding the timetable contained in the Spectrum Reallocation Final Report, the President shall seek to implement the reallocation of the 1710 to 1755 megahertz frequency band by January 1, 2000. Subsection (c)(4) of this section shall not apply to the extent that a non-Federal user seeks to relocate or relocates a Federal power agency under subsection (f).

"(h) DEFINITIONS.—For purposes of this section—

"(1) FEDERAL ENTITY.—The term 'Federal entity' means any Department, agency, or other element of the Federal Government that utilizes radio frequency spectrum in the conduct of its authorized activities, including a Federal power agency.

"(2) SPECTRUM REALLOCATION FINAL REPORT.—The term 'Spectrum Reallocation Final Report' means the report submitted by the Secretary to the President and Congress in compliance with the requirements of subsection (a).".

(d) REALLOCATION OF ADDITIONAL SPECTRUM.—The Secretary of Commerce shall, within 9 months after the date of enactment of this Act, prepare and submit to the President and the Congress a report and timetable recommending the reallocation of the two frequency bands (3625–3650 megahertz and 5850–5925 megahertz) that were discussed but not recommended for reallocation in the Spectrum Reallocation Final Report under section 113(a) of the National Telecommunications and Information Administration Organization Act. The Secretary shall consult with the Federal Communications Commission and other Federal agencies in the preparation of the report, and shall provide notice and an opportunity for public comment before submitting the report and timetable required by this section.

(e) BROADCAST AUXILIARY SPECTRUM RELOCATION.—

(1) ALLOCATION OF SPECTRUM FOR BROADCAST AUXILIARY USES.—Within one year after

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the date of enactment of this Act, the Commission shall allocate the 4635-4685 megahertz band transferred to the Commission under section 113(b) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(b)) for broadcast auxiliary uses.

(2) MANDATORY RELOCATION OF BROADCAST AUXILIARY USES.—Within 7 years after the date of enactment of this Act, all licensees of broadcast auxiliary spectrum in the 2025-2075 megahertz band shall relocate into spectrum allocated by the Commission under paragraph (1). The Commission shall assign and grant licenses for use of the spectrum allocated under paragraph (1)—

(A) in a manner sufficient to permit timely completion of relocation; and

(B) without using a competitive bidding process.

(3) ASSIGNING RECOVERED SPECTRUM.—Within 5 years after the date of enactment of this Act, the Commission shall allocate the spectrum recovered in the 2025-2075 megahertz band under paragraph (2) for use by new licensees for commercial mobile services or other similar services after the relocation of broadcast auxiliary licensees, and shall assign such licenses by competitive bidding.

SEC. 703. RENEWED EFFORTS TO REGULATE VIOLENT PROGRAMMING.

(a) FINDINGS.—The Senate finds that:

(1) Violence is a pervasive and persistent feature of the entertainment industry. According to the Carnegie Council on Adolescent Development, by the age of 18, children will have been exposed to nearly 18,000 televised murders and 800 suicides.

(2) Violence on television is likely to have a serious and harmful effect on the emotional development of young children. The American Psychological Association has reported that children who watch "a large number of aggressive programs tend to hold attitudes and values that favor the use of aggression to solve conflicts". The National Institute of Mental Health has stated similarly that "violence on television does lead to aggressive behavior by children and teenagers".

(3) The Senate recognizes that television violence is not the sole cause of violence in society.

(4) There is a broad recognition in the United States Congress that the television industry has an obligation to police the content of its own broadcasts to children. That understanding was reflected in the Television Violence Act of 1990, which was specifically designed to permit industry participants to work together to create a self-monitoring system.

(5) After years of denying that television violence has any detrimental effect, the entertainment industry has begun to address the problem of television violence. In the spring of 1994, for example, the network and cable industries announced the appointment of an independent monitoring group to assess the amount of violence on television. These reports are due out in the fall of 1995 and winter of 1996, respectively.

(6) The Senate recognizes that self-regulation by the private sector is generally preferable to direct regulation by the Federal Government.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the entertainment industry should do everything possible to limit the amount of violent and aggressive entertainment programming, particularly during the hours when children are most likely to be watching.

SEC. 703. PREVENTION OF UNFAIR BILLING PRACTICES FOR INFORMATION OR SERVICES PROVIDED OVER TOLL-FREE TELEPHONE CALLS.

(a) FINDINGS.—Congress makes the following findings:

(1) Reforms required by the Telephone Disclosure and Dispute Resolution Act of 1992 have improved the reputation of the pay-per-call industry and resulted in regulations that have reduced the incidence of misleading practices that are harmful to the public interest.

(2) Among the successful reforms is a restriction on charges being assessed for calls to 800 telephone numbers or other telephone numbers advertised or widely understood to be toll free.

(3) Nevertheless, certain interstate pay-per-call businesses are taking advantage of an exception in the restriction on charging for information conveyed during a call to a "toll-free" number to continue to engage in misleading practices. These practices are not in compliance with the intent of Congress in passing the Telephone Disclosure and Dispute Resolution Act.

(4) It is necessary for Congress to clarify that its intent is that charges for information provided during a call to an 800 number or other number widely advertised and understood to be toll free shall not be assessed to the calling party unless the calling party agrees to be billed according to the terms of a written subscription agreement or by other appropriate means.

(b) PREVENTION OF UNFAIR BILLING PRACTICES.—

(1) IN GENERAL.—Section 228(c) (47 U.S.C. 228(c)) is amended—

(A) by striking out subparagraph (C) of paragraph (7) and inserting in lieu thereof the following:

"(C) the calling party being charged for information conveyed during the call unless—

"(i) the calling party has a written agreement (including an agreement transmitted through electronic medium) that meets the requirements of paragraph (8); or

"(ii) the calling party is charged for the information in accordance with paragraph (9); or"; and

(B) by adding at the end the following new paragraphs:

"(8) SUBSCRIPTION AGREEMENTS FOR BILLING FOR INFORMATION PROVIDED VIA TOLL-FREE CALLS.—

"(A) IN GENERAL.—For purposes of paragraph (7)(C), a written subscription does not meet the requirements of this paragraph unless the agreement specifies the material terms and conditions under which the information is offered and includes—

"(i) the rate at which charges are assessed for the information;

"(ii) the information provider's name;

"(iii) the information provider's business address;

"(iv) the information provider's regular business telephone number;

"(v) the information provider's agreement to notify the subscriber of all future changes in the rates charged for the information; and

"(vi) the subscriber's choice of payment method, which may be by direct remit, debit, prepaid account, phone bill or credit or calling card.

"(B) BILLING ARRANGEMENTS.—If a subscriber elects, pursuant to subparagraph (A)(vi), to pay by means of a phone bill—

"(i) the agreement shall clearly explain that charges for the service will appear on the subscriber's phone bill;

"(ii) the phone bill shall include, in prominent type, the following disclaimer:

'Common carriers may not disconnect local or long distance telephone service for failure to pay disputed charges for information services.'; and

"(iii) the phone bill shall clearly list the 800 number dialed.

"(C) USE OF PINS TO PREVENT UNAUTHORIZED USE.—A written agreement does not meet the requirements of this paragraph unless it requires the subscriber to use a personal identification number to obtain access to the information provided, and includes instructions on its use.

"(D) EXCEPTIONS.—Notwithstanding paragraph (7)(C), a written agreement that meets the requirements of this paragraph is not required—

"(i) for calls utilizing telecommunications devices for the deaf;

"(ii) for services provided pursuant to a tariff that has been approved or permitted to take effect by the Commission or a State commission; or

"(iii) for any purchase of goods or of services that are not information services.

"(E) TERMINATION OF SERVICE.—On receipt by a common carrier of a complaint by any person that an information provider is in violation of the provisions of this section, a carrier shall—

"(i) promptly investigate the complaint; and

"(ii) if the carrier reasonably determines that the complaint is valid, it may terminate the provision of service to an information provider unless the provider supplies evidence of a written agreement that meets the requirements of this section.

"(F) TREATMENT OF REMEDIES.—The remedies provided in this paragraph are in addition to any other remedies that are available under title V of this Act.

"(9) CHARGES IN ABSENCE OF AGREEMENT.—A calling party is charged for a call in accordance with this paragraph if the provider of the information conveyed during the call—

"(A) clearly states to the calling party the total cost per minute of the information provided during the call and for any other information or service provided by the provider to which the calling party requests connection during the call; and

"(B) receives from the calling party—

"(i) an agreement to accept the charges for any information or services provided by the provider during the call; and

"(ii) a credit, calling, or charge card number or verification of a prepaid account to which such charges are to be billed.

"(10) DEFINITION.—As used in paragraphs (8) and (9), the term 'calling card' means an identifying number or code unique to the individual, that is issued to the individual by a common carrier and enables the individual to be charged by means of a phone bill for charges incurred independent of where the call originates."

(2) REGULATIONS.—The Federal Communications Commission shall revise its regulations to comply with the amendment made by paragraph (1) not later than 180 days after the date of the enactment of this Act.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) CLARIFICATION OF "PAY-PER-CALL SERVICES" UNDER TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT.—Section 204(1) of the Telephone Disclosure and Dispute Resolution Act (15 U.S.C. 5714(1)) is amended to read as follows:

"(1) The term 'pay-per-call services' has the meaning provided in section 228(j)(1) of the Communications Act of 1934, except that the Commission by rule may, notwithstanding subparagraphs (B) and (C) of such section, extend such definition to other similar services providing audio information or audio entertainment if the Commission determines that such services are susceptible

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to the unfair and deceptive practices that are prohibited by the rules prescribed pursuant to section 201(a).".

SEC. 704. DISCLOSURE OF CERTAIN RECORDS FOR INVESTIGATIONS OF TELEMARKETING FRAUD.

Section 2703(c)(1)(B) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (ii);

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following:

"(iv) submits a formal written request for information relevant to a legitimate law enforcement investigation of the governmental entity for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is in section 2325 of this title).".

SEC. 705. TELECOMMUTING PUBLIC INFORMATION PROGRAM.

(a) FINDINGS.—Congress makes the following findings—

(1) Telecommuting is the practice of allowing people to work either at home or in nearby centers located closer to home during their normal working hours, substituting telecommunications services, either partially or completely, for transportation to a more traditional workplace;

(2) Telecommuting is now practiced by an estimated two to seven million Americans, including individuals with impaired mobility, who are taking advantage of computer and telecommunications advances in recent years;

(3) Telecommuting has the potential to dramatically reduce fuel consumption, mobile source air pollution, vehicle miles traveled, and time spent commuting, thus contributing to an improvement in the quality of life for millions of Americans; and

(4) It is in the public interest for the Federal Government to collect and disseminate information encouraging the increased use of telecommuting and identifying the potential benefits and costs of telecommuting.

(b) TELECOMMUTING RESEARCH PROGRAMS AND PUBLIC INFORMATION DISSEMINATION.—The Secretary of Transportation, in consultation with the Secretary of Labor and the Administrator of the Environmental Protection Agency, shall, within three months of the date of enactment of this Act, carry out research to identify successful telecommuting programs in the public and private sectors and provide for the dissemination to the public of information regarading—

(1) the establishment of successful telecommuting programs; and

(2) the benefits and costs of telecommuting.

(c) REPORT.—Within one year of the date of enactment of this Act, the Secretary of Transportation shall report to Congress its findings, conclusions, and recommendations regarding telecommuting developed under this section.

SEC. 706. AUTHORITY TO ACQUIRE CABLE SYSTEMS.

(a) IN GENERAL.—Notwithstanding the provisions of section 613(b)(6) of the Communications Act of 1934, as added by section 203(a) of this Act, a local exchange carrier (or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier) may purchase or otherwise acquire more than a 10 percent financial interest, or any management interest, or enter into a joint venture or partnership with any cable system described in subsection (b) within the local exchange carrier's telephone service area.

(b) COVERED CABLE SYSTEMS.—Subsection (a) applies to any cable system serving no more than 20,000 cable subscribers of which no more than 12,000 of those subscribers live within an urbanized area, as defined by the Bureau of the Census.

(c) DEFINITION.—For purposes of this section, the term "local exchange carrier" has the meaning given such term in section 3 (kk) of the Communications Act of 1934, as added by section 8(b) of this Act.

REGULATORY TRANSITION ACT OF 1995—MESSAGE FROM THE HOUSE

Mr. WARNER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 219) to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 219) entitled "An Act to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulatory Transition Act of 1995".

SEC. 2. FINDING.

The Congress finds that effective steps for improving the efficiency and proper management of Government operations, including enactment of a new law or laws to require (1) that the Federal rulemaking process include cost/benefit analysis, including analysis of costs resulting from the loss of property rights, and (2) for those Federal regulations that are subject to risk analysis and risk assessment that those regulations undergo standardized risk analysis and risk assessment using the best scientific and economic procedures, will be promoted if a moratorium on new rulemaking actions is imposed and an inventory of such action is conducted.

SEC. 3. MORATORIUM ON REGULATIONS.

(a) MORATORIUM.—Until the end of the moratorium period, a Federal agency may not take any regulatory rulemaking action, unless an exception is provided under section 5. Beginning 30 days after the date of the enactment of this Act, the effectiveness of any regulatory rulemaking action taken or made effective during the moratorium period but before the date of the enactment shall be suspended until the end of the moratorium period, unless an exception is provided under section 5.

(b) INVENTORY OF RULEMAKINGS.—Not later than 30 days after the date of the enactment of this Act, the President shall conduct an inventory and publish in the Federal Register a list of all regulatory rulemaking actions covered by subsection (a) taken or made effective during the moratorium period but before the date of the enactment.

SEC. 4. SPECIAL RULE ON STATUTORY, REGULATORY, AND JUDICIAL DEADLINES.

(a) IN GENERAL.—Any deadline for, relating to, or involving any action dependent upon, any regulatory rulemaking actions authorized or required to be taken before the end of the moratorium period is extended for 5 months or until the end of the moratorium period, whichever is later.

(b) DEADLINE DEFINED.—The term "deadline" means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

(c) IDENTIFICATION OF POSTPONED DEADLINES.—Not later than 30 days after the date of the enactment of this Act, the President shall identify and publish in the Federal Register a list of deadlines covered by subsection (a).

SEC. 5. EMERGENCY EXCEPTIONS; EXCLUSIONS.

(a) EMERGENCY EXCEPTION.—Section 3(a) or 4(a), or both, shall not apply to a regulatory rulemaking action if—

(1) the head of a Federal agency otherwise authorized to take the action submits a written request to the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget and submits a copy thereof to the appropriate committees of each House of the Congress;

(2) the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget finds in writing that a waiver for the action is (A) necessary because of an imminent threat to health or safety or other emergency, or (B) necessary for the enforcement of criminal laws; and

(3) the Federal agency head publishes the finding and waiver in the Federal Register.

(b) EXCLUSIONS.—The head of an agency shall publish in the Federal Register any action excluded because of a certification under section 6(3)(B).

(c) CIVIL RIGHTS EXCEPTION.—Section 3(a) or 4(a), or both, shall not apply to a regulatory rulemaking action to establish or enforce any statutory rights against discrimination on the basis of age, race, religion, gender, national origin, or handicapped or disability status except such rulemaking actions that establish, lead to, or otherwise rely on the use of a quota or preference based on age, race, religion, gender, national origin, or handicapped or disability status.

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) FEDERAL AGENCY.—The term "Federal agency" means any agency as that term is defined in section 551(1) of title 5, United States Code (relating to administrative procedure).

(2) MORATORIUM PERIOD.—The term "moratorium period" means the period of time—

(A) beginning November 20, 1994; and

(B) ending on the earlier of—

(i) the first date on which there have been enacted one or more laws that—

(I) require that the Federal rulemaking process include cost/benefit analysis, including analysis of costs resulting from the loss of property rights; and

(II) for those Federal regulations that are subject to risk analysis and risk assessment, require that those regulations undergo standardized risk analysis and risk assessment using the best scientific and economic procedures; or

(ii) December 31, 1995;

except that in the case of a regulatory rulemaking action with respect to determining that a species is an endangered species or a threatened species under section 4(a)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)(1)) or designating critical habitat under section 4(a)(3) of that Act (16 U.S.C. 1533(a)(3)), the term means the period of time beginning on the date described in subparagraph (A) and ending on the earlier of the first date on which there has been enacted after the date of the enactment of this Act a law authorizing appropriations to carry out the Endangered Species Act of 1973, or December 31, 1996.

(3) REGULATORY RULEMAKING ACTION.—

(A) IN GENERAL.—The term "regulatory rulemaking action" means any rulemaking on any rule normally published in the Federal Register, including—

(i) the issuance of any substantive rule, interpretative rule, statement of agency policy, notice of inquiry, advance notice of proposed rulemaking, or notice of proposed rulemaking, and

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(ii) any other action taken in the course of the process of rulemaking (except a cost benefit analysis or risk assessment, or both).

(B) EXCLUSIONS.—The term "regulatory rulemaking action" does not include—

(i) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to repealing, narrowing, or streamlining a rule, regulation, or administrative process or otherwise reducing regulatory burdens;

(ii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to matters relating to military or foreign affairs functions, statutes implementing international trade agreements, including all agency actions required by the Uruguay Round Agreements Act, or agency management, personnel, or public property, loans, grants, benefits, or contracts;

(iii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to a routine administrative function of the agency;

(iv) any agency action that—

(I) is taken by an agency that supervises and regulates insured depository institutions, affiliates of such institutions, credit unions, or government sponsored housing enterprises; and

(II) the head of the agency certifies would meet the standards for an exception or exclusion described in this Act; or

(v) any agency action that the head of the agency certifies is limited to interpreting, implementing, or administering the internal revenue laws of the United States.

(4) RULE.—The term "rule" means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy. Such term does not include the approval or prescription, on a case-by-case or consolidated case basis, for the future of rates, wages, corporation, or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor, or of valuations, costs, or accounting, or practices bearing on any of the foregoing, nor does it include any action taken in connection with the safety of aviation or any action taken in connection with the implementation of monetary policy or to ensure the safety and soundness of federally insured depository institutions, any affiliate of such an institution, credit unions, or government sponsored housing enterprises or to protect the Federal deposit insurance funds. Such term also does not include granting an application for a license, registration, or similar authority, granting or recognizing an exemption, granting a variance or petition for relief from a regulatory requirement, or other action relieving a restriction (including any agency action which establishes, modifies, or conducts a regulatory program for a recreational or subsistence activity, including but not limited to hunting, fishing, and camping, if a Federal law prohibits the recreational or subsistence activity in the absence of the agency action) or taking any action necessary to permit new or improved applications of technology or allow the manufacture, distribution, sale, or use of a substance or product.

(5) RULEMAKING.—The term "rulemaking" means agency process for formulating, amending, or repealing a rule.

(6) LICENSE.—The term "license" means the whole or part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption, or other form of permission.

(7) IMMINENT THREAT TO HEALTH OR SAFETY.—The term "imminent threat to health or safety" means the existence of any condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans, or substantial endangerment to private property during the moratorium period.

SEC. 7. LIMITATION ON CIVIL ACTIONS.

No private right of action may be brought against any Federal agency for a violation of this Act. This prohibition shall not affect any private right of action or remedy otherwise available under any other law.

SEC. 8. RELATIONSHIP TO OTHER LAW; SEVERABILITY.

(a) APPLICABILITY.—This Act shall apply notwithstanding any other provision of law.

(b) SEVERABILITY.—If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

SEC. 9. REGULATIONS TO AID BUSINESS COMPETITIVENESS.

Section 3(a) or 4(a), or both, shall not apply to any of the following regulatory rulemaking actions (or any such action relating thereto):

(1) CONDITIONAL RELEASE OF TEXTILE IMPORTS.—A final rule published on December 2, 1994 (59 Fed. Reg. 61798), to provide for the conditional release by the Customs Service of textile imports suspected of being imported in violation of United States quotas.

(2) TEXTILE IMPORTS.—Any action which the head of the relevant agency and the Administrator of the Office of Information and Regulatory Affairs certify in writing is a substantive rule, interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administer laws pertaining to the import of textiles and apparel including section 334 of the Uruguay Round Agreements Act (P.L. 103-465), relating to textile rules of origin.

(3) CUSTOMS MODERNIZATION.—Any action which the head of the relevant agency and the Administrator of the Office of Information and Regulatory Affairs certify in writing is a substantive rule, interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administer laws pertaining to the customs modernization provisions contained in title VI of the North American Free Trade Agreement Implementation Act (P.L. 103-182).

(4) ACTIONS WITH RESPECT TO CHINA REGARDING INTELLECTUAL PROPERTY PROTECTION AND MARKET ACCESS.—A regulatory rulemaking action providing notice of a determination that the People's Republic of China's failure to enforce intellectual property rights and to provide market access is unreasonable and constitutes a burden or restriction on United States commerce, and a determination that trade action is appropriate and that sanctions are appropriate, taken under section 304(a)(1)(A)(ii), section 304(a)(1)(B), and section 301(b) of the Trade Act of 1974 and with respect to which a notice of determination was published on February 7, 1995 (60 Fed. Reg. 7230).

(5) TRANSFER OF SPECTRUM.—A regulatory rulemaking action by the Federal Communications Commission to transfer 50 megahertz of spectrum below 5 GHz from government use to private use, taken under the Omnibus Budget Reconciliation Act of 1993 and with respect to which notice of proposed rulemaking was published at 59 Federal Register 59393.

(6) PERSONAL COMMUNICATIONS SERVICES LICENSES.—A regulatory rulemaking action by the Federal Communications Commission to establish criteria and procedures for issuing licenses utilizing competitive bidding procedures to provide personal communications services—

(A) taken under section 309(j) of the Communications Act and with respect to which a final rule was published on December 7, 1994 (59 Fed. Reg. 63210); or

(B) taken under sections 3(n) and 332 of the Communications Act and with respect to which a final rule was published on December 2, 1994 (59 Fed. Reg. 61828).

(7) WIDE-AREA SPECIALIZED MOBILE RADIO LICENSES.—A regulatory rulemaking action by the Federal Communications Commission to provide for competitive bidding for wide-area specialized mobile radio licenses, taken under section 309(j) of the Communications Act and with respect to which a proposed rule was published on February 14, 1995 (60 Fed. Reg. 8341).

(8) IMPROVED TRADING OPPORTUNITIES FOR REGIONAL EXCHANGES.—A regulatory rulemaking action by the Securities and Exchange Commission to provide for increased competition among the stock exchanges, taken under the Unlisted Trading Privileges Act of 1994 and with respect to which proposed rulemaking was published on February 9, 1995 (60 Fed. Reg. 7718).

SEC. 10. DELAYING EFFECTIVE DATE OF RULES WITH RESPECT TO SMALL BUSINESSES.

(a) DELAY EFFECTIVENESS.—For any rule resulting from a regulatory rulemaking action that is suspended or prohibited by this Act, the effective date of the rule with respect to small businesses may not occur before six months after the end of the moratorium period.

(b) SMALL BUSINESS DEFINED.—In this section, the term "small business" means any business with 100 or fewer employees.

Mr. WARNER. Mr. President, I move that the Senate disagree to the House amendment, request a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. The motion was agreed to, and the Presiding Officer (Mr. THOMAS) appointed Mr. NICKLES, Mr. STEVENS, Mr. THOMPSON, Mr. GRASSLEY, Mr. GLENN, Mr. LEVIN, and Mr. REID conferees on the part of the Senate.

ORDERS FOR MONDAY, JUNE 19, 1995

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon on Monday, June 19, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be waived, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, there then be a period for the transaction of morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak for up to 5 minutes each; further, that at the hour of 1 o'clock the Senate resume consideration of S. 440, the National Highway System bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PROGRAM

Mr. WARNER. Mr. President, for the information of all Senators, the cloture vote on the motion to proceed to the highway bill previously scheduled for 3 p.m. on Monday has been vitiated. Senators should also be aware that no rollcall votes will occur during Monday's

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